

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Lanusungkum Jamir

And

The Hon'ble Justice Rai Chattopadhyay

MAT 1640 of 2025

With

CAN 1 of 2025

Jahurul Islam Sardar

Vs.

Sanjay Chhajer & Ors.

For the appellants

/respondent No. 2

: Mr. Biswasrup Biswas

: Mr. Gora Chand Samanta

For the writ petitioner

/respondent No. 1

: Mr. Ratikanta Pal

Heard on

: 02/02/2026

Judgment on

: 26/02/2026

Rai Chattopadhyay, J. :-

- 1.** The very limited point for determination in this appeal is whether the impugned judgment dated June 25, 2025 in WPA No. 22095 of 2013 is just, legal and proper or warrants interference by this appeal Court to be set aside.

- 2.** The writ petition as above was filed by the instant respondents challenging order dated April 28, 2006 passed in computation Case No. 34 of 2001 under section 10(1B)(d) of the Industrial Disputes Act 1947, an ex-parte order passed by the Labour Court dated August 21, 2009 in case No. 33 of 2007 under section 33C(2) of the Industrial Disputes Act 1947, the order dated August 10, 2011 passed by the 1st Labour Court rejecting the respondent's application under Order 9 Rule 13 of CPC and the proceedings under section 29 of the Industrial Disputes Act 1947, pending before the Court of Magistrate along with the application under section 33C (1) of the Industrial Disputes Act 1947, filed by the present appellant for execution of the Award dated August 21, 2009 before the Assistant Labour Commissioner, and all subsequent orders and proceedings. The writ petition has been allowed and all orders as mentioned above which were challenged therein, have been set aside as null and void by the Hon'ble Single Judge, on the ground of fraud and misrepresentation.
- 3.** Fact remains that the appellant was appointed in the respondent company on May, 1998. Allegedly he has stopped coming to the company on and from October 15, 1999. The appellant was served with a show cause notice. However, without replying to the same, he filed an industrial dispute before the competent authority under the Industrial Disputes Act 1947, vide his letter dated November 22, 1999. The words of the parties to entered into a mutual

understanding, the present appellant abandoned the conciliation proceeding, and never attended thereafter. The matter was referred before the industrial tribunal and an Award of reinstatement of the appellant with full back wages was passed. The appellant has also obtained an order of the Labour Court under section 33C(2) of the said Act of an amount of 5 Lacks and odd.

- 4.** Records produced by the present respondents No. 1 and 2 has shown that the appellant was appointed as a primary school teacher under the government of West Bengal since November 1999. The said fact has not been denied and / or disputed in this writ petition. Hence, the Hon'ble Single Judge has recorded her findings that the appellant's conduct amounts to fraud and misrepresentation and his entire cause is therefore null and void. The Court has set aside all the orders and Award of the tribunal, challenged before it.
- 5.** In this appeal the appellant's grounds are that the impugned judgment suffers from non-application of mind and erroneous exercise of jurisdiction by the Court not vested in it by law. That, on the date when the cause of action arose, the appellant was not employed. Hence, there would not be any scope to find fraud and misrepresentation in the appellant's conduct. According to the appellant the writ petition at the instance of the present respondents would not be maintainable since the juridical person they represent, that is the company itself, has not been made a party in the writ petition.

- 6.** The respondents have stated that the company has been a party before the tribunal and the Labour Court, hence the ground of defect of party raised by the appellant is not be maintainable. It has further been submitted that the appellant after being gainfully employed on and from November 12, 1999, has approached the Assistant Labour Commissioner to raise an industrial dispute. Therefore, according to the said respondents, suppression of material fact by him is very much evident and he has misrepresented throughout the proceedings by not disclosing those material facts.
- 7.** The respondents have all along challenged the alleged ill intentions of the present appellant that even before the conciliation officer he did not turn up to accept the memorandum of settlement though the respondents were agreeable to enter into terms as regards the dispute raised by the present appellant.
- 8.** This Court finds that other facts and aspects of the case need not be gone into any further. Evidently and undisputedly the appellant has raised the industrial dispute on November 22, 1999 after being appointed as a school teacher on November 12, 1999. Thereafter, for all those years the appellant allowed the courts to proceed with his cases, without disclosing the fact of his being gainfully employed. This definitely amounts to gross misrepresentation and fraud committed upon the courts by the present appellant. Therefore no

infirmity could be found in the judgment by the Hon'ble Single Judge, which is impugned in this case.

9. The law is well-settled in this regard and some judgments of the Hon'ble Supreme Court may be noted as hereinunder:-

i) ***Vishnu Vardhan v. State of U.P.*** reported in **2025 SCC OnLine SC 1501**

"In decisions abound, the Courts have consistently nullified orders obtained through fraudulent means. Key excerpts from some of these decisions read thus:

a. In United India Insurance Co. Ltd. v. Rajendra Singh, this Court reiterated that fraud unravels everything:

3. "Fraud and justice never dwell together" (fraus et jus nunquam cohabitant) is a pristine maxim which has never lost its temper over all these centuries. Lord Denning observed in a language without equivocation that "no judgment of a court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for, fraud unravels everything" (Lazarus Estates Ltd. v. Beasley).

b. In Shrisht Dhawan (Smt) v. Shaw Bros., it was held:

20. Fraud and collusion vitiate even the most solemn proceedings in any civilised system of jurisprudence. It is a concept descriptive of human conduct. Michael Levi likens a fraudster to Milton's sorcerer, Comus, who exulted in his ability to, 'wing me into the easy-hearted man and trap him into snares'. It has been defined as an act of trickery or deceit. In Webster's Third New International Dictionary fraud in equity has been defined as an act or omission to act or concealment by which one person obtains an advantage against conscience over another or which equity or public policy forbids as being prejudicial to another. In Black's Legal Dictionary, fraud is defined as an intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or surrender a legal right; a false representation of a matter of fact whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury.....

In A.V. Papayya Sastry v. Govt. of A.P., this Court held:

21. Now, it is well-settled principle of law that if any judgment or order is obtained by fraud, it cannot be said to be a judgment or

order in law. Before three centuries, Chief Justice Edward Coke proclaimed:

"Fraud avoids all judicial acts, ecclesiastical or temporal."

22. It is thus settled proposition of law that a judgment, decree or order obtained by playing fraud on the court, tribunal or authority is a nullity and non est in the eye of the law. Such a judgment, decree or order—by the first court or by the final court—has to be treated as nullity by every court, superior or inferior. It can be challenged in any court, at any time, in appeal, revision, writ or even in collateral proceedings.

ii) **Ram Kumar v. State of U.P.** reported in **(2023) 16 SCC 691**

"This Court in S.P. Chengalvaraya Naidu v. Jagannath [(1994) 1 SCC 1] has held that non-disclosure of the relevant and material documents with a view to obtain an undue advantage would amount to fraud. It has been held that the judgment or decree obtained by fraud is to be treated as a nullity. We find that Respondent 9 has not only suppressed a material fact but has also tried to mislead the High Court. On this ground also, the present appeal deserves to be allowed."

10. Hence, the appeal is dismissed.

11. Urgent certified copies of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Lanusungkum Jamir, J.)

(Rai Chattopadhyay, J.)