

IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO. 29 OF 2015

IN

COMPANY PETITION NO. 11 OF 2014

MR. ABHISHEK UDAY NAIK.

... Applicant

Versus

WESTERN INDIA SHIPYARD LTD.,
THROUGH ITS CDR S. K. MUTREJA (
RETD) WHOLE TIME DIRECTOR AND CE.

... Respondent

Shri Joseph Vaz, Advocate for the applicant.

Shri V. Amonkar, Advocate for the respondent.

Coram:- F. M. REIS, J.

Date:- 5th March, 2015

P.C.:

Heard Shri Joseph Vaz, learned Counsel appearing for the applicant and Shri A. Amonkar, learned Counsel appearing for the respondents.

2. This is an application for amendment of the above petition on the ground that the nomenclature of the petition was erroneously recorded as being filed in terms of the provisions of the Companies Act, 2013, though, in fact the petition was in terms of the provisions of the Companies Act, 1956. Reply has been filed on behalf of the respondent, opposing the said application.

3. Shri Joseph Vaz, learned Counsel appearing for the applicant has pointed out that on account of inadvertence on the part of the applicant such mistake cropped up and, as such, no prejudice will cause to the respondent as, according to him, the contents of the

petition are not altered.

4. On the other hand, Shri V. Amonkar, learned Counsel appearing for the respondent has strongly objected to the said application. The learned Counsel has pointed out that the application is not bonafide as, according to him, the fact that the provisions of the Companies Act, 2013 were not applicable were known to the applicant, as it was widely found on internet. The learned Counsel further points out that there is gross delay in filing such an application and, as such, the application deserves to be rejected.

5. I have considered the submissions of the learned Counsel and I have also gone through the record. The amendment does not change the nature of the petition as the averments therein are not amended nor substituted by the present application. The proposed amendment is only a correction of the relevant provisions of the Companies Act which are applicable to the facts of the case, as claimed by the applicant herein. In such circumstances, no prejudice shall be caused to the respondent, nor the defence will be displaced.

6. Hence leave to amend granted, subject to the applicant paying costs of Rs.1,000/- to the respondent as condition precedent.

7. Application stands disposed of accordingly.

F. M. REIS, J.

ssm.