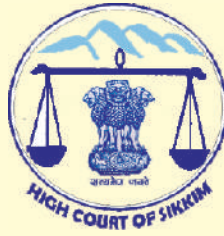


# HIGH COURT OF SIKKIM



## NEWSLETTER

Vol.6 Issue No. 2

April - June, 2014



### 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

---

*A quarterly newsletter published by High Court of Sikkim, Gangtok.*  
Also available on our website: [www.highcourtofsikkim.nic.in](http://www.highcourtofsikkim.nic.in)

# CONTENTS

Vacancies in Courts	1
Institution, Disposal and Pendency of Cases	2-6
Major Developments & Events	7-8
Important Visits & Conferences	9
Some Recent High Court Judgment	12



*Hon'ble Mr. Justice N.K. Jain  
Chief Justice*



*Hon'ble Mr. Justice S.P. Wangdi  
Judge*

## FROM THE DESK OF THE EDITORIAL BOARD

*The quarterly Court Newsletter was started by the High Court of Sikkim and launched by his Excellency the Governor of Sikkim and Hon'ble Chief Minister of Sikkim in 2009. Now in the month of June, 2014 the Newsletter of High Court has completed five years of its publication.*

*During this quarter April to June, 2014 a significant milestone was recorded with the laying of the foundation stone of the District & Sessions Court building at Mangan on 15th June, 2014 which is one of the remote districts of our State.*

*The High Court of Sikkim was also honoured by the visit of Hon'ble Mr. Justice C.K. Prasad, Judge, Supreme Court of India on 10th June, 2014.*

*A State Meet of Para-Legal Volunteers, District Legal Services Authorities (DLSA)/Taluk Legal Services Committees (TLSC) and Resource Persons was organized in the auditorium of the High Court of Sikkim on 26th April, 2014.*

*During this quarter, 197 cases were instituted and 223 cases were disposed off in the High Court of Sikkim while in the Subordinate Courts of Sikkim 1202 cases were instituted and 1361 cases were disposed off.*

*Further, steps were also initiated to fill up three vacant posts in the cadre of Sikkim Judicial Service.*

**VACANCIES IN COURTS****(i) Vacancies in the High Court of Sikkim as on 30.06.2014**

Sl. No.	Sanctioned Strength	Working Strength	Vacancies
1.	03	02	1

**(ii) Vacancies in the District & Subordinate Courts as on 30.06.2014**

Sl. No.	Sanctioned Strength	Working Strength	Vacancies
1.	<p><b>(i) Sikkim Superior Judicial Service (SSJS) -10</b></p> <p><b>(ii) Sikkim Judicial Service (SJS) - 08</b></p>	<p><b>(i) SSJS - 8</b></p> <p><b>(ii) SJS - 4</b></p>	<p><b>(i) SSJS - 2</b> <i>(1 post of District &amp; Sessions Judge (Spl. Div.-I) &amp; 1 recently created post (in compliance to the decision passed in Brij Mohan Lal Vs. Union of India).</i></p> <p><b>(ii) SJS - 4</b> <i>(1 post of CJM-cum- Civil Judge (South &amp; West), 2 posts of Sub Divisional Judicial Magistrate-cum-Civil Judge and 1 post of Civil Judge-cum-Judicial Magistrate. (However filling up of three of these vacancies are under active process.)</i></p>
Total	18	12	06

**INSTITUTION, DISPOSAL AND PENDENCY OF CASES****(1) Statement of Main & Misc. Cases in the High Court of Sikkim  
from 01.04.2014 to 30.06.2014 :**

Sl. No	Pending as on 01.04.2014		Institution		Total Disposal		Pending as on 30.06.14	
	Main Case	Misc. Appl.	Main Case	Misc. Appl.	Main Case	Misc. Appl.	Main Case	Misc. Appl.
1	135	51	72	125	66	157	141	19

**(2) Total Institution, Disposal and Pendency of Cases in the Subordinate Courts of Sikkim from 1.04.2014 to 30.06.2014**

Name of the Court		Civil Cases				Criminal Cases			
		Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.04.14 to 30.06.14	Pendency at the end of 30.06.14	Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.04.14 to 30.06.14	Pendency at the end of 30.06.14
East District at Gangtok	Main Cases	180	40	51	169	471	169	157	483
	Misc. Cases	82	63	73	72	10	242	238	14
West District at Gyalshing	Main Cases	13	10	11	12	15	56	32	39
	Misc. Cases	2	25	22	5	1	102	101	2
North District at Mangan	Main Cases	3	8	5	6	25	18	18	25
	Misc. Cases	0	5	4	1	3	23	24	2
South District at Namchi	Main Cases	79	39	56	62	116	128	170	74
	Misc. Cases	42	26	44	24	20	129	144	5
Family Courts	Main Cases	36	55	58	33	20	24	19	25
	Misc. Cases	1	1	1	1	7	7	8	6
Fast Track Courts	Main Cases	-	-	-	-	6	6	7	5
	Misc. Cases	-	-	-	-	0	3	2	1
Juvenile Justice Boards	Main Cases	-	-	-	-	8	22	15	15
	Misc. Cases	-	-	-	-	0	1	1	0
<b>Total Main Cases</b>		<b>311</b>	<b>152</b>	<b>181</b>	<b>282</b>	<b>661</b>	<b>423</b>	<b>418</b>	<b>666</b>
<b>Total Misc. Cases</b>		<b>127</b>	<b>120</b>	<b>144</b>	<b>103</b>	<b>41</b>	<b>507</b>	<b>518</b>	<b>30</b>

**INSTITUTION, DISPOSAL AND PENDENCY OF CASES DISTRICT WISE**

(3) Details of Institution, Disposal and Pendency of Cases in the Subordinate Courts from 1.04.2014 to 30.06.2014

**(i) East District at Gangtok**

Name of the Court		Civil Cases				Criminal Cases			
		Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.04.14 to 30.06.14	Pendency at the end of 30.06.14	Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.04.14 to 30.06.14	Pendency at the end of 30.06.14
Principal District & Sessions Judge (East)	Main Cases	75	25	30	70	86	29	42	73
	Misc. Cases	68	56	69	55	2	50	48	4
District & Sessions Judge (Spl.Div-I)	Main Cases	2	0	1	1	1	0	0	1
	Misc. Cases	0	0	0	0	0	1	1	0
District & Sessions Judge (Spl.Div-II)	Main Cases	3	0	1	2	3	0	3	0
	Misc. Cases	7	2	1	8	0	0	0	0
Chief Judicial Magistrate-cum-Civil Judge (East & North)	Main Cases	7	0	2	5	254	111	95	270
	Misc. Cases	3	2	2	3	2	173	171	4
Civil Judge -cum-Judicial Magistrate (East)	Main Cases	93	15	17	91	127	29	17	139
	Misc. Cases	4	3	1	6	6	18	18	6
<b>Total Main Cases</b>		<b>180</b>	<b>40</b>	<b>51</b>	<b>169</b>	<b>471</b>	<b>169</b>	<b>157</b>	<b>483</b>
<b>Total Misc. Cases</b>		<b>82</b>	<b>63</b>	<b>73</b>	<b>72</b>	<b>10</b>	<b>242</b>	<b>238</b>	<b>14</b>

**(ii) West District at Gyalsing**

Name of the Court		Civil Cases				Criminal Cases			
		Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.04.14 to 30.06.14	Pendency at the end of 30.06.14	Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.04.14 to 30.06.14	Pendency at the end of 30.06.14
District & Sessions Judge (West)	Main Cases	0	7	2	5	0	33	8	25
	Misc. Cases	0	23	18	5	0	16	15	1
Civil Judge -cum-Judicial Magistrate (West)	Main Cases	13	3	9	7	15	23	24	14
	Misc. Cases	2	2	4	0	1	86	86	1
<b>Total Main Cases</b>		<b>13</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>15</b>	<b>56</b>	<b>32</b>	<b>39</b>
<b>Total Misc. Cases</b>		<b>2</b>	<b>25</b>	<b>22</b>	<b>5</b>	<b>1</b>	<b>102</b>	<b>101</b>	<b>2</b>

**(iii) North District at Mangan**

Name of the Court		Civil Cases				Criminal Cases			
		Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.04.14 to 30.06.14	Pendency at the end of 30.06.14	Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.04.14 to 30.06.14	Pendency at the end of 30.06.14
District & Sessions Judge (North)	Main Cases	0	5	4	1	0	5	2	3
	Misc. Cases	0	5	4	1	0	3	3	0
Civil Judge -cum-Judicial Magistrate (North)	Main Cases	3	3	1	5	25	13	16	22
	Misc. Cases	0	0	0	0	3	20	21	2
<b>Total Main Cases</b>		<b>3</b>	<b>8</b>	<b>5</b>	<b>6</b>	<b>25</b>	<b>18</b>	<b>18</b>	<b>25</b>
<b>Total Misc. Cases</b>		<b>0</b>	<b>5</b>	<b>4</b>	<b>1</b>	<b>3</b>	<b>23</b>	<b>24</b>	<b>2</b>

**(iv) South District at Namchi**

Name of the Court		Civil Cases				Criminal Cases			
		Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.04.14 to 30.06.14	Pendency at the end of 30.06.14	Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.04.14 to 30.06.14	Pendency at the end of 30.06.14
District & Sessions Judge (South)	Main Cases	32	19	15	36	78	13	45	46
	Misc. Cases	38	22	39	21	4	18	21	1
Chief Judicial Magistrate-cum-Civil Judge (South & West)	Main Cases	0	1	0	1	12	83	82	13
	Misc. Cases	1	1	1	1	0	76	76	0
Civil Judge -cum-Judicial Magistrate (South)	Main Cases	47	19	41	25	26	32	43	15
	Misc. Cases	3	3	4	2	16	35	47	4
<b>Total Main Cases</b>		<b>79</b>	<b>39</b>	<b>56</b>	<b>62</b>	<b>116</b>	<b>128</b>	<b>170</b>	<b>74</b>
<b>Total Misc. Cases</b>		<b>42</b>	<b>26</b>	<b>44</b>	<b>24</b>	<b>20</b>	<b>129</b>	<b>144</b>	<b>5</b>

**(v) Family Court (East & North) at Gangtok**

	Civil Cases				Criminal Cases			
	Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal From 1.04.14 to 30.06.14	Pendency at the end of 30.06.14	Opening Balance as on 1.04.14	Institution From 1.04.14 to 30.06.14	Disposal from 1.04.14 to 30.06.14	Pendency at the end of 31.03.14
Main Cases	23	35	38	20	11	14	9	16
Misc. Cases	0	0	0	0	5	4	4	5

**(vi) Family Court (South & West) at Namchi**

	Civil Cases				Criminal Cases			
	Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.04.14 to 30.06.14	Pendency at the end of 30.06.14	Opening Balance as on 1.04.14	Institution From 1.04.14 to 30.06.14	Disposal From 1.04.14 to 30.06.14	Pendency at the end of 30.06.14
Main Cases	13	20	20	13	9	10	10	9
Misc. Cases	1	1	1	1	2	3	4	1



**(vii) Fast Track Court**

Name of the Court		Criminal Cases			
		Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.01.14 to 30.06.14	Pendency at the end of 30.06.14
Fast Track Court East & North at Gangtok	Main Cases	1	4	3	2
	Misc. Cases	0	2	1	1
Fast Track Court South & West at Namchi	Main Cases	5	2	4	3
	Misc. Cases	0	1	1	0

**(viii) Juvenile Justice Boards**

Name of the Court		Criminal Cases			
		Opening Balance as on 1.04.14	Institution from 1.04.14 to 30.06.14	Disposal from 1.01.14 to 30.06.14	Pendency at the end of 30.06.14
Juvenile Justice Board East at Gangtok	Main Cases	7	9	8	8
	Misc. Cases	0	0	0	0
Juvenile Justice Board West at Gyalshing	Main Cases	0	5	3	2
	Misc. Cases	0	0	0	0
Juvenile Justice Board North at Mangan	Main Cases	0	3	1	2
	Misc. Cases	0	1	1	0
Juvenile Justice Board South at Namchi	Main Cases	1	5	3	3
	Misc. Cases	0	0	0	0

## **MAJOR DEVELOPMENTS & EVENTS** **(1<sup>st</sup> April to 18<sup>th</sup> June, 2014)**

(1) A State Meet of Para-Legal Volunteers, District Legal Services Authorities (DLSA)/Taluk Legal Services Committees (TLSC) and Resource Persons was organised by the Sikkim State Legal Services Authority (SSLSA) in the Auditorium of High Court of Sikkim on 26<sup>th</sup> April, 2014. The Meet was organized to commemorate the outstanding performance of Para-Legal Volunteers, DLSA's and TLSCs of the State.

During the function, the best Para Legal Volunteers of District Legal Services Authorities/Taluk Legal Services Committees namely Mr. Indira Maya Nepal of Middle Khesay (East), Mrs. Nirmala Dhakal of Chewraebhotey (East) and Ms. Mingma Doma Bhutia of Rang Rang (North) were felicitated with a Certificate of Appreciation and a tablet by Hon'ble Mr. Justice N.K. Jain, Chief Justice & Patron in Chief, Sikkim SLA. Dr. Dilip Pandey, Assistant Professor in Law, Sikkim Government Law College, Burtuk was also awarded with a Certificate of Appreciation as the best "Resource Person" for conducting maximum number of training programmes of Para-Legal Volunteers.

Similarly, Hon'ble Mr. Justice S.P. Wangdi, Judge & Executive Chairman, Sikkim SLA felicitated all the District Legal Services Authorities/Taluk Legal Services Committees.

The function was also attended by Senior Government Officials, Chairpersons of DLAs, Ex-Officio Members of TLSCs, Para-Legal Volunteers, Members of the Bar, Officers of the High Court of Sikkim and SSLSA.

(2) On 10th June, 2014 Hon'ble Mr. Justice C.K. Prasad, Judge, Supreme Court of India visited Sikkim High Court.



*Glimpses of the Dinner hosted in honour of Hon'ble Mr. Justice C.K. Prasad, Judge, Supreme Court of India*

### **3) Foundation Stone Laying Ceremony of District & Sessions Court Building at Mangan, North Sikkim.**

On 14<sup>th</sup> June, 2014 Hon'ble Mr. Justice N.K. Jain, Chief Justice laid the Foundation Stone of the District & Sessions Court, North Sikkim at Pentok, Mangan, North Sikkim in the presence of Hon'ble Mr. Justice S.P. Wangdi, Judge, High Court of Sikkim and Shri Sonam Wangdi Lepcha, Hon'ble Deputy Speaker.

While addressing the function, Hon'ble Mr. Justice N.K. Jain, Chief Justice said that justice should be delivered to the litigants in a very simple manner and that it should not only be cheap but quick also. Hence, the upcoming Court on completion would be a remarkable achievement for the North District and that the people will not have to travel all the way to Gangtok anymore.

His Lordship urged the concerned Department to maintain quality and to ensure timely completion of the project, which apart from the Court complex included living quarters for the Judicial Officers consisting of the District & Sessions Judge, Chief Judicial Magistrate and Judicial Magistrate.

Hon'ble Mr. Justice S.P. Wangdi, in his address stated that the Sessions Court for North District was planned in June, 2010 during the tenure of Hon'ble Mr. Justice Barin Ghosh, former Chief Justice of High Court of Sikkim and marked the occasion as historic to the people of North Sikkim and that after the completion of the building, it would provide service to all sections of the society.

Mr. J.B. Rai, District & Sessions Judge, North presented the welcome address while Mr Suraj Chettri, Chief Judicial Magistrate-cum-Civil Judge (East & North) at Gangtok proposed the vote of thanks.

After the ceremony, their Lordships also planted saplings in the District Court premises. The plantation drive was organized by the Forest Department to mark the annual *Paryavaran Mahotshav*.

Also present on the occasion were the Zilla Adhyaksha & Upadhyaksha, Officers of the High Court of Sikkim, Government Officers from the North District, Senior Advocates and Panel Advocates.

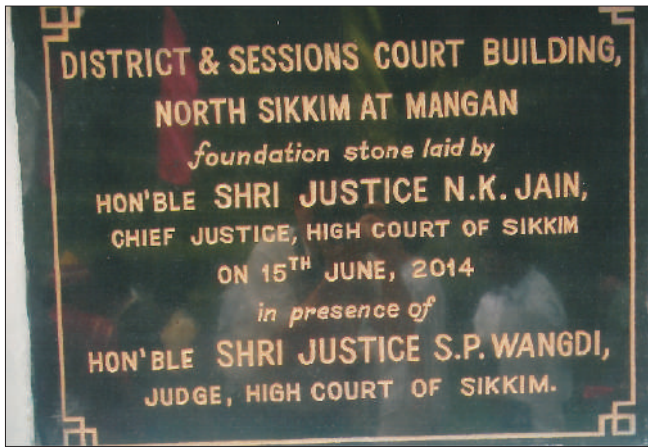
## **IMPORTANT VISITS & CONFERENCES**

- (1)
- Hon'ble Mr. Justice N.K. Jain, Chief Justice, High Court of Sikkim visited West Sikkim on 5<sup>th</sup> April, 2014 and inspected the site for the proposed construction of the judicial complex at Kyongsa, and the residential complex for Judicial Officer at Tikjuk, West Sikkim.
  - On 12<sup>th</sup> April, 2014 his Lordship attended the Annual Calendar Meeting held at National Judicial Academy, Bhopal.
  - On 18<sup>th</sup> & 19<sup>th</sup> April, 2014 Hon'ble Mr. Justice N.K. Jain, Chief Justice and Hon'ble Mr. Justice S.P. Wangdi, Judge, High Court of Sikkim visited North Sikkim to attend meetings with Para-Legal Volunteers, School Teachers and students of North Districts and also the Papon (Headmen) and Village Elders. The meetings were organized by the Sikkim State Legal Services Authority.
- (2)
- On 5<sup>th</sup> April, 2014 Hon'ble Mr. Justice S.P. Wangdi, Judge, High Court of Sikkim & Executive Chairman, Sikkim SLSA visited North Sikkim to attend a meeting with the Heads of all Educational Institutions of North District with regard to promotion of Legal literacy Clubs and Legal Aid Clinics at ADR Centre, Pentok.
  - Lordship also inspected the site of the judicial complex where the District & Sessions Court, North Sikkim at Mangan is to be constructed.



*Hon'ble Mr. Justice N.K. Jain, Chief Justice, High Court of Sikkim, Hon'ble Mr. Justice S.P. Wangdi, Judge, High Court of Sikkim during the Foundation Stone Laying Ceremony of District & Session Court Building at Mangan on 15th June 2014*

*Glimpses of the Foundation Stone Laying Ceremony*



## **SOME RECENT HIGH COURT JUDGMENTS**

1. **Although proviso to Section 50 (2) of the Land Acquisition Act, 1894 precludes a legal authority from seeking reference, it does not deprive it of the right to invoke remedy under Article 226 of the Constitution.** On 1<sup>st</sup> May, 2014 a Single Bench of the Court in W.P. No. 15 of 2013 (Shri Bal Bahadur Tamang & 7 others vs- State of Sikkim & Others) held that although proviso to Section 50 (2) of the Land Acquisition Act, 1894 precludes a legal authority from seeking reference, it does not deprive it of the right to invoke remedy under Article 226 of the Constitution as well as the remedies available under the said Act, if it feels aggrieved by the determination of the amount of compensation by the collector or by the reference Court. It was further held that the “public notice is given at convenient places or near the land to be taken” under Section 9 would connote that notice to all interested in respect of claims to compensation had been duly given and where respondent had taken possession of the land, notice issued under Section 9 given on or near the land is also in substantial compliance to the notice contemplated under sub-section 2 of Section 50 of the Land Acquisition Act, 1894.

2. **In motor accident cases, court should award just compensation ignoring the claim made in the application for compensation:** On 01/05/2014, a Single Bench of the Court in MAC App. No. 02/2014 (The Branch Manager, Bajaj Allianz Insurance Co. Ltd. Vs. Smt. Rita Thapa & Ors.) has held that ordinarily, compensation under Section 163A of the Motor Vehicles Act, 1988 should be awarded as per second schedule appended to Section 163A of the Act, however, “future prospects” would be a relevant factor, to be considered for determining the annual income for calculating and awarding the amount of compensation. It is the duty of the court to award just, equitable, fair and reasonable compensation ignoring the claim made in the application for compensation, or irrespective of the fact whether any plea in that behalf was raised by the claimants or not. The court further held that the provisions of the Act being a piece of social and welfare legislation, if there are contrary documents, then the document which is favourable to the claimants should be considered.

3. **Disputes relating to contracts cannot be agitated under Article 226 of the Constitution of India.** On 9<sup>th</sup> May, 2014 a Single Bench of the Court in W.P.(C) No.34 of 2013 (M/S Pave Infrastructure Pvt. Ltd & Shri Mahabir Agarwal v. Union of India & Others) held that when the parties have by agreement conferred jurisdiction upon the Courts at Delhi/New Delhi, such courts alone shall have Jurisdiction to entertain any dispute arising under the contract in question. Further, the disputes relating to Interpretation of the terms & conditions of such a contract could not have been agitated in a petition under Article 226 of the Constitution of India. This is a matter for adjudication by a civil court or in arbitration if provided for in the contract.