

THE HIGH COURT OF SIKKIM : GANGTOK

(Civil Extraordinary Jurisdiction)

SINGLE: THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

WP(C) No.15 of 2025

Petitioner : M/s. Elevar Digital Infrastructure Private Limited

versus

Respondents : State of Sikkim and Others

Application under Article 226 of the Constitution of India

Appearance

Mr. Sangay Gyurmay Bhutia, Advocate for the Petitioner.

Ms. Pema Bhutia, Assistant Government Advocate for the Respondent No.1.

Mr. Zigme D. Bhutia, Advocate for the Respondent No.2.

Mr. Mukkum Hang Limboo, Advocate for the Respondents No.3 & 4.

Date of Hearing : 19-03-2026

Date of Pronouncement : 19-03-2026

Date of Uploading : 19-03-2026

JUDGMENT (ORAL)

Meenakshi Madan Rai, J.

1. The prayers in the instant Writ Petition are as follows;

“..... Rule calling upon the Respondents to show cause as to why;

(a) A writ in the nature of Mandamus shall not be issued directing the respondent authorities to allow the petitioner's employee/workers to enter the leasehold premises and operate the telecommunication tower.

(b) In the alternative a writ in the nature of Mandamus shall not be issued directing the respondent authorities to allow the petitioner to remove all the telecom equipment and machinery from the tower site.

(c) An appropriate writ, direction or order should not be issued to the Respondent Authorities so as to provide adequate relief to the petitioners for the ends of justice.

.....”

2. The Petitioner's company had installed a telecommunication tower at Sobralia Hotel, Namchi, which then was owned by Respondents No.3 and 4. The tower site was earlier

being operated by the telecom service provider i.e., Vodafone India Limited and Vodafone Mobile Services Limited. The Vodafone India Limited and Vodafone Mobile Services Limited entered into a business transfer agreement with the ATC Telecom Infrastructure Private Limited. The name of the ATC Telecom Infrastructure Private Limited was subsequently changed to Elevar Digitel Infrastructure Private Limited i.e., the Petitioner. The Petitioner was managing the said tower and was allowed free ingress and egress from the property in dispute now, between the Respondents No.1 and 2 and Respondents No.3 and 4. During one of the maintenance visits, the representative of the Petitioner came to learn of the attachment order issued by the Respondents No.1 and 2 against the property of the Respondents No.3 and 4 but no Notice was given to the Petitioner prior to issuance of the attachment order causing prejudice to them including financial loss due to failure in providing telecommunication network to the customers as the tower remained non-functional. The Petitioner through Counsel approached the Respondent No.1 by way of an application dated 12-02-2025, apprising the Respondent No.1 of the facts and prayed that the Petitioner employees/workers be permitted to enter into the premises to connect electricity to the tower site. The application remained unheard and on 08-04-2025 the Petitioner was constrained to issue Notice to the Respondent No.1 to consider the said application which however was paid no heed to and the application remains unheard by the Respondent No.1. Hence, the prayers in the Writ Petition.

3. Learned Assistant Government Advocate appearing for the Respondent No.1 and Learned Counsel appearing for the

Respondent No.2, today submit that both Respondents No.1 and 2 have no objection to the Petitioner removing the telecommunication tower and other related machinery and equipment from the said building.

4. Learned Counsel for the Respondents No.3 and 4 submits that should there be any dues from the Petitioner they may be given leave to obtain the dues from the Petitioner. In my considered view, this is not the subject matter of the instant Petition, consequently I desist from delving into that aspect, suffice it to mention that the doors of justice are not closed to the Respondents No.3 and 4 should they feel aggrieved on any count.

5. In view of the submissions of Learned Counsel for the Respondent No.1 and Respondent No.2 and considering that they have no objection to the removal of the concerned articles, the Petitioner is hereby granted permission to remove all telecom equipment and other related machinery from the tower site as prayed.

6. Writ Petition stands disposed of accordingly.

(Meenakshi Madan Rai)

Judge

19-03-2026

Approved for reporting : **Yes**