

Item-5. 17-03-2023

sg Ct. 8

RVW 27 of 2023

CAN 1 of 2023

In

FAT 473 of 2011

Vikash Somani

Versus

Reliance Industries Limited & Ors.

Mr. Ajay Krishna Chatterjee, Sr. Adv.

Mr. Swatarup Banerjee, Adv.

Mr. Rajib Mullick, Adv.

Mr. Sariful Haque, Adv.

Ms. Shreyashi Maity, Adv.

...for the appellant

Mr. U.S. Menon, Adv.

Mr. Abhirup Chakraborty, Adv.

...for the respondent no.1

This is an application for review of the judgment and order dated 4th January, 2023.

Mr. Ajay Krishna Chatterjee, learned Senior Counsel appearing on behalf of the appellant has submitted that the review application is required to be admitted on the ground that there are errors apparent on the face of record and also for “other sufficient reasons”. Mr. Chatterjee submits that the Trial Court has accepted that the plaintiff had agreed to sell 550 equity shares to defendant no.2 and when this initial transaction was effected on mutual consent, the legality and propriety of the said transaction cannot be questioned. After having accepted the said transaction to be “unquestionable” the trial court could not have dismissed the suit.

The judgement of the Trial Court has to be read as a whole. In fact, we have considered the said judgment along with the exhibits and the depositions of the parties at the time of deciding the appeal. An error apparent on the face of the record would

mean that, to find out such error the Court is not required to embark upon a detailed inquiry. It has to be apparent and visible and does not call for a detailed investigation. In paragraph 4 of our judgement, we have clearly held that the plaintiff was unable to prove the transaction and thereafter for the reasons indicated we have held that the plaintiff has failed to discharge his onus in proving the transaction.

We do not wish to reiterate the reasons given in support of our finding. Importantly, the plaintiff did not depose although, it is alleged in the plaint that the plaintiff on 31st December, 1993 received a telephonic call from a person who described himself to be an employee of M/s. D.P. Poddar and Company. This cannot be within the knowledge of the person who deposed on behalf of the plaintiff. The plaintiff was inextricably connected with the transaction as alleged but did not come forward to depose. This could be the additional factor against the plaintiff.

The review application, accordingly, fails. However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)