



2023:MLHC:1180

Serial No.13
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 324 of 2023

Date of Order :05.12.2023

Shri. Madanlal Swami @ Nandlal Swami Vs. State of Meghalaya &Ors.

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Chief Justice (Acting)

Appearance:

For the Petitioner/Applicant(s) : Mr.Philemon Nongbri, Adv.
Mr. R.Pahsyntiew, Adv.

For the Respondent(s) : Mr. R.Gurung, GA for R 1 & 2.

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

ORAL

1. This writ application under Article 226 of the Constitution of India has been filed assailing an order dated 28-10-2022, passed by the Motor Accidents Claims Tribunal, West Garo Hills District, Tura, whereby the claim petition of the petitioner was returned on the ground of lack of jurisdiction.



2. The brief facts necessary are that, on 12-04-2009, an accident had occurred at Pathargittim, South Garo Hills District, following which a case was filed being MAC Case No. 10 of 2012, before the Motor Accidents Claim Tribunal at Tura, West Garo Hills District. During the pendency of the said matter, in the year 2020, on 14-12-2020, the judiciary was separated from the executive in South Garo Hills District, and vide Notification dated 15-12-2020, power was conferred upon the District & Sessions Judge as a Member of the Claims Tribunal under the Motor Vehicles Act, 1988. It was in this backdrop, that the Judge Motor Accident Claims Tribunal, Tura, West Garo Hills had passed the impugned judgment on 28-10-2022, by holding that the Tribunal at Tura, West Garo Hills District lacked territorial jurisdiction, and as such, returned the claim to the petitioner. The petitioner being aggrieved thereby is before this Court.

3. Mr. Philemon Nongbri, learned counsel for the petitioner has submitted that on the ground of jurisdictional error or dismissal on the ground of jurisdiction, even in a matter emanating from a Tribunal, a writ of certiorari will lie for seeking effective relief, and in this regard has placed reliance upon the case of *General Manager, Electrical Rengali Hydro Electric Project, Orissa & Ors. vs. Giridhari Sahu & Ors. (2019) 10 SCC 695*. It has been further submitted that as the proceedings were



drawing to a close, the return of the claim petition for filing afresh will result in further delay in a matter that has been filed over ten years ago. He therefore, prays that the impugned order be set aside, and the pending claim petition be transferred to the Court having competent jurisdiction, which presently is the member of the Motor Accident Claims Tribunal at Baghmara, South Garo Hills District.

4. Mr. R.Gurung, learned GA appearing for the respondent Nos. 1 & 2, has submitted that as per Section 166 of the Motor Vehicle Act, jurisdiction is vested in Courts on 3 instances, and has drawn the attention of this Court to the affidavit filed by respondent No. 3 Insurance Company, wherein the Officer who had sworn the affidavit had indicated that the area of operation is Tura. He further submits that if this is correct, then respondent No. 3 will surely have an office at Tura, for which the Tribunal at Tura, West Garo Hills District will naturally have jurisdiction.

5. I have heard learned counsel for the parties and considered their submissions, and also perused the materials on record. It is not disputed that the MAC case had been filed as far back as 2012, and the proceedings are at the final hearing stage. Further, the submission of the learned GA for the State respondents has also been noted that the Tura Court might have jurisdiction, if it is discovered that the Insurance Company has an office at Tura.

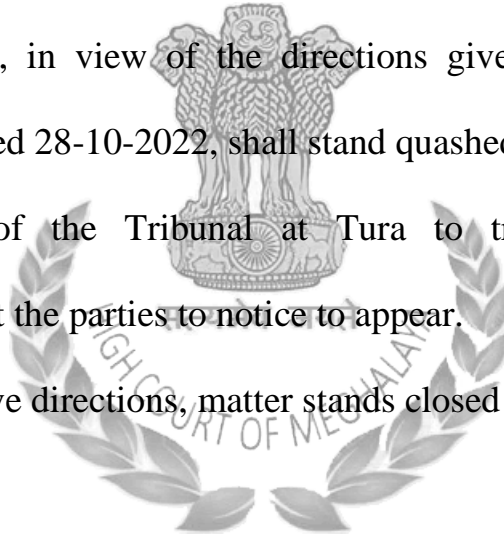


6. Considering the nature of the case, and the fact that there is no dispute if the matter is taken up by the Tribunal at Baghmara, as the same is competent to dispose of the matter, and also considering the fact that the matter has been long pending, in the interest of justice, it is therefore directed that the records of the MAC Case No. 10 of 2012 be transmitted to the Court of the Judge, Motor Accident Claims Tribunal, South Garo Hills District, Baghmara. Thereafter, the same will proceed from where the matter had rested before the impugned order dated 28-10-2022 was passed.

7. Consequently, in view of the directions given herein above, the impugned order dated 28-10-2022, shall stand quashed and set aside.

8. The Court of the Tribunal at Tura to transmit the records immediately and put the parties to notice to appear.

9. With the above directions, matter stands closed and disposed of.



Chief Justice (Acting)

Meghalaya
05.12.2023
"Samantha PS"