



Serial No.06

Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CRP. No. 20 of 2021

Date of Order :05.08.2024

Messrs Motilal Oswal Financial Services Ltd.,
A Non-banking Financial Company
Incorporated under the Companies Act, 1956,
Having its registered office at The Motilal
Oswal Tower, Rahimutullah Sayani Road,
Prabhadevi, Mumbai-400025, Maharashtra,
Though the authorized signatory
Shri. Bhagwati Prasad Bajoria,
Son of (Late) K.L.Bajoria,
Resident of Mani Bhawan, Lower Police Bazaar,
Shillong-793001, Meghalaya.

...Petitioner

-Versus-

Messrs Green Valley Industries Ltd.,
A company incorporated under the
Companies Act, 1956, having its registered
Office at Nongsning, P.O. Chiehruphi,
P.S.Khliehriat, District East Jaintia Hills,
Meghalaya.

...Respondent

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. S.Chakrawarty, Sr. Adv. with
Mr. E.Laloo, Adv.

For the Respondent(s) : Mr. K.Paul, Sr. Adv. with
Mr. S.Thapa, Adv.
Ms. B.Kharwanlang, Adv.



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

JUDGMENT & ORDER (ORAL)

1. This application under Rule 27 of the Administration of Justice (Khasi Syiemship) Order 1950, read with Article 227 of the Constitution of India has been filed against the impugned order dated 24-11-2021, in Misc. Case No. 1 (T) of 2020 arising out of T.S. No. 3 (T) of 2020, whereby the application of the petitioner under Section 8 of the Arbitration & Conciliation Act, 1996, was dismissed with cost of ₹50,000/- (Rupees Fifty Thousand) only.

2. The brief facts are that the petitioner which is a non-banking financial company had provided a loan of ₹25,00,00,000/- (Rupees Twenty-Five Crores) only to the respondent in the years 2011 and 2012, and on the failure of the respondent to refund the said loan amount with interest thereon, the parties had entered into a settlement agreement dated 31-08-2018 for settlement of the loan at an amount of ₹16,50,00,000/- (Rupees Sixteen Crores and Fifty Lakhs) only which was then paid by the respondent to the petitioner. The petitioner thereafter, allegedly on



realizing that the respondent had fraudulently induced the petitioner to enter into the said settlement dated 31-08-2018, as such, terminated the same by serving a legal notice to the respondent. The respondent, it appears, then instituted a Title Suit being T.S. No. 3 (T) of 2020 along with Misc. case No. 4 (T) 2020, in the Court of the Additional Deputy Commissioner at Khliehriat. The petitioner then was served with a notice dated 10-08-2020, passed in the Misc. Case whereby an ad interim injunction had been granted restraining the petitioner from acting in any manner in breach or contravention of the settlement agreement dated 31-08-2018, and from invoking the securities pledged with the petitioner by the respondent or to create any third party rights interest in respect of the shares of the respondent pledged with the petitioner.

3. The petitioner on receipt of the notice thereof, duly entered appearance and filed an application on 09-09-2020, under Section 8 of the Arbitration & Conciliation Act, 1996, praying for referring the parties to arbitration and the same was numbered as Misc. Case No. 01 (T) 2020 in the Court of the Additional Deputy Commissioner, Khliehriat. The respondent then filed its reply/show cause to the said application under Section 8 and subsequently by another application dated 03-03-2021, in the aforementioned Misc. case No. 1 (T) 2020 raised a preliminary objection regarding the jurisdiction of the Additional Deputy



Commissioner at Khliehriat to take up the matter under Section 8 of the Arbitration & Conciliation Act, 1996, to which the petitioner filed a show cause in reply thereto in March 2021. The said matter was then heard by the Court of the Additional Deputy Commissioner Khliehriat and by the impugned order dated 24-11-2021, the petitioner's application under Section 8 of the Arbitration & Conciliation Act, 1996, was dismissed with cost of ₹50,000/- (Rupees Fifty Thousand) only. Being aggrieved thereby, the petitioner is before this Court.

4. Mr. S.Chakrawarty, learned Sr. counsel assisted by Mr. E.Laloo, learned counsel for the petitioner submits that the suit had been instituted at the time when the judiciary had not been separated from the executive and the initial order of ad interim injunction had been passed by the Court of the Additional Deputy Commissioner and not the Court of any of the Assistants to Deputy Commissioner as should have been the case. He submits that the petitioner being under the notion that the Court of the Additional Deputy Commissioner was the competent court had filed the Section 8 application before the said court, inasmuch as, the law provides that such application should be filed before the judicial authority trying the matter which is covered by an arbitration agreement. He further submits that apart from the ad interim injunction order being passed by the Court of the Additional Deputy Commissioner, the petitioner had no information of



the endorsement of the main title suit i.e., T.S. No. 3 (T) of 2020 to any of the Subordinate Courts of the Assistants to Deputy Commissioner, nor did the Court of the Additional Deputy Commissioner endorse the said application under Section 8 to the Subordinate Court for disposal. He therefore contends that the Additional Deputy Commissioner had grossly erred in failing to endorse the said application under Section 8 for disposal to the proper Subordinate Court even after the respondents had filed an application raising preliminary objections regarding the jurisdiction of the Court of the Additional Deputy Commissioner. He lastly submits the entire confusion being caused due to the fact that the suit was initially instituted when the judiciary had not been separated from the executive and on separation, the title suit being endorsed to the Court of Assistant Deputy Commissioner not to the petitioner's knowledge, the Additional Deputy Commissioner had failed to appreciate the circumstances by dismissing the application and imposing cost of ₹50,000/- (Rupees Fifty Thousand) only. As such, he submitted that the learned Court of the Additional Deputy Commissioner had acted in excess of jurisdiction vested in it by law, and that the impugned order being bad in law is liable to be set aside and quashed.

5. Mr. K.Paul, learned Sr. counsel assisted by Mr. S.Thapa, learned counsel for the respondent in reply thereto, has fairly submitted that it is



correct that the suit had been instituted at the time when the judiciary had not been separated from the executive in East Jaintia Hills, and that the ad interim order of injunction dated 10-08-2020, had been passed in this period. The learned Sr. counsel to assist the Court has also supplied certified copies of the entire order sheets reflecting the proceedings and the progress of the case to substantiate his submissions. He further submits that the petitioner however, continued to persist with the Section 8 application inspite of the objection raised by the respondent and as such, the same had resulted in the impugned order being passed. Learned Sr. counsel does not dispute the fact that the Section 8 application needs adjudication, but submits that it is not a case for a simple referral to arbitration, inasmuch as, there are many intervening circumstances that deserves consideration.

6. Upon hearing learned Sr. counsel for the parties and having examined the materials on record, it is first to be noted that in the scheme of the Administration of Justice as given under the Administration of Justice Rules, 1937 in the erstwhile United Khasi and Jaintia Hills, the same provided for the Courts of the Deputy Commissioner and his Assistants; and in the normal course, when any suit is instituted and put up before the Deputy Commissioner or the Additional Deputy Commissioner both being vested with the same powers, the same was endorsed to the



Court of the Assistant to the Deputy Commissioner for trial and disposal. What can be seen in the instant case is that on the institution of the suit ie., T.S. No. 3 (T) 2020 along with the Misc. case, the Additional Deputy Commissioner without endorsing the same to the Court of the Assistants, proceeded to take up the matter and pass the ad interim injunction order dated 10-08-2020. The suit thereafter, on the separation of the judiciary from the executive on 11-08-2020, as can be seen from the order sheets, was then transferred by the Additional Deputy Commissioner to the Court of the Additional Deputy Commissioner (Judiciary) Khliehriat, East Jaintia Hills, who then in turn, by order dated 07-10-2020, transferred the same to the Court of the Assistant to Deputy Commissioner, Khliehriat, East Jaintia Hills.

7. At this juncture, it is relevant to note that on 09-09-2020, the petitioner had filed the application under Section 8 of the Arbitration & Conciliation Act, 1996, before the Court of the Additional Deputy Commissioner as the suit was pending therein, but as discussed earlier, though the main title suit was thereafter endorsed or transferred to the Court of the Assistant to the Deputy Commissioner, the Section 8 application remained before the said Court of the Additional Deputy Commissioner and was disposed of by the impugned order, even though the respondent had raised objections as to jurisdiction. It is relevant also to



note herein that the Court of the Assistant to Deputy Commissioner, on the title suit being transferred to it on 07-10-2020, had only issued notice on 04-02-2021 to the parties, perhaps as can be seen from the order sheets, due to the covid pandemic. From the circumstances therefore, it can be seen that what was a simple matter initially, had by the events that unfolded, assumed a different character which complicated the entire situation, and has resulted in the proceedings being unduly delayed. It may be added herein also that when the matter was pending before this Court, the parties had attempted to settle the same, but as nothing transpired, has also contributed to the matter being held up.

8. Looking into the totality of the facts and circumstances as narrated above, therefore, without any further deliberation, in the considered view of this Court, justice will be served if the application under Section 8 of the Arbitration & Conciliation Act, 1996, filed by the petitioner be taken up afresh by the Court of the Assistant to Deputy Commissioner, Khliehriat, East Jaintia Hills wherein the main suit i.e., T.S. No. 3 (T) 2020 is pending, for disposal on merits.

9. Consequently, the impugned order shall stand set aside and quashed, and Misc. Case No. 4 (T) 2020 restored to file and placed before the Assistant to Deputy Commissioner trying the main suit.



10. The parties are put to notice to appear before the Court of the Assistant to Deputy Commissioner, East Jaintia Hills, Khliehriat on 28th August, 2024 for commencement of the proceedings for hearing of Misc. Case No. 4 (T) 2020, which is to be taken up expeditiously for disposal.

11. As ordered above, the instant civil revision application stands closed and disposed of.

Judge