



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Cont.Cas(C) No. 4 of 2024

Date of Decision: 18.03.2026

State of Meghalaya
Through Secretary
Urban Affairs Department

..... **Petitioner**

- Vs-

1. Mr. Mayven T. Marbaniang
Managing Director
M/s Marbaniang Projects Pvt. Ltd.
Spring Side Road, Jingkieng,
Nongthymmai,
Shillong,
Meghalaya-793014

..... **Contemnor No. 1**

2. M/s Marbaniang Projects Pvt. Ltd.
Through M.D, Spring Side Road,
Jingkieng, Nongthymmai, Shillong,
Meghalaya-793014.

..... **Contemnor No. 2**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. N. Syngkon, GA.
Mr. J.N. Rynjah, GA.

For the Respondent(s) : Mr. K. Paul, Sr. Adv. with
Ms. K. Decruse, Adv.
Ms. B.F. Kharwanlang, Adv.
Mr. B. Snaitang, Adv.



i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

Per W. Diengdoh, (J):

JUDGMENT AND ORDER

1. It is brought to the notice of this Court that there is a pending proceeding between the parties before the Arbitral Tribunal. In course of proceedings before the Arbitral Tribunal, the respondent No. 1 therein, being the State of Meghalaya had filed an application seeking interim directions including securing payments of the lease rental amount, which is not paid by the claimant.

2. Upon hearing the parties, the Arbitral Tribunal vide order dated 08.11.2023, the same being modified vide order dated 10.11.2023, have made certain directions therein, directing the claimant to deposit and make certain payments. It was also directed that the claimant shall furnish a bank guarantee for an amount of ₹ 2 crores in favour of the respondent No. 1.

3. In this backdrop, the State respondent have preferred another application with a prayer for initiation of contempt proceedings against the claimant therein for non-compliance and disobedient of the said order dated 08.11.2023 and 10.11.2023. The Arbitral Tribunal upon hearing the parties, vide order dated 19.02.2024, have at para 5 of the same, observed as follows:



“5. Since this Tribunal does not possess the power and jurisdiction to take action under the Contempt of Court Act, yet we feel that this matter would require a strict action and therefore the contempt proceedings to be taken up by the Hon'ble High Court of Meghalaya. We therefore, refer the matter to the Registry of the Hon'ble High Court of Meghalaya for placing the matter before the Hon'ble Chief Justice of the Hon'ble High Court of Meghalaya to pass necessary orders for doing the needful in the matter. The matter shall be placed before the Registry with this order along with all other relevant documents by the counsel appearing for the respondent no. 1. We may however make it clear that this order would not be in any manner construed as a fetter on the rights of the respondent no. 1 to take all other course of action that may be available to the respondent no. 1 for such non compliance in accordance with law.”

4. In the meantime, the petitioner/State of Meghalaya has also approached this Court with an application under Section 12 of the Contempt of Courts Act, 1971, seeking contempt proceedings to be initiated against the contemnors herein for violation of the said order dated 08.11.2023 and 10.11.2023 respectively, passed by the Arbitral Tribunal.

5. When this matter was taken up by this Court, the contemnors, at the outset, has raised the issue of maintainability of this petition. Accordingly, this Court has heard the parties on this point.

6. Heard Mr. N. Syngkon, learned GA appearing for the State petitioner who has submitted that the High Court is competent to deal with an issue involving contempt of court, even, if such act of contempt has arisen from proceedings of an Arbitral Tribunal, since by virtue of the provision of Section 27(5) of the Arbitration and Conciliation Act, 1996, any act of



contempt or the like shall be subject to punishment by order of the court, on the representation of the Arbitral Tribunal. This proposition of law has been distinctly brought-out in the case of Sri. Krishan v. Anand reported in 2009 (112) DRJ 657, para 11, 12 and 13, submits the learned counsel.

7. The learned counsel went on to submit that the Hon'ble Supreme Court in the case of Alka Chandewar v. Shamshul Ishrar Khan, (2017) 16 SCC 119, para 1, 2, 6, 7, 9 and 10 had held that any contempt of the Arbitral Tribunal during the arbitral proceedings is covered under Section 27(5) of the Arbitration Act and any order passed by the Tribunal under Section 17 are now by virtue of Sub-section 2 of Section 17, deemed to be order passed by the court and therefore, disobedience thereof are subject to contempt proceedings.

8. Coming to the issue of maintainability, the learned GA has referred to the order dated 19.02.2024 (supra) and has submitted that on a reading of the said order particularly para 5 of the same, it is clear that the Arbitral Tribunal has referred the matter to the registry of this Court to be placed before the Hon'ble Chief Justice for passing necessary orders, however, it is also indicated in the said order that the respondent No. 1 the State petitioner herein, is free to take any course of action that may be available to it to do so for such compliance in accordance with law.



9. Accordingly, by way of this instant contempt petition the State petitioner has placed the order of the Tribunal along with other relevant materials before the registry of this Court. Initially, in view of Rules 6(2) of the Contempt of Courts (High Court of Meghalaya) Rules 2013, which provides that *“Every petition, motion, or reference in relation to civil contempt shall, unless directed otherwise by the Chief Justice be laid before the Single Bench”*, the matter was listed before the Single Bench of this Court, which vide order dated 04.07.2024 had directed the registry to place the matter before the Hon’ble Chief Justice. Thereafter, when the matter was placed before the Hon’ble Chief Justice for necessary directions, the Hon’ble Chief Justice has passed an order for the matter to be placed before this Bench for determination.

10. The learned GA has also submitted that, even otherwise, under Rules 9 of the Contempt of Courts (High Court of Meghalaya) Rules 2013, it is provided that there are three ways in which this Court can take action in a case of civil contempt, viz; (a) on its own motion; or (b) on a petition presented by the party aggrieved; or (c) in case of any civil contempt of a subordinate court, on a reference made by that court. Under this provision, this instant petition is maintainable when the same can be construed to have been a petition presented by the party aggrieved where such action was also allowed to be taken on a reading of para 5 of the said order dated 19.02.2024.



11. In the light of the above contention and submission, the learned GA has submitted that this instant petition is maintainable and the merits of the same may be taken up for hearing by this Court.

12. Mr. K. Paul, learned Sr. counsel assisted by Ms. K. Decruse, learned counsel for the contemnors, while opposing the contention and submission of the learned GA for the State petitioner, has submitted that vide order dated 19.02.2024, the Arbitral Tribunal at para 5 has specifically directed that the contempt proceedings be referred to the registry of the Hon'ble High Court of Meghalaya for placing the matter before the Hon'ble Chief Justice to pass necessary orders for doing the needful in the matter. The admitted position is that till date, there has been no reference made by the Tribunal before this Court or rather before the Hon'ble Chief Justice of this Court. What is apparent is that, there is an application under Section 12 of the Contempt of Courts Act filed by the State petitioner. Accordingly, since the said reference has not been answered, therefore, there cannot be two parallel proceedings in respect of the same subject matter.

13. The learned Sr. counsel has also submitted that the petitioner/respondent State appears to have preferred an application under Section 27(5) of the Arbitration and Conciliation Act before the Tribunal, however, there is no order indicating approval or grant of such approval by the learned Arbitral Tribunal, and as such, there has been inadequate compliance of Section 27 of



the Act. This has been reflected in the order dated 19.02.2024, where the learned Arbitral Tribunal was not inclined to grant approval to the petitioner State to initiate contempt proceedings, but rather that the matter be referred for consideration of the Hon'ble Chief Justice.

14. Under such circumstances, this instant petition filed by the State petitioner cannot be sustained in the absence of a formal reference by the Arbitral Tribunal before this Court, the same to be placed before the Hon'ble Chief Justice, who will then pass necessary orders for the appropriate bench to take up the matter, which is absent in this case, reiterates the learned Sr. counsel. This petition is therefore not maintainable and the same is liable to be dismissed, it is further submitted.

15. Having heard the submission and contention of the learned counsels for the rival parties, on the issue of maintainability of this petition, we are to decide whether there has been made a reference for initiation of contempt proceedings against the contemnors herein, and whether such process was in accordance with the rules applicable.

16. As has been submitted, the learned Arbitral Tribunal, on application, has vide order dated 19.02.2024, is convinced that its orders dated 08.11.2023 and 10.11.2023 have been violated, and as such, contempt proceeding is to be initiated against the contemnors herein. However, because of the prevalence of the related provisions of law, vis-a vis the power of the



High Court in contempt proceedings, the Tribunal deems it fit for the matter to be referred to this Court for necessary action.

17. It is true that initially, there was no process carried out for bringing such reference to the attention of this Court by the Tribunal. However, the State petitioner herein relying on the language of the order dated 19.02.2024, wherein the Tribunal has also given liberty to the respondent No. 1/State petitioner herein to take all other course of action for such non-compliance in accordance with law, has approached this Court with this instant petition preferred under the provisions of Section 12 of the Contempt of Courts Act, 1971.

18. The learned GA has maintained that this petition has also been filed resorting to the provisions of Rules 9 of the Contempt of Courts (High Court of Meghalaya) Rules 2013, where it is also provided that the contempt proceedings can be initiated on the prayer of the person or party aggrieved. We find nothing wrong with the approach of the State petitioner in this regard.

19. Another aspect of the matter which has been pointed out by the learned GA is that a Single Judge of this Court vide order 04.07.2024 has acknowledged the order dated 19.02.2024 passed by the Arbitral Tribunal and has therefore directed that the matter be placed before the Hon'ble Chief Justice, which in effect, would mean that the reference by the Arbitral Tribunal has now been brought to the notice of the Hon'ble Chief Justice.



20. Correspondingly, when the matter was placed before the Hon'ble Chief Justice for necessary order, vide order dated 09.07.2024, it was directed that the same be placed before a Division Bench of J2 and J3, meaning this bench.

21. Under such circumstances, we are of the considered view that the process of reference by the Arbitral Tribunal to this Court has been completed and accordingly, we hereby acknowledge the same in this proceeding.

22. Consequently, we find that this petition is maintainable, the objection of the contemnors having no substance as far as the legal provision is concerned, and as to the stand taken that the reference from the Arbitral Tribunal has not been brought to the notice of this Court, the same has been answered hereinabove.

23. Accordingly, we find and hold that this petition is maintainable and the same to be heard on merits.

24. List this matter after 2(two) weeks for filing of the show cause by the contemnors.

(B. Bhattacharjee)
Judge

(W. Diengdoh)
Judge