

THE HIGH COURT OF SIKKIM : GANGTOK
(Civil Extra Ordinary Jurisdiction)

SINGLE BENCH: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

W.P. (C) No. 11 of 2022

Namgyal Institute of Tibetology,
Represented by the Director,
Gangtok, East Sikkim.

..... Petitioner

Versus

1. Gangtok Smart City Development Limited,
Through its Chief Operating Officer,
Level 5, Kissan Bazar Building,
Lal Market Road,
Gangtok, Sikkim.
2. State of Sikkim,
Through the Chief Secretary,
Government of Sikkim,
Gangtok, East Sikkim.
3. The Forest, Environment and Wildlife
Management Department,
Through the Secretary,
Government of Sikkim,
Gangtok, East Sikkim.

.....Respondents

**Writ Petition under Article 226 and 227 of the Constitution
of India.**

Appearance:

Mr. Thupden Youngda and Mr. Purab Wangdi, Advocates.
for the Petitioner.

Dr. Doma T. Bhutia, Senior Advocate with Mr. S.K. Chettri
Advocate for respondent No.1.

Mr. Shakil Raj Karki, Assistant Government Advocate for
respondent nos. 2 & 3.

Date of hearing : 14.12.2022

J U D G M E N T (O R A L)

Bhaskar Raj Pradhan, J.

1. The writ petition had been filed by the petitioner
against the respondents praying for quashing the GSCDL

tender bearing reference no.124/GSCDL/2022 dated 25.02.2022 and for further direction upon the respondents not to cut any trees from the lands of the petitioner.

2. It is the case of the learned counsel for the petitioner that the writ petition, in so far as the land of the petitioner is concerned, should be allowed. The learned Additional Advocate General vehemently argued that the writ petition is not maintainable and by filing such frivolous writ petition laudable public works are being sought to be obstructed.

3. The Notice Inviting Tender (NIT) relates to construction of various pedestrian footpaths in different constituencies in and around Gangtok. At serial number B of the NIT is the invitation for competitive bidding for construction of various pedestrian footpaths under Arithang constituency. It is the case of the petitioner that under this head the respondents are also seeking to construct the pedestrian footpath in their lands. In support of the petitioner's contention that the land belongs to them, they has filed various documents along with I.A. No. 02 of 2022. The first document is the Sikkim Government Gazette Notification by which the Government of Sikkim renamed the "Sikkim Research Institute of Tibetology" as "Namgyal Institute of Tibetology". The petitioner has also annexed the '*Parcha Khatiyon*' which reflects that the

Namgyal Institute of Tibetology owns certain lands as reflected therein i.e. Khasra No. 1179 which is 8.0770 Hectares in area. Admittedly, serial number B of the NIT also includes proposed construction of the pedestrian footpaths within this land owned by the petitioner. The petitioner does not desire that the respondents construct this pedestrian footpath in their lands. The learned Additional Advocate General on instructions received, submit that if the petitioner are not in favour of allowing the construction of the pedestrian footpath within this area owned by them they do not desire to do so. In view of the categorical submission made by the learned Additional Advocate General there is no need to pursue this writ petition any further. The NIT dated 25.02.2022 cannot be quashed in totality as prayed for by the petitioner. The writ petition is rejected in so far as other proposed pedestrian footpaths as per the NIT are concerned. However, the respondents shall not proceed further with regard to the proposed construction of the pedestrian footpath within the area of the petitioner. The writ petition is disposed of as per the above directions.

(Bhaskar Raj Pradhan)
Judge

Internet : **Yes**
to/