

Niti

IN THE HIGH COURT OF BOMBAY AT GOA  
CIVIL APPLICATION (REVIEW) NO 18 OF 2017  
IN  
WRIT PETITION NO 436 OF 2017

|                              |                |
|------------------------------|----------------|
| Madgaum Urban Co op Bank Ltd | ...Applicant   |
| <i>Versus</i>                |                |
| State of Goa & Ors           | ...Respondents |

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**Shri Shivan Desai**, *Advocate for the Applicant.*

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**CORAM: G.S. PATEL &  
NUTAN D. SARDESSAI, JJ**  
**DATED: 22nd August 2017**

**PC:-**

1. Heard.
  
2. The petition seeks review of a final order and judgement dated 11 July 2017, to which one of us, Nutan D Sardessai, J, was a party. The judgement disposed of Writ Petition No 436 of 2017. The challenge in the petition was to an order dated 21st April 2017 under Section 33-C of the Industrial Disputes Act 1947 by which the application filed by Respondents No 4 to 12 in that petition to claim dues from the Petitioner was allowed. After a detailed consideration, the petition was rejected.
  
3. A review is now sought on distinct grounds. First it is contended that the Division Bench did not specifically advert to or pronounce upon the contention raised by the Petitioner that Respondent Nos 4 to 12 were not in fact workmen. The dismissal of

the Petition itself provides the answer. Clearly this is not something that can be examined in our limited jurisdiction under Section 114 of the Code of Civil Procedure 1908 read with Order 47.

4. The second ground taken is that the contentions raised by the Petitioner before the 2nd Respondent were not considered by the 2nd Respondent and this was not addressed specifically by the Division Bench. Again this is not susceptible to review.

5. Then it is alleged that the Court was in error in taking into account the conduct of the Petitioner. We do not see how this can be said to be an error apparent on the face of the record.

6. Finally, it is submitted that there is an error apparent on the face of the record because this Court did not consider the effect of striking of a condition of settlement by Respondent Nos 4 to 12. Yet again this falls outside the scope of review.

7. On behalf of the review Petitioner reliance is placed on the decision of the Supreme Court in *Board of Control for Cricket India & Anr v Netaji Cricket Club & Ors.*<sup>1</sup> We fail to see how this assists the Petitioner. Paragraphs 88 to 90 deal with the ambit of Section 114 and Order 47 Rule 1. It is however clear that there is no universal applicability and each case will turn on its own facts. What constitutes an error apparent on the face of the record or a sufficient reason must be gauged on the material at hand.

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<sup>1</sup> (2005) 4 SCC 741.

8. We do not believe there is sufficient ground made out for a review. The Review Petition is dismissed. There will be no order as to costs.

**NUTAN D. SARDESSAI J.**

**G. S. PATEL J.**