

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**RA-CR No.3/2023 (O&M)
In TA 246/2020.
Date of decision: 12.01.2023**

Punjab Water Supply and Sewerage Board

.....Applicant

Vs.

Jai Bhushan Malik and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Dheeraj Mahajan, Advocate for
Mr. Jagdeep Singh Rana, Advocate for the applicant/
respondent

Nidhi Gupta, J.

Present review application has been filed by the respondent/
applicant seeking review of order dated 5th of December 2022 whereby the
Transfer Application filed by the petitioner /non-applicant had been allowed and
the objections filed by the petitioner/ non-applicant under Section 34 of the
Arbitration and Conciliation Act, were transferred from the Court of Additional
District Judge, Sangrur to the Court of Additional District Judge, Patiala *inter
alia* on the ground that seat of arbitration between the parties had been at Patiala.
Admittedly as per the law laid down by the Hon'ble Supreme Court in “**BGS
SGS Soma JV v NHPC Ltd., Law Finder Doc Id # 1640616**”, Section 34
objections can only be filed where the arbitral proceedings have been conducted.

It is submitted by the learned counsel for the
respondent/applicant that Section 34 objections, of which transfer had been
sought by way of abovesaid Transfer Application, already stood dismissed by

the Ld. Court at Sangrur vide order dated 2.8.2022 as a result of which the Transfer Application of the petitioner/non-applicant was actually infructuous. It is submitted that however, due to inadvertence this fact could not be brought to the notice of the Court at the time of hearing, and therefore, order dated 5.12.2022 allowing the transfer petition be reviewed.

Heard learned counsel.

As per law laid down by the Hon'ble Supreme Court in **S. Bagirathi Ammal v Palani Roman Catholic Mission, Law Finder doc Id # 135811**, review of an order is envisaged only in the condition of (a) a subsequent event; (b) error apparent on the face of record; and (c) any other sufficient reason. Relevant extract of para 5 of said judgment reads as under:-

“A reading of the above provision makes it clear that Review is permissible (a) from the discovery of new and important matter or evidence which, after the exercise of due diligence could not be produced by the party at the time when the decree was passed; (b) on account of some mistake; (c) where error is apparent on the face of the record or is a palpable wrong; (d) any other sufficient reason. If any of the conditions satisfy, the party may apply for a review of the judgment or order of the Court which passed the decree or order. The provision also makes it clear that an application for Review would be maintainable not only upon discovery of a new and important piece of evidence or when there exists an error apparent on the face of the record but also if the same is necessitated on account of some mistake or for any other sufficient reason. An error contemplated under the Rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. In other words, it must be an error of inadvertence. It should be something more than a mere error and it must be one which must be manifest on the face of the record. When does an error cease to be mere error and becomes an error apparent on the face of the record depends upon the materials placed before the Court. If the error is so apparent that without

further investigation or enquiry, only one conclusion can be drawn in favour of the appellant, in such circumstances, the review will lie. Under the guise of review, the parties are not entitled re-hearing of the same issue but the issue can be decided just by a perusal of the records and if it is manifest can be set at right by reviewing the order.”

Admittedly, Ld. Counsel for the respondent-applicant has not been able to point out any such infirmity as outlined above, in the order of which review has been sought. Accordingly, finding no ground to review the order dated 5.12.2022, this Review Application is dismissed.

Application(s),if any, also stand disposed of.

(Nidhi Gupta)
Judge

12.01.2023
Joshi

Whether speaking/reasoned	Yes
Whether reportable	Yes/No