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**C.M.Nos.6388 and 6391-CWP of 2019 in/and
RA-CW-172 of 2019 (O&M) in
CWP No.27320 of 2018**

**Reliance Infrastructure Limited
vs.
State of Haryana and another**

Present: Mr.Akshay Bhan, Senior Advocate with
Mr. A.S.Talwar, Advocate
for the petitioner.

Mr. Naresh Markanda, Senior Advocate with
Mr. R.S.Madan, Advocate and
Ms. Kavita Markanda, Advocate
for the respondent.

* * *

C.M.No.6388 of 2019

Allowed as prayed for.

C.M.No.6391 of 2019

The application is allowed subject to all just exceptions.
Additional affidavit alongwith Annexures A-2 to A-4 is taken on record.

RA-CW-172 of 2019

After arguing for some time with regard to review of the order,
Mr. Naresh Markanda, learned senior counsel assisted by Mr. R.S.Madan,
Advocate submitted that only prayer in the review application is
clarification wherein this Court observed with regard to maintainability of
the application before the Court under Section 14 of the Arbitration and
Conciliation Act, 1996 (hereinafter referred to as “1996 Act”) challenging
the jurisdiction of the Arbitrator and nothing beyond.

Mr.Akshay Bhan, learned senior counsel assisted by Mr.
A.S.Talwar, Advocate appearing on behalf of the applicant/petitioner cited
the judgment of the Hon'ble Supreme Court rendered in **Civil Appeal**

No.3972 of 2019 titled as Bharat Broadband Network Limited Vs. United Telecoms Limited, decided on 16.04.2019, wherein the Hon'ble Supreme Court while noticing the duty of the Arbitrator disclosed in writing any circumstances, giving rise to justifiable doubts as to his independence or impartiality held that provisions of Section 14 of 1996 Act would be applicable and therefore, the aforementioned fact could not be referred to in the review application as by that time, it had already been filed.

I have heard the learned counsel for the parties, appraised the paper book and order sought to be reviewed.

This Court in the writ petition filed under Articles 226/227 of the Constitution of India challenging the order dated 24.09.2018 (Annexure P-24) of the Special Commercial District Court, Gurugram whereby the question raised in the application (Annexure P-23) with regard to appointment of the Arbitrator was held to be void and against the provisions of 6th Schedule of 1996 Act, dismissing the application.

I am of the view that observations of mine with regard to maintainability of the review application in view of the judgment of the Hon'ble Supreme Court is limited ground for recalling of the order and the same is hereby recalled. The writ petition is ordered to be restored to its original number.

CWP No.27320 of 2018 (O&M)

Mr. Naresh Markanda, learned senior counsel has raised the point with regard to maintainability of the writ petition while citing the judgment of the Hon'ble Supreme Court in **Radhey Shyam and another vs.**

Chhabi Nath and others 2015(5) Supreme Court Cases 423 wherein the contrary view in **Surya Dev Rai Vs. Ram Chander Rai 2003(6) Supreme Court Cases 675**, has been over-ruled by holding that the order of the Civil Court was not amenable to writ jurisdiction under Article 226 of the Constitution of India.

At this stage, the arguments have been heard with regard to maintainability of the writ petition.

Mr. Naresh Markanda, learned senior counsel seeks short accommodation to file short affidavit with regard to disclosure reflected in Annexure P-17.

Let the reply be filed before the date fixed with an advance copy to the counsel opposite.

Post this matter for 30.05.2019

(Amit Rawal)
Judge

May 24, 2019
savita