

HIGH COURT OF TRIPURA
AGARTALA
REVIEW PET 49 OF 2023

The Oil & Natural Gas Corporation Ltd., Tripura Asset
Vrs.
Sri Rapji Ali & Ors.

Present:

For the petitioner(s) : Mr. S. Deb, Sr. Counsel.
Mr. S. Saha, Advocate.

For the respondent(s) : None.

HON'BLE MR.JUSTICE ARINDAM LODH

20.09.2023

Order

The present review petition has been filed by the petitioner, the Oil & Natural Gas Corporation Limited (ONGCL, for short) under Section 114 read with Order XLVII of the Code of Civil Procedure, 1908 for review of the order dated 06.09.2023 passed in I.A. No.01 of 2023, arising out of Cont. Cas.(C) No.79 of 2023, whereby direction has been issued to the Registry of this Court to disburse the amount to the respective workers under the employer/contractor on proper verification of their identity.

2. To put shortly, the review petitioner filed a writ petition before this Court bearing WP(C) No.679 of 2020. While disposing of the said writ petition, this Court had passed a direction at Para 4, which is reproduced hereunder:

“[4] In view of such legal position, I direct the contractors, respondents No.6 and 7 to pay the minimum wages to their workers in a regular manner, and the arrears, if any, shall be paid within a period of 3[three] months from the date of receipt of the copy of this order. It is made clear that if the contractors fail to pay and comply the direction of this Court, then, the ONGC being the principal employer shall pay the prescribed minimum wages in a regular manner and

shall pay the arrears within the said period of three months and also shall recover the same from the contractors.”

3. Subsequently, the said order was modified vide order dated 14.09.2021 passed in I.A. No.02 of 2021 arising out of WP(C) No.679 of 2020(D/O) and thereafter while disposing of earlier Cont. Cas.(C) No.69 of 2021 vide order dated 01.02.2022, the workers were directed to furnish fresh particulars on being asked by the ONGCL.

4. The writ petitioners, who are the respondents of this review petition, filed two contempt applications registered as Cont. Cas.(C) No.69 of 2023 and Cont. Cas.(C) No.79 of 2023. Mr. Deb, learned senior counsel appearing on behalf of review petitioner/ONGCL has candidly submitted that the writ petitioners had not impleaded the Contractors, i.e. the respondent Nos.14 and 15 in those Contempt applications. Learned senior counsel would contend that the writ petitioners never raised any claim as regards their dues out of their wages to the Contractors.

5. This Court passed an order on 07.08.2023 in Cont. Cas.(C) No.79 of 2023 holding that there was willful disobedience of the order dated 26.04.2021 passed by this Court in WP(C) No.679 of 2020 by the respondent-contemnors, i.e. the review petitioners and directed the Asset Manager, ONGCL and other respondents to appear before this Court in-person on 14.08.2023 at 10.30 am positively. However, it was clarified that if the order dated 26.04.2021 is complied with by the respondent-contemnors, then, their appearance before this Court would stand dispensed with.

6. Learned senior counsel for the review petitioner submits that to save themselves from the proceedings, the contemnor-review petitioner had

complied the order passed by this Court and deposited Rs.58,50,000/- to the Registry of this Court. Thereafter, in response to another Interlocutory Application, being I.A. No.01 of 2023, arising out of Cont. Cas.(C) No.79 of 2023(D/O) filed by the review petitioner, this Court by order dated 06.09.2023 directed the Registry of this Court to disburse the amount to the respective workers under the employer/contractor on proper verification of the identity of the individual petitioners.

7. In the instant review petition, the main point urged by the review petitioner is that this Court while passing the directions as stated above, did not ascertain any specific amount to be paid to each of the writ petitioners/workers. Mr. Deb, learned senior counsel has submitted that unless the specific amount to which each of the writ petitioners are entitled is ascertained and also the dates and period the writ petitioners worked under each of the Contractors is ascertained, as they claimed in their letter dated 25.10.2021, the review petitioner/ONGCL would not be in a position to realize any amount from any of the Contractors since the writ petitioner had not impleaded any of the Contractors for any period earlier than 2017.

8. I have considered the submissions made by Mr. Deb, learned senior counsel appearing for the review petitioner/ONGCL. The crux of the submission of learned senior counsel is that it is the duty of the Court to ascertain the specific amount to be paid to each of the writ petitioners/workers, otherwise, it would be difficult for ONGCL to recover the said amount from the respective Contractors.

9. In my opinion, the grounds stated in the review petition and submitted before this Court are wholly frivolous and cannot be entertained in the review petition. These points raised in the present review petition were never raised during the course of hearing of the original writ petition. The review petitioner/ONGCL has come up with entirely new facts which cannot be the subject matter to review the judgment and order passed by this Court in the original writ petition. According to me, this is a sheer wastage of Court's valuable time.

10. Needless to say, the review petitioner/ONGCL being the principal employer must be the custodian of the agreement/contract entered with the respective Contractors. It is the review petitioner who paid bills raised by the Contractors and all documents as regards the payments and the accounts thereof are lying with the ONGCL. The Court must not enter into the dispute between the ONGCL being the principal employer and the Contractors. As I said, the review petition is the abuse of the process of law for which suitable cost is to be imposed upon the ONGCL.

11. Order XLVII, Rule 1 under which provisions have been made for review of judgment is reproduced here-in-below:

"1. Application for review of judgment - (1) Any person considering himself aggrieved -

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made

against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or Order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

1[Explanation-The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.]”

12. As I discussed in the preceding paragraphs, the review petitioner has urged certain directions from this Court which they never raised at the time of hearing of the main writ petition. Further, the review petitioner/ONGCL has failed to justify that there is any error apparent on the face of the record. The grounds raised by the review petitioner do not come within the purview of the expression “*any other sufficient cause*”. The review petitioner also could not detect the mistake in the judgment. As I said earlier, the review petitioner had filed two Interlocutory Applications seeking clarification of the judgment and order which were dealt with in terms of their prayer made in those Interlocutory Applications.

13. Hon’ble Supreme Court in ***Kamlesh Verma Vrs. Mayawati & Ors.***, reported in **(2013) 8 SCC 320** while dealing with a review application has discussed the scope and ambit of Order XLVII, Rule 1 of CPC and has summarized the principles as under:

“20. When the review will not be maintainable:

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated.

14. It is now settled law that scope of review as contemplated under Order XLVII, Rule 1 of CPC is very limited and review must be confined strictly to the grounds enumerated in the order itself. In other words, an application for review only would lie if there is an error apparent on the face of the records or any other sufficient reason and permitting the same would cause failure of justice. There cannot be re-hearing of the petition/application/appeal, re-appraisal of findings or evidence on record.

15. In the light of the aforesaid principle and the facts enumerated here-in-above, which have been pleaded and submitted before this Court by the review petitioner, I find the present review application is devoid of merit being frivolous and has caused the sheer wastage of valuable time of this Court. None of the above parameters has been fulfilled in this review petition.

16. Accordingly, the review petition filed by the petitioners/ ONGCL stands dismissed with a cost of Rs.1,00,000/- (Rupees one lakh) only . Out of this Rs.1,00,000/-, Rs. 50,000/-(Rupees fifty thousand) shall be paid to the Tripura State Legal Services Authority, Rs.25,000/-(Rupees twenty five thousand) to the Tripura High Court Bar Association and the balance of

Rs.25,000/- (Rupees twenty five thousand) shall be paid to the Dharmanagar District Court Bar Association.

17. The cost, thus imposed, shall be deposited to the said organizations within a period of 7(seven) days from the date the review petitioner/ONGCL shall receive a copy of this order.

Supply a copy of this order to the learned counsels of the parties to the *lis* forthwith.

JUDGE

SANJAY GHOSH

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