

ADITYA SINGH

Advocate

Flat No.S-3, Second Floor,
Grasmere Lake Apartments,
Adjacent to Manu Maharani Hotel,
Opp. High Court, Mallital, Nainital Email :-
adv.adityasingh@gmail.com

Dated :-10/09/2024

TO:

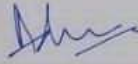
Travel Food Services Pvt. Ltd.,
Having Its Registered Office at Block-A,
South Wing, 1st Floor, Shiv Sagar Estate,
Dr. Annie Besant Road, Worli, Mumbai,
Maharashtra-400018

FOR:

FOR FILING APPEAL BEFORE THE HIGH
COURT AGAINST THE ORDER DATED 2.9.2024
PASSED BY THE LEARNED COMMERCIAL
COURT DEHRADUN IN MISC. CASE
NO.83/2024 BEING "TRAVEL FOOD SERVICES
PVT. LTD. V/S M/S HIMALAYA FOOD &
RECREATIONS & ANOTHER"

DESCRIPTION	AMOUNT (INR)
Counsel Fee	Rs.3,50,000/-
GRAND TOTAL	Rs.3,50,000/-

Amount: (Rs. Three Lakh Fifty Thousand Only)


(Aditya Singh)

Make all cheques payable in the name of :- Aditya Singh

PAN No: BHZPS8158N

Bank Details:-

Aditya Singh,

State Bank of India, High Court Branch, Nainital

A/c no.20027252926

IFSC: SBIN0010634

If you have any questions concerning this invoice, contact Rakesh Pandey, Mobile:+91-9412957856

Invoices TFS

From: Udayan Gupta
Sent: 13 September 2024 17:14
To: Parag Pandey
Subject: Fwd: Manendra Travel to nainital on 11 september along with signed and notarized appeal - Appeal ground and prayer - draft finalization

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From: Vikas Kapoor <vikas.kapoor@travelfoodservices.com>
Sent: Thursday, September 12, 2024 10:02:29 AM
To: Udayan Gupta <udayan.gupta@travelfoodservices.com>; Rituparn Sharma <rituparn.sharma@travelfoodservices.com>
Cc: Deepak Kurian <deepak.kurian@travelfoodservices.com>; Manendra Kumar <manendra.kumar@travelfoodservices.com>
Subject: RE: Manendra Travel to nainital on 11 september along with signed and notarized appeal - Appeal ground and prayer - draft finalization

Approved , this is karanjiwala lawyer?

From: Udayan Gupta <udayan.gupta@travelfoodservices.com>
Sent: Wednesday, September 11, 2024 5:55 PM
To: Vikas Kapoor <vikas.kapoor@travelfoodservices.com>; Rituparn Sharma <Rituparn.sharma@travelfoodservices.com>
Cc: Deepak Kurian <deepak.kurian@travelfoodservices.com>; Manendra Kumar <manendra.kumar@travelfoodservices.com>
Subject: Re: Manendra Travel to nainital on 11 september along with signed and notarized appeal - Appeal ground and prayer - draft finalization

Sir
Lawyer fees reduced to 3.5 from 4.5 lakhs till disposal of appeal. Need to pay the same in advance once vendor code is created.

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From: Udayan Gupta <udayan.gupta@travelfoodservices.com>
Sent: Wednesday, September 11, 2024 5:45:04 PM
To: Vikas Kapoor <vikas.kapoor@travelfoodservices.com>; Rituparn Sharma <Rituparn.sharma@travelfoodservices.com>
Cc: Deepak Kurian <deepak.kurian@travelfoodservices.com>; Manendra Kumar <manendra.kumar@travelfoodservices.com>
Subject: Re: Manendra Travel to nainital on 11 september along with signed and notarized appeal - Appeal ground and prayer - draft finalization

Dear all
Draft is finalized with lawyer and we are ready with filing of appeal tomorrow.

Manendra board resolution also received.

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From: Udayan Gupta <udayan.gupta@travelfoodservices.com>
Sent: Wednesday, September 11, 2024 2:59:53 AM
To: Vikas Kapoor <vikas.kapoor@travelfoodservices.com>; Rituparn Sharma <Rituparn.sharma@travelfoodservices.com>
Cc: Deepak Kurian <deepak.kurian@travelfoodservices.com>; Manendra Kumar <manendra.kumar@travelfoodservices.com>
Subject: Re: Manendra Travel to nainital on 11 september along with signed and notarized appeal - Appeal ground and prayer - draft finalization

Dear All
attached is the revised draft of appeal shared by the lawyer. draft of appeal needs few modifications which we try to finalize asap today and appeal can be filed on 12th September. If warranted, manendra to sign the same on present day.

Since the caveat has been filed by the owner of haridwar property, no ex parte injunction is being prayed by us. The court may issue notice to parties for their appearances followed by allowing arguments or objections on our appeal.

At the time of filing of appeal, we shall be putting this for urgent hearing which is subject to court discretion. Matter, not listed for urgent hearing, will come before the court within 3-4 days of filing.

The grounds of appeal, inter alia, against the impugned order dated 2-09-2024 are as follows -

1. Wrong interpretation of the law by the court which provides pre-institution mediation in terms of the Rules framed under the Act would not be necessary in case urgent interim relief is sought.
2. Commercial Court while returning the plaint preferred by the plaintiff by way of the impugned order herein has not discussed the plaint averment nor has it discussed or returned any finding to conclude that urgent interim relief in the case is not sought.
3. pre litigation mediation is necessary if the urgent relief is not contemplated however so far as the present case is concerned, such a finding has not been recorded by the learned court.
4. It was a categorical case of the plaintiff that the action of defendant no.1 acting in contravention to the admitted agreement between the parties for allowing defendant no.2 to open an outlet in the area which is covered by the agreement between the parties is categorically detrimental to the interest of the plaintiff for which the plaintiff had filed the suit before the learned Commercial Court with categorical averment that the business of respondent no.2 at the scheduled property was in direct competition to the business of plaintiff and operation of the same would be hit the commercial interest of plaintiff.
5. Commercial Court has further failed to appreciate that in terms of the agreement entered into between the parties, the plaintiff has a categorical right to first refusal of any additional space that may be developed in the demised property, however, it is the case of plaintiff that this right has been categorically and deliberately violated by defendant no.1.
6. Commercial Court while passing the impugned order has completely failed to appreciate that prior to filing of the suit, the plaintiff had given a notice to defendant no. 1 and 2 more particularly communicating its rights of first refusal and exclusive right to operate food and beverage outlets vis-à-vis the agreement executed between itself and defendant no.1 while categorically stating that in case it operates the outlet in the said premises it would be against the legal rights of the plaintiff.
7. Commercial Court in the judgment that the interim relief sought by the plaintiff is not of urgent nature, however, such observations or finding made by the learned Commercial Court are completely absent in the impugned order.

PRAYER UNDER THE APPEAL

1. allow the present appeal and set aside the impugned order dated 2.9.2024 passed by the learned Commercial Court Dehradun in Misc. Case No.83/2024 and restore the suit of the plaintiff to its original number along with the application preferred by the plaintiff under order 39 Rule 1 and 2 of CPC., failing which the appellant will suffer irreparably and/or may be pleased to pass such further orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.

PRAYER UNDER THE STAY APPPLICATION

1. Stay the effect and operation of the impugned order dated 2.9.2024 passed by the learned Commercial Court Dehradun in Misc. Case No.83/2024 being "Travel Food Services Pvt. Ltd. V/s M/s Himalaya Food & Recreations & another".
2. Grant ad interim injunction in favor of the appellant and against the defendants directing the respondents to not to operate the food and beverage outlet under the brand name "Burger King/BK cafe" of and by the defendant no. 2/respondent no. 2 in the area adjoining and adjacent to Crystal World, Haridwar Roorkee National Highway (NH-58), Village Batedi Rajputana, Post Shantashah, District Haridwar which is in control of respondent no.1) from the said property, during pendency of the present appeal.
3. Grant ad-interim injunction against the defendant no. 1/respondent no. 1 and in favor of the plaintiff/appellant restraining defendant no. 1/respondent no. 1 from letting out whether directly or indirectly any and all additional part /area of the scheduled property including the area adjoining and adjacent to Crystal World, Haridwar Roorkee National Highway (NH-58), Village Batedi Rajputana, Post Shantashah, District Haridwar which is in control of respondent no.1), to any outlet or firm or third party to carry out the business of food and beverage from the said property, during pendency of the present appeal.
4. Pass such further orders or directions which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

Cheers,
Udayan Gupta,

Manager- Legal

People will forget what you said, people will forget what you did, but people will never forget how you made them feel.

From: Udayan Gupta

Sent: Tuesday, September 10, 2024 10:10 AM

To: Manendra Kumar <manendra.kumar@travelfoodservices.com>

Cc: Vikas Kapoor <vikas.kapoor@travelfoodservices.com>; Deepak Kurian <deepak.kurian@travelfoodservices.com>; Rituparn Sharma <Rituparn.sharma@travelfoodservices.com>

Subject: Manendra Travel to nainital on 11 september along with signed and notarized appeal

Manendra

Please take necessary approvals and Kindly plan you trip. We need all required documents by 12 morning. Hence, pls reach on 11th with all signed and notarized documents.

Will be sharing with you appeal final draft, either today or tomorrow 1st half, which needs to be signed by Rituparn sir and notarized and you need to bring it here on 11th. Since on 11, 13 to 16th court will not be working. This is urgent. Requested lawyer to support in filing appeal on 12th.

Please

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