



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

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

F.A.O. No. 01 of 2021

1. Mrs. Sumita Pradhan,
W/o Mr. D.N. Pradhan,
R/o Development Area,
Gangtok East Sikkim,
Pin No. 737 101.
2. Mr. D.N. Pradhan @ D.K. Pradhan,
S/o Late N.N. Pradhan,
R/o Development Area,
Gangtok East Sikkim,
Pin No. 737 101. Appellants

Versus

1. Sikkim Newar Guthi,
Represented by and through its
President, having address at Sichey (Barpipal),
Indira Bye-Pass Road,
P.O. Tadong, Gangtok,
East Sikkim- 737 102.
2. The President,
Sikkim Newar Guthi,
having address at Sichey (Barpipal),
Indira Bye-Pass Road,
P.O. Tadong, Gangtok,
East Sikkim- 737 102. Respondents

**Appeal under Order XLIII Rule 1(r) of the Code of Civil
Procedure 1908.**

Appearance:

Mr. A. Moulik, Senior Advocate with Ms. K. D. Bhutia
and Mr. Ranjit Prasad, Advocates for the Appellants.
Appellant no.1 in person.

Mr. N. Rai, Senior Advocate with Mr. Sushant Subba
and Ms. Malati Sharma, Advocates for the
Respondents.
Respondent no.2 in person.



With
C.O. No. 01 of 2021

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W/o Mr. D.N. Pradhan,
R/o Development Area,
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Pin No. 737 101.
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P.O. Tadong, Gangtok,
East Sikkim- 737 102.Respondents

Cross-objection filed by the respondent nos. 1 and 2.

Appearance:

Mr. A. Moulik, Senior Advocate with Ms. K. D. Bhutia
and Mr. Ranjit Prasad, Advocates for the Appellants.
Appellant no.1 in person.

Mr. N. Rai, Senior Advocate with Mr. Sushant Subba
and Ms. Malati Sharma, Advocates for the
Respondents.
Respondent no.2 in person.



21.12.2021
O R D E R (ORAL)

Bhaskar Raj Pradhan, J.

1. The present appeal (FAO No. 01 of 2021) and (C.O. No. 01 of 2021) is directed against an order of injunction passed by the Trial Court on 04.03.2021 in Title Suit No. 01 of 2021 (*Mrs. Sumitra Pradhan & Anr. Vs. Sikkim Newar Guthi & Anr.*) filed by the appellants (the plaintiffs) against the respondents (the defendants). It was the appellant's case that the protective wall raised by them in their land had been completely destroyed due to the construction activities of the respondents. The appellants therefore, sought for compensation. The interim order was challenged by the appellants in the present FAO No. 01 of 2021 as well as by the respondents in C.O. No. 01 of 2021. The appellant no.1 on behalf of herself and on behalf of the appellant no.2 is personally present. So is the respondent no.2 representing the respondent no.1 and himself.

2. The learned Senior Counsel appearing for the parties submit that the parties had a fruitful mediation sitting yesterday and as a result the respondents have assured the appellants that they would construct the protective wall on behalf of the appellants measuring 40 feet in length and 14 feet in height in 5 steps. The learned Senior Counsel



submits that in view of the specific undertaking of the respondents there is no need to pursue the suit as well as the present proceedings further. Having heard the learned Senior Counsel for the parties as well as the parties this court is of the considered view that the matter has in fact been resolved amicably. In terms of the settlement the respondents are directed to construct the protective wall (measuring 40 feet in length and 14 feet in height in 5 steps) for the appellants within a period of four months from today as undertaken by the respondents.

3. In view of the aforesaid the F.A.O. No. 01 of 2021 and C.O. No. 01 of 2021 stands disposed in terms of the compromise entered between the parties as recorded above. Title Suit No.01 of 2021 (*Mrs. Sumita Pradhan & Anr. Vs. Sikkim Newar Guthi & Anr.*) pending before the learned District Judge, East Sikkim shall also stand disposed in terms thereof. The court fees paid shall be accordingly refunded in terms of the compromise.

4. Certified copies of this order may be provided to the parties and a copy transmitted to the learned Trial Court.

(Bhaskar Raj Pradhan)
Judge

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

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