

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on 05.02.2021

Order delivered on 24.02.2021

Review Petition No. 5 of 2021

Navkar Trade Links through Proprietor Shri Prateek Golecha, 8-10,
Wallfort Enclave, Pachpedi Naka, Raipur, District- Raipur, Chhattisgarh.

---- Petitioner

Versus

1. Sharda Energy And Minerals Pvt. Ltd. (SEML) A body corporate through
Authorised Signatory Shri Gopal Panigrahi Manager Legal Registered
Office At 73-A, Central Avenue, Nagpur, Maharashtra.

Local Address- Industrial Growth Centre, Phase-I, Siltara And Mandhar,
Raipur (C.G.) and Inter Alia an office at 3rd Floor, Vanijya Bhawan, Sai
Nagar, Devendra Nagar, Raipur, District- Raipur, Chhattisgarh

2. Prakash Industries Ltd. Through Managing Director, Having Registered
Office At, 15 Km Stone, Delhi Road, Hisar, Haryana- 125044.

Works At Champa, Dist- Janjgir-Champa (C.G.)

Local Address- Gogaon Industrial Area, Ring Road No. 2, Raipur,
District : Raipur, Chhattisgarh.

---- Respondents

For Petitioner : Shri Vivek Chopda, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV ORDER

Heard.

1. This review petition has been brought on the grounds that there is a
mistake apparent on the face of record on the point, that the petitioner/
defendant No.2 has acted only as a broker, which is clear from the
contents of the application filed by respondent No.1 – Sarda Energy &
Minerals Private Limited. As it is stated in paragraph 2(f) that the
petitioner is a broker for sale and purchase of raw material, semi-
finished and finished goods relating to iron & steel, the plaint does not
disclose any cause of action against the petitioner. The plaint against
the petitioner should have been rejected, as respondent No.1 cannot

make any claim against the petitioner in personal capacity. Reliance has been placed on the judgments of the Supreme Court in the case of **Board of Control for Cricket in India and Another vs. Netaji Cricket Club and Others**, reported in **(2005) 4 SCC 741**, **S. Nagaraj and Others vs. State of Karnataka and Another**, reported in **1993 Supp (4) SCC 595** and **Saleem Bhai and Others vs. State of Maharashtra and Others**, reported in **(2003) 1 SCC 557**, the judgment of Bombay High Court in the case of **Midland Overseas vs. M.V. "CMBT Tana" and Others**, reported in **AIR 1999 Bom 401**, the judgment of Gujarat High Court in the case of **Crowe Boda & Company Pvt. Ltd. vs. Hindustan Petroleum Corp. Ltd. And others**, reported in **2011 SCC Online Guj 730** and the judgment of Calcutta High Court in the case of **Nandalal N. Verma & Co. Ltd. vs. Alliance Mills (Leasee) Pvt. Ltd.**, reported in **1994 SCC Online Cal 105**.

2. It is submitted that Section 230 of the Indian Contract Act, 1872 provides that the agent cannot personally enforce contracts entered into by him on behalf of his principal, nor is he personally bound by them, therefore, the petitioner has entitlement and to be exonerated from the civil prosecution. Reliance has also been placed on the judgments of Supreme Court in the case of **Vivek Automobiles Limited vs. Indian Inc.**, reported in **(2009) 17 SCC 657** and **Shakti Bhog Food Industries Ltd. vs. Central Bank of India and Another**, reported in **2020 SCC Online SC 482**.
3. Considered the submissions. As it is the claim of the petitioner that he is protected by the provisions under Section 230 of the Indian Contract Act, on which this Court has not given any consideration in the order dated 27.11.2020, therefore, I am of this view that the review should be granted in this case.

4. Review is granted accordingly. W.P.(227) No. 476 of 2020 shall be heard again. Registry is directed to list the same for rehearing.
5. Accordingly, the present review petition is disposed of.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nimmi