

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****REVP No. 133 of 2017**

(Arising out of judgment dated 28-6-2017 passed by this  
Court in Misc. Appeal No.609 1998)

1. M/s. Telekrik Electricals (Nagpur) Pvt. Ltd. 107, Panchratna Apartment Rajlaxmi Marg Behind G P O Civil Lines Nagpur – 409 001, Maharashtra.
2. M/s. Telekrik Electricals & Electronic System (Nagpur) Pvt. Ltd., 107, Panchratna Apartment , Rajlaxmi Marg, Behind G P O Civil Lines Nagpur - 409 001, Maharashtra .
3. M/s. Telekrik Electrical & Electronic System (Nagpur) Pvt. Ltd., 107 , Panchratna Apartment , Rajlaxmi Marg, Behind G P O Civil Lines Nagpur - 409 001, Maharashtra .

---- **Petitioner**

**Versus**

1. Central Mine Planning And Designing Institute Ltd. Through Its Chairman Cum Managing Gondwana Place Kanke Road, Ranchi , Police Station Gonda, Ranchi Pin. Code - 834008 , Jharkhand.
2. Central Mine Planning And Design Institute Ltd. , Through Its Chairman , Gondwana Place Kanke Road, Ranchi , Police Station Gonda Town ,district Ranchi , Pin. Code - 834008 , Jharkhand.
3. The Indian Council Of Arbitration, Through Its Registrar, The Indian Council Of Arbitration , Federation House, Tansen Marg New Delhi -- 110001.

---- **Respondent**

Application for review of the order dated 28-6-2017 passed  
in MA No.609 of 1998

**By circulation in Chamber**

**Hon'ble Mr. Justice Prashant Kumar Mishra**  
**Hon'ble Mr. Justice Arvind Singh Chandel**

**13-12-2017**

1. The matter is taken up for consideration in the chamber under provisions of sub-rule (2) of Rule 90 under Chapter VI of the High Court of Chhattisgarh Rules, 2007.
2. The review petitioners (in short “the applicants”) seek review of the order dated 28-6-2017 passed by this Court in MA No.609 of 1998
3. The main ground on which the review petition is filed is that the applicants failed to appear before this Court, as the SPC was not served upon them.
4. The service report is in Marathi language. The same was read out to this Court by the Ministerial Staff, who belongs to the State of Maharashtra. The service report stated that the applicants' office is closed for last 4-5 years. It is interesting to note that applicants address mentioned in the cause title of MA No.609 of

1998 is the same as is mentioned in the cause title of the present review petition.

5. It is also to be seen that after transfer of MA No.609 of 1998 from the High Court of Madhya Pradesh to this Court one Shri N.L. Soni, Advocate, a regular practitioner in this Court, had filed power for the applicants herein on 12-3-2003 and appeared before the Court on 8-7-2003 and thereafter, never appeared.
6. When the matter (MA No.609 of 1998) was called for hearing on 20-3-2017 no one appeared for the respondents (applicants herein), however, it was informed to this Court that Shri N.L. Soni has given NOC to the respondents (applicants herein). It is at this stage this Court directed to issue SPC.
7. The present review petition has also been filed by Shri N.L. Soni, Advocate. It appears non-service of SPC is clearly an afterthought. If Shri Soni, Advocate, had filed power for the applicants herein in MA No.609 of 1998 he had notice of the proceedings in the Misc. Appeal, yet there was no assistance to this Court in a

matter which was pending for about two decades. When the matter has been finally decided a technical plea has been raised about non-service of SPC, which is also found to be lacking *bona fide*, as the address in both the proceedings is same.

8. It is not a case that Shri N.L. Soni, Advocate, had never given NOC, as no such pleading has been made in the review application. In either case, if the NOC was not given Shri Soni, Advocate, should have appeared before this Court on 20-3-2017 and if NOC was given the said fact should have been clearly pleaded in the review petition, which has not been done.
9. Even otherwise, after going through the record of the Misc. Appeal, it is manifest that after appreciating all the facts and circumstances of the case, in its true perspective, this Court decided the Misc. Appeal on 28-6-2017 on its own merits.
10. On consideration of the above-stated grounds, which are in the nature of taking liberty to re-argue the Misc. Appeal are unsustainable in the eyes of law.

11. There is no other legally permissible ground pointed out by the applicants showing any manifest error on the record and has not further brought into the notice, any new facts, which could not be produced earlier despite diligent efforts made by the applicants. It is well settled principles of law that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of the Code of Civil Procedure.
12. It appears that the applicants by presentation of this review petition seek an opportunity to argue the entire case afresh on merits under the garb of the review petition, which is not permissible and tenable in law.
13. It is well settled principle of law that under the garb of review petition, the applicants should not be permitted to argue the entire case afresh, which would amount to convert the review petition into an appeal and the same is not sustainable in law. (See: Meera Bhanjan v. Smt. Nirmal Kumar Chowdhary, AIR 1995 SC 455, Lily Thomas etc. v. Union of India and others, AIR

2000 SC 1650, Ajit Kumar Rath v. State of Orissa and others, AIR 2000 SC 85, Government of T.N. & Others v. M. Ananchu Asari and others, (2005) 2 SCC 332, and Kerla State Electricity Board v. Hitech Electrothermicism & Hydropower Ltd. and others, (2005) 6 SCC 651.

14. As a sequel, the review petition, *sans substratum* is liable to be and is hereby dismissed.

Sd/-

Judge  
Prashant Kumar Mishra

Sd/-

Judge  
Arvind Singh Chandel

Gowri