
(2005) 03 BOM CK 0099

In the Bombay High Court

Case No : Civil Rev. Application No. 351 of 2001

Karam Chand Thapar and Bros. (CS) Ltd. and Others

APPELLANT

Vs

Akaljot Singh Sekhon

RESPONDENT

Date of Decision : 07-03-2005

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 11, 16, 2(1), 7, 7(1)
Constitution of India, 1950 — Article 226

Citation : (2005) 3 MhLj 797

Hon'ble Judges : D.D. Sinha, J

Bench : Single Bench

Advocate : C.S. Samudra, for the Appellant; C.P. Sen, for the Respondent

Final Decision : Dismissed

Judgement

D.D. Sinha, J.—Heard Mr. Samudra, learned Counsel for the applicants and Mr. C. P. Sen, learned Senior Counsel for the Non-applicant-Respondent.

2. Civil Revision Application is directed against the Order dated 21st February, 2001, passed by Sixth Joint Civil Judge (Senior Division), Nagpur, in Special Civil Suit No. 1164 of 1999, whereby the trial Court rejected the application below Exh. 10 moved by the present applicants (defendants) for appointment of Arbitrator u/s 8 of the Arbitration and Conciliation Act, 1996.

3. Mr. Samudra, learned Counsel for the applicants submitted that the Non-applicant-plaintiff filed a suit for recovery of an amount of Rs. 3,74,635.48 against the present applicants. The non-applicant was in service of the applicants-company since 15th July, 1989. The non-applicant claimed to be promoted as Senior Manager with effect from 24th November, 1997, by Order of Promotion issued by the applicants. The applicants terminated the services of non-applicant by Order dated 14th July, 1998 because of various acts and omissions committed by the non-applicant, due to which the applicants-company suffered severe financial loss.

4. Mr. Samudra, learned counsel for the applicants submitted that after termination of services of the non-applicant by the applicants-company the non-applicant filed Special Civil Suit No. 1164 of 1999 against the applicants for recovery of the amount as per Clause 11 of the Order of Promotion, dated 24th November, 1997, though the non-applicant has not challenged the order of termination, dated 14th July, 1998. Mr. Samudra, learned counsel for the applicants submitted that the entire monetary claim made by the non-applicant in the suit is totally based on Clause 11 of the Order dated 24th November, 1997 of which Paragraph 19 is the Arbitration Clause which is a part and parcel of the Order dated 24th November, 1997.

5. Mr. Samudra, learned Counsel for the applicants submitted that in the instant case the terms and conditions mentioned in the Order, dated 24th November, 1997, were accepted by the non-applicant and the salary and other benefits mentioned in Paragraph 11 were also paid to the non-applicant till the date he was in the employment. It is, therefore, not open for the non-applicant to canvass that the conditions mentioned in the Order, dated 24th November, 1997, except Condition No. 19, are applicable and binding on the parties.

6. Mr. Samudra, learned Counsel for the applicants contended that as per Arbitration Clause 19 of the Order, dated 24th November, 1997 if the non-applicant and the company fail to come to a mutual agreement on any points or disputes arising out of, or otherwise, relating to the letter of appointment, all such points of disputes shall be referred to the Sole Arbitrator, Mr. I. M. Thapar, 25, Brabourne Road, Calcutta and his decision shall be binding both on the company and the non-applicant. The learned counsel for the applicants submitted that in view of the above referred Clause, the applicants moved an application u/s 8 of the Arbitration and Conciliation Act, 1996, wherein it is prayed that the dispute in Special Civil Suit No. 1164 of 1999 be referred for arbitration to the Arbitrator, as stipulated under Clause 19 of the Arbitration Agreement. It is submitted that the trial Court rejected the application of the applicants on two grounds, namely (1) the applicants terminated the services of the non-applicant and after termination of services, the agreement dated 24th November, 1997, has come to an end and consequently Clause 19 of such agreement does not survive and hence Arbitrator cannot be appointed, and (2) Mr. I. M. Thapar is a person who is to be appointed as Sole Arbitrator and since he is the Managing Director of the Company, he is an interested person and, therefore, the anxiety of the non-applicant that his claim would not be considered properly is justified.

7. Mr. Samudra, learned counsel for the applicant, contended that the Order impugned based on the above referred reasons is not sustainable in law. It is contended that so far as Section 8 of the Arbitration and Conciliation Act, 1996, is concerned the Apex Court in case of Hindustan Petroleum Corpn. Ltd. Vs. Pinkcity Midway Petroleums, has held that the applicability of the arbitration clause needs to be left to be determined by the Arbitral Tribunal as required

under Sections 8 and 16 of the Act and therefore, this aspect could not have been looked into by the trial Court in the present case and the matter should have been referred to the Arbitrator as mentioned in Clause 19 of the Arbitration Agreement/order, dated 24th November, 1997. Similarly, it is contended that in case of P. Anand Gajapathi Raju and Others Vs. P.V.G. Raju (Died) and Others, , the Apex Court has concluded that provisions of Section 8 are peremptory. It is, therefore, obligatory for the Court to refer the parties to arbitration in terms of their arbitration agreement and nothing remains to be decided in the original action or the appeal arising therefrom. There is no question of stay of the proceedings till the arbitration proceedings conclude and the award becomes final in terms of provisions of the new Act. Mr. Samudra, learned Counsel for the applicants, submitted that the trial Court, in view of the mandatory nature of Section 8 of the Act, ought to have allowed application filed by the applicants and should have referred the matter to the Arbitrator in view of the arbitration agreement stipulated in Clause 19 of the Order/Arbitration Agreement dated 24th November, 1997. Mr. Samudra, learned counsel for the applicant, further contended that even if the existence of arbitration agreement is doubtful or in dispute even then the issue is required to be referred to the Arbitral Tribunal in accordance with the arbitration clause, since Section 16 empowers Arbitral Tribunal to decide the questions of existence and validity of arbitration clause. In order to justify this contention, reliance is placed on the judgment of the Apex Court in case of Hythro Power Corporation Ltd. v. Delhi Transco Ltd., 2004 (1) M.L.J. 1081. Mr. Samudra, learned counsel for the applicants, therefore contended that in the instant case the trial Court has not taken into consideration the purport of Section 8 of the Act and rejected the application of the applicants by impugned order on the grounds which do not refer to the scheme of Sections 8 and 11 or Section 16 of the Arbitration and Conciliation Act, 1996. The trial Court has also not taken into consideration the above referred law laid down by the Apex Court in this regard. In the circumstances, therefore, the impugned order is unsustainable in law.

8. Mr. Sen, the learned Senior Counsel for the non-applicant, on the other hand contended that the non-applicant has filed a Special Civil suit praying for a decree of amount due and payable by the applicants-defendants to the non-applicant-plaintiff. It is submitted that there is no agreement, much less Arbitration Agreement, arrived at between the non-applicant and the applicants, as canvassed by the Counsel for the applicant. It is submitted that the so-called Arbitration Agreement, dated 24th November, 1997, is the order of promotion and is signed only by the officials of the applicants-company. It is further contended that in the Order of Promotion itself, dated 24th November, 1997, it is specifically mentioned that the original order along with two copies of the order were forwarded to the non-applicant and non-applicant was required to duly sign the third copy of the Order in token of acceptance of terms and conditions contained in the order and return the same to the applicants and is entitled to retain the original for record. Mr. Sen, the learned Senior Counsel for the non-

applicant, contended that in the instant case, the non-applicant has not signed any of the copies of the order, dated 24th November, 1997 and, therefore, the non-applicant has not accepted the Arbitration Agreement stipulated in Clause 19 of the Order of Promotion, dated 24th November, 1997 and in absence thereof, the requirements of provisions of Section 7 of the Arbitration and Conciliation Act, 1996, are not fulfilled and, therefore, no arbitration agreement exists in the present case. In order to substantiate this contention, reliance is placed on the judgments of the Apex Court in cases of (a) M/s. Rickmers Verwaltung GMB H Vs. The Indian Oil Corporation Ltd., , (b) M. Dayanand Reddy Vs. A.P. Industrial Infrastructure Corporation Limited and others, as well as judgment of this Court in the case of Jayant N. Sheth, Proprietor Struct Mast Engineers v. Gyneshwar Apartment Co-operative Housing Society Ltd., 1999 (2) Arb. L.R. 115. Mr. Sen, the learned Senior Counsel submitted that taking into consideration the facts and circumstances as well as scheme of provisions of Section 7 of the Arbitration and Conciliation Act, 1996 coupled with the laws laid down by the Apex Court as well as this Court referred to hereinabove, the order of rejection of the application of the applicants filed u/s 8 of the Arbitration and Conciliation Act, 1996 is just and proper. Mr. Sen, learned Senior Counsel, further submitted that it is, no doubt, true that the trial Court, while rejecting the application, has not specifically dealt with these aspects of the matter and, therefore, these aspects are not reflected in the impugned order. However, that does not change the legal position which is well settled.

9. I have given my anxious thought to various contentions canvassed by the respective counsel and also considered the judgments of the Supreme Court and this Court relied on and cited by the respective counsel as well as provisions of relevant sections of the Arbitration and Conciliation Act, 1996.

10. In the instant case, the following facts are not in dispute : The non-applicant joined the services of applicants-company in the year 1989 and was promoted to the post of Senior Manager vide Order, dated 24th November, 1997. In the Order of Promotion dated 24th November, 1997, it is specifically mentioned that it is being sent in triplicate to the non-applicant with a request to the non-applicant to return two copies duly signed and retain the third copy for his own record. The non-applicant did not return back in duplicate copies of the Order of Promotion signed by him. Clause 19 of the Order dated 24th November, 1997 reads thus :--

"19 That if you and the company ever fail to come to a mutual agreement on any points or disputes arising out of or anywise relating to the letter of appointment all such points or disputes shall be referred to the sole arbitration of Mr. I. M. Thapar of 25, Brabourne Road, Calcutta and his decision shall be final and binding both on the company and yourself."

Services of the petitioner came to be terminated vide Order dated 14th July, 1998 by the applicants-company. The non-applicant thereafter filed Special Civil Suit No. 1164 of 1999 against the applicants-company for recovery of Rs. 3,74,635.48 with interest. The applicants filed an application u/s 8 of the

Arbitration and Conciliation Act, 1996 to refer the dispute to the Arbitrator which is rejected by the trial Court vide Order, dated 21st February, 2001. Hence the present Revision Application.

11. Before I consider the issue in question, it will be appropriate to consider the scheme of provisions of Section 7 of the Arbitration and Conciliation Act, 1996. Sub-section (1) of Section 7 contemplates "arbitration agreement" means an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship whether contractual or not. It is, therefore, evident that there must be an agreement between the parties to submit to arbitration, which requires meeting of mind which results in agreement of a binding nature to submit to arbitration the disputes which have arisen or may arise between the parties. So far as Sub-section (2) of Section 7 is concerned, it contemplates that an arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement. It is, therefore, evident that Sub-section (2) makes it clear that the arbitration agreement can be in the form of arbitration clause. However, that clause must find place in a contract and as per Sub-section (3) such contract or agreement shall be in writing. Sub-section (4) of Section 7 further stipulates that an arbitration agreement is in writing if it is contained in (a) a document signed by the parties; (b) an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement or (c) an exchange of statements of claim and defence in which the existence of the agreement is alleged by one party and not denied by the other. Lastly, Sub-section (5) of Section 7 contemplates that the reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement if the contract is in writing and the reference is such as to make that arbitration clause part of the contract. On the backdrop of the above referred scheme of Section 7 of the Arbitration and Conciliation Act, 1996, it will be proper to consider the facts involved in the present case in order to find out whether it fulfils the requirements of Section 7 of the Act. In the instant case the document, dated 24th November, 1997, is an order of promotion simplicitor issued by the applicants to the non-applicant, whereby he is promoted to the post of Senior Manager in the establishment of the applicants. In the last paragraph of Order of Promotion, it is specifically mentioned that the non-applicant was required to return two copies of the said order, duly signed by him, acknowledging that he has accepted the terms and conditions of the Order dated 24th November, 1997 and can retain only one copy for his record. In the instant case, it is not in dispute that the non-applicant has not returned any copy of the Order, dated 24th November, 1997, duly signed by him, to the applicants and in absence thereof, it is evident that there is no binding agreement arrived at between the applicants and the non-applicant merely on the basis of the unilateral act of the applicants of issuing an Order of Promotion, dated 24th November, 1997. It is, no doubt, true that in Clause 19 of the Order dated 24th November, 1997, it is mentioned that any dispute arising out of or related to the

appointment as well as all such points or disputes shall be referred to the Sole Arbitrator Mr. Thapar. However, this stipulation would be binding on the non-applicant only if it is agreed by the non-applicant, and not otherwise. In the instant case, it is not at all in dispute that the said document, dated 24th November, 1997, is not at all signed by the non-applicant and hence it is evident that the terms and conditions mentioned therein are not accepted by the non-applicant, and in absence thereof, I am afraid that the requirement of Sub-section (1) of Section 7 is not fulfilled, since there is nothing to show that the parties to the arbitration agreement have agreed to submit to the arbitration all or certain disputes which have arisen or which may arise between them. Similarly, Order of Promotion dated 24th November, 1997, cannot be termed as "Arbitration Agreement", since the requirement of legal and valid agreement between the parties is not fulfilled. The requirement of Sub-section (3) of Section 7 of the Act is also not fulfilled. Similar is the situation insofar as Sub-sections (4) and (5) of Section 7 are concerned.

12. On the backdrop of the above referred facts, the conclusion recorded in paragraph 4 by the learned Single Judge of this Court in the case of Jayant N. Sheth, Proprietors, Struct Mast Engineers (cited supra) is relevant, which reads thus :--

"4. In this case admittedly, there is no arbitration agreement in the form of an arbitration clause in a contract or in the form of separate agreement in writing. Nor is it the case of the petitioner that there is an exchange of letters, telex, telegrams or other means of telecommunication or an exchange of statements of claim and defence in which the existence of the agreement is alleged by one party and not denied by the other party. What is claimed by the petitioner is that there was an understanding between the parties to enter into an arbitration agreement. Obviously, such an understanding, even if there be any, cannot be construed as an arbitration agreement within the meaning of Section 2(1)(b) read with Section 7 of the Act."

13. It is no doubt, true that in the above referred case it was claimed that there was an understanding between the parties to enter into an arbitration agreement, though there was no written agreement and, therefore, the learned Single Judge concluded that the same cannot be construed as arbitration agreement within the meaning of Section 2(1)(b) read with Section 7 of the Arbitration and Conciliation Act, 1996. However, what is necessary is to find out is whether factually there exists any arbitration agreement between the parties as contemplated u/s 7 of the Act, and if yes, then only the provisions of Section 8 of the Arbitration and Conciliation Act, 1996, can be invoked and exercised by the judicial authority before which an action is brought in the matter which is subject matter of arbitration agreement. However, when there is no arbitration agreement as such factually in existence between the parties, in such situation I am afraid that the provisions of Section 8 may not have a bearing on the issue involved.

14. So far as the case of Hindusthan Petroleum Corporation Ltd. (supra) cited by the Counsel for the applicant is concerned, in Paragraph 13 of the said judgment, it is observed thus :--

"13. A perusal of this clause clearly shows that the parties to the Dealership Agreement had agreed to refer their dispute arising out of the agreement, of whatever nature it may be, to an arbitrator as contemplated in that agreement. Section 8 of the Act in clear terms mandates that a judicial authority before which an action is brought in a matter which is the subject of an arbitration agreement to refer such parties to arbitration, the language of this section is unambiguous."

On the backdrop of these facts, the Apex Court in Paragraph 16 has observed thus :--

"16. It is clear from the language of the section, as interpreted by the Constitution Bench judgment in Konkan Railway (supra) that if there is any objection as to the applicability of the arbitration clause to the facts of the case, the same will have to be raised before the concerned Arbitral Tribunal. Therefore, in our opinion, in this case, the Courts below ought not to have proceeded to examine the applicability of the arbitration clause to the facts of the case in hand but ought to have left that issue to be determined by the Arbitral Tribunal as contemplated in Clause 40 of the Dealership Agreement and as required under Sections 8 and 16 of the Act."

The above-referred observations of the Apex Court make it evident that parties to the Dealership Agreement had agreed to refer their dispute arising out of agreement to the Arbitrator and, therefore, the Court concluded that in such a situation the Court below ought not to have proceeded to examine the applicability of the arbitration clause to the facts of the case in hand, but should have left that issue to be determined by the Arbitral Tribunal as contemplated in Clause 40 of the Dealership Agreement and as required under Sections 8 and 16 of the Act, However, in the instant case, in view of the peculiar facts and circumstances involved, there is no arbitration agreement arrived at between the applicants and the non-applicant. The document on record dated 24th November, 1997, is merely an Order of Promotion, wherein unilaterally Clause 19 is inserted by the applicants, which speaks of a reference to the arbitrator in case of a dispute between the parties. I have already observed hereinabove that there is nothing on record to show that the non-applicant has agreed in writing to abide by the terms and conditions mentioned in the document dated 24th November, 1997, and in absence thereof, the requirement of Section 7 of the Arbitration Act, in my view, is not fulfilled and, therefore, though there is no quarrel that the proposition laid down by the Apex Court in the above-referred judgment, however, it is of a little help to the applicants. Similarly, the case of Hythro Power Corporation Limited (supra) is concerned, in Paragraph 5 of the said judgment, it is observed thus :

"4. The respondent Delhi Transco Limited issued a notice inviting tenders (NIT) for awarding the work of erection, testing and commissioning of balance work of 220 KV DC tower line from Samaypur to Mehrauli. The NIT contained Clause 25 which is an arbitration clause. Pursuant to the NIT, the appellant submitted its tender. The respondent issued a letter of intent in favour of the appellant. According to the appellant, the respondent also sent a detailed letter showing acceptance of the award of the work to the appellant. It was also indicated that all terms and conditions of the NIT would form part of the contract."

On the backdrop of the above-referred facts, it is evident that there was an arbitration agreement and acceptance thereof was also on record in the form of a detailed letter and in such situation, therefore, the Apex Court quashed the order of learned Single Judge passed u/s 11 of the Act as well as Order of Division Bench passed in the writ petition under Article 226 of the Constitution and the matter was remanded for hearing the parties on the limited question of constitution of Arbitral Tribunal in accordance with the arbitration clause in NIT and for making reference to the arbitrator in accordance with Section 11 of the Act. In the instant case considering the peculiar facts of the present case, I have already observed that document, dated 24th November, 1997 is the Order of Promotion simpliciter without any acceptance on the part of the non-applicant in respect of the terms and conditions mentioned therein and, therefore, in absence of fulfilment of requirements of Section 7 of the Arbitration Act, it is difficult to hold that there is any arbitration agreement as such contemplated u/s 7 of the Act and in absence thereof question of exercise of power by the Judicial Authority u/s 8 of the Arbitration Act does not arise.

15. So far as the case of P. Anand Gajapathi Raju and Ors. (supra) is concerned, there is no quarrel with the law laid down by the Apex Court that, in all, Section 8 is peremptory and it is, therefore, obligatory for the Court to refer the parties to arbitration in terms of their arbitration agreement. However, this finding of the Apex Court is based on the facts and circumstances of the said case in Paragraph 8 of the judgment, the Apex Court has observed thus :--

"8. In the matter before us, the arbitration agreement covers all the disputes between the parties in the proceedings before us and even more than that. As already noted the arbitration agreement satisfies the requirements of Section 7 of the new Act. The language of Section 8 is peremptory. It is, therefore, obligatory for the Court to refer the parties to arbitration in terms of their arbitration agreement."

From the above referred facts, it is evident that the arbitration agreement satisfies the requirement of Section 7, which is a condition precedent to invoke and exercise power u/s 8 of the Arbitration Act. When the arbitration agreement satisfies the requirement of Section 7 of the new Act, then it is mandatory u/s 8 of the Act for the Court to refer the parties to arbitration in terms of arbitration agreement. However, in the instant case, the facts and circumstances are inadequate to establish that there was an arbitration agreement between the

parties, since it does not fulfil the requirement of Section 7 of the 8 Act and in absence thereof, the provisions of Section 8 of the Arbitration Act are not at all attracted in the present case.

16. In the instant case, I am unable to agree with the contention canvassed by the learned Counsel for the applicants that since the non-applicant was promoted to work on the higher post and was paid salary and other emoluments in terms of the Order of Promotion, dated 24th November, 1997, that by itself would amount to acceptance of all the terms and conditions of the Document, dated 24th November, 1997, and would constitute arbitration agreement as contemplated u/s 7 of the Act, which stipulates that certain conditions need to be fulfilled by the parties before the agreement arrived at between the parties is called arbitration agreement. The Apex Court in case of M/s Rickmers Verwaltung GmbH (Supra) in paragraph 12 has observed thus :

"12. In this connection the cardinal principle to remember is that it is the duty of the Court to construe correspondence with a view to arrive at a conclusion whether there was any meeting of mind between the parties, which could create a binding contract between them but the Court is not empowered to create a contract for the parties by going outside the clear language used in the correspondence, except insofar as there are some appropriate implications of law to be drawn. Unless from the correspondence, it can unequivocally and clearly emerge that the parties were ad idem to the terms, it cannot be said that an agreement had come into existence between them through correspondence. The Court is required to review what the parties wrote and how they acted and from that material to infer whether the intention as expressed in the correspondence was to bring into existence a mutually binding contract. The intention of the parties is to be gathered only from the expressions used in the correspondence and the meeting it conveys and in case it shows that there had been meeting of mind between the parties and they had actually reached an agreement, upon all material terms, then and then alone can it be said that a binding contract was capable of being spelt out from the correspondence."

On the backdrop of the above referred observations of the Apex Court, it is evident that unless it is possible to show that there was a meeting of mind between the parties and they had actually reached an agreement upon the terms and conditions mentioned therein, such agreement alone could be termed as agreement contemplated u/s 7 of the Arbitration Act and not otherwise. In the instant case apart from the fact that there is no written agreement between the parties and at the same time as there is no correspondence at least placed before me which would demonstrate that the non-applicant has accepted the terms and conditions mentioned in Clause 19 of the document, dated 24th November, 1997, the provisions of Section 8 of the Act, in my view, are not attracted.

17. Similarly, the Apex Court in case of Dayanand Reddy (supra) in Paragraph 9 of the Judgment has observed thus :--

"9. In the instant case, the original agreement signed between the parties does not contain any clause for arbitration. It is not the case of the applicant that the applicant had no occasion to know the terms of the agreement since signed by the parties and there was any clear representation that the copy of agreement was to be followed by the parties and terms contained in the copy were to be treated as the terms of agreement between the parties. Hence, it cannot be held that after the signed agreement the parties had clearly intended to include arbitration clause in the standard specifications. In the absence of clear intention of both the parties, agreement for arbitration cannot and should not be inferred more so when the specific case of the respondents is that by mistake the clause relating to arbitration crept in the copy of agreement. In our view, the High Court was justified in holding that in the fact of the case, only the original agreement, and not the copy, was binding between the parties. Hence, no reference to arbitration could be made. In the aforesaid circumstances, no interference is called for in the instant appeal and the appeal, therefore, fails and is dismissed, without, however, any order as to costs."

The observations of the Apex Court in the above referred paragraph clearly demonstrate that only such agreement, which is signed by the parties and which contains the clause for arbitration, alone should be the basis to hold whether there exists arbitration agreement between the parties. In the instant case, the document, dated 24th November, 1997, is not at all signed by the non-applicant and there is a specific case of the non-applicant that since the terms and conditions mentioned therein particularly in respect of arbitration clause, which is unilateral in nature and most arbitrary as the Managing Director of the Company cannot protect the interests of the employees, the non-applicant has not signed the document dated 24th November, 1997, and in absence thereof as well as in view of the law laid down by the Apex Court, it is not possible to hold that there was an arbitration agreement arrived at between the parties in view of the facts and circumstances of the present case and in absence thereof, the provisions of Section 8 of the Act are not attracted. I cannot turn the Nelson's eye to the fact that when an employee is due and eligible for the promotional post, the employer is required to issue Order of Promotion. However, employer being in a dominant position, can always insert arbitration clause in the Order of Promotion. However, merely because the promotion is accepted by the employee to which was due and he was eligible, it does not mean that the employee has accepted all the terms and conditions of the agreement, particularly in regard to the arbitration clause unless there is an express or implied consent of the employee on record which demonstrates acceptance of such arbitration clause by him.

18. It is, no doubt, true that in the impugned Order, all these aspects are not reflected. However, that does not change the legal position applicable in this regard.

For the reason stated hereinabove, Revision Application suffers from lack of merit. The same is dismissed/Interim relief, if any stands vacated.