

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

**SINGLE BENCH: THE HON'BLE MR. JUSTICE A. MUHAMED MUSTAQUE,
CHIEF JUSTICE**

WP(C) No.64 of 2025

- 1. Chandu Sherpa,**
Aged about 52 years,
S/o Lt. Lakey Sherpa,
R/o Maney Khola, 3rd Mile,
Bojoghari, Gangtok, Sikkim,
Under P.O. Bojoghari & P.S. Gangtok.
- 2. Lhamu Sherpa,**
Aged about 30 years,
D/o Lt. Lakey Sherpa,
R/o Maney Khola, 3rd Mile,
Bojoghari, Gangtok, Sikkim,
Under P.O. Bojoghari & P.S. Gangtok.
- 3. Dawa Lhamu Sherpa,**
Aged about 28 years,
D/o Lt. Lakey Sherpa,
R/o Maney Khola, 3rd Mile,
Bojoghari, Gangtok, Sikkim,
Under P.O. Bojoghari & P.S. Gangtok.
- 4. Phul Maya Sherpa,**
Aged about 58 years,
S/o Lt. Lakey Sherpa,
R/o Maney Khola, 3rd Mile,
Bojoghari, Gangtok, Sikkim,
Under P.O. Bojoghari & P.S. Gangtok.

... Petitioners

versus

- 1. Raju Rai,**
S/o Dhan Bahadur Rai,
R/o Maney Khola, 3rd Mile,
Bojoghari, Gangtok, Sikkim,
Under P.O. Bojoghari & P.S. Gangtok.

COURT NO.1

2. District Collectorate,
District Administrative Centre,
Gangtok District, Sichey,
Under P.O. Sichey & P.S. Gangtok.

... Respondents

Appearance:

Mr. Dewen Sharma Luitel and Mr. Bhaichung Bhutia, Advocates for the Petitioners.

Mr. N. Rai, Senior Advocate with Ms. Tara Devi Chettri, Advocate for Respondent No.1.

Mr. Thinlay Dorjee Bhutia, Government Advocate for Respondent No.2.

Judgment Reserved on :
Judgment Pronounced on : 30.06.2026
Judgment uploaded on : 01.07.2026

J U D G M E N T (ORAL)

(A. Muhamed Mustaque, C.J.)

This Writ Petition although it was to be filed as an original petition (Civil) under Article 227 of Constitution of India, but due to the practice followed by this High Court, the Registry registered this case as a Writ Petition. Nevertheless, it is purely a matter coming under the power of superintendence under Article 227. Normally, this Court would exercise its power of supervision if there is a failure of exercise of jurisdiction or on exceeding jurisdiction by a court below.

[2] Here on the face of records this Court can hold that this litigation is a creation of Plaintiff who got twice an opportunity for cross examination of DW-1. On each occasion the Petitioner sought adjournment for one or other reason. Constrained with the delaying tactics, the Court passed the Order, declining request for cross examination of DW-1.

COURT NO.1

[3] Looking at this matter from an angle of substantial justice, this Court is of the view, giving one more opportunity to the Plaintiffs would sub serve the ends of justice provided that Plaintiffs cooperate with the culmination of the case and cross examine the DW-1 on the next scheduled date given by the Court.

[4] However, the Court cannot ignore the laches on the part of the Plaintiffs.

[5] Accordingly, this petition is allowed on terms of payment of cost of Rs. 5,000 (Rupees five thousand only) which shall be paid within two weeks. The cost shall be paid to the Respondent No.1 through the Counsel appearing before this Court. On producing receipt, Court shall proceed with the case by allowing Petitioner to cross examine the DW-1. Making it clear, that on failure to pay the said cost, the Petitioner herein will lose the opportunity to cross examine the DW-1.

[6] Accordingly, **Writ Petition No. 64 of 2025** stands disposed of as above.

Chief Justice

Approved for Reporting : Yes/No
avi/arc