

(2014) 04 SIK CK 0001

Sikkim High Court

Case No: Transfer Pet. (C) No. 01 of 2014

M/s. Dreambox Marketing (A)
Pvt. Ltd.

APPELLANT

Vs

M/s. Himalayan Distilleries Ltd.
and Others

RESPONDENT

Date of Decision: April 28, 2014

Hon'ble Judges: Narendra Kumar Jain, C.J

Bench: Single Bench

Advocate: A.K. Upadhyaya, Sr. Advocate, Binita Chhetri, Advocate for the Appellant;
Jorgay Namka, Chenga Doma Bhutia, Jigdal G. Chankapa and Pema Bhutia, Advocates for
Respondent No. 1 and Mr. Karma Thinlay, Central Govt. Advocate for Respondents No. 2
and 3, Advocate for the Respondent

Final Decision: Allowed

Judgement

Narendra Kumar Jain, C.J.

Heard learned counsel for the parties.

2. The petitioner, by way of this Transfer Petition, has sought transfer of Money Suit Nos. 13/2012 and 14/2012 from the Court of Civil Judge, East Sikkim at Gangtok to the Court of Civil Judge, North Sikkim at Mangan (to be tried at Gangtok) on the ground that at present the Presiding Officer of the Court of Civil Judge, East Sikkim at Gangtok namely Mr. Suraj Chettri, was associate Advocate, as he then was, of Mr. A.K. Upadhyaya, learned Senior Counsel, who is appearing for the petitioner in the case. Since Mr. Suraj Chettri was Associate Advocate earlier of Mr. A.K. Upadhyaya, learned Senior Counsel, therefore, it will not be appropriate for Mr. Upadhyaya to appear before the present Presiding Officer.

3. Mr. Karma Thinlay, learned Central Govt. Advocate as well as Mr. Jorgay Namka, learned counsel appearing on behalf of respondents, have no objection in transferring the cases from the Court of Civil Judge, East Sikkim at Gangtok to the Court of Civil Judge, North Sikkim at Mangan.

4. I have considered the submissions of learned counsel for the parties. Respondents have no objection in transferring the cases to the Court of Civil Judge, North Sikkim at Mangan. Even otherwise, I am of the view that the reasons assigned in the Transfer Petition appear to be reasonable and justified for transferring the cases.

5. One additional prayer has been made in the Transfer Petition that the cases be transferred with a condition that the Civil Judge, North Sikkim at Mangan will try the cases at Gangtok. During the course of arguments, learned counsel for the petitioner has agreed that the cases be transferred to Mangan, without any condition or direction as prayed in the Transfer Petition.

6. In view of above discussions, the Transfer Petition is allowed. Money Suit Nos. 13/2012 and 14/2012 pending in the Court of Civil Judge, East Sikkim at Gangtok be and are hereby transferred to the Court of Civil Judge, North Sikkim at Mangan with the clear direction that both the cases will be tried at Mangan and not at Gangtok.

7. The concerned Court is directed to transfer all the record of above numbered cases immediately to the concerned Court.