

HIGH COURT OF SIKKIM : GANGTOK
Record of Proceedings

Arb. A. No. 02/2024

BORDER ROADS ORGANISATION (BRO)

APPELLANT (S)

VERSUS

M/S VIJ ENGINEERS AND CONSULTANT
PRIVATE LIMITED

RESPONDENT (S)

For Appellant : Ms. Sangita Pradhan, Deputy Solicitor General of
India with Ms. Natasha Pradhan, Advocate.

For Respondent : Mr. Rahul Rathi, Advocate.

Date: 04/07/2024

CORAM:

HON'BLE MR. JUSTICE BISWANATH SOMADDER, CHIEF JUSTICE
HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

...

ORDER : (per the Hon'ble, the Chief Justice)

This appeal arises in respect of a judgment and order passed by the learned Commercial Court, Sikkim at Gangtok on 20th December, 2023. The date of filing of the instant appeal is 22nd February, 2024. However, it was resubmitted on 05th March, 2024, because the Registry of this Court pointed out certain defects which were required to be rectified.

From the details of the process of obtaining the certified copy of the impugned judgment and order dated 20th December, 2023 — which appears from the endorsement made in the last page of the impugned judgment and order — it appears that the appellant had applied for a certified copy of the impugned judgment on the date of pronouncement of the judgment itself, i.e., on 20th December, 2023. The impugned judgment and order was made ready on 22nd December, 2023. However, for some strange and inexplicable reason, the Registry of the District and Sessions Court, Sikkim at Gangtok, had given another date for receiving the copy of the impugned judgment and order. That date was 18th January, 2024 (wrongly stated as 2023).

Ordinarily, the certified copy should have been ready to be delivered to the applicant on the date on which the certified copy was made ready by the Registry

of that Court. The two dates, as provided by the Head Copyist, District & Sessions Court, Sikkim at Gangtok, therefore, leads to some confusion when computing the date of limitation. If we take the date, 22nd December, 2023, as the date on which the certified copy was made ready, the instant appeal is beyond the period of limitation. However, if another date — as given by the Registry of the District & Sessions Court Sikkim at Gangtok for receiving of the copy — is taken into consideration and that date is 18th January, 2024, it will mean that the appeal is within limitation.

Be that as it may, we direct the Registrar General to bring this issue to the notice of the learned Principal District & Sessions Judge, Gangtok, so that this anomaly can be corrected in order to remove confusion which may arise in future for the purpose of computation of limitation in many cases.

Coming back to the present appeal, it appears from the submissions put forward by the learned Deputy Solicitor General of India that this is not a matter which is required to be dealt with by this Court while sitting in appeal against the impugned judgment and order dated 20th December, 2023, passed by the learned Judge, Commercial Court at Gangtok. The issues which are sought to be raised by the learned Deputy Solicitor General of India before us, are essentially factual issues which can only be looked into by the learned Court wherefrom the impugned judgment and order emanates, while it sits in its Review jurisdiction.

In such circumstances, we dismiss the appeal while granting liberty to the appellant to file an appropriate application seeking review of the impugned judgment and order dated 20th December, 2023, before the learned Judge, Commercial Court, Sikkim at Gangtok.

(Bhaskar Raj Pradhan)
Judge

(Biswanath Somadder)
Chief Justice