

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal Nos. _____ of 2026
(Arising out of SLP (C) Nos.8375-8378 of 2025)**

M/s Maa Bhairabi Traders

...Appellant

Versus

The Deputy General Manager (Elect) and Anr.

...Respondent(s)

ORDER

Leave granted.

2. The appellant is registered under the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 and was awarded a contract by the 1st respondent by a work order dated 08.02.2016. Dispute arose between the parties, and the appellant filed a claim before the Micro and Small Enterprises Facilitation Council. An award was passed which was challenged under Section 34 of the Arbitration and Conciliation Act, 1996, unsuccessfully. In a further challenge by the respondent before the High Court, under Section 37, by the impugned judgment the arbitration award was set aside for reason of no reference for conciliation under Section 18(2) of the MSMED Act was made.

3. Mr. Suresh Chandra Tripathy, learned AoR appearing for the appellant argued that there was in fact an attempt for conciliation as is revealed from the documents produced along with the additional affidavit filed on 18.04.2026.

4. Mr. Sajan Poovayya, learned Senior Counsel appearing for the respondent refuted the same. It is the submission of the respondent that a notice was issued to the respondent to file a counter affidavit, based on which the proceedings for arbitration itself was commenced without mediation, as is mandatory under Section 18 of the MSMED Act.

5. Be that as it may, we are of the opinion that either way, there would be further delay. If we find the conciliation to be not carried out, then the remedy as has been left open by the impugned judgment, is to go back before the Facilitation Council to attempt mediation and then proceed with an arbitration. If we find the conciliation to have been carried out, then again, the matter will have to be sent back to the High Court for a consideration on merits.

6. Having gone through the documents produced along with the additional affidavit, we are also not convinced that there has been a conciliation/mediation attempted by the Facilitation Council.

7. In the above circumstances, with the consent on the parties, we appoint Dr. Justice A. K. Rath, former Judge of the Orissa High Court (Mobile No.87633-58600) as the sole Arbitrator to adjudicate the disputes that have arisen between the parties. The learned Arbitrator is free to determine his fee in consultation with the parties. We make it clear that we have not expressed any opinion on the merits of the case which aspect is left open for the parties to urge before the learned Arbitrator. We make it clear that in settling the claims, the Arbitrator shall apply the rigour of the MSMED Act.
8. The Registry is directed to send a copy of this order to Justice (Retd) A. K. Rath, former Judge of the Orissa High Court.
9. With the above directions, the appeals are disposed of.
10. Pending application(s), if any, shall stand rejected.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
SEPTEMBER 07, 2026.**

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) Nos. 8375-8378/2025

[Arising out of impugned final judgment and order dated 14-02-2025 in ARBA No. 3/2023 14-02-2025 in ARBA No. 4/2023 14-02-2025 in ARBA No. 5/2023 14-02-2025 in ARBA No. 37/2022 passed by the High Court of Orissa at Cuttack]

M/S MAA BHAIRABI TRADERS

Petitioner(s)

VERSUS

THE DEPUTY GENERAL MANAGER (ELECT) & ANR.

Respondent(s)

Date : 07-09-2026 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) : Mr. Suresh Chandra Tripathy, AOR
Ms. Shailja Kulshreshtha, Adv.

For Respondent(s) :

Mr. Sajan Poovayya, Sr. Adv.
Ms. Ishita Jain, AOR
Mr. Anand Kumar Shrivastava, Adv.
Ms. Shruti Kanodia, Adv.
Mr. Chetan Saxena, Adv.
Mr. Ekshat Punwani, Adv.
Mr. Palash Maheshwari, Adv.
Ms. Raksha Agarwal, Adv.
Mr. Sindura N Swamy, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeals are disposed of in terms of the signed order.
3. The relevant part of the order is as under:-

"7. we appoint Dr. Justice A. K. Rath, former Judge of the Orissa High Court (Mobile No.87633-58600) as the sole Arbitrator to adjudicate the disputes that have arisen between the parties. The learned Arbitrator is free to determine his fee in consultation with the parties. We make it clear that we have not expressed any opinion on the merits of the case which aspect is left open for the parties to urge before the learned Arbitrator. We make it clear that in settling the claims, the Arbitrator shall apply the rigour of the MSMED Act.

8. The Registry is directed to send a copy of this order to Justice (Retd) A. K. Rath, former Judge of the Orissa High Court."

4. Pending application(s), if any, shall stand disposed of.

(CHANDRESH)

ASTT. REGISTRAR-cum-PS

(Signed order is placed on the file)

(POOJA SHARMA)

COURT MASTER (NSH)