

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION (REVIEW) NO.1236 OF 2015

IN

WRIT PETITION NO. 1781 OF 2014 (D)

(TAMRALIPTA CO-OP. SPINNING MISS LTD. & OTH....VS.. SMT. SEETADEVI JAGADISHPRASAD
CHANDAK & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri D.B.Walthare, Advocate for Applicants.

CORAM : Z.A.HAQ, J.

DATED : JUNE 21, 2017.

Heard Shri D.B.Walthare, advocate for the
applicants/ original petitioners.

The original defendants had filed petition challenging the order passed by the trial Court by which the application (Exh.12) filed by the defendants under Section 8 of the Arbitration and Conciliation Act, 1996 is dismissed. The defendants contended that as per clause 6 of the purchase order dated 30th November, 2010 the dispute between the parties was required to be referred to arbitration and therefore, the suit was not maintainable. The learned trial Judge rejected the application and the order passed by the learned trial Judge was challenged in the writ petition. While dismissing the petition by the order dated 5th October, 2015 this Court recorded that the claim of the plaintiffs in the plaint was for recovery of the amount in respect of the transactions which had taken place earlier, between 12th January, 2010 and 31st March, 2010 and the claim for recovery of that amount will not be hit by clause 6 of the purchase order dated 30th November, 2010.

The applicants/petitioners contend that this Court was misled by the respondents and the suit is in fact filed for recovery of the amount due against the petitioners as per the accounts between the parties and in view of clause 6 of the purchase order dated 30th November, 2010 the suit is not maintainable and the dispute is required to be referred for arbitration.

The submission made by the learned advocate for the applicants/original petitioners cannot be considered. Clause 6 of the purchase order dated 30th November, 2010 cannot be relied upon to non-suit the plaintiffs who have filed the suit for recovery of the amount in respect of other transactions and not for recovery of the amount in respect of the transaction which has taken place as per the purchase order dated 30th November, 2010.

I do not find any error apparent on the face of the record which necessitates exercise of review jurisdiction.

The application is **dismissed**. No costs.

JUDGE

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