



# COURT NEWSLETTER

## HIGH COURT OF SIKKIM

Vol.5 Issue No. 4

October to December, 2013



### EDITORIAL BOARD

Hon'ble Mr. Justice Narendra Kumar Jain, Chief Justice, High Court of Sikkim  
Hon'ble Mr. Justice S.P. Wangdi, Judge, High Court of Sikkim

### COMPILED BY

Mrs. K.C. Barphungpa, Registrar General, High Court of Sikkim

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# C O N T E N T S

Vacancies in Courts	1
Institution, Disposal and Pendency of Cases	2-3
Some Recent High Court Judgment	4
Major Developments & Events	5-20
Important Visits & Conferences	20

**VACANCIES IN COURTS****(i) Vacancies in the High Court of Sikkim as on 31.12.2013**

Sl. No.	Name of the High Court	Sanctioned Strength	Working Strength	Vacancies
1.	Sikkim High Court	03	02	1

**(ii) Vacancies in the District & Subordinate Courts as on 31.12.2013**

Sl. No.	Name of the State	Sanctioned Strength	Working Strength	Vacancies
1.	SIKKIM	18	12	06

**INSTITUTION, DISPOSAL AND PENDENCY OF CASES**

(1) Statement of Main & Misc. Cases in the High Court of Sikkim  
from 01.10.2013 to 31.12.2013 :

Sl. No	Pending as on 01.10.2013		Institution		Decided by						Total Disposal		Pending as on 31.12.2013		Remarks
	Main Case	Misc. Appl.	Main Case	Misc. Appl.	Main Case	Misc. Appl.	Main Case	Misc. Appl.	Main Case	Misc. Appl.	Main Case	Misc. Appl.	Main Case	Misc. Appl.	
1	88	58	58	92	04	53	12	47	10	14	26	114	120	36	

(2) District & Subordinate Courts from 1.10.13 to 31.12.13  
(East & North) & (South & West)

Sl. No.	Civil Cases				Criminal Cases				Total Pendency of Civil & Criminal Cases at the end of 31.12.13
	Opening Balance as on 1.10.13	Institution from 1.10.13 to 31.12.13	Disposal from 1.10.13 to 31.12.13	Pendency at the end of 31.12.13	Opening Balance as on 1.10.13	Institution from 1.10.13 to 31.12.13	Disposal from 1.10.13 to 31.12.13	Pendency at the end of 31.12.13	
1.	250	144	170	224	585	404	424	565	789

Sl. No.	Civil Miscellaneous Cases				Criminal Miscellaneous Cases				Total Pendency of Civil Misc. & Criminal Misc. Cases at the end of 31.12.13
	Opening Balance as on 1.04.13	Institution from 1.10.13 to 31.12.13	Disposal from 1.10.13 to 31.12.13	Pendency at the end of 31.12.13	Opening Balance as on 1.10.13	Institution from 1.10.13 to 31.12.13	Disposal from 1.10.13 to 31.12.13	Pendency at the end of 31.12.13	
1.	142	100	116	126	58	347	389	16	142

(3) Family Court (East & North) at Gangtok from 1.10.13 to 31.12.13

Sl. No.	Civil Cases				Criminal Cases				Total Pendency of Civil & Criminal Cases at the end of 31.12.13
	Opening Balance as on 1.10.13	Institution from 1.10.13 to 31.12.13	Disposal from 1.10.13 to 31.12.13	Pendency at the end of 31.12.13	Opening Balance as on 1.07.13	Institution from 1.10.13 to 31.12.13	Disposal from 1.10.13 to 31.12.13	Pendency at the end of 31.12.13	
1.	32	43	51	24	5	15	6	14	38

Sl. No.	Civil Miscellaneous Cases				Criminal Miscellaneous Cases				Total Pendency of Civil & Criminal Cases at the end of 31.12.13
	Opening Balance as on 1.10.13	Institution from 1.10.13 to 31.12.13	Disposal from 1.10.13 to 31.12.13	Pendency at the end of 31.12.13	Opening Balance as on 1.07.13	Institution from 1.10.13 to 31.12.13	Disposal from 1.10.13 to 31.12.13	Pendency at the end of 31.12.13	
1.	2	2	3	1	5	6	5	6	7

## (4) Family Court (South &amp; West) at Namchi from 1.10.13 to 31.12.13

Sl. No.	Civil Cases				Criminal Cases				Total Pendency of Civil & Criminal Cases at the end of 31.12.13
	Opening Balance as on 1.10.13	Institution from 1.10.13 to 31.12.13	Disposal from 1.10.13 to 31.12.13	Pendency at the end of 31.12.13	Opening Balance as on 1.10.13	Institution from 1.10.13 to 31.09.12	Disposal from 1.10.13 to 31.12.13	Pendency at the end of 31.12.13	
1.	18	16	21	13	4	6	5	5	18

Sl. No.	Civil Miscellaneous Cases				Criminal Miscellaneous Cases				Total Pendency of Civil Misc. & Criminal Misc. Cases at the end of 31.12.13
	Opening Balance as on 1.10.13	Institution from 1.10.13 to 31.12.13	Disposal from 1.10.13 to 31.12.13	Pendency at the end of 31.12.13	Opening Balance as on 1.10.13	Institution from 1.04.13 to 31.12.13	Disposal from 1.04.13 to 31.12.13	Pendency at the end of 31.12.13	
1.	0	1	0	1	4	3	6	1	2

## (5) Lok Adalat Cases from 1.10.13 to 31.12.13

Sl. No.	Name of Lok Adalat	Opening Balance as on 1.10.13	Institution from 1.10.13 to 31.12.13	Disposal from 1.10.13 to 31.12.13	Pendency at the end of 31.12.13	Cases returned
1.	High Court Lok Adalat	9	12	3	18	0
2.	District Lok Adalat at Gangtok	141	192	250	61	22
3.	District Lok Adalat at Namchi	3	253	108	2	146
4.	Taluk Lok Adalats at Gyalshing	0	34	34	0	0
5.	Taluk Lok Adalats at Ravangla	0	53	38	0	15
6.	Taluk Lok Adalats at Mangan	1	14	7	1	7
7.	Taluk Lok Adalats at Soreng	0	34	31	0	3
	Total	154	592	471	82	193

## **SOME RECENT HIGH COURT JUDGMENTS OF PUBLIC IMPORTANCE**

- 1. Even if a decree has not been passed by the Court, the parties are bound by the directions contained in the judgment:** On 10.12.2013, a Single Bench of the Court in Civil Revision Petition No. 03 of 2013 (Mohan Kumar Agarwal @ Munna Vs. Dr. Sakuntala Sharma) has held that although a decree is essential for setting in motion a proceeding under Order XXI of the CPC, however, from a bare perusal of sub-Rule (3) of Rule 11 of CPC this is not mandatory. It is a settled position of law that a copy of decree is not ordinarily necessary but is a matter of discretion of the court. In the absence of a decree, a copy of the operative part of the judgment may be sufficient. Although in the instant case no decree in appeal has been drawn by the court, this does not detract from the fact that the directions contained in the judgment are clear and specific, and the liability of the petitioners also appear to be specific both in the plaint and the judgment of the High Court, and as such, the petitioners cannot delay the inevitable by resorting to the technicalities of law.
- 2. Proceeding under Section 324 IPC can be quashed by the High Court if the offence committed is simple in nature:** On 12.12.2013, a Single Bench of the Court in Crl. M. C. No. 21 of 2013 (Tara Rai Vs. State of Sikkim & Anr.) has held that although the offence under Section 324 IPC is non-compoundable, such offence can be quashed by the High Court if the nature of the injury was simple in nature. Otherwise, it would tantamount to abuse of the process of the court and as such, quashment of proceedings will be in the interest of justice and is necessary to secure the ends of justice. Further, the court, following the judgment of the Hon'ble Supreme Court in the case of Gian Singh Vs. State of Punjab & Anr. (2012) 10 SCC 303] has held that the serious offences of mental depravity, or offences like murder, rape, dacoity etc. cannot be quashed even though the victim or victim's family and the offender have settled the dispute. But the cases having predominantly civil flavour or offences arising from commercial, financial, mercantile, civil, partnership or offences arising out of matrimony, i.e. dowry etc. can be quashed by the High Court if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim.

## **MAJOR DEVELOPMENTS AND EVENTS**

### **1) FAREWELL OF HON'BLE MR. JUSTICE PIUS C. KURIAKOSE, CHIEF JUSTICE, HIGH COURT OF SIKKIM**

On 1<sup>st</sup> October, 2013 a Full Court Farewell Reference was held in honour of Hon'ble Mr. Justice Pius C. Kuriakose, Chief Justice, High Court of Sikkim. The function held in the Hon'ble Chief Justice's Courtroom (No. 1) was attended by Hon'ble Mr. Justice N.K Jain, Judge, High Court of Sikkim, Hon'ble Mr. Justice S.P. Wangdi, Judge, High Court of Sikkim, Mr. A. Mariarputham, Advocate General, Additional Advocate General, Senior Advocates, Members of the Bar Associations of Sikkim, Officers and staff of the High Court and Sikkim SLSA along with persons from Press and Media.

Also present at the function were family members of Hon'ble Mr. Justice Kuriakose and guests from Kerala.

Hon'ble Mr. Justice N.K. Jain, Judge, High Court of Sikkim and Hon'ble Mr. Justice S.P. Wangdi, Judge, High Court of Sikkim addressed the function, as did Mr. A. Mariarputham, Advocate General of Sikkim, Mr. A. Moulik, Senior Advocate, Mr. A.K. Upadhayaya, Sr. Advocate and Mr. Jorgay Namka, General Secretary, Bar Association of Sikkim.

A dinner was also hosted in the High Court of Sikkim to bid farewell to Hon'ble Mr. Justice Pius C. Kuriakose.

**FAREWELL SPEECH OF HON'BLE MR. JUSTICE PIUS C. KURIAKOSE,  
CHIEF JUSTICE ON 1<sup>ST</sup> OCTOBER, 2013**

Hon'ble Mr. Justice N. K. Jain

Hon'ble Mr. Justice Sonam Phintso Wangdi

Mr. A. Mariarputham, Advocate General, State of Sikkim

Mr. J.B. Pradhan, Additional Advocate General

Mr. A. Moulik, Sr. Advocate and other designated Senior Advocates of this Court

Mr. Jorgay Namka, General Secretary of the Bar Association of Sikkim

Mr. Kumar Sharma, President, Namchi Bar Association, Advocates Friends

The Registrar General, the Registrar and other Officers of the High Court, Judicial Officers, Employees of the High Court

Mr. K.K. Gopinathan and members of his family

My own family members

Ladies and Gentlemen

Thank you Brother Jain, thank you Brother Wangdi, thank you Mr. Mariarputham, thank you Mr. Moulik, thank you Mr. Upadhyaya, thank you Mr. Jorgay Namka for all the good words that you have spoken about me.

I know fully well that I do not deserve even a portion of the encomiums, which you so lavishly showered upon me. However, I accept the same in all humility as your judgment on me. This is a momentous occasion for me. Within a few hours from now, I shall cease to be a member of the mainstream judiciary.

When I was informed that I was being sent over to Sikkim as Chief Justice, a little bit of sadness came to my mind immediately. This was because I was also told that the High Court of Sikkim has the lowest pendency among the Indian High Courts and also that the High Court does not have its full sanctioned strength of Judges. But today on the verge of my demitting office, I have the satisfaction of having been able to do something for the State Judiciary and for the entire legal and judicial system in the State.

I could start the Sikkim Judicial Academy, the second one in the North-East and the first one in the country, which has been officially permitted to cater also to young lawyers and would-be lawyers.



I have been a Judge for more than 11 (eleven) years. Most of my tenure was in my own parent High Court, the Kerala High Court. I have been regarded in Kerala both by the bar and the judicial fraternity as somebody who is most friendly to them. Yes friends, I have been a little too Bar friendly and I was a little too friendly with Judicial Officers of the Subordinate Judiciary. I have no regrets. I believe that cordial relationship between the Bench and the Bar, the High Court and the Subordinate Judiciary is essential for the strength of our system. In Sikkim, the first thing, I noticed, was that the small Bar here whether it would be at High Court level or be at the levels of the Subordinate Courts was struggling for existence. I could identify some of the reasons for the situation and I believe that I have been able to find solution to the problem albeit to a very limited extent.

The High Court's decision to enhance the pecuniary jurisdiction of the Junior Division Civil Judges from Rs.50,000/- to Rs.5,00,000/- will go a long way in encouraging litigants at the village level to approach the Courts more and more. The High Court's request for re-scheduling the Court fee structure has been favourably considered by the Government and the notification reducing the Court fee substantially will be issued by the Government within days. This again will provide the litigants with more accessibility to Courts.

At the High Court level, some of the suggestions given by the members of the Bar such as doing away with the necessity to send copies in advance to the respondents even before the matters were admitted, was readily accepted by us. Our endeavour to popularize the Land Acquisition Act, a statute of great relevance in Sikkim has found some success and I am sure that in the days to come, the Courts in Sikkim including the High Court will have more cases relating to Land Acquisition Laws, specially, those pertaining to award of compensation.

Friends, within the short time available to me, I believe, I have done whatever is possible and at least 50% of the credit for whatever I could do including the establishment of the Sikkim Judicial Academy should go to Brother Justice Wangdi who has demonstrated his affection towards me by taking the initiative to designate me as President Emeritus of the Sikkim Judicial Academy, an additional title which I will carry from Sikkim. Friends, I inform you that though I was a little sad to come here, now I am sadder to leave this place. I will miss all of you. Though I am demitting

office tomorrow as Chief Justice, this High Court and this beautiful State will remain very close to my heart.

I must acknowledge my gratitude to a few persons here, who made it possible for me to achieve something and made my life here comfortable. The first and foremost Brother Wangdi; Mrs. K.C. Barphungpa, the brilliant Registrar General; Mr. Prajwal Khatiwada, the first Director of the Sikkim Judicial Academy; my Private Secretaries, Mr. Prosenjit Manna and Mr. S. Jayakumar, who significantly is the only Keralite working in the High Court; Mr. Harish Kr. Sharma, formerly Addl. Registrar-cum-Senior Reader and presently Chief Protocol Officer; Mrs. Nina Kunwar, Addl. Registrar-cum Senior Reader; Mr. N.G. Sherpa, Registrar; Mrs. Jumden Lachungpa, Deputy Registrar (Accounts); my personal staff attached to my Chamber in the High Court and in the residence including Mr. Balin Sharma and Mr. Kunga Zangpo Bhutia, driver; to all to them I owe debts of gratitude which will be difficult for me to repay.

I must also mention now that the attitude of the Government of Sikkim, particularly, the Chief Minister towards the Judiciary during my tenure of Chief Justice was most positive.

The learned Advocate General has informed us now that the Government of Sikkim has passed an order facilitating my visit to Sikkim for the purpose of taking classes in the Sikkim Judicial Academy. I deem this most unusual gesture of the Government towards me as a great honour conferred on me. I request the learned Advocate General to convey my feelings of gratitude to the State Government and inform them that whenever I come to Gangtok, I will be willing to take classes to the students of the Government Law College, Sikkim also without receiving any honorarium.

When I demit office tomorrow, Justice Jain will take over from me first as Acting Chief Justice and thereafter, as regular Chief Justice. I have information from reliable sources that Justice Jain is a fine man and a fine person. All of you can rest assured that Sikkim High Court is going to very safe hands.

My family is here to witness the day, I am stepping down as a Member of the mainstream judiciary. Having been a very active practitioner and thereafter, a very hard working Judge, I must frankly confess that I have not been able to do justice to

my family. I owe a great deal to my life partner, Mercy who made so many sacrifices for the sake of me and my children. My children including my son, who is present here, have made me proud and credit for that goes to my wife only. Both the children came down from London to attend the retirement function of my wife which happened just 3 (three) weeks prior to my oath taking ceremony here. My daughter has not come here only because I injuncted her against coming. My brother Advocate Varghese Kuriakose is one of the most successful lawyers at Ernakulam, both at the District Courts level as well as the High Court level. He was my disciple in the profession for about twelve years and I thank him for having taken the pains to come over here. Mr. Cyriac Mathew, my younger sister's husband is also present here. I thank him also for having taken the pains. Mr. K.K. Gopinathan, who is a doyen of Thrissur District Court Bar in Central Kerala, my closest friend is here with his wife Vanaja and Son, Ramu, an Engineer who has come down from Dubai. I will never be able to express my gratitude towards Mr. Gopinathan in words for all that he did for me during our 42 years of friendship.

At the end of the day, when I look back, I am a satisfied man when it comes to my professional life and judicial life. My record in both has been unblemished. I must tell you that in my State where the people are so sensitive and so watchful of what is happening in the judiciary to come out with a blemishless record despite having decided Tens of thousands of cases is something remarkable.

You may allow me now to read over to you a short message which I received this morning from Hon'ble Mr. Justice K.S. Radhakrishnan, Judge, Supreme Court of India with whom I had the longest stint on the Division Bench of my parent High Court. I quote:-

*“You are demitting the office of the Chief Justice and leaving the Judiciary of the Country fully and truly justifying the solemn oath you have taken. Bar of this Country will remember you perhaps much more than the Bench. Judgment of the Bar is more precious than the Bench. Regards.” (Unquote)*

On this occasion, I remember, my good God who was extremely kind to me, my parents and my parents-in-law, who are no more, my Seniors and friends both in the judiciary and in the legal profession but for whose support, I would have found the going really tough.

With these words, I conclude my speech informing all of you that my State is

almost as beautiful as yours if not, more. I invite all of you to visit Kerala. I assure that if you come there after informing me, you will be taken proper care of by us.

**FAREWELL SPEECH BY HON'BLE MR. JUSTICE NARENDRA KUMAR JAIN,  
JUDGE, SIKKIM HIGH COURT ON THE EVE OF SUPERANNUATION OF  
HON'BLE MR. JUSTICE PIUS C. KURIAKOSE, CHIEF JUSTICE**

My Lord Hon'ble Mr. Justice Pius Chakkalayil Kuriakose, Chief Justice,  
Brother Justice Sonam Phintso Wangdi,  
Shri A. Mariarputham, Advocate General, State of Sikkim,  
Shri J.B. Pradhan, Addl. Advocate General  
Registrar General,  
Judicial Officers and Members of the Registry  
Shri D.R. Thapa, President, Bar Association of Sikkim  
Shri Jorgay Namka, General Secretary, Bar Association of Sikkim  
Learned Senior Advocates, Learned members of the Bar,  
Distinguished family members of the Hon'ble Chief Justice,  
Distinguished Ladies & Gentlemen,

Today's assembly is to bid a solemn farewell to our beloved Chief Justice Hon'ble Mr. Justice Pius Chakkalayil Kuriakose, who is demitting office after rendering praiseworthy services to the teeming masses for over a decade.

His Lordship was born on 2<sup>nd</sup> October, 1951 at Trippunithura, the capital town of the erstwhile princely State of Cochin in Kerala. His Lordship graduated in Law from the Maharajas Law College, Ernakulam, Kerala with flying colours. His Lordship joined the Bar on 9<sup>th</sup> November, 1974. His Lordship practiced in the Kerala High Court and in various subordinate Courts in and around Ernakulam. Within a few years, His Lordship emerged as one of the most successful lawyer at Ernakulam. His Lordship specialized in Civil, Criminal and Constitutional matters. His Lordship had the privilege of initiating a large number of invoices into the legal profession. Most of them are doing very well. One of them is a sitting Judge of the Kerala High Court and another member of the Kerala Higher Judicial Service. His Lordship was elevated as Additional Judge of the Kerala High Court on 9<sup>th</sup> September, 2002 and was made permanent Judge of that Court on 8<sup>th</sup> September, 2004. As a Judge of the Kerala High Court, His Lordship disposed off about 41,000/- (forty one thousand) main

cases, out of them about 500 pertaining to various discipline of law, were reported in various law journals. As the first President of the Kerala Mediation Center, His Lordship propagated mediation throughout the State. His Lordship had the longest tenure as the President of the Kerala Judicial Academy. His Lordship was appointed as the Chief Justice of High Court of Sikkim on 28<sup>th</sup> March, 2013.

A few days back, when my name was recommended for transfer from Rajasthan High Court to Sikkim High Court, I received a telephonic call from Hon'ble the Chief Justice and that was my first conversation with His Lordship. His Lordship desired that if I can come at an early date, then His Lordship may take Full Court Reference. I assured His Lordship that in case, a notification of my transfer is issued well in time, then I will definitely come and will get an opportunity to bid farewell to His Lordship in Full Court Reference.

I met His Lordship personally, day before yesterday, and in short duration of three days, I found Hon'ble the Chief Justice, a versatile personality and most importantly, a wonderful human being. I can speak on my own behalf and on behalf of my Colleague that "Simple living, but high thinking" is an apt way to describe His Lordship. Despite the high post graced by His Lordship, My Lord continues to be a man of the soil. His warmth as a friend, as a colleague, his vision for the State judiciary, his legal acumen, his dedication to the job has won the hearts of all of us. His gentleness, his ever-smiling face, his determination is memorable. His Lordship has a compassion for the litigant, for the members of the Bar and for the subordinate Officers and for his colleagues. His sensitivity towards poor people is well reflected in His Lordship's erudite judgments.

His Lordship has been an author of number of Full Bench judgments in the Kerala High Court, one of them is **Alappuzha Muhiyideen Masjid Association Vs. Abdulkhader, 2011(1) KLT 772(F.B.)**, wherein His Lordship decided that Wakf Tribunal has no jurisdiction in matter for framing a scheme. The original authority is the Wakf Board and Wakf Tribunal is the Appellate Authority. His Lordship also held that the principles of res judicata will apply not only in separate subsequent proceedings but also in subsequent stages of the same proceedings.

In the case of **Indian Oil Corpn. Ltd. Vs. Union of India & Ors., AIR 2009**

**Kerala 114**, His Lordship, while sitting in Single Bench, has held that Sections 28 and 34 of the Land Revenue Act(1 of 1894) with their respective provisions are valid. All Sub Courts executing decrees in land acquisition reference cases will immediately on entertaining execution petitions verify whether the decrees have become final. Once it is revealed that the decree has attained finality the courts will issue emergent notice to the requisitioning authority of department calling upon them to make or facilitate deposit of the decree debts and alerting them of the consequence of delay in payment.

His Lordship has delivered a number of landmark judgments in Kerala and Sikkim High Courts. His Lordship's legal acumen is reflected in the numerous landmark judgments which fill the legal journals. My Lord is known for hard work and for rendering immediate justice. My Lord has dealt with a wide variety of cases, covering different subjects. I am not making a revelation when I say that His Lordship is gifted with a razor sharp mind, legal acumen of the highest order and a penchant for excellent delivery of judgment. On administrative side, His Lordship has taken quicker decisions for the welfare of the subordinate judiciary and staff of High Court. Just two days earlier, I requested the Registry of this Court to furnish the details of work done in Sikkim High Court during His Lordships short tenure. I have been told that there are number of important events which took place during His Lordship's tenure as the Chief Justice of Sikkim High Court. They are:-

- (1) The ongoing process for recruitment of two members of the Sikkim Superior Judicial Service got accelerated.
- (2) His Lordship piloted the Full Court decision to do away with the Rule of furnishing the copies of petitions in advance to the opposite sides, a difficulty that was expressed by the members of the Bar when they called on His Lordship.
- (3) The Sikkim Civil Courts Act, 1978, was amended and the pecuniary jurisdiction of the Civil Judges was enhanced from Rs.50,000/- to Rs.5 lakhs and court fees reduced significantly by amending the Sikkim Court Fees and Stamps on Documents Rules, 1928, in order to facilitate access to justice for the people. The necessary notifications are expected to be issued by the State Government shortly.
- (4) The process for promotion of two Members of the Sikkim Judicial Officers to the Sikkim Superior Judicial Service cadre was completed, thereby increasing the

severely depleted strength of the Sikkim Superior Judicial Service to 8, giving the High Court sufficient choice in making various postings.

(5) His Lordship took the initiative to get the Recruitment Rules of the Sikkim Superior Judicial Service and Sikkim Judicial Service, amended notification regarding which is presently under process with the State Government.

(6) Children Courts under the 'Commission for Protection of Child Rights Act, 2005', was constituted by designating in each Districts, a Sessions Court as a 'Special Court' to try such offences under the 'Protection of Children from Sexual Offences(POSCO) Act, 2012'.

(7) His Lordship got the Judicial Academy established in the old office of the Advocate General which was lying vacant. It was inaugurated on 2<sup>nd</sup> June, 2013, on which occasion the former Chief Justice of India, Hon'ble Mr. Justice Altamas Kabir was the Chief Guest and the Hon'ble Chief Minister of Sikkim was the Guest of Honour.

I quote from the Greek Philosopher Socrates “four things belong to a Judge-

- (i) To hear courteously;
- (ii) To answer wisely;
- (iii) To consider soberly; and
- (iv) To decide impartially.

My Lord Justice Kuriakose possessed all these qualities in abundance and many more.

I borrow the following words of William Shakespeare from his play- “The Merchant of Venice”, which best fits His Lordship.

I quote:-

**“It doth appear you are a worthy Judge; you know the Law; your exposition hath been most sound.**

I unquote:

His Lordship's departure from Sikkim is certainly our loss, but as Your Lordship leaves Sikkim, in general, and the corridors of this Court, in particular, we hope Your Lordship will carry the colors, the fragrance and the sweet memories of the land. We can only send you with prayers on our lips. An old Irish prayer is:-

“May the road rise up to meet you, may the wind be ever at your back. May the sun shine warm on your face and the rain fall softly at your feet. And until we meet again, may God hold you in the hollow of his hand.

With these few words, I stand before Your Lordship to bid adieu. I, on my own behalf and on behalf of brother Justice Wangdi, wish Your Lordship and family members, sound health and a very happy, peaceful and prosperous life.

**FAREWELL SPEECH BY HON'BLE MR. JUSTICE S. P. WANGDI, JUDGE,  
SIKKIM HIGH COURT ON THE EVE OF SUPERANNUATION OF HON'BLE  
MR. JUSTICE PIUS C. KURIAKOSE, CHIEF JUSTICE**

My Lord Hon'ble Mr. Justice Pius C. Kuriakose, Chief Justice,  
My Lord Justice N.K. Jain,  
Shri A. Mariarputham, Advocate General, State of Sikkim,  
Shri J.B. Pradhan, Addl. Advocate General  
Registrar General,  
Judicial Officers and Members of the Registry  
Shri D.R. Thapa, President, Bar Association of Sikkim  
Shri Jorgay Namka, General Secretary, Bar Association of Sikkim  
Learned Senior Advocates, Learned members of the Bar,  
Distinguished family members of the Hon'ble Chief Justice,  
Distinguished Ladies & Gentlemen,

I need not delay myself on the bio-data of Hon'ble Mr. Justice Pius C. Kuriakose as it has already been placed by the speakers preceding me but, suffice it to state that his Lordship has had an illustrious career as a Member of the Bar in different Courts in the State of Kerala including the Kerala High Court until his Lordship's elevation as an Additional Judge of the Kerala High Court on 9<sup>th</sup> of September, 2002 and later as a permanent Judge of that Court on 8<sup>th</sup> September, 2004.



During his tenure as a Judge in the Kerala High Court his Lordship is reputed to have contributed immensely to the judiciary there, having disposed off about 41000 main cases, many amongst which many were reported in various law journals and considered as landmark judgments. The Kerala Mediation Centre was also immensely benefitted to have his Lordship as its 'First President' and, under his skipper's leadership the concept of mediation got a fillip in the State.

Hon'ble Justice Kuriakose also served as the President of Kerala Judicial Academy until his elevation here and, had the longest tenure and under his guidance the Academy grew to be one of the finest in the country. On 28<sup>th</sup> of March, 2013, his Lordship was appointed as the Chief Justice of the High Court of Sikkim. With his arrival here the bells tolled again in the High Court which had fallen silent from September, 1997, quite literally. Although his Lordship's tenure as our Chief Justice was a very brief one, i.e., six months and six days, to be precise, but short as it may have been, it was nevertheless eventful. I may narrate some of things that were achieved by the High Court under his leadership:-

(i) The ongoing recruitment process for appointment of two Members of the Sikkim Superior Judicial Service got accelerated to its completion and, the procedure for recruitment in the Judicial Services also got crystallised.

(ii) On the request of the Bar made to his Lordship in the very week of his assuming charge as the Chief Justice, the Full Court took a decision to dispense with the requirement under the Rules of furnishing the copies of Petitions in advance to the opposite sides in the interest of the litigating public.

(iii) Similarly, as proposed by the Bar, the Sikkim Civil Courts Act, 1978, has since been amended enhancing the pecuniary jurisdiction of the Civil Judges from Rs.50,000/- to Rs.5 lakhs and, the rate of court fees also reduced to a significant extent by proposing amendments to the Sikkim Court Fees and Stamps on Documents Rules, 1928, with the prime object of making access to justice convenient for the people. My Lord was of the opinion that one of the reasons for the people avoiding the Court was the hefty court fees prescribed under the Rules. This, as per him, amounted to denial of access to justice to the poor. We are expecting the State Government to issue the necessary Notification shortly.

(iv) The proposal for promotion of two Members of the Sikkim Judicial Officers to the Sikkim Superior Judicial Service cadre which was kept on hold was completed enhancing the strength of the Sikkim Superior Judicial Service to 8 (eight) much to the relief of the High Court as it provided greater maneuverability in the transfers and transfers amongst the Officers in that cadre.

(v) Initiative was taken by his Lordship to amend the Recruitment Rules of the Sikkim Superior Judicial Service and Sikkim Judicial Service notification regarding which also is expected to be issued soon by the State Government.

(vi) Under the 'Commission for Protection of Child Rights Act, 2005', Special Courts were constituted by designating in each Districts, a Sessions Court as such to try offences under the 'Protection of Children from Sexual Offences Act, 2012'.

(vii) The next, which I have reserved as the last but, is certainly not the least, is the commencement of the Sikkim Judicial Academy. This perhaps is singularly the most remarkable achievement during the tenure of his Lordship. Although, the Sikkim Judicial Academy had been conceived in the year 2009 with the object to train not only the Judicial Officers but also the Public Prosecutors, Investigating Officers, SHOs, lawyers and even civil servants under suitable training modules but the land was allotted by the State Government only in the year 2011. Establishing the infrastructure was going to take some more time which, as per the Buildings and Housing Department, was about two years at least, only to complete construction of the Academic Block. The Academy, therefore, remained a distant dream almost a mirage. However, things changed with the arrival of his Lordship. Appreciating the necessity of such institution in the State and the likelihood of the delay in completion of the infrastructure, his Lordship suggested to have it started temporarily in some building if made available which led to the premises which earlier housed the Office of the Advocate General being identified for the purpose. The auspicious occasion of its inauguration took place on 2<sup>nd</sup> of June, 2013, with the Former Chief Justice of India, Justice Altamas Kabir as the Chief Guest and Shri Pawan Chamling, Hon'ble Chief Minister of Sikkim as the Guest of Honour in presence of a host of other Dignitaries, with the fanfare expected of the occasion. The Academy at last became a reality.

A Board of Governors was constituted by a Full Court decision and considering his Lordship's experience, he assumed the charge as the first Office of the President of the

Sikkim Judicial Academy. His Lordship personally took the initiative to conduct training programmes for the lawyers having practice of five years and below, law students from the third year onwards and, personnel of the Land Revenue Department, Government of Sikkim. We are extremely indebted to his Lordship for this.

The august gathering here will be pleased to know that the Governing Body of the Sikkim Judicial Academy by a resolution has taken a decision appointing Hon'ble Mr. Justice Kuriakose as the 'President Emeritus' considering his immense contribution in establishing the Sikkim Judicial Academy and the vast experience and knowledge which his Lordship has in running a Judicial Academy.

This is as far as the official part of his Lordship's tenure is concerned. Personally, his Lordship has been a very good friend to me and never a moment passed by when we did not engage ourselves in discussing issues of interest relating to the progress and development of this High Court and other related matters. I have found his Lordship to be a very kind and simple person, honest and forthright in his views and had no hesitation in discussing with me even his most intimate personal matters. I did remark and, I still hold the view, that his Lordship's simplicity is almost childlike, a trait which is rarely seen in a person holding the exalted position of the Chief Justice of a High Court. It was also a great privilege and a pleasure to have shared the dais with his Lordship in the Division Bench. It was indeed a learning experience for me and I will cherish every moment of it. Today his Lordship demits his Office as the Chief Justice of this Court and ends his illustrious career as a Judge but considering that he is a storehouse of knowledge and experience, I am sure that his Lordship will continue to contribute towards the cause of the society in some other capacity.

I wish his Lordship and Madam Mercy John Pius best of health, long life and fulfilling career even after retirement.

**FAREWELL SPEECH BY MR. A.K. MOULIK, LD. SENIOR ADVOCATE ON THE  
EVE OF SUPERANNUATION OF  
HON'BLE MR. JUSTICE PIUS C. KURIAKOSE, CHIEF JUSTICE**

Hon'ble Justice Shri Pius C. Kuriakose,  
The Chief Justice of Sikkim High Court,  
My Lord Hon'ble Justice Shri N.K. Jain,  
My Lord Hon'ble Justice Shri S.P. Wangdi,  
Shri Mariaputtan, Ld. A.G. of Sikkim,  
Shri J.B. Pradhan, Ld. Addl. Advocate General of Sikkim, Judicial Officer,  
Presidents of two Bar Associations of Sikkim (BAS),  
Office bearers and members of the Executive Committees of two BAS  
My colleagues from the Bar members. Ladies and gentlemen.

It is always painful and striking when we are to bid farewell to a good human being and a Judge like Hon'ble Justice Kuriakose. I remember that a few months back we had welcomed Justice Kuriakose in our High Court. We were thinking whether Justice Kuriakose would be so dear and near to all of us; juniors and seniors. In the word of Lord Coleridge, it is one of the curious things about our profession that you can never tell what sort of a man a judge will be. Justice Kuriakose is an exceptional personality. Justice Kuriakose is ever smiling, cheerful, soft spoken and kind hearted person and personality with profound knowledge of law and with human approach.

II. Judging is a great art and not all are adapt at it. Hon'ble Justice Kuriakose during his short tenure of office in our High Court could reach in our heart and mind and this is what that not only the lawyers but the society as a whole wants from a Judge. Personality of Hon'ble Justice Kuriakose ornaments with unique gift of god and virtue which is his inborn quality. I thought this day of farewell to the Hon'ble Justice Kuriakose shall not appear so quickly. However bidding farewell today to Justice Kuriakose who within a short period of time became very close to the Bar and therefore it is heartening.

III. Farewell is always with teary eyes and is a memorable event when it concerns an individual who is a person of calm, composed temperament and above all a good human being with a golden heart who has contributed immensely for the improvement of the Bar. Your Lordship being a good human being can be highlighted by the instance when your Lordship was pleased to allow the "attendants" in the court to sit in the dais.

IV. Your Lordship during this six months have touched the heart of every members of the Bar. This moment however is unavoidable. We are to bear with it. Your Lordship as a Chief Justice of Sikkim High Court has only worked for betterment of the Bar members specially the juniors and the judiciary. Being the founder member of Sikkim 'Judicial Academy' a concept not considered here by anybody; your Lordship has taught the junior members who

are enrolled in the judicial academy “to strive not to be a success but rather to be of value” as quoted by Albert Einstein.

V. I shall fail in my duties if I do not discuss the life and achievement of the Hon'ble Justice. My Lord was born on 2<sup>nd</sup> October, 1951 at Trippunithura, the capital town of the Erstwhile Princely state of Cochin in Kerala. He graduated in law from the Maharaja Law College, Ernakulam, Kerala with flying colours. He joined the Bar on 9<sup>th</sup> November, 1974. He practiced in the Kerala High Court and various sub-ordinate courts in and around Ernakulam. Within a few years he emerged one of the most successful and sought after lawyers at Ernakulam. My Lord is specialized in civil, criminal and constitutional Laws. My Lord had the privilege of initiating a large number of invoices into the legal profession. Most of them are doing very well and one of them is a sitting judge of Kerala High Court and another a member of Kerala Higher Judicial Service. My Lord was elevated as Additional Judge of the Kerala High Court on 9<sup>th</sup> September, 2002 and made a permanent Judge of that Court on 8<sup>th</sup> September, 2004. As a judge of the Kerala High Court My Lord disposed off about 41000 main cases, about 500 of them pertaining to various discipline of law being reported in various Law Journals. As the first president of the Kerala Mediation Centre, My lord propagated mediation throughout the State. My lord had the longest tenure as the President of the Kerala Judicial Academy. My Lord was appointed as the Chief Justice of the High Court of Sikkim on 28<sup>th</sup> March, 2013.

VI. The life and achievement of the Hon'ble Chief Justice in Sikkim reveals the profoundness of an unblemished character that is fashioned through years of meticulous works towards improving humanity through the relentless pursuit of justice. My lord will forever be revered for his impartiality and infallible moral fibre that stands as a guiding light for all those striving to do constructive service to the legal profession. The personality and dynamism as well as populace will be long admired by the Bar. Each Judge is unique and distinct from his brother is true but good lawyers make good Judges and good Judges give good judgment. My Lord is this.

VII. Further I shall not hesitate to say that, having worked in the Bar since late 70's I had opportunities to appear before many Chief Justices and the Judges who had ornamented this Hon'ble Court. The uniqueness of Hon'ble Chief Justice, Shri Pius K. Kuriakose who is blend with down-to-earth attitude, firmness in judicial decision, generosity, soft spoken behaviour, compassionate; a person with a golden heart and ever smiling presence. It was pleasure for any member of the Bar to appear before Your Lordship, in any matter.

Lastly, I, on behalf of the members of the Bar would like to wish you a happy, healthy, peaceful and smooth life ahead.

**(2) ASSUMPTION OF OFFICE OF THE CHIEF JUSTICE W.E.F FROM 2<sup>ND</sup> OCTOBER, 2013.**

In pursuance of Notification No. K-11019/01/2013-IS.I dated 30.1.2013 issued by the Ministry of Law & Justice (Department of Justice, Government of India, New Delhi Hon'ble Mr. Justice Narendra Kumar Jain, Judge, High Court of Sikkim assumed the charge of the Office of the Chief Justice w.e.f from 2<sup>nd</sup> October, 2013, as Acting Chief Justice, High Court of Sikkim.

**(II) IMPORTANT VISITS & CONFERENCES**

- (1) On 16<sup>th</sup> November, 2013 Hon'ble Mr. Justice N.K Jain, Acting Chief Justice, High Court of Sikkim and Hon'ble Mr. Justice S.P. Wangdi, Judge, High Court of Sikkim visited Mangan, North Sikkim to attend a legal awareness programme organized by the Sikkim State Legal Services Authority. Thereafter, on 17<sup>th</sup> November, 2013 their Lordships inspected the Court of District & Sessions Judge and Civil Judge-cum-Judicial Magistrate, North at Mangan.

His Lordship, Hon'ble Mr. Justice N.K Jain attended a "Judicial Dialogue on the New York Convention 1958" on 23<sup>rd</sup> November, 2013. The programme was organized by the International Council for Commercial Arbitration at New Delhi.

His Lordship also visited Namchi, South Sikkim and inspected the District Courts on 7<sup>th</sup> December, 2013.

- (2) Hon'ble Mr. Justice S.P. Wangdi, Judge, High Court of Sikkim & Executive Chairman, Sikkim SLSA attended the "*National Level Meet of Para Legal Volunteers*" on 26.10.2013 at Vigyan Bhawan, New Delhi. It was organized by Delhi Legal Services Authority in collaboration with National Legal Services Authority.

# *Glimpses of the Farewell Dinner*



