

THE HIGH COURT OF SIKKIM: GANGTOK
(Civil Extraordinary Jurisdiction)

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

WP(C) No.44 of 2025

Shri Umesh Agarwal,
S/o Late Bhaskarnand Agarwal,
R/o M. G. Marg, Gangtok. ... Petitioner

versus

1. Shri Mahesh Agarwal,
S/o Late Bhaskarnand Agarwal,
R/o M. G. Marg, Gangtok.

... Respondent No.1
2. Sikkim Industrial Development and Investment Corporation Ltd. (SIDICO),
Government of Sikkim Undertaking,
Bhanupath, Gangtok, Sikkim.

... Proforma
Respondent No.2

Appearance:

Ms. K. D. Bhutia, Advocate for the Petitioner.

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

Mr. Yadev Sharma, Government Advocate for Respondent No.2.

Judgment Reserved on :
Judgment Pronounced on : 19.08.2026
Judgment Uploaded on : 19.08.2026

JUDGMENT (ORAL)

(A. Muhamed Mustaque, C.J.)

1. This Writ Petition has been filed by the Petitioner against the impugned Order dated 14.05.2025 passed by the Learned Principal District Judge, Gangtok in Title Appeal No.03 of 2021. The Appellant also files an amendment application before the Appellate Court. The amendment sought was in respect of amendment of memorandum of

appeal as well as the plaint. The Writ Petitioner herein is the Plaintiff in the suit. The said suit was dismissed. The application for the amendment of memorandum appeal was also dismissed.

2. The question is whether that was proper or not. No doubt elaborate reasons have been assigned for the dismissal. According to this Court, an application for amendment at the appellate stage has to be considered along with the final hearing of the appeal. If the Appellate Court in the given case is of the view that such amendment is required, it can be decided whether to amend or otherwise.

3. This Court is not referring to the merit of the present case. This Court is only referring to the proper course available to the Appellate Authority in such a situation. Whether amendment is warranted or can be allowed in accordance with the law is a matter which can be decided while hearing the appeal.

4. That being the matter, impugned order is set aside for considering the amendment application along with the appeal and it is for the Appellate Court to decide whether amendment can be allowed or not.

5. With liberty as above, WP(C) No.44 of 2025 stands disposed of.

Chief Justice