

ITEM NO.7

Court 9 (Video Conferencing)

SECTION XVI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Transfer Petition (Criminal) No.273 of 2020

M/S HIMALAYA SELF FARMING GROUP & ANR.

Petitioner(s)

VERSUS

M/S GOYAL FEED SUPPLIERS

Respondent(s)

(FOR ADMISSION and IA No.89281/2020-STAY APPLICATION and IA
No.89282/2020-EXEMPTION FROM FILING O.T.)

Date : 16-09-2020 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s) Mr. Rahul Kaushik, Adv.
Ms. Bhuvneshwari Pathak, AOR
Ms. Shilpi Satyapriya Satyam, Adv.
Mr. Alok Pandey, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The petitioners have filed the above Transfer Petition seeking transfer of the proceedings filed by the respondent under Section 138 of the Negotiable Instrument Act pending on the file of Additional Chief Judicial Magistrate, Agra, Uttar Pradesh to the competent Court at Siliguri, Darjeeling, West Bengal.

It is contended by the learned counsel for the petitioners that the proceedings are liable to be transferred to Siliguri for three reasons namely; (1) that under the delivery challan, all disputes between the parties are made subject to the jurisdiction of courts in Siliguri; (2) that the petitioners have already lodged a criminal complaint on 29.05.2017 about the offences committed by the respondent and during the pendency of the criminal complaint, the present proceedings have been initiated on 27.10.2018 and (3) that when the respondent has its Head Office in Siliguri there was no reason to lodge the complaint at Agra except to harass the petitioners.

I am not convinced about any of these reasons. If the delivery challan which states that all disputes will be subject to the jurisdiction of courts in Siliguri, is construed by the petitioners to constitute a bar for the courts in any other jurisdiction to entertain the proceedings, it is always open to the petitioners to raise this point before the Agra Court. This cannot be a ground for seeking transfer.

The fact that the petitioners have made a prior complaint to the police about the loss that he sustained on account of the poor quality of feed supplied by the respondent herein cannot be a ground to seek the transfer of the proceedings

under Section 138.

The fact that the respondent has its Head Office at Siliguri and that there is no reason why it chose to file a complaint in Agra except to harass the petitioners, cannot also be a ground for seeking transfer. Under Section 142(2)(a) of the Negotiable Instrument Act, the court within whose jurisdiction the branch of the bank where the payee maintains the account is situated, will have jurisdiction to try the offence, if the cheque is delivered for collection through an account. Therefore, all the grounds on which the petitioners seek transfer, are unsustainable.

The Transfer Petition is therefore dismissed.

Pending application(s), if any, stands disposed of accordingly.

(ASHWANI KUMAR)
AR-CUM-PS

(KAMLESH RAWAT)
COURT MASTER (NSH)