



Serial No. 1
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP. No. 12 of 2018

Date of Order: 19.09.2018

Megha Cashew Pvt. Ltd. Vs. B.R.Industries.

Coram: Hon'ble Mr. Justice S.R.Sen, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. K.Paul, Adv.

For the Respondent(s) : Mr. B.D.Konwar, Sr.Adv. with
Mr. R.Saloi, Adv.

Heard learned counsel for the petitioner, Mr. K.Paul as well as learned Sr. counsel for the respondent, Mr. B.D.Konwar assisted by Mr. R.Saloi, learned counsel.

After hearing the submissions of both the learned counsels for the parties, it is apparent and clear that Section 134 of *The Trade Marks Act, 1999* makes it clear that suit for infringement, etc., to be instituted before District Court. Section 134 is reproduced below for ready reference:

“134. Suit for infringement, etc., to be instituted before District Court.- (1) No suit –

- (a) For the infringement of a registered trade mark; or*
- (b) Relating to any right in a registered trade mark; or*
- (c) For passing off arising out of the use by the defendant of any trade mark which is identical with or deceptively similar to the plaintiff's trade mark, whether registered or unregistered,*

shall be instituted in any court inferior to a District Court having jurisdiction to try the suit.

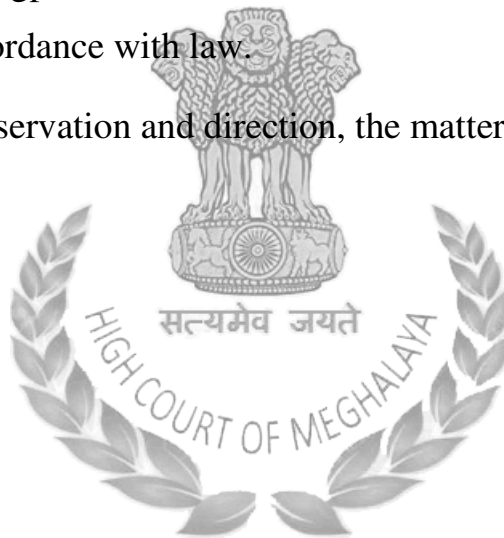
- (2) For the purpose of clauses (a) and (b) of sub-section (1), a “District Court having jurisdiction” shall, notwithstanding anything contained in the Code of Civil*



Procedure, 1908 (5 of 1908) or any other law for the time being in force, include a District Court within the local limits of whose jurisdiction, at the time of the institution of the suit or other proceeding, the person instituting the suit or proceeding, or, where there are more than one such persons any of them, actually and voluntarily resides or carries on business or personally works for gain.”

2. On the basis of the provision of law, the matter is remanded back to the Court of District & Sessions Judge, Nongpoh to adjudicate the matter and dispose the matter within 2(two) months. The stay in T.S. No. 1 of 2018 shall remain in force till the matter is taken up by the learned District & Sessions Judge, Nongpoh and thereafter he/she will decide the matter independently in accordance with law.

With this observation and direction, the matter stands disposed of.



**(S.R.Sen)
JUDGE**

Meghalaya
19.09.2018
“S.Rynjah PS”