

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 576 of 2018**

Hiramanlal Sahu, S/o Late Fool Singh Sahu, aged about 55 years, R/o 11/24, Ispat Nagar, Risali, Bhilai, Tahsil and District Durg (C.G.)

----Petitioner/defendant

Versus

1. T.R. Deangan, S/o Bhagwan Singh Dewangan, aged about 47 years,
2. D.R. Sahu, S/o late Jethuram Sahu, aged about 46 years,

Both are Director Representative Om Bhoo-Vikas And Insurance (Pvt.) Ltd. Front of New Bus Stand, Pachripara, Durg, District Durg (C.G.)

----Respondents/plaintiffs

For Petitioner	: Mr. Punit Ruparel, Advocate.
For Respondents	: Mr. Shravan Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board**

29/03/2019

(1) The trial Court dismissed the suit filed by the respondents/plaintiffs on the ground of availability of arbitration clause in the Memorandum of Association read with Section 201 of the Indian Companies Act, 1956, against which first appeal being First Appeal No. 223/2016 {C.L. Athnagar & others Vs. Hiranman Lal Sahu} has been preferred. That appeal was allowed by the Division Bench of this Court on 03.04.2017, but no order was passed with regard to cost,

(2) In the trial Court, plaintiff filed an application for directing the defendant to pay the cost, which the trial Court has allowed, against which instant writ petition under Article 227 of the Constitution of India has been filed.

(3) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and went through the record with utmost circumspection.

(4) A careful perusal of the judgment of the Division Bench of this Court passed in First Appeal No. 223 of 2016 would show that this Court has not passed any order with regard to refund of court fee or this Court has also not directed the defendant to bear the cost of the plaintiff, therefore, the trial Court is unjustified in granting application filed by plaintiff for directing the defendant to pay the cost, which is liable to be and is hereby set aside.

(5) Accordingly, the writ petition is allowed to the extent indicated hereinabove. However, the respondents/plaintiffs are at liberty to proceed under Section 13 of the Court Fees Act, 1870 for refund of court fee.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

