

# HIGH COURT OF SIKKIM

## EDITORIAL BOARD



Hon'ble Shri Justice Sunil Kumar Sinha,  
Chief Justice,  
High Court of Sikkim



Hon'ble Smt. Justice Meenakshi Madan Rai,  
Judge,  
High Court of Sikkim

**VACANCIES IN COURTS**

(i) Vacancies in the High Court of Sikkim as on 31.03.2016

Sl.No.	Sanctioned Strength	Working Strength	Vacancies
1.	03	02	01

(ii) Vacancies in the District & Subordinate Courts as on 31.03.2016

Sl.No.	Sanctioned Strength	Working Strength	Vacancies
1.	Superior Judicial Service (SSJS) - 10	07	03  01 post of District & Sessions Judge (Spl. Div.-1) and 01 post of District & Sessions Judge (Spl. Div.-II) & 01 post in the cadre of SSJS created (in compliance to the direction passed by the Hon'ble Supreme Court in Brij Mohan Lal Vs. Union of India)
2.	Sikkim Judicial Service (SJS) – 08	07	01  01 post of CJM-cum-Civil Judge (South & West)
<b>Total</b>	<b>18</b>	<b>14</b>	<b>04</b>

**INSTITUTION, DISPOSAL & PENDENCY OF CASES**

**(1) Statement of Main & Misc. Cases in the High Court of Sikkim from 01.01.2016 to 31.03.2016.**

Sl. No.	Pending as on 31.03.2016	Institution	Disposal	Pending as on 31.03.2016
	Main Cases	Main Cases	Main Cases	Main Cases
1.	114	35	21	128

**(2) Total Institution, Disposal & Pendency of cases in the Subordinate Courts of Sikkim from 01.01.2016 to 31.03.2016.**

NAME OF THE COURT		CIVIL CASES				CRIMINAL CASES			
		Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016	Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016
East District at Gangtok	Main cases	230	37	24	243	710	120	107	723
	Misc. cases	76	65	46	95	20	199	201	18
West District at Gyalshing	Main cases	25	07	07	25	26	32	23	35
	Misc. cases	16	06	11	11	01	67	55	13
North District at Mangan	Main cases	04	00	00	04	11	05	07	09
	Misc. cases	10	06	02	14	00	05	05	00
South District at Namchi	Main cases	30	03	04	29	86	87	74	99
	Misc. cases	16	107	96	27	06	94	97	03
Family Courts	Main cases	114	45	60	99	32	27	28	31
	Misc. cases	02	00	02	00	13	10	07	16
Fast Track Courts	Main cases	-	-	-	-	04	01	01	04
	Misc. cases	-	-	-	-	00	00	00	00
Juvenile Justice Boards	Main cases	-	-	-	-	27	11	06	32
	Misc. cases	-	-	-	-	00	05	04	01
<b>Total Main Cases</b>		<b>403</b>	<b>92</b>	<b>95</b>	<b>400</b>	<b>896</b>	<b>283</b>	<b>246</b>	<b>933</b>
<b>Total Misc. Cases</b>		<b>120</b>	<b>184</b>	<b>157</b>	<b>147</b>	<b>40</b>	<b>384</b>	<b>374</b>	<b>50</b>

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

(1) Total Institution, Disposal and Pendency of cases in the Subordinate Courts of Sikkim from 01.01.2016 to 31.03.2016

(i) **East District at Gangtok.**

NAME OF THE COURTS		CIVIL CASES				CRIMINAL CASES			
		Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016	Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016
District & Sessions Judge (East)	Main cases	94	24	16	102	96	23	13	106
	Misc. cases	62	50	34	78	01	62	59	04
District & Sessions Judge (Spl. Div.-I)	Main cases	00	00	00	00	00	00	00	00
	Misc. cases	01	00	00	01	00	00	00	00
District & Sessions Judge (Spl. Div.-II)	Main cases	10	00	00	10	07	00	04	03
	Misc. cases	00	00	00	00	00	00	00	00
Chief Judicial Magistrate-cum- Civil Judge (East & North)	Main cases	11	01	01	11	361	72	76	357
	Misc. cases	05	11	11	05	08	78	79	07
Civil Judge-cum- Judicial Magistrate (East)	Main cases	115	12	07	120	246	25	14	257
	Misc. cases	08	04	01	11	11	59	63	07
<b>Total Main Cases</b>		<b>230</b>	<b>37</b>	<b>24</b>	<b>243</b>	<b>710</b>	<b>120</b>	<b>107</b>	<b>723</b>
<b>Total Misc. Cases</b>		<b>76</b>	<b>65</b>	<b>46</b>	<b>95</b>	<b>20</b>	<b>199</b>	<b>201</b>	<b>18</b>

(ii) **West District at Gyalshing**

NAME OF THE COURT		CIVIL CASES				CRIMINAL CASES			
		Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016	Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016
District & Sessions Judge (West)	Main cases	15	00	01	14	18	06	05	19
	Misc. cases	14	06	10	10	00	20	20	00
Civil Judge-cum- Judicial Magistrate (West)	Main cases	10	02	06	06	08	21	18	11
	Misc. cases	02	00	01	01	01	31	32	00
* Civil Judge-cum-Judicial Magistrate, Soreng Subdivision, West Sikkim	Main cases	00	05	00	05	00	05	00	05
	Misc. cases	00	00	00	00	00	16	03	13
<b>Total Main Cases</b>		<b>25</b>	<b>07</b>	<b>07</b>	<b>25</b>	<b>26</b>	<b>32</b>	<b>23</b>	<b>35</b>
<b>Total Misc. Cases</b>		<b>16</b>	<b>06</b>	<b>11</b>	<b>11</b>	<b>01</b>	<b>67</b>	<b>55</b>	<b>13</b>

\*Civil Judge-cum-Judicial Magistrate Court, Soreng Subdivision, West Sikkim has been functioning since February, 2016.

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(iii) North District at Mangan

NAME OF THE COURTS		CIVIL CASES				CRIMINAL CASES			
		Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016	Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016
District & Sessions Judge (North)	Main cases	03	00	00	03	02	00	01	01
	Misc. cases	10	06	02	14	00	00	00	00
Civil Judge-cum- Judicial Magistrate (North)	Main cases	01	00	00	01	09	05	06	08
	Misc. cases	00	00	00	00	00	04	04	00
*Civil Judge-cum-Judicial Magistrate, Chungthang Sub Division, North Sikkim	Main cases	00	00	00	00	00	00	00	00
	Misc. cases	00	00	00	00	00	01	01	00
<b>Total Main Cases</b>		<b>04</b>	<b>00</b>	<b>00</b>	<b>04</b>	<b>11</b>	<b>05</b>	<b>07</b>	<b>09</b>
<b>Total Misc. Cases</b>		<b>10</b>	<b>06</b>	<b>02</b>	<b>14</b>	<b>00</b>	<b>05</b>	<b>05</b>	<b>00</b>

\*Civil Judge-cum-Judicial Magistrate Court, Chungthang Subdivision, North Sikkim has been functioning since February, 2016.

(iv) South District at Namchi

NAME OF THE COURTS		CIVIL CASES				CRIMINAL CASES			
		Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2015	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016	Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016
District & Sessions Judge (South)	Main cases	13	01	03	11	63	19	12	70
	Misc. cases	14	100	94	20	02	23	25	00
Chief Judicial Magistrate-cum- Civil Judge (South & West)	Main cases	00	00	00	00	12	50	45	17
	Misc. cases	00	02	00	02	04	39	42	01
Civil Judge-cum- Judicial Magistrate (South)	Main cases	17	02	01	18	11	18	17	12
	Misc. cases	02	05	02	05	00	32	30	02
<b>Total Main Cases</b>		<b>30</b>	<b>03</b>	<b>04</b>	<b>29</b>	<b>86</b>	<b>87</b>	<b>74</b>	<b>99</b>
<b>Total Misc. Cases</b>		<b>16</b>	<b>107</b>	<b>96</b>	<b>27</b>	<b>06</b>	<b>94</b>	<b>97</b>	<b>03</b>

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**(v) Family Courts**

NAME OF THE COURT		CIVIL CASES				CRIMINAL CASES			
		Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016	Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016
Family Court, East at Gangtok	Main cases	79	37	42	74	23	13	17	19
	Misc. cases	02	00	02	00	09	03	06	06
Family Court West at Gyalshing	Main cases	11	01	07	05	04	05	06	03
	Misc. cases	00	00	00	00	00	00	00	00
Family Court North at Mangan	Main cases	03	00	02	01	00	01	00	01
	Misc. cases	00	00	00	00	00	00	00	00
Family Court South at Namchi	Main cases	21	07	09	19	05	08	05	08
	Misc. cases	00	00	00	00	04	07	01	10
<b>Total Main Cases</b>		<b>114</b>	<b>45</b>	<b>60</b>	<b>99</b>	<b>32</b>	<b>27</b>	<b>28</b>	<b>31</b>
<b>Total Misc. Cases</b>		<b>02</b>	<b>00</b>	<b>02</b>	<b>00</b>	<b>13</b>	<b>10</b>	<b>07</b>	<b>16</b>

**(vi) Fast Track Court**

NAME OF THE COURT		CRIMINAL CASES			
		Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016
Fast Track Court (East & North) at Gangtok	Main cases	02	00	00	02
	Misc. cases	00	00	00	00
Fast Track Court (South & West) at Gyalshing	Main cases	02	01	01	02
	Misc. cases	00	00	00	00
<b>Total Main Cases</b>		<b>04</b>	<b>01</b>	<b>01</b>	<b>04</b>
<b>Total Misc. Cases</b>		<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>

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(vii) **Juvenile Justice Boards**

NAME OF THE COURTS		CRIMINAL CASES			
		Opening balance as on 01.01.2016	Institution from 01.01.2016 to 31.03.2016	Disposal from 01.01.2016 to 31.03.2016	Pendency at the end of 31.03.2016
Juvenile Justice Board East, at Gangtok	Main cases	25	07	02	30
	Misc. cases	00	03	03	00
Juvenile Justice Board West, at Gyalshing	Main cases	00	02	01	01
	Misc. cases	00	05	05	00
Juvenile Justice Board North, at Mangan	Main cases	00	01	00	01
	Misc. cases	00	00	00	00
Juvenile Justice Board South, at Namchi	Main cases	02	01	03	00
	Misc. cases	00	01	01	00
<b>Total Main Cases</b>		<b>27</b>	<b>11</b>	<b>06</b>	<b>32</b>
<b>Total Misc. Cases</b>		<b>00</b>	<b>09</b>	<b>09</b>	<b>00</b>

**SOME RECENT JUDGMENTS OF HIGH COURT OF SIKKIM**

**FROM (01.01.2016 to 31.03.2016)**

- 1. In motor accident cases, where the deceased was a bachelor, 50% has to be deducted from his loss of earning:** On 03/03/2016, a Single Bench of the Court in MAC App. No. 11 of 2015 (The Branch Manager, National Insurance Co. Ltd. Vs. Karma Bhutia & Ors.), while referring to the judgment of the Hon'ble Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Ano.: (2009) 6 SCC 121** held that where the deceased was a bachelor, 50% has to be deducted from his loss of earning on the assumption that the amount would have been incurred by the victim towards maintaining himself had he been alive. Accordingly, the deduction in the matter at hand would have to be 50% and not 1/3<sup>rd</sup> as made out by the Claims Tribunal. The Court also held that the question of 'notional income' of the deceased taken by the Ld. Claims Tribunal as Rs. 3000/- per month does not arise in the instant matter since the deceased was working as a driver and was receiving the monthly salary of Rs. 3000/- and hence, the sum of Rs. 3000/- per month was the "actual income' of the deceased and not his "notional income." Appeal allowed in part.
- 2. Failure to comply with the procedure in relation to seizure of controlled substances, lodgment of FIR etc. is fatal to the prosecution case:** On 16/03/2016, a Single Bench of the Court in CrI. A. No. 28 of 2015 (Sangita Alias Sushma Pradhan & Ano. Vs. State of Sikkim) held that where search of an article is concerned, Section 24 of the Sikkim Anti Drugs Act, 2006 being akin to Section 50 of the Narcotic and Psychotropic Substances Act would not be applicable, the safeguard provided therein being relevant only when search of the person of an accused is conducted. On the issue of non-compliance of section 17(3) of the SADA, it was held that it is only institution of a prosecution case that has to be done by a gazetted officer or an Officer not below the rank of Deputy Superintendent of Police, investigation of the case by the officers of the said rank is not the requirement. However, since the IO did not take down the information in writing as postulated under Section 21(1) of Act, there is no question of compliance of section 21(2) of the Act and it was also not established that



she had within twenty four hours forwarded a copy thereof to her immediate superior officer. Further, search and seizure of the controlled substances has to precede the lodging of the FIR. In the instant case, FIR was lodged before search and seizure of the controlled substances. The Court pointed out number of anomalies in the prosecution case on the failure to comply with the provisions of law. Appeal allowed, reversing the judgment and order of conviction.

- 3. Where the widow of the deceased employee becomes the sole person eligible to receive pension, the entire amount of pension shall become payable to her:** (Decided by Single Bench) On 21.03.2016, In WP (C) No. 61 of 2015 (Naima Khatun Vs. State of Sikkim & Ors.) the issue before the Court was whether on the attainment of the age of 25 years by the eligible son of the deceased employee born from the first predeceased wife, the entire pension would be reverted to the second wife, or the amount of pension that was being apportioned to the son shall stand forfeited. In this regard, Rule 6(b) of the Sikkim Pension Rules, 1990 provided that where the deceased government servant or pensioner is survived by a widow but has left behind eligible child or children from another wife who is not alive, the eligible child or children shall be entitled to the share of the family pension, which the mother would have received, if she had been alive at the time of death of the government servant of pensioner. Applying the said legal provision, the Court held that in the absence of any proviso to the said Rules or any other rules to the contrary, the said Rules have to be followed in their strict sense as it is a cardinal principle of law that the language of the statute should be read as it is. Therefore, in the instant case, the simple interpretation which shall serve the purpose would be that in absence of any rule the share of pension of the child from other widow would not be ceased to be payable and it would certainly become payable to the surviving widow. It was directed that the share of the son of the deceased widow alongwith the arrears withheld by the respondent department be paid to the petitioner with effect from 15/10/2014, and the pension be paid regularly.

4. **Issue of prior notice or obtaining the consent of the owner or occupier is not necessary for laying overhead cables over the private land:** On 26/03/2016, a Single bench of the Court in WP(C) No. 47 of 2014 (Thentook Bhutia & Ors. Vs. Teesta Valley Power Transmission Ltd. & Ors.) held that the Indian Electricity Act or the Telegraph Act do not envisage a prior notice for laying of overhead cables over the private land. Consent of the owner or occupier is also not mandatory under section 67(2) of the Electricity Act, 2003. Further, although Section 10(c) of the Telegraph Act requires the telegraph authority to seek prior permission of the local authority to exercise powers conferred to the said authority under the said section, it is not the case of the petitioners that their property was under the control and management of any local authority, therefore, the question of local bodies for constructing the towers and drawing the overhead lines over the land of the petitioners does not arise. Notification issued in this regard suffices for the purpose. It was further held that it goes without saying that under Section 16 of the Telegraph Act, the owner is entitled to claim compensation for damages which may occur in the process. However, there is no requirement for the petitioner's consent nor is there any provision for the company to acquire the petitioner's land for the above purpose. Petition dismissed.

## **SOME RECENT MAJOR EVENTS**

### **CELEBRATION OF 67<sup>th</sup> REPUBLIC DAY :**

The High Court of Sikkim celebrated the 67<sup>th</sup> Republic Day on 26<sup>th</sup> January, 2016. The National Flag was unfurled by Hon'ble Shri Justice Sunil Kumar Sinha, Chief Justice, High Court of Sikkim, followed by a Guard of Honour to His Lordship.

On the auspicious occasion, also present were Judicial Officers, Senior Advocates, Members of the Bar, Officers & Staff of the Registry and Media persons.



The National Flag was unfurled by Hon'ble Shri Justice Sunil Kumar Sinha, Chief Justice, High Court of Sikkim

**INAUGURATION OF THE TEMPORARY COURT OF CIVIL JUDGE-CUM-JUDICIAL MAGISTRATE, SORENG SUB-DIVISION, WEST SIKKIM AT 'YATRI NIWAS':**

On 12.03.2015, Hon'ble Mr. Justice Sunil Kumar Sinha, Chief Justice, High Court of Sikkim inaugurated the temporary Court of Civil Judge-cum-Judicial Magistrate, Soreng Sub Division, West Sikkim in the "Yatri Niwas" building, in the presence of Hon'ble Mrs. Justice Meenakshi Madan Rai, Judge, High Court of Sikkim and Hon'ble Minister Shri R.B. Subba, Minister for Human Resource Development Department and Law & Parliamentary Affairs Department.



Hon'ble Shri Justice Sunil Kumar Sinha, Chief Justice, High Court of Sikkim delivering the address as 'Chief Guest' during the inauguration ceremony.



## COURT NEWSLETTER JANUARY - MARCH 2016



Hon'ble Smt. Justice Meenakshi Madan Rai, Judge, High Court of Sikkim, 'Guest of Honour' addressing the gathering during the inauguration ceremony at Soreng, Subdivision, West Sikkim.



Hon'ble Minister Shri R.B. Subba, Human Resource Development Department and Parliamentary Affairs Department, Govt. of Sikkim delivering his address as 'Guest of Honour' during the occasion.



'Vote of Thanks' by Ms. Jwala D. Thapa, Civil Judge-cum-Judicial Magistrate, Soreng, Sub-Division, West Sikkim.

**IMPORTANT VISITS & CONFERENCES**

1. Hon'ble Mr. Justice Sunil Kumar Sinha, Chief Justice, High Court of Sikkim and Hon'ble Mrs. Justice Meenakshi Madan Rai, Judge, High Court of Sikkim visited Soreng Subdivision, West Sikkim for inauguration of temporary Court of Civil Judge-cum-Judicial Magistrate, Soreng Subdivision, West Sikkim.

Thereafter, Hon'ble Mr. Justice Sunil Kumar Sinha, Chief Justice, High Court of Sikkim and Hon'ble Mrs. Justice Meenakshi Madan Rai, Judge, High Court of Sikkim inspected the construction site of District Court Building at Kyongsa, Gyalshing, West Sikkim.

**PROGRESS MADE IN THE HIGH COURT AND SUBORDINATE COURTS OF SIKKIM UNDER E-COURTS MISSION MODE PROJECT**

**January to March, 2016:**

1. Supply, testing and installation of 40 computers and LAN items in the Subordinate Courts of Sikkim under phase-II of e-Courts Mission Mode Project in the month of February 2016.
2. Data successfully migrated from CIS 1.0 to CIS 2.0 in the month of March, 2016 in the Subordinate Courts of Sikkim.
3. Shri N.G. Sherpa, Registrar-cum-C.P.C. and Shri Rudra Rimal, Senior System Officer, High Court of Sikkim participated in a two day programme on ***"Discussion & Demonstration of C.I.S."*** for High Courts held on 28<sup>th</sup> & 29<sup>th</sup> March, 2016 at New Delhi.
4. The High Court of Sikkim Digitization of Records Rules, 2016 framed by the High Court of Sikkim on 24.03.2016 and is under process of being notified by the State Government.

# HIGH COURT OF SIKKIM



## NEWSLETTER

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January to March, 2016



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High Court of Sikkim

Hon'ble Mrs. Justice Meenakshi Madan Rai, Judge, High Court of Sikkim

### **COMPILED BY**

Mrs. K.C. Barphungpa, Registrar General

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