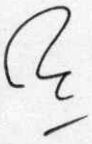

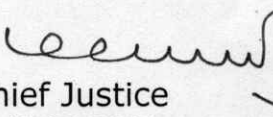


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03.	13.08.12	<p style="text-align: center;">BEFORE</p> <p style="text-align: center;">HON'BLE THE CHIEF JUSTICE MR. JUSTICE PERMOD KOHLI</p> <p>Present: Mr. Chewang Dorjee Bhutia, petitioner in person.</p> <p>Smt. Ruth Karthak Lepchani, Defendant No. 1 in person along with Mr. A. Halim, Husband and Attorney of Smt. Ruth Karthak Lepchani, defendant No. 1.</p> <p>Mr. Karma Thinlay Namgyal, Govt. Advocate with Mr. S.K. Chettri, Asstt. Govt. Advocate for the State-respondents No. 2 & 3.</p> <p style="text-align: center;">...</p> <p>Vide Order dated 04.07.2012 this case was ordered to be heard by Mrs. Lakchung Sherpa, District & Sessions Judge, Special Division-II, East Sikkim at Gangtok . This assignment was with the consent of Mr. A. Halim, attorney of defendant No. 1 and Mr. Jorgay Namka, Advocate for the other side (Plaintiff).</p> <p>2. After passing of this Order, the High Court made transfers of Judicial Officers on 05.07.2012 and Mrs. Lackchung Sherpa was transferred as District & Sessions Judge, South & West Sikkim at Namchi. It was under these circumstances that this Transfer Petition though disposed of has been placed before this Court for appropriate direction.</p> <p>3. Notice of this application was issued to the concerned parties.</p>

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		<p>4. Today, Smt. Ruth Karthak Lepchani, defendant No. 1 in the <i>Title Suit No. 09/2011 Chewang Dorjee Bhutia vs. Smt. Ruth Haleem @ Ruth Karthak Lepchani & Others</i> along with her husband and attorney Mr. A. Halim are present. From the opposite side Mr. Chewang Dorjee Bhutia, Plaintiff in the suit is also present in the Court.</p> <p>5. A protest petition has been filed by defendant No. 1 Smt. Ruth Karthak Lepchani and her husband making mention of certain past events. It is stated in the protest petition that the case may be transferred to the Hon'ble Supreme Court. The prayer is totally unwarranted and uncalled for. From the record of the case file it appears that the defendant No. 1 has been leveling allegations against every Judicial Officer preventing them from proceeding with the case one way or other.</p> <p>6. Mrs. Lakchung Sherpa was the only Judicial Officer against whom there was no allegation. It was under these circumstances without going into veracity of allegations, it was considered appropriate and in the interest of justice that the matter be heard by Mrs. Lakchung Sherpa, the then District & Sessions Judge, Special Division-II, East Sikkim at Gangtok.</p> <p>7. The Order was passed with the consent of the husband and attorney of defendant No. 1 and the counsel for the plaintiff. Now the defendant No. 1 even is opposing</p>

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		<p>the transfer of the matter to Mrs. Lakchung Sherpa, who has now been transferred as District & Sessions Judge, South & West Sikkim at Namchi. The defendant No. 1 and her husband submit that they do not want the matter to be heard at Namchi.</p> <p>8. In view of the peculiar circumstances as noticed herein above and in the Order dated 04.07.2012, the Court has no option but to transfer the matter to Mrs. Lakchung Sherpa, presently District & Sessions Judge, South & West Sikkim at Namchi. Otherwise also the case belongs to the South District and the Judicial Officer at Namchi i.e. District & Sessions Judge, South & West Sikkim at Namchi has the territorial jurisdiction to decide the matter.</p> <p>9. The protest petition is of no consequence and is hereby rejected.</p> <p>10. Consequently, the Order dated 04.07.2012 is hereby modified to the extent that the matter shall be transferred to Mrs. Lakchung Sherpa, District & Sessions Judge, South & West Sikkim at Namchi for disposal under law. Other conditions in Order dated 04.07.2012 shall remain in operation. Parties are directed to appear before the Court of District Judge (Mrs. Lakchung Sherpa) at Namchi on 03.09.2012.</p>

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		<p>11. After the above order was dictated in presence of the parties, Mr. A. Halim, attorney of defendant No. 1 wanted to recuse himself from the proceedings of the Court. Since the order had been passed in presence of the defendant No. 1, her attorney as also the plaintiff, the question of disassociating with the Court proceedings at this stage does not arise.</p> <p style="text-align: right;">  Chief Justice 13.08.2012 </p>

Index : Yes / No
 Internet : Yes / No
 pm/jk