

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
MP No. 1033 of 2023**

*(GANGA INFRATECH THROUGH ITS PARTNER MR. PALASH RAJANI AND OTHERS Vs M/S  
JOHARI LAND AND FINANCE THROUGH ITS PARTNER RAJENDRA SONI AND OTHERS )*

**Dated : 20-01-2026**

*Shri Vijay Kumar Asudani, Advocate for the petitioners.*

*Ms. Deepanshi Ishar- Advocate, with Shri Prabuddha Singh –  
Advocate for the respondent(s).*

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1] Heard on I.A. No.4485/2025, which is an application for clarification of the common final order dated 10.02.2025, passed by this Court in the present petition, whereby, this Court had allowed the petition, as also Arbitration Case No.56/2023, and the application filed by the petitioner under Section 8 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as ‘the Act of 1996’) in the Trial Court has also been allowed, and the parties have been directed to refer the matter to the arbitration, and simultaneously, in A.C. No.56/2023, the Arbitrator has also been appointed.

2] The present application has been filed seeking clarification of the said order, on the ground that although the effect of the order dated 10.02.2025, passed in M.P. No.1033/2023 is that of disposing of the civil suit bearing No.RCSA-200/2022, as the application under Section 8 of the Act of 1996 was allowed by this Court, but the Civil Court is still proceeding with the suit.

3] Shri Vijay Kumar Asudani, learned counsel for the petitioner has submitted that even as per the mandate of Section 8 of the Act of 1996, once an application under Section 8 is decided in favour of the applicant, the parties are referred to the Arbitrator, and the civil suit becomes redundant, as all the grounds are to be raised before the

Arbitrator only. It is also submitted that the aforesaid order passed by this Court was also challenged by the other side in the Supreme Court in Special Leave to Appeal (c) No(s).12104-12105/2025, which was disposed of with the further observation that the observations made by the High Court in the impugned order are restricted only to the consideration of the application under Section 8 of the aforesaid Act, and are not on the merits of the case.

**4]** A reply to the application has also been filed. Ms Deepanshi Ishar, learned counsel for the respondent has submitted that although, it is true that Section 8 application has been allowed by this Court, and the parties are required to refer all their disputes before the Arbitrator, however, the contesting respondents have also filed an application under Section 16 of the Act of 1996, challenging the jurisdiction of the Arbitrator to decide the dispute, and if the aforesaid application is allowed, the matter would be relegated to the Civil Court. Hence, the proceedings before the Civil Court may be kept pending.

**5]** Counsel for the respondent has also drawn the attention of this Court to the arbitration proceedings dated 23.07.2025, wherein, the learned Arbitrator has also taken note of the fact that the civil suit No.RCSA-200/2022 is still pending, and also that the claimant has also filed an application before this Court for clarification of the order dated 10.02.2025. Counsel has also drawn the attention of this Court to the order dated 13.08.2024 to submit that in the aforesaid proceedings of arbitration, learned Arbitrator has also raised some doubt whether the disputes in RCSA-200/2022 have been referred to it in its entirety or merely the disputes between the parties have been referred.

**6]** Heard. Having considered the rival submissions, on perusal of the documents filed on record, as also the order passed by this Court on 10.02.2025, it is found that unnecessary confusion has been created

by the Civil Court by keeping the matter pending, despite the fact that the Section 8 application was already allowed by this Court. It must be kept in mind that the mandate of Section 8 is that if an application under the same is allowed, the Court is required to refer the parties to arbitration, and becomes *functus officio* to decide any further dispute between the parties, as has also been held by the Supreme Court in the case of *P. Anand Gajapathi Raju Vs. P.V.G. Raju (Dead)*, reported as **2000 (4) SCC 539**.

7] So far as Section 8 of the Act of 1996 is concerned, the same reads as under:-

**8. Power to refer parties to arbitration where there is an arbitration agreement.** [(1) A judicial authority, before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party to the arbitration agreement or any person claiming through or under him, so applies not later than the date of submitting his first statement on the substance of the dispute, then, notwithstanding any judgment, decree or order of the Supreme Court or any Court, refer the parties to arbitration unless it finds that prima facie no valid arbitration agreement exists.]

(2) The application referred to in sub-section (1) shall not be entertained unless it is accompanied by the original arbitration agreement or a duly certified copy thereof:

[Provided that where the original arbitration agreement or a certified copy thereof is not available with the party applying for reference to arbitration under sub-section (1), and the said agreement or certified copy is retained by the other party to that agreement, then, the party so applying shall file such application along with a copy of the arbitration agreement and a petition praying the Court to call upon the other party to produce the original arbitration agreement or its duly certified copy before that Court.]

(3) Notwithstanding that an application has been made under sub-section (1) and that the issue is pending before the judicial authority, an arbitration may be commenced or continued and an arbitral award made.

***(Emphasis Supplied)***

8] A perusal of the s.8 would clearly reveal that the very purpose of filing an application u/s.8 is to ensure that if the parties have already entered into an agreement to refer their disputes to an arbitrator, they

should not be allowed to pursue the civil suit and should be relegated to refer their disputes to the arbitrator only.

**9]** In view of the same, in order to clarify, it is directed that the further proceedings before the civil Court shall stand concluded, and no further order shall be passed by the civil Court in the pending civil suit.

**10]** Needless to say, since the civil suit has already been disposed of, as a necessary corollary of allowing the s.8 application, all the disputes are required to be decided by the Arbitrator only, in accordance with law.

**11]** So far as the contention raised by the counsel for the respondent that they have also filed an application under Section 16 of the Act of 1996, this Court finds that the law would take its own course, and once an application under Section 8 is already allowed, the civil suit cannot be kept pending in anticipation of any further order passed by the Arbitration Tribunal, on an application filed under Section 16 of the Act of 1996.

**12]** Accordingly, the application, I.A. No.4485/2025 stands *allowed*, and *disposed of* with the observations as aforesaid.

**(SUBODH ABHYANKAR)**  
**JUDGE**

Bahar