

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

SINGLE BENCH: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

W.P. (C) No.16 of 2024
W.P. (C) No.17 of 2024
W.P. (C) No.18 of 2024
&
W.P. (C) No.19 of 2024

1. Shri Chandu Sherpa,
S/o Lt. Lakey Sherpa,
Aged about 48 years,
Resident of 3rd Mile Bojoghari,
Gangtok, East District, Sikkim
Pin Code: 737 101.
2. Ms. Lhamu Sherpa,
Daughter of Lt. Lakey Sherpa,
Aged about 29 years,
Resident of 3rd Mile Bojoghari,
Gangtok, East District, Sikkim
Pin Code: 737 101.
3. Ms. Dawa Lhamu Sherpa,
Daughter of Lt. Lakey Sherpa,
Aged about 25 years,
Resident of 3rd Mile Bojoghari,
Gangtok, East District, Sikkim
Pin Code: 737 101.
4. Smt. Phul Maya Sherpa,
Wife of Lt. Lakey Sherpa,
Aged about 55 years,
Resident of 3rd Mile Bojoghari,
Gangtok, East District, Sikkim
Pin Code: 737 101.

..... Petitioners

Versus

1. Smt. Sunita Rai,
W/o Shri Dhan Bahadur Rai,
Resident of 3rd Mile Bojoghari,
Gangtok, East District, Sikkim
Pin Code: 737 101.

2. District Collector-cum-Registrar,
 Office of the District Collectorate,
 District Administrative Centre,
 Sichey, Gangtok, East Sikkim.
 Pin Code: 737 101.

..... Respondents

Petition under Article 227 of the Constitution of India.

Appearance:

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

None for Respondent No.1

Mr. S. K. Chettri, Government Advocate for the
 Respondent No.2.

Date of hearing	:	21.06.2024
Date of Order	:	21.06.2024

ORDER (ORAL)

Bhaskar Raj Pradhan, J.

1 These four writ petitions raises identical questions. Applications under Order VII Rule 14(3) read with section 151 of the Code of Civil Procedure, 1908 (CPC) were moved by the petitioners in pending trials for production of the affidavit in evidence of the respondent no.1's son in another trial. The applications were rejected by the impugned orders.

2. Order VII Rule 14 (3) CPC is very clear. The documents sought to be produced by the parties must be those documents which they seek to sue or rely upon.

3. Admittedly, the necessary pleading is not available in the complaints with regard to the affidavit in evidence or the contents thereof. The learned counsel for the petitioners submits that he filed the present writ petitions as it was felt that he could not use this evidence on affidavit during the trial of the present case. However, it is submitted that he has now read the judgment of the Supreme Court in **Mohd. Abdul Wahid vs. Nilofer & Anr.**¹ and is satisfied that he could use the evidence on affidavit during the course of the cross-examination of the respondent no.1 which is yet to begin as the defendants have only filed the evidence on affidavit at this stage. He seeks to cross examine the respondent no.1 on all matters including evidence on affidavit of the son of the respondent no.1. Accordingly, the petitioners desires to withdraw the writ petitions which is allowed with liberty to cross examine the respondent no.1 on all matters as is permissible under the law including putting the evidence on affidavit of the respondent no.1's son to the respondent no.1.

¹ (2024) 2 SCC 144

4. All four writ petitions stands disposed of accordingly.

(Bhaskar Raj Pradhan)
Judge

Approved for reporting : **Yes**
Internet : **Yes**

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