

THE HIGH COURT OF SIKKIM : GANGTOK
(Civil Extra Ordinary Jurisdiction)

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

W.P. (C) No. 27 of 2024

Mr. Alfred Karthak,
S/o Late A. John Karthak,
Aged about 80 years,
R/o Ranka Road, Barbing Block,
Gangtok, East District,
Sikkim-737101.

..... Petitioner

Versus

1. District Collector-cum-Chairman,
District Disaster Management,
Office of the District Collectorate,
Gangtok District, Sikkim-737101.
2. PCC-cum-Secretary,
Roads & Bridges Department,
Government of Sikkim,
Nirman Bhavan, Zero Point,
National Highway 31A,
Gangtok, Sikkim-737101.
3. Senior Superintendent of Police,
District Administrative Centre,
Sichey, Gangtok, Sikkim-737101.
4. Mrs. Asha Lata Rai,
W/o D.K. Kharga,
R/o Berbing Ranka,
P.O. and P.S. Gangtok-737102.

..... Respondents

Writ Petition under Article 226 of the Constitution of India.

Appearance:

Mr. B. Sharma, Senior Advocate with Mr. Sajal Sharma, Ms. Shreya Sharma, Ms. Puja Kumari Singh, Ms. Kajal Rai and Ms. Roshni Chettri, Advocates for the Petitioner.

Mr. Sujan Sunwar, Government Advocate for the Respondent Nos. 1 to 3.

Ms. Gita Bista, Ms. Pratikcha Gurung and Mr. Depan Khatiwada, Advocates for the Respondent no.4.

Date of Hearing	:	04.07.2025
Date of Order	:	04.07.2025

ORDER (O R A L)

Bhaskar Raj Pradhan, J.

1. The present writ petition was directed against the impugned order passed by the respondent no.1 dated 04.07.2024 (the impugned order) purportedly under section 34 of the Disaster Management Act, 2005. After the notice was issued upon respondents on 31.07.2024 the respondent no.1 vide Memo No.754/DCG/2024 dated 25.10.2024 withdrew the impugned order.

2. The only issue which survives in the present case is the allegation against the respondent no.4 coming to the land of the petitioner along with some local men and police personnel on 28.07.2024 and indiscriminately breaking the protective wall of the petitioner on the strength of the impugned order. These allegations are specifically made in paragraph 29 of the writ petition. Therefore, prayer in the writ petition which survives after the withdrawal of the impugned order passed by the respondent no.1 is the

fourth prayer for issuance of writ directing the respondent nos. 1 and 4 to immediately re-construct the wall/property already damaged by them.

3. In paragraph 43 of the counter affidavit filed by the respondent no.4 in reply to the paragraph 29 of the writ petition it was stated that *“the respondent no.4 was/is left with no option as her waste water at any cost has to reach up to the drain, else more damage was likely to occur. Further there was already cracks (sic) developed on the wall, so the respondent no.4 took the pipeline from the same place in order to avoid damage to the other side of the wall, so that after fixing the pipe she could repair the wall, however immediately after the order passed by this Hon’ble Court, the petitioner removed the waste water pipe from the portion of wall and he has also blocked the pipe with stone and sand on the joining point. Now it has become a black spot.”*

4. In the above paragraph of the counter affidavit of the respondent no.4 there is a clear admission to the allegation made by the petitioner about the damage to the wall/property of the petitioner by her.

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5. In such view of the matter, it would be imperative for the respondent no.4 to put back the property in the same condition as was before the damage caused to the property of the petitioner by her.

6. The respondent no.4 is therefore, given four weeks time to put back the property in the same condition as was before the damage caused to the property of the petitioner by her.

7. The writ petition is disposed of accordingly, as nothing else survives in this writ petition.

(Bhaskar Raj Pradhan)
Judge

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