



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

MISC. CIVIL APPLN. NO. 149 OF 2024

IN

WRIT PETITION NO.5984 OF 2023 (D)

M/s. Poonam Resorts Ltd., Nagpur

Vs.

R.K.Mishra, Zonal Manager of Indian Bank
(erstwhile Allahabad Bank), Asansol, West Bengal

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. C.J.Dhruv, counsel for the applicant.

Mr. A.T.Purohit, counsel for the non-applicant.

CORAM: AVINASH G. GHAROTE, J.

DATED : 6TH AUGUST, 2024

1. The application seeks review of the judgment dated 14/12/2023 passed in WP No.5984/2023, whereby permission was granted to the original defendants in a commercial suit, to file their written statements, in view of non-compliance of the requirement under section 12-A of the Commercial Courts Act, 2015.
2. Mr. Dhruv, learned counsel for the applicant submits, that the judgment suffers from an error apparent on the face of record, inasmuch as, the suit was instituted in September, 2018, whereas the judgment of the Hon'ble Apex Court in ***Patil Automation Pvt. Ltd. v. Rakheja Engineers Pvt. Ltd., (2022) 10 SCC 1***, indicates, that the section 12-A has been held to be mandatory with effect from 20/08/2022, and therefore, in the instant case, which has been

instituted earlier in point of time, even if the compulsory mediation as required under section 12-A of the Commercial Courts Act, 2015 was not held, the time for filing written statement by the non-applicants could not have been held to have been extended on account of non-compliance with the requirement of Section 12-A, in support of which reliance is placed upon *Play Games 24 x 7 Pvt.Ltd. v. Loran Leasing an Infotech Pvt.Ltd., 2023 SCC OnLine Bom. 2042.*

3. Though it is correct that in *Patil Automation (supra)* the declaration regarding section 12-A of the Commercial Courts Act, as mandatory has been made effective from 20/08/2022, however, that is not the only reason, why the non-applicants have been permitted to file their written statement, for the written statement of the non-applicants, was duly sworn in on 19/01/2019 itself, and ready for filing on that date, which was even prior to the expiry of 120 days, in terms of Order VIII Rule 1 as applicable to commercial Courts (para-19). That apart, the learned Commercial Court itself had by the order dated 19/12/2018, granted time to file the written statement till the application under section 12-A of the Commercial Courts Act, 2015 was decided, which was never challenged and had become final (Para-16), in view of which, I do not see any ground for review being made out, the application is therefore, rejected. Considering the circumstances, no costs.

(AVINASH G. GHAROTE, J.)