



Serial No.01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

FA No.2/2024

Date of CAV: 30.04.2025

Date of Pronouncement: 09.05.2025

1. The State of Meghalaya represented by the Commissioner and Secretary, Community and Rural Development, Shillong.
2. The Director Community and Rural Development, Shillong.
3. The Executive Engineer, Community and Rural Development, Shillong. Appellants

Vs.

Shri Jolian Marak

..... Respondent

Coram:

Hon'ble Mr. Justice I.P. Mukerji, Chief Justice

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellants : Mr. N.D. Chullai, AAG with
Ms. Z. E. Nongkynrih, GA.
Mr. E. R. Chyne, GA

For the Respondent : Mr. A. S. Siddiqui, Sr. Adv with
Mr. D. Hynniewta, Adv.

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

Note: For proper public information and transparency, any media reporting this judgment is directed to mention the composition of the bench by name of judges, while reporting this judgment/order.



J U D G M E N T

(Delivered by the Hon'ble, the Chief Justice)

The State of Meghalaya has preferred this appeal. They are aggrieved by a judgment and decree made on 24th May, 2023 by the learned Judge, Commercial Court, East Khasi Hills, Shillong in Money Suit No.1 of 2016 between the parties.

By this judgment and decree, the respondent/plaintiff has been awarded ₹9,85,098/- with interest at the rate of 12 per cent per annum from the date of filing of the suit i.e. 24th October, 2016 till payment. In addition, the appellant was directed to refund the security deposit of ₹5,99,613/- with interest at the rate of 12 per cent per annum from 24th October, 2016 till payment. The respondent/plaintiff was also awarded ₹30,000/- as costs.

The principal ground of challenge of the appellant/defendant is limitation. A hopelessly time-bared claim has been decreed for ₹9,85,098/-, it was submitted. Learned counsel for appellant/defendant also attacked the decree on merits.

At this stage, it may be stated that it was conceded by learned counsel for the appellant/defendant that his clients were ready and willing to refund the security amount of ₹5,99,613/- as decreed.



The cause of grievance of the appellant/defendant is that the agreement between the parties was entered into on 6th April, 2005. On 31st March, 2008 after completion of the work under the agreement, the building was handed over by the respondent/plaintiff to the appellant/defendant. After more than 5 years, on 19th August, 2013 a revised claim was submitted by the respondent/plaintiff. The value of the contract was ₹78,82,800/-. The respondent/plaintiff had been paid ₹68,97,704/- on handing over the completed building in full satisfaction of his claim. The value of the contract was unilaterally revised by him to ₹1,07,03,265/-. The difference was claimed. On 15th April 2015, the appellant/defendant refused payment of his claim. On that alleged cause of action, the suit was filed in 2016, the respondent/plaintiff basing his cause of action on the rejection of the revised bill and contending that the suit had been filed within 3 years from that date, within the period of limitation. According to the appellant/defendant, basing the accrual of the cause of action and the right to sue on rejection of this revised bill of a work completed long ago with the handing over of the building to the appellant/defendant, was untenable. The suit was liable to be dismissed outright on the ground of limitation.



In principle, the judgment of the Supreme Court in ***Nikhila Divyang Mehta & anr v. Hitesh P. Sanghvi & ors*** decided on 15th April, 2025 (***S.L.P. (C) No.13459 of 2024***), is in accordance with my notion of the start of the period of limitation in respect of a cause of action. The start date is to be reckoned from the date when the cause of action with the right to sue first arose and not from subsequent facts simply adding to the cause of action. (See paragraph 24 of the judgment). The exception is in case of admission, acknowledgement or part payment and so on which extend the period of limitation, if made within the period of limitation. (See Sections 18 and 19 of the Limitation Act, 1963).

Usually in a works contract Article 18 of the schedule to the Limitation Act, 1963 applies. It lays down that where no time for payment is prescribed, the period of limitation is three years from the date the work is done. In case of contracts where running accounts of payment are maintained by a RA bill, usually 113 of the Limitation Act, 1963, applies. This Article provides that where no period of limitation is provided in the schedule, time would be three years from when the right to sue accrues. It would have to be seen when the running accounts bills could be claimed to be payable and the suit is to be instituted within three years from that date.



The case of the respondent, however, is identical on facts with ***Aries & Aries v. Tamil Nadu Electricity Board*** decided by the Supreme Court on 21st March, 2017 and reported in **(2018) 12 SCC 393**. Here the work had been completed and payment made on 13th January, 1981. Thereafter, the plaintiff contractor raised supplementary bills claiming additional amounts through a legal notice dated 16th May, 1981. The defendant in that case informed the plaintiff on 25th August, 1981, that the matter was “under-study” and the reply would be sent in due course. After about six months on 6th November 1981, the defendant replied that the claims of the plaintiff were rejected. The suit was filed on 6th November, 1984. The High Court dismissed the suit on the ground of limitation.

The Supreme Court held that there was accrual of a fresh cause of action and right to sue from the date the bills claiming additional amounts in respect of the contract were rejected on 6th November, 1981. The time period again started running for three years from such rejection.

In our case also a similar thing has happened.

I feel myself bound by the above decision. Therefore, the argument based on the ground of limitation fails.

Now, I deal with the merit of the claims.



The value of the work to be done under the agreement was ₹78,82,800/-.

The appellants are agreeable to release the security deposit of ₹5,99,613/-. Hence, out of the contract value of ₹78,82,800/-, ₹68,97,704/- is deemed to have been received by the respondent/plaintiff, inclusive of the security deposit.

The agreement was of 6th April, 2005. The construction was completed in about three years and the building handed over to the appellant on 31st March, 2008. Hence, the contract was fully discharged by performance and came to an end. The respondent/plaintiff accepted such payment and was silent for five years. Only on 19th August, 2013, a revised claim was submitted. A claim for the balance ₹9,85,098/- was also made.

Once a contract is concluded and discharged by full performance and acceptance of payment, there is no scope of any additional claims or payments under the same contract and that too after five years. Hence, the claim for the balance ₹9,85,098/- was completely misconceived and speculative. The learned judge made a serious error in entertaining such claims. The part of the decree granting such claim is set aside. Such error of the learned judge was aggravated by further entertainment of claims



based on a purported revised estimate. The decree which she has sought to pass on such claim is vague and untenable. A decree must always be a certain sum and not uncertain, contingent and vague.

For all those reasons, the respondent/plaintiff shall only be entitled to a refund of the security deposit of ₹5,99,613/- with interest at the reduced rate of seven per cent per annum from the date of filing the suit i.e., 24th October, 2016 till payment. The order for payment of costs is set aside. The impugned judgment and decree is modified to the above extent.

The appeal is partly allowed to the above extent.

After pronouncement of the judgment, it was submitted by Mr. N.D. Chullai, learned AAG that the appellant has deposited ₹20,00,000/- with the Registrar General of this Court. This deposit may be made over to the appellant No.1 by the Registrar General within two weeks of communication of this order.

(W. Diengdoh)
Judge

(I.P. Mukerji)
Chief Justice

Meghalaya
09.05.2025
"*Lam* DR-PS"