

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

Review Application No. 735/2019
Arising out of
Writ Petition No. 1688/2018 (Decided)

(M/s. Sri Sai Gopal Turbo Engineering Services, Hyderabad Vs. EM Services
Private Limited, Nagpur & anr.)

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

Court's or Judge's orders

Dr. R. Sundaram, Advocate for applicant.

CORAM : MANISH PITALE, J.

DATED : JULY 19th, 2019

By way of this review application, the applicant is seeking review of the judgment and order dated 04.06.2019 passed by this Court whereby, writ petition filed by the applicant was only partly allowed and the order of the Court below was not substantially interfered with.

The learned counsel for the applicant has invited attention of this Court to Order VIII Rule 6-A of the Code of Civil Procedure as also Order VIII Rule 1 thereof and in that context, attention of this Court is also invited towards the judgment of the Hon'ble Supreme Court in case of *SCG Contracts India Pvt Ltd. Vs. K. S. Chamankar Infrastructure Pvt. Ltd., and others*, 2019 SCC OnLine SC 226.

It is submitted on behalf of the review applicant that an error on the face of the record has been committed by this Court for the reason that proper reading of the aforesaid two provisions i.e. Order VIII Rule 6-A of the Code of Civil Procedure with Order VIII Rule 1 thereof, particularly after its amendment, would show that the respondent No. 1 in the present case had no right to raise a counter claim upon the expiry of the period of 120 days.

In the judgment and order passed by this Court of which review is sought, this Court has referred to the aforesaid judgment of the Hon'ble Supreme Court in paragraph No. 8 and thereafter, in paragraph Nos. 9, 10, 11 and 12, this Court has considered the question of the right of the respondent No. 1 of raising a counter claim. This Court has held, in the facts and circumstances of the present case, that when the written statement has already been filed within aforesaid specified period of 120 days, based on the case law referred to in the paragraphs, to avoid multiplicity of the proceedings, it would be appropriate to permit respondent No. 1 to raise counter claim.

In view of above, this Court finds no error apparent on the face of the record. The nature of the grounds raised in the review application could perhaps be raised in an appropriate proceeding, challenging the

judgment and order of this Court on merits. Hence, review application is dismissed.

JUDGE

Gohane