

**IN THE HIGH COURT OF SIKKIM
CIVIL JURISDICTION**

Transfer Pet. (C) No. 01 of 2014

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

vs.

M/s Himalayan Distilleries Ltd. & Ors.

**BEFORE
HON'BLE THE CHIEF JUSTICE
MR. JUSTICE N.K. JAIN**

02. 28.04.14 Present: M/s. A.K. Upadhyaya, Sr. Advocate with Binita Chhetri, Advocate for the Petitioner.

M/s. Jorgay Namka, Chenga Doma Bhutia, Jigdal G. Chankapa and Pema Bhutia, Advocates for respondent No.1.

Mr. Karma Thinlay, Central Govt. Advocate for respondents No. 2 and 3.

...

Heard learned counsel for the parties.

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.

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.

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.

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.

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.

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

Chief Justice