

Serial No.02
Supp. List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP. No. 6 of 2023

Date of Order :25.04.2023

Shri. Parvez Sharif

Vs.

Shri. Amit Shah.

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge.

Appearance:

For the Petitioner/Appellant(s) : Mr. S.Sen, Adv.
Mr. S.K.Roy, Adv.

For the Respondent(s) : Mr. S.Jindal, Adv.
Mr. V.Kumar, Adv.

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

ORAL

1. This matter has been brought again before this Court due to a legal notice issued by the respondent dated 12-04-2023, whereby it has been stated therein that an order dated 22-02-2023, passed in Misc. C/ No. 1 (H) 2023 in T.S. (Eviction) No. 25 (H) 2022, was still existing and as such, the petitioner was required to restore the electricity supply to the premises held by the respondent.

2. Mr. S.Sen, learned counsel for the petitioner submits that in the earlier round of litigation, namely, in CRP. No. 3 of 2023, this Court by order dated 06-04-2023, had relegated the parties back to the Trial Court to recommence the proceedings from the order dated 24-03-2023. Relevant part of the order dated 06-04-2023, at paras 10 and 11 is reproduced herein below:

10. This Court in exercise of powers under Article 227 of the Constitution, is not sitting as an Appellate Court over the orders of the Court below, but in exercise of supervisory jurisdiction is to see as to whether the proceedings are within the set parameters. Judicial intervention under Article 227 of the Constitution, is to be exercised not to correct errors of law or fact, but to ensure that, the Courts below are within the bounds of their jurisdiction and is to be exercised sparingly. In the instant case, as can be seen from the discussions above, the invocation of Article 227 of the Constitution, is warranted only to the extent to ensure that fair procedure in accordance with law is maintained by the Courts below, which was denied to the petitioner, as well as to the respondent in the entire proceedings, commencing from the order dated 22.02.2023, to the impugned order dated 06.03.2023.

11. In these circumstances therefore, to correct the course of the proceedings, the impugned order dated 06.03.2023, is set aside and the parties relegated to resume the proceedings before the Court of the Assistant District Judge, in Misc. C/ No. 1(H) 2023/T.S C/No. 25(H) 2022. It is further directed that, the Court of the Assistant District Judge, notwithstanding the setting aside of the impugned order, is to recommence the proceedings from the order dated 24.03.2023, in accordance with law, especially keeping in mind the provisions of the Meghalaya Urban Areas Rent

Control Act, before any further orders are passed as to the restoration of electricity in the suit premises.

He submits that though the hearing was to recommence, in view of the legal notice, the same has created an impediment for proper adjudication of the matter. It is also submitted that in the last order dated 24-03-2023, the learned Assistant District Judge had allowed the respondent to produce any other relevant materials in connection with the Misc. Case for reconnection.

3. Mr. S.Jindal, learned counsel for the respondent at the outset fairly submits that if the legal notice has caused an obstruction or hindrance to adjudication of the matter, the respondent shall not press the same and that the hearing can be recommence as directed by the earlier order.

4. I have heard learned counsel for the parties. As submitted by Mr. S.Sen, learned counsel for the petitioner and quoted above at paras 10 and 11 of the earlier order, this Court had directed that the matter shall recommence from the order dated 24-03-2023. This therefore, implies that it would amount to a de novo hearing on the matter which however, as it has not been specifically mentioned in the earlier order that the order dated 22-02-2023, shall not come in the way of hearing the matter, the legal notice has been occasioned.

5. In view of the concession given by learned counsel for the respondent, this matter is disposed of at the motion stage itself by directing the parties to adhere to the order dated 06-04-2023, and it is further clarified that the order dated 22-02-2023, shall not be given any weightage any further. It is also open for the parties to raise whatever issues deemed necessary before the learned Assistant District Judge.

Judge

Meghalaya
25.04.2023
"Samantha PS"

