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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION (LODGING) NO.2 OF 2017
IN
CLB COMPANY APPEAL NO.74 OF 2015
IN
COMPANY PETITION NO.13 OF 2014

Neelesh Kanade

...Review
...Petitioner

V/s.

Edifice Properties Pvt. Ltd. & Ors.

...Respondents

Mr.P.G. Chavan with Mr.Rajesh Jadhav for the Review Petitioner.

Mr.Sharan Jagtiani with Ms.Jennifer Michael I/b Mr.Raman Misra for
the Respondent Nos.1, 3, 4 and 5 and 13.

CORAM : R.D. DHANUKA, J.
DATE : 8TH MARCH, 2019.

P.C. :-

1. By this review petition filed by the review petitioner (original petitioner) in Company Petition no.13 of 2014, the review petitioner seeks to recall the order dated 1st February, 2017 passed by this Court dismissing the company petition filed by the review petitioner on various grounds.

2. Learned counsel appearing for the review petitioner invited my attention to some of the findings rendered by this Court in

the order dated 1st February, 2017 and would submit that the respondents had committed fraud upon the petitioner and this Court and had obtained the said order dated 1st February, 2017. It is submitted that the Disciplinary Committee of the Institute of Company Secretary of India has initiated an action against the respondent no.12 who was not only the Company Secretary of the respondent no.1 but also one of the Director. He submits that the shareholding of the petitioner was fraudulently reduced by the respondent no.1. He submits that the form no.32 was also forged by the respondents and it was fraudulently contended that the petitioner had resigned from the post of the Director of the respondent no.1 company. He submits that the petitioner has thus made out a case by pointing out error apparent on the face of record and thus the review petition shall be entertained by this Court and the order passed by this Court shall be recalled.

3. Mr.Jagtiani, learned counsel appearing for the respondent nos.1, 3, 4, 5 and 13 on the other hand submits a chart for consideration of this Court and submits that the grounds raised in the review petition cannot be entertained. He submits that the grounds raised in the review petition on various issues on merits have been extensively dealt with by this Court in the said order passed by this Court in various paragraphs pointed out in the said chart. He

submits that the matter having been already decided on merits cannot be reviewed by re-appreciating the arguments already made by the parties and the findings rendered by this Court in this review petition under Order XLVII Rule 1 of the Code of Civil Procedure, 1908.

4. A perusal of the order dated 1st February, 2017 passed by this Court indicates that this Court in the said order has considered all these arguments sought to be advanced by the learned counsel for the review petitioner in great detail. This Court after considering the findings of fact rendered by the Company Law Board in the impugned order, which is the subject matter of the company application, has refused to interfere with the impugned order passed by the Company Law Board. In my view the issues dealt with on merits and are rejected by the said order dated 1st February, 2017 cannot be reconsidered under Order XLVII Rule 1 of the Code of Civil Procedure, 1908 by agitating the same grounds again. Learned counsel for the review petition could not point out any error apparent on the face of record under Order XLVII Rule 1 of the Code of Civil Procedure, 1908.

5. Insofar as the issue raised by the learned counsel for the review petitioner that the resignation of the petitioner was forged is concerned, the company had produced the original of the said form

no.32 before the Company Law Board. After considering the documentary evidence, the Company Law Board had rendered a finding of fact that the review petitioner had tendered his resignation. A resolution relating to the said resignation along with form no.32 was filed with the concerned authority. The findings of fact rendered by the Company Law Board was upheld by this court in the said order dated 1st February, 2017.

6. Insofar as the issue raised by the learned counsel for the review petitioner that the shareholding of the petitioner was reduced fraudulently by the respondent no.1 is concerned, the Company Law Board as well as this Court considered that after alleged reduction of the shareholding of the review petitioner as sought to be contended by the review petitioner, the review petitioner had signed various documents including an agreement confirming reduction of such shareholding. The review petitioner never disputed reduction of the shareholding. I am thus not inclined to interfere with the impugned order in this review petition filed by the review petitioner. The review petition is thoroughly misconceived and is dismissed with costs quantified at Rs.50,000/- which shall be paid by the review petitioner to the respondent no.1 within one week from today.

(R.D. DHANUKA, J.)