

(2019) 05 SIK CK 0008

In the Sikkim High Court

Case No : Suo Moto Transfer Petition (C) No. 01 Of 2019

Ingyur Dorjee Bhutia @Ingrik Dorjee Bhutia

APPELLANT

Vs

Chief Engineer, N.H.P.C. Ltd. & Ors

RESPONDENT

Date of Decision : 11-05-2019

Acts Referred:

Citation : (2019) 05 SIK CK 0008

Hon'ble Judges : Vijai Kumar Bist, CJ

Bench : Single Bench

Advocate : Thupden Youngda

Final Decision : Disposed Off

Judgement

1. Earlier, this Court vide Order dated 27.02.2019, transferred Title Suit No.1 of 2018 [Shri Mingyur Bhutia @ Ingrik Dorjee vs. The Chief Engineer, NHPC & Others] from the Court of District Judge, West Sikkim at Gyalshing to the Court of District Judge, South Sikkim at Namchi. Order passed by this Court is as follows;

"Learned District Judge, West Sikkim at Gyalshing, has sent a letter dated 06.02.2019 by forwarding a certified copy of the Order dated 06.02.2019, passed by him in Title Suit No. 01 of 2018 [Shri Mingyur Bhutia @ Ingrik Dorjee vs. The Chief Engineer, NHPC & Others], expressing his difficulty to proceed with the matter.

Order passed by the learned District Judge on 06.02.2019 in Title Suit No. 01 of 2018 is as follows:

"06.02.2019

.....

On going through the plaint and case records, it is revealed that the plaintiff is my neighbour at Tashiding, West Sikkim and I had given my opinion and legal

suggestions to the plaintiff when I was practicing advocate in the year 2017, with regard to the disputed suit land Record of Proceedings bearing Plot No. 814, situated at Tashiding, West Sikkim.

In view of the above it would not be appropriate on my part to proceed with the matter. The matter is accordingly brought to the kind notice of the Hon'ble High Court for kind consideration and appropriate orders/directions as deemed fit.

The certified copy of this order be forwarded to the Hon'ble High Court for Sikkim for further necessary orders/directions.

Both the parties are directed to appear as and when required.

....."

I have considered the Order passed by the learned District Judge in Title Suit No. 01 of 2018.

I find that there is only one Judge in the cadre of District Judge in the West district and hence, the case cannot be given to any other Judge in that district. In such situation, I don't think that notice should be issued to the parties. Since, the matter cannot be heard in that district, Title Suit No. 01 of 2018 stands transferred to the Court of the learned District Judge, South Sikkim at Namchi.

Copy of this Order be transmitted to the Court of learned District Judge, West Sikkim at Gyalshing, as well as to the Court of learned District Judge, South Sikkim at Namchi, forthwith.

This Suo Moto Transfer Petition is, accordingly, disposed of."

2. Now, the same District Judge who was posted as District Judge, West has been transferred to the Court of District Judge, South. He cannot hear the suit as he had given opinion in the matter when he was a practicing Advocate.

3. Considering these facts and considering the fact that there is only one Judge in the cadre of District Judge in South Sikkim, the matter cannot be given to any other Judge in that district.

4. I also find that there is no need to issue notice to the parties, as by doing so they will unnecessarily be harassed.

5. Since the matter cannot be heard by the District Judge, South Sikkim, I direct the Title Suit No. 01 of 2019 be transferred to the Court of District Judge, West Sikkim.

6. Copy of this Order be sent to the Court of District Judge, South Sikkim at Namchi, as well as to the Court of District Judge, West Sikkim at Gyalshing, forthwith.

7. This Suo Moto Transfer Petition is, accordingly, disposed of.