206 06.10.2023

Ct. No. 04

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FMA 1370 of 2022
IA No. CAN 2 of 2023

M/s. India Power Corporation Ltd.
Vs.
SBICAP Trustee Company Ltd. and others.

Mr. Mainak Bose,
Mr. Aniruddha Chatterjee,
Mr. Debjit Mukherjee,
Ms. Anjana Banerjee.
... for the appellant.

Mr. Sourajit Dasgupta,
Mr. Soumya Nag.
... for the respondent no. 2.

Re: CAN 2 of 2023.

By a judgment and order dated 16th May 2023 this Court finally decided the instant appeal with the categorical finding that the observations returned therein is prima facie in nature and, therefore, restricted to the aforesaid appeal or an application, which was disposed of by the impugned order.

There is no ambiguity nor obscurity in understanding the purport of the said order to the extent that it is prima facie in nature, yet an application is taken out inviting the Court to pass an order that such observations made therein shall not influence the other proceedings pending between the parties.

It is a sheer wastage of the precious time of the Court when the order remains unambiguous and explicit in the sense that those findings are tentative in nature and restricted to the application, which was the subject matter of the adjudication.

Time and again the application in the garb of clarification, modification and/or rectification of an order is taken out at the Bar inviting the Court to deal with the averments made therein. The manifest intention can be gathered that the litigant wanted to continue with the litigation and in the garb of the aforesaid exercise, certain observations are to be made capable of being interpreted in a different manner. The Court should deprecate such exercise and/or attempt on the part of the litigant.

Since the order is clear, unambiguous and no discrepancy and/or obscurity can be seen therefrom, the application is a sheer wastage of time and, therefore, liable to be dismissed.

Accordingly, the instant application is dismissed with the costs assessed at Rs. 1,00,000/- to be deposited with the State Legal Services Authority within a week from date. In default of deposit of the costs, the State Legal Service Authority is empowered to realize the same as land revenue on the basis of the order, which would be treated as certificate.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)