

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

DIVISION BENCH: THE HON'BLE MR. JUSTICE A. MUHAMED MUSTAQUE, CHIEF JUSTICE
THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

W.A. No. 02 of 2026

IRCON, International Ltd,
Through its General Manager, Rangpo,
Dist: Pakyong, Sikkim,
PIN: 737136.

Appellant

versus

- 1. State of Sikkim**
Represented by and through the Chief Secretary,
Government of Sikkim,
Tashiling, Gangtok – 737101.
- 2. District Collector,**
Office of the District Collector, Pakyong,
Government of Sikkim,
Gangtok – 737106.
- 3. Dil Bahadur Pradhan,**
S/o Lt. Dhan Bahadur Pradhan
Aged about 50 years,
R/o: Zitlang Shantinagar, P.O. & P.S. Rangpo,
East Sikkim – 737101.
- 4. Indian Railways,**
Represented by the Secretary,
Ministry of Railways Government of India,
256-A, Raisina Road, Rajpath Area,
Central Secretariat,
New Delhi – 110001.

..... **Respondents**

**Letters Patent Appeal under Rule 148 of the
Sikkim High Court (Practice and Procedure) Rules, 2011**

Appearance:

Ms. Deblina Chattaraj, Advocate (*through V.C.*) and Mr. Prem Simon Chettri, Advocate for the appellant.

Mr. S.K. Chettri, Government Advocate with Mr. Sujan Sunwar,
Assistant Government Advocate for Respondents No.1 & 2.

Mr. D.K. Siwakoti, Advocate for Respondent No.3.

Ms. Sangita Pradhan, Deputy Solicitor General of India with with Ms.
Natasha Pradhan, Ms. Sittal Balmiki and Mr. Amit Kumar Sharma,
Advocates for Respondent No.4.

and

W.A. No. 03 of 2026

IRCON, International Ltd,
Through its General Manager, Rangpo,
Dist: Pakyong, Sikkim,
PIN: 737136.

Appellant

versus

1.

State of Sikkim
Represented by and through the Chief Secretary,
Government of Sikkim,
Tashiling, Gangtok – 737101.
2.

District Collector,
Office of the District Collector,
Pakyong,
Government of Sikkim,
Gangtok – 737106.
3.

Madan Pradhan,
S/o Lt. Bhim Bahadur Pradhan
aged about 44 years,
R/o: Zitlang Shantinagar, P.O. & P.S. Rangpo,
East Sikkim – 737101.
4.

Indian Railways,
Represented by the Secretary,
Ministry of Railways Government of India,
256-A, Raisina Road, Rajpath Area,
Central Secretariat,
New Delhi – 110001.

..... **Respondents**

**Letters Patent Appeal under Rule 148 of the
Sikkim High Court (Practice and Procedure) Rules, 2011**

Appearance:

Ms. Deblina Chattaraj, Advocate (*through V.C.*) and Mr. Prem Simon Chettri, Advocate for the appellant.

Mr. S.K. Chettri, Government Advocate with Mr. Sujan Sunwar, Assistant Government Advocate for Respondents No.1 & 2.

Mr. D.K. Siwakoti, Advocate for Respondent No.3.

Ms. Sangita Pradhan, Deputy Solicitor General of India with with Ms. Natasha Pradhan, Ms. Sittal Balmiki and Mr. Amit Kumar Sharma, Advocates for Respondent No.4.

Date of Hearing : 24.03.2026
Date of Judgment : 24.03.2026
Date on which uploaded : 25.03.2026

J U D G M E N T (ORAL)

(Hon’ble Mr. Justice A. Muhamed Mustaque, C.J.)

Heard W.A. No.02 of 2026 and W.A. No.03 of 2026.

- 2.** Both matters came up for admission. We propose to dispose of both these matters together.
- 3.** The Respondents have also entered appearance.
- 4.** We have the advantage of hearing learned Counsel for the Appellant as well as learned Counsel for the Respondents.
- 5.** These matters arise in these appeals from two separate writ petitions filed by landholders whose houses are alleged to have suffered damage consequent upon the works undertaken by the appellant on behalf of the Railways.
- 6.** The main issue is with regard to the sustainability of the interim orders dated 12.12.2025 passed by the learned Single Judge

directing payment of compensation. There are two issues, one, is the maintainability of the writ appeal; and the second, is a direction to pay interim compensation warrants interference by this Court in appeal or not.

7. With regard to maintainability, we have no doubt that an order affecting substantial rights of the parties; an appeal would lie under Rule 148 of the Sikkim High Court (Practice and Procedure) Rules, 2011 before this Court. The impugned order, directing payment of compensation, could not have been passed without impinging on the rights and obligation of the parties. Such an order, by its very nature, affects the substantial rights of the parties and, in such circumstances, the appeal would lie before this Court. We, therefore, hold that the impugned order is appealable.

8. The question regarding sustainability of the order, we have heard the parties at length. We have noted that at the outset, no interim application had been filed by the writ petitioner before the learned Single Judge. There may arise situations where compensation can be awarded by way of interim relief, particularly where there exists an immediate threat to the life of a citizen and no other means are available to safeguard their life and liberty. In such exceptional circumstances, the Writ Court is empowered to pass appropriate interim orders, having due regard to the facts and exigencies of the case. None of the circumstances have been narrated before the learned Single Judge to pass such an interim orders by filing an application(s) for interim relief.

9. One of the prayers in the writ petition is seeking direction to pay the house rent to the writ petitioner. If the writ petitioner intends to move out or relocate from that place, he could have highlighted and calculated the amount required when there is no other means for the writ petitioner to pay the rent. The Court may in an extreme situation issue an interim order to pay some compensation having due regard to the rights and obligations of the parties.

10. The circumstances under which an interim order may be issued cannot be exhaustively narrated herein, as the same would necessarily depend upon the facts and exigencies of each individual case. It must, however, be borne in mind that such an order is ordinarily passed in instances where there exists an immediate threat to the life of a citizen who has approached this Court and who does not have any support for his means but for relief to be granted by the interim order.

11. In the absence of any interim relief sought, we are of the view that the interim order dated 12.12.2025 passed by the learned Single Judge is not sustainable. Accordingly, liberty is granted to the writ petitioner to approach the learned Single Judge by filing an appropriate application seeking interim relief.

12. The writ petitioner is also at liberty to press for final disposal of the writ petition since it is submitted before us that the counter-affidavit(s) filed by the Appellant is lying under defects, and appropriate steps will be taken to cure the defects immediately.

13. The matter is listed before the learned Single Judge on 31st of March, 2026. So, it is left to the writ petitioner to press the matter for final hearing before the learned Single Judge or to file fresh application for an interim relief. We are sure that by considering the urgency involved, the learned Single Judge will consider the matter at the earliest.

14. With liberties as above, the Writ Appeals stand disposed of setting aside the impugned orders.

(Bhaskar Raj Pradhan)
Judge

(A. Muhamed Mustaque)
Chief Justice

Approved for Reporting: Yes/~~No~~
Internet : Yes/~~No~~
bp/ami