

GAHC010110122023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP/50/2023

T.K. ENGINEERING CONSORTIUM PRIVATE LTD. AND 5 ORS.
A COMPANY HAVING ITS REGD. OFFICE AT MODEL VILLAGE, P.O. AND P.S.
NAHARLAGUN, DIST.- PAPUMPARE, PI- 791110, ARUNACHAL PRADESH
EMAIL.ID- TKECONLTD@GMAIL.COM, MOB. NO- 9436041370

2: RATU TECHI
MANAGING DIRECTOR OF PETITIONER NO. 1
R/O- MODEL VILLAGE
P.O. AND P.S. NAHARLAGUN
DIST.- PAPUMPARE
PIN- 791110
ARUNACHAL PRADESH EMAIL. ID- TK.RATUTECHI@GMAIL.COM MOB.
NO. 9436041370

3: TECHI TARA
DIRECTOR OF PETITIONER NO. 1
R/O- MODEL VILLAGE
P.O. AND P.S. NAHARLAGUN
DIST.- PAPUMPARE
PIN- 791110
ARUNACHAL PRADESH EMAIL. ID- TECHITARA1985@GMAIL.COM MOB.
NO. 8413833552

4: (MRS) TECHI JULLY
DIRECTOR OF PETITIONER NO. 1
R/O- MODEL VILLAGE
P.O. AND P.S. NAHARLAGUN
DIST.- PAPUMPARE
PIN- 791110
ARUNACHAL PRADESH EMAIL. ID- MD@TKEECON.COM MOB. NO.
9436041370

5: PRADIP KUMAR ROY
VICE PRESIDENT OF PETITIONER NO. 1

R/O- FLAT NO. 204
BLOCK-A3
GAMES VILLAGE
BELTOLA
P.S. BASISTHA
PIN- 791110
EMAIL. ID- PKROY@TKCON.COM MOB. NO. 8259020300

6: KISHORE KUMAR SENAPATI
CHIEF FINANCIAL OFFICER OF PETITIONER NO. 1
R/O- MODEL VILLAGE
P.O. AND P.S. NAHARLAGUN
DIST.- PAPUMPARE
PIN- 791110
ARUNACHAL PRADESH EMAIL. ID- TKEECON@GMAIL.COM MOB. NO.
779942588

VERSUS

TECHCON INFRASTRUCTURE PVT. LTD.
A COMPANY WITHIN THE MEANING OF COMPANIES ACT, 2013 HAVING
ITS LOCAL PRINCIPAL OFFICE AT ASSAM TRUNK ROAD, TOKOBARI, OPP.
MAHAVIR BHAWAN, DISTRICT KAMRUP (M), GUWAHATI- 781001, AND ITS
REGD. OFFICE AT P-27, PRINCEP STREET, 2ND FLOOR, P.S. BOWBAZAR,
KOLKATA- 700072 HAVING EMAIL ID- TECHCONINFRA@GMAIL.COM,
MOB. NO- 9831089488

For the Petitioner(s) : Mr. D. Mozumdar, Sr. Advocate

For the Respondent(s) : Mr. O. P. Bhati, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 05.03.2024

1. The instant proceedings has been filed challenging the order dated 09.05.2023 passed by the learned Court of the Civil Judge No.2, Kamrup (M) at

Guwahati whereby the application under Order VII Rule 11 (a) and (d) of the Code of Civil Procedure, 1908 (for short "the Code") was rejected.

2. This Court has duly perused the application which has been filed under Order VII Rule 11 (a) and (d) of the Code and primarily, a perusal of the said application shows that the basic ground which was taken is that the Court before whom the suit was filed did not have the territorial jurisdiction. The question of territorial jurisdiction in the opinion of this Court cannot be decided in a proceedings under Order VII Rule 11 (a) and (d) of the Code inasmuch the same may require going into evidence and more particularly in a case like the present one where it has been categorically shown in the plaint that the defendants are either residents or have the principal place of business within the territorial jurisdiction of the Court at Guwahati. Taking into account that the scope of a proceedings for rejection of a plaint is solely to be decided on a perusal of the contents of the plaint and nothing else, in the opinion of this Court, in the present facts, the application for rejection of plaint was totally misconceived.

3. It is also well settled principle of law that when an application under Order VII Rule 11 of the Code is taken, the only document which requires to be looked into is the plaint and as to whether from the said plaint it discloses a cause of action or for the matter, whether from a perusal of the plaint, the plaint appears to be barred by provisions of law. Under such circumstances, this Court having perused the impugned order dated 09.05.2023 finds no illegality or an error of jurisdiction in passing the impugned order for which it is the opinion of this Court that this is not a fit case for exercising the jurisdiction under Section 115 of the Code or for that matter, under Article 227 of the Constitution.

4. The stay order dated 23.05.2023 in the instant proceedings stands vacated

and taking into account that the parties are duly represented before this Court, this Court directs both the parties to appear before the Trial Court on 27.03.2024.

5. Before parting with the records, this Court however finds it relevant to observe that if the Petitioners herein who are the defendants in the suit wishes to raise the question of territorial jurisdiction, the same can be very well framed as an issue in the suit or for that matter, a preliminary issue, if no facts are disputed. This Court further finds it relevant to observe that the order dated 09.05.2023 rejecting the application for rejection of plaint is an order which would be solely confined to an adjudication of a proceedings under Order VII Rule 11 of the Code and the findings thereof shall not therefore influence the learned Trial Court while deciding the issue of territorial jurisdiction, if so raised in the suit.

6. With above observations and directions, the instant proceedings stands disposed of.

JUDGE

Comparing Assistant