

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
REVIEW PETITION NO. 6 OF 2018
IN
ARBITRATION PETITION NO. 1325 OF 2012

M/s.D.M.Builders & Developers **Petitioner**

VERSUS

M/s.Kukreja Construction Company **Respondents**

Mr.A.Y.Sakhare, Senior Advocate, a/w. Mr.J.P.Singh for the Petitioner.

Mr.Mahesh Menon, a/w. Mr.Mani Thevar, i/b. Mahesh Menon & Co.
for the Respondents.

CORAM : R.D. DHANUKA, J.

DATE : 13th AUGUST, 2018

P.C.

By this petition, the petitioner seeks recall of the orders dated 25th November, 2013 and 24th January,2014.

2. This matter had appeared before this court on 25th November,2013 when the learned counsel appearing for the petitioner on instruction rendered an undertaking before this court to deposit a sum of Rs.1 crore in this court. This court accepted the said undertaking and made it clear that if the amount of Rs. 1 crore is not deposited in the court, the petition to stand dismissed without further reference to court.

3. The matter thereafter appeared before this court on 24th January,2014 when this court referred to the order dated 25th

November,2013 and held that the said order was self operative and in view of the default committed by the petitioner in depositing the amount, petition stood dismissed on expiry of six weeks from 25th November, 2013. The appeal filed by the petitioner bearing (L) no.115 of 2014 came to be withdrawn on the ground that the petitioner intended to make an application for modification of the order dated 25th November,2013 passed by this court.

4. Mr.Sakhare, learned senior counsel appearing for the review petitioner invited my attention to the averments made in paragraph (11) of the review petition and would submit that the petitioner was not aware of the undertaking rendered by his advocate before this court on 25th November,2013. The petitioner did not apply for vacating the said undertaking on such plea now raised in the review petition. The said undertaking was rendered by the learned counsel on instruction before this court which is apparent from the plain reading of the order passed by this court.

5. Review petition is thoroughly misconceived and is dismissed with cost quantified at Rs.50,000/- which shall be paid by the petitioner to the respondent no.1 within one week from today.

[R.D. DHANUKA, J.]