

HIGH COURT OF SIKKIM

Record of proceedings

Test Case No.01 of 2024

TSHERING DOMA GYALTSEN

.... PETITIONER

VERSUS

RACHHITA RAI & ORS.

.... RESPONDENTS

Date: 16.09.2025

CORAM

**HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.**

For Petitioner : Mr. Kazi Sangay Thupden, Advocate.  
Mr. Sajal Rai, Advocate.  
Ms. Prerana Rai, Advocate.  
Ms. Kajal Rai, Advocate.  
Ms. Srijana Bagdas, Advocate.  
Ms. Puja Kumari Singh, Advocate.  
Mr. Beopal Rai, Advocate.  
Mr. Nishant Agarwal, Advocate.

For Respondent : In person.  
No.1.

For Respondent : Mr. Hissey Gyaltsen, Advocate.  
Nos.2 to 4.

.....

1. The present petition is filed under section 301 of the Indian Succession Act, 1925 for appointment of a successor to administer the estate and properties in Probate of Will Case No.4 of 2023 pending before the Court of the learned Principal District Judge, Gangtok. Section 301 of the Indian Succession Act, 1925 reads as under:

***“301. Removal of executor or administrator and provision for successor.- The High Court may, on application made to it, suspend, remove or discharge any private executor or administrator and provide for the succession of another person to the office of any such executor or administrator who may cease to hold office, and the vesting in such successor of any property belonging to the estate.”***

2. The petition was filed on 16.09.2024. Although numerous grounds have been pleaded and agitated by the learned counsel for the petitioner, on 18.08.2025 the respondent no.1 who was

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the executor submitted that due to her health issues this Court could appoint a successor in her place and if that is done she would have no objection to the same.

**3.** The respondent no.1 is personally present in Court today.

**4.** The learned counsel for the petitioner as well as the learned counsel representing respondent nos. 2 to 4 submits that they have agreed upon the successor of the executor namely Mr. Karma Thinlay Namgyal, learned Senior Counsel whose consent has been taken.

**5.** In view of the aforesaid and in exercise of the power under section 301 of the Indian Succession Act, 1925 this Court is of the opinion that this is a fit case to discharge the respondent no.1 and in her place appoint Mr. Karma Thinlay Namgyal, learned Senior Counsel as the successor to administer estate of the deceased. It is ordered accordingly.

**6.** The respondent no.1 may handover all the records with regard to the estate of the deceased which she was administering as the executor to the new successor so that he can take effective steps to execute the estate of the deceased. While doing so the respondent no.1 will ensure that there would be absolute clarity on the accounts of the estate including rental properties for which issues have been repeatedly raised before this court, leaving no doubt for further agitation. Needless to say the successor, while performing his duties as per law may also hire a chartered accountant for the accounts of the estate.

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7. The petition is allowed and disposed of including the interim applications.

Judge