



Case No. FAO No. 03 of 2009

Serial No.	Date	Order (s) with Signature (s)
1	2	3
07.	01-09-2009 (Saikia, CJ)	<p style="text-align: center;"><b>PRESENT:</b> HON'BLE THE CHIEF JUSTICE MR. JUSTICE AFTAB H. SAIKIA HON'BLE MR. JUSTICE A.P. SUBBA, JUDGE</p> <p>Heard Mr. A.K. Upadhyaya, learned Senior Counsel assisted by Mr. Ashim Chhetri, learned Counsel for the appellant. Also heard Mr. Jorgay Namkha, learned Counsel representing the respondent No. 1 and Mr. A. Moulik, learned Senior Counsel assisted by Ms. K.D. Bhutia, learned Counsel appearing for respondent No. 2</p> <p>The learned District Judge, East and North Sikkim at Gangtok by his Order dated 19.02.2009 passed in Title Suit No. 14 of 2008, being a suit instituted by respondent No. 1 herein as the plaintiff (hereinafter referred to as 'the respondent') for declaration of a decree of specific performance to perform the agreement dated 19.09.2005 by directing the appellant herein (defendant No. 1 in the title suit abovementioned) to relinquish and resign from the post of the Managing Director of the Sikkim Distilleries Ltd., the respondent No. 2 herein, made the order of ad-interim injunction passed on 14.10.2008 in favour of the respondent absolute by ordering that the appellant, his nominees, agents and</p>





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1	2	<p data-bbox="516 505 1365 997">representatives or any other persons under his instructions were restrained from transferring his or his nominees' shares of the respondent No. 2 to any third party. The appellant was further restrained from functioning as the Managing Director of the respondent No. 2 by the impugned order dated 19.02.2009.</p> <p data-bbox="516 1037 1365 1292">Being aggrieved by such order of temporary injunction passed against the appellant, he has preferred the instant appeal and the same is awaiting for disposal.</p> <p data-bbox="516 1333 1365 2193">Having thoroughly considered the issue raised herein that pertains to granting of temporary injunction against the appellant and also upon hearing the learned counsel for the parties at length on the issue itself at the order stage, we are of the considered view that interest of justice will be satisfied if the appeal is disposed of today itself at the order stage by sending the entire matter back to the original file of Title Suit No. 14 of 2008 pending before the learned District Judge, East and North Sikkim at Gangtok for final disposal at the earliest possible date.</p> <p data-bbox="526 2233 1365 2354">Accordingly, the matter is sent down to the Court of the learned District Judge, East and North</p> <p data-bbox="383 2381 467 2462"></p>



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		<p>Sikkim at Gangtok with the direction that the Title Suit being T.S. No. 14 of 2008 shall be disposed of as expeditiously as possible, preferably within a period of six months from the date of appearance of the parties, and if necessary, considering the urgency of the matter, hearing may be taken on a day-to-day basis.</p> <p>Since all the parties herein are represented by their respective engaged learned counsel, all of them are directed to appear before the Court of the learned District Judge, East and North Sikkim at Gangtok on 17.09.2009, the date already fixed by the trial Court for framing of issues and production of documents, as informed by the learned counsel for the parties, so as to facilitate the trial court to proceed with the hearing of the suit as directed hereinabove.</p> <p>Sent down the entire records so received by the Registry forthwith.</p> <p>This first appeal stands disposed of accordingly. However, there will be no order as to costs.</p> <p style="text-align: right;"> Judge.                       Chief Justice.</p>

rsr/jks