

GAHC010054192026



2026:GAU-AS:4598

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

Case No. : Arb.A./5/2026

LOKESH ANAND SINGHAL AND ANR
SON OF SRI ASHOK ANAND SINGHAL AND SMT. SHILPI ANAND
SINGHAL, RESIDENT OF ANAND LOK, HOUSE NO. 1A, MONALISA PATH,
GEETANAGAR, ZOO ROAD, GUWAHATI, DISTRICT KAMRUP (M), ASSAM,
PIN- 781024.

2: SMT SHILPI ANAND SINGHAL
WIFE OF SRI ASHOK ANAND SINGHAL
RESIDENT OF 1A
MONALISA PATH
GEETANAGAR
P.S.- GEETANAGAR
ZOO ROAD
GUWAHATI
ASSAM
PIN-78102

VERSUS

PRIDE REALTY AND 8 ORS.
A PARTNERSHIP FIRM REGISTERED UNDER THE PROVISIONS OF THE
INDIAN PARTNERSHIP ACT, 1932 HAVING ITS REGISTERED OFFICE
SITUATED AT 604, PROTECH CENTRE, 6TH FLOOR, GANESHGURI, G.S.
ROAD, GUWAHATI, IN THE DISTRICT OF KAMRUP (M), ASSAM, PIN-
781006, REPRESENTED BY ITS PARTNER SRI MANOJ KUMAR JALAN, S/O
LATE MAHABIR PRASAD JALAN, R/O GEETA MANSION, CHRISTIAN
BASTI, G.S. ROAD, GUWAHATI, ASSAM, PIN-781005

2: MANOJ KUMAR JALAN
SON OF LATE MAHABIR PRASAD JALAN
RESIDENT OF GEETA MANSION
M.G. PATH
CHRISTIAN BASTI
G.S. ROAD

GUWAHATI
ASSAM
PIN- 781005

3:SMT LALITA DEVI JALAN
WIFE OF SRI MANOJ KUMAR JALAN
RESIDENT OF GEETA MANSION
M.G. PATH
CHRISTIAN BASTI
G.S. ROAD
GUWAHATI
ASSAM
PIN- 781005

4:VIVEK ANAND SINGHAL
SON OF SRI ASHOK ANAND SINGHAL
RESIDENT OF 1A
MONALISA PATH
GEETANAGAR
P.S.- GEETANAGAR
ZOO ROAD
GUWAHATI
ASSAM
PIN- 781024

5:M/S PROTECH BUILDCON PVT. LTD
A PRIVATE LIMITED COMPANY REGISTERED UNDER THE PROVISIONS OF
THE COMPANIES ACT
1956 AND/OR 2013
HAVING ITS REGISTERED OFFICE SITUATED AT 606
PROTECH CENTRE
6TH FLOOR
GANESHGURI
G.S. ROAD
GUWAHATI
IN THE DISTRICT OF KAMRUP (M)
ASSAM
PIN- 781006 BEING REPRESENTED BY ITS DIRECTOR
SRI MANOJ KUMAR JALAN
S/O LATE MAHABIR PRASAD JALAN
R/O GEETA MANSION
CHRISTIAN BASTI
G.S. ROAD
GUWAHATI
ASSAM
PIN-781005

6:M/S PROTECH REALTORS PVT LTD

A PRIVATE LIMITED COMPANY REGISTERED UNDER THE PROVISIONS OF
THE COMPANIES ACT

1956 AND/OR 2013

HAVING ITS REGISTERED OFFICE SITUATED AT 606

PROTECH CENTRE

6TH FLOOR

GANESHGURI

G.S. ROAD

GUWAHATI

IN THE DISTRICT OF KAMRUP (M)

ASSAM

PIN- 781006 BEING REPRESENTED BY ITS DIRECTOR

SRI MANOJ KUMAR JALAN

S/O LATE MAHABIR PRASAD JALAN

R/O GEETA MANSION

CHRISTIAN BASTI

G.S. ROAD

GUWAHATI

ASSAM

PIN-781005

7:INDUSIND BANK

REPRESENTED BY ITS BRANCH MANAGER

GANESHGURI BRANCH

GROUND FLOOR

PROTECH CENTRE

GANESHGURI

GUWAHATI

ASSAM

PIN-781006

HAVING ITS GUWAHATI REGIONAL OFFICE AT SECOND FLOOR

HOLDING NO. 4

G.S. ROAD

BHANGAGARH

VILL- ULUBARI

GUWAHATI

ASSAM

PIN-781005 AND ITS REGISTERED OFFICE AT 2401

THIMMAYYA RD. (CANTONMENT)

PUNE

MAHARASHTRA

PIN-411001

8:REGIONAL HEAD

INDUSIND BANK

GUWAHATI REGIONAL OFFICE

AT SECOND FLOOR

HOLDING NO. 4

G.S. ROAD
BHANGAGARH
VILL- ULUBARI
GUWAHATI
781005
ASSAM

9:ASSOCIATED INDIA PVT. LTD.
A PRIVATE LIMITED COMPANY REGISTERED UNDER THE PROVISIONS OF
THE COMPANIES ACT
1956 AND/OR 2013
HAVING ITS REGISTERED OFFICE SITUATED AT 702
PROTECH CENTRE
7TH FLOOR
GANESHGURI
G.S. ROAD
GUWAHATI
IN THE DISTRICT OF KAMRUP (M)
ASSAM
PIN-781006 BEING REPRESENTED BY ITS DIRECTOR SMTI. INDUMATI
SINGHAL
R/O ANAND LOK
HOUSE NO. 1A
MONALISA PATH
GEETANAGAR
ZOO ROAD
GUWAHATI
IN THE DISTRICT OF KAMRUP (M)
ASSAM
PIN-78102

Advocate for the Petitioner : MR. N ALAM, MS. V RAI,MR.T YADAV,MR. S P ROY,MR. N
ALAM,S A BAKHTIAR,MR K JAIN

Advocate for the Respondent : MR. B D DEKA (FOR CAVEATOR), MR. M DAS (FOR
CAVEATOR)

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 31.03.2026

- 1.** Heard Mr. N. Alam, the learned counsel for the appellants. Also heard Mr. B.D. Deka, the learned counsel for the Caveator/respondents.
- 2.** This appeal under Section 37(1)(b) of the Arbitration and Conciliation Act, 1996 has been filed by the appellants impugning the judgment and order dated 17.02.2026, passed in Misc. Arbitration Case No. 205/2024, by the Court of learned Civil Judge (Senior Division) No. 1, Kamrup(M) at Guwahati, by which the application filed by the respondents under Section 9 of the Arbitration and Conciliation Act, 1996 was allowed.
- 3.** When this appeal came up for admission hearing on 24.03.2026, the learned counsel for the Caveator/respondents, namely, Mr. B. D. Deka, raised the question of maintainability of this appeal before this Court in view of the provisions contained in Section 37 of the Arbitration and Conciliation Act, 1996 as well as Section 10(3) of the Commercial Courts Act, 2015. He has also brought to the notice of this Court the notification issued by Government of Assam on 13th of February, 2019, whereby all the Courts of Civil Judges, Senior Division were designated as Commercial Courts, as well as all the District Judges of Assam were designated as Appellate Court at district level under Commercial Courts, Commercial Division and Commercial Appellate Division of the High Courts (amendment) Ordinance, 2018.
- 4.** The learned counsel for the Caveator/respondents submits that the dispute involved between the parties is in connection with a partnership

agreement. He submits that the dispute is a commercial dispute within the meaning of Section 2(c) of the Commercial Courts Act, 2015 and hence, the application under Section 9 of the Arbitration and Conciliation Act, 1996 was filed by the present respondents before the Court of learned Civil Judge(Senior Division)No. 1, Kamrup(M), which is a commercial court designated under the aforesaid notification of the Government of Assam.

5. The learned counsel for the respondents submits that under Section 37 of the Arbitration and Conciliation Act, 1996, an appeal lies against an order of granting or refusing to grant any measure under Section 9 of the said Act, before the court authorized by law to hear appeals from original decree of the courts passing the order. He further submits that as the Court of Civil Judge (Senior Division), Kamrup(M), was designated as Commercial Court under Section 3(3) of the Commercial Courts Act, 2015 and as the Court of District Judge has been designated as Commercial Appellate Court under Section 3A of the said Act, the appeal under Section 37 of the Arbitration and Conciliation Act, 1996 against any order passed by Commercial Court would lie before the Commercial Appellate Court. He submits that in view of provisions contained in Section 10(3) of the Commercial Courts Act, 2015, all applications or appeal arising out of arbitration in cases other than international commercial arbitration, that would ordinarily lie before any Principal Civil Court of original jurisdiction in a district (not being a High Court) shall be filed, heard and disposed of by the Commercial Courts exercising territorial jurisdiction over such arbitration, where such Commercial Courts have been constituted. In support of his submissions, the learned counsel for the Caveator/respondent has cited following rulings:-

(1) "**Jaycee Housing (Pvt.) Ltd and Ors. Vs. Registrar (General) Orissa High**

Court, Cuttack reported in “***(2023) 1 SCC 549***”.

(2)“***M/s NES Digboi Bogapani Vs. Bharat Petroleum Corporation Limited***”
[*Commercial Appellate Division Case No. 1/2025, Judgment dated 23.04.2025*].

6. On the other hand, Mr. N. Alam, the learned counsel for the appellants opposed the objection regarding maintainability of the present appeal before this Court by the respondent/Caveator. He submits that the dispute involved in this appeal is in respect of a partnership firm, wherein the appellants have levelled allegation against respondent No. 2 that he has siphoned a sum of Rs.35 Crore from Protech Group entities for benefiting his own business group, namely, Ambika Group.

7. He submits that Section 13 of the Commercial Courts Act, 2015, which provides for forum for filing appeal against a judgment or order of Commercial Court below the level of District Judge, is a general provision as compared to the provisions contained in Section 37 of the Arbitration and Conciliation Act, 1996, which is a Special Act. He submits that an appeal under Section 37 of the Arbitration and Conciliation Act, 1996 against an order of granting or refusing to grant any measure under Section 9 would lie before the court authorized by law to hear appeals from original decrees of the court passing the order.

8. The learned counsel for the appellants submits that as the impugned judgment was passed by the Court of Civil Judge (Senior Division) and as the money involved in the dispute is to the tune of Rs.35Crore and as the pecuniary limit of Court of learned District Judge to hear appeals is up to Rs.20 lakhs only, the High Court is the appropriate court authorized by law to hear appeals from original decrees of the Court of Civil Judge (Senior Division), where the

pecuniary amount involved is more than Rs.20Lakhs.

9. He submits that under Section 2(e)(1) of the Arbitration and Conciliation Act, 1996, the word "Court" in the case of an arbitration other than international commercial arbitration means a court of Principal Civil Court of original jurisdiction in a district and includes the High Court in exercise of its ordinary original civil jurisdiction. He also submits that, in the meanwhile, this High Court has entertained almost fifty numbers of appeals under Section 37 of the Arbitration and Conciliation, Act 1996, which were admitted and finally decided by this Court.

10. The learned counsel for the appellants also submits that the judgment of this court in the case of "***M/s NES Digboi Bogapani Vs. Bharat Petroleum Corporation Limited***" (*supra*) is not applicable to the facts of this case, as in the said case the issue involved was regarding second appeal before the Commercial Division of the High Court. Whereas, issue involving the instant appeal is an appeal under Section 37 of the Arbitration and Conciliation Act, 1996. In support of his submission, the learned counsel for the appellants has cited following judgments:-

(1) "***Kandla Export Corporation Vs. M/S. OCI Corporation and another***", reported in "***(2018) 14 SCC 715***".

(2) "***State of West Bengal and another Vs. Associated Contractors***" reported in "***(2015) 1 SCC 32***".

(3) "***M/s Pandey & Co. Builders Pvt. Ltd Vs. State of Bihar & anr***", reported in "***(2007) 1 SCC 467***".

11. I have considered the submissions made by the learned counsel for both sides and have gone through the materials available on record. I have also

perused the rulings cited by the learned counsel for both sides in support of their respective submissions.

12. On perusal of the materials available on record, it appears that the dispute between the parties is in connection with a partnership firm and involves huge quantity of money more than the specified value as mentioned in Section 3 of the Commercial Courts Act, 2015. Hence, there remains no doubt that the dispute between the parties in the instant case is a commercial dispute within the meaning of Section 2(1)(c)(xv) of the Commercial Courts Act, 2015.

13. The Government of Assam, by its notification dated 13th of February 2019, has designated all the courts of Civil Judges, Senior Division as Commercial Courts.

14. Under Section 10(3) of the Commercial Courts Act, 2015, all the applications arising out of arbitration matter under the provisions of Arbitration and Conciliation Act, 1996 that would ordinarily lie before any Principal Civil Court of Original Jurisdiction shall be filed and heard and disposed by Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted. Hence, the application under Section 9 of the Arbitration and Conciliation Act, 1996 giving rise to Arbitration Case No. 205/2024 was filed before the Court of learned Civil Judge (Senior Division), which is a designated Commercial Court in terms of notification issued by the Government of Assam.

15. Section 13(1) of the Commercial Court Act provides that "any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within the period

of sixty days from the date of judgment or order”.

16. Since, by the aforementioned notification dated 13.02.2019, all the District Judges of the State of Assam has been designated as Appellate Courts at district level under Commercial Courts Act, 2015, the appeal from a Commercial Court i.e., the Court of learned Civil Judge(Senior Division), Kamrup(M) No. 1, would lie before the Court of District Judge, Kamrup (M), as same is the Commercial Appellate Court.

17. The ruling cited by learned counsel for the appellants in the case of “**Kandla Export Corporation Vs. M/s OCI Corporation and another**” (supra) is not applicable to this case as the facts in the said case are distinguishable from the facts of the instant case. In the said case, the Apex Court was considering the appellate forum against orders appealable under Section 50 of the Arbitration and Conciliation Act, 1996, whereas in the instant case, the question is regarding the appropriate forum in case of appeal under Section 37 of the Arbitration and Conciliation Act, 1996 when a commercial dispute is involved therein.

18. Similarly, the ruling cited by learned counsel for the respondents in the case of “**M/s NES Digboi Bogapani Vs. Bharat Petroleum Corporation Limited**” (supra) is also not applicable to this appeal, as in the said case, the question before the court was in connection with the jurisdiction of Commercial Appellate Division of High Court.

19. The Apex Court in the case of “**Jaycee Housing (P) Ltd and Ors. Vs. Registrar (General) Orissa High Court, Cuttack**”(supra) has observed as follows:-

“**24.** Thus, the Objects and Reasons of the Commercial Courts Act, 2015 is to provide

for speedy disposal of the commercial disputes which includes the arbitration proceedings. To achieve the said Objects, the legislature in its wisdom has specifically conferred the jurisdiction in respect of arbitration matters as per Section 10 of the 2015 Act. At this stage, it is required to be noted that the 2015 Act is the Act later in time and therefore when the 2015 Act has been enacted, more particularly Sections 3 & 10, there was already a provision contained in Section 2(1)(e) of the 1996 Act. As per settled position of law, it is to be presumed that while enacting the subsequent law, the legislature is conscious of the provisions of the Act prior in time and therefore the later Act shall prevail.

25. *It is also required to be noted that even as per Section 15 of the 2015 Act, all suits and applications including applications under the 1996 Act, relating to a commercial dispute of specified value shall have to be transferred to the Commercial Court. Even as per Section 21 of the 2015 Act, the 2015 Act, shall have overriding effect. It provides that save as otherwise provided, the provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.*

26. *Therefore, considering the aforestated provisions of the 2015 Act and the Objects and Reasons for which the 2015 Act has been enacted and the Commercial Courts, Commercial Division and Commercial Appellate Division in the High Courts are established for speedy disposal of the commercial disputes including the arbitration disputes, Sections 3 & 10 of the 2015 Act shall prevail and all applications or appeals arising out of arbitration under the provisions of the 1996 Act, other than international commercial arbitration, shall be filed in and heard and disposed of by the Commercial Courts, exercising the territorial jurisdiction over such arbitration where such Commercial Courts have been constituted.*

27. *If the submission on behalf of the appellants that all applications/appeals arising out of arbitration under the provisions of the 1996 Act, other than the international commercial arbitration, shall lie before the Principal Civil Court of a district, in that case, not only the Objects and Reasons of enactment of the 2015 Act and establishment of Commercial Courts shall be frustrated, even Sections 3, 10 & 15 shall become otiose and nugatory."*

20. Thus, it appears from the observation made by the Apex Court in Paragraph No. 24 of the aforesaid judgment that since the Commercial Courts Act, 2015 has been enacted later in point of time than the Act of the Arbitration and Conciliation Act, 1996, it is the latter Act which shall prevail.

21. Accordingly, in view of the provisions contained in Section 3(3), 3A and

13(1) of the Commercial Courts Act, 2015, read with Section 37(1) of the Arbitration and Conciliation Act, 1996, an appeal from order, granting or refusing to grant any measure under Section 9 of the Arbitration and Conciliation Act, 1996, of a commercial court below the level of District Judge would lie under Section 13(1) of the Commercial Courts Act in the Commercial Appellate Court, which is in the instant case, is the Court of District Judge, Kamrup(M).

22. This appeal is accordingly dismissed for want of jurisdiction.

23. The appellants may approach the appropriate Commercial Appellate Court, if so advised.

JUDGE

Comparing Assistant