



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (ST) NO. 3185 OF 2020
IN
WRIT PETITION NO. 802 OF 2015

Indian Oil Corporation }Petitioner
(original respondent)

V/s.

1. Dattatray Eknath More }
Aged 35 years, residing at post }
Nagpur, Tal. Nandgaon, District. }
Nashik. }
} }
2. Special Land Acquisition }
Officer. Dist-Nahik. }
} }
3. State of Maharashtra }
through office of the Government }
Pleader, High Court, Bombay. }Respondents

Mr. Anil Kumar K.P. a/w. Ms. Priyanka Kumar for petitioner in
RPWST/3185/2020.

Mr. V.S. Kapse a/w. Mr. Freddy Bhadha for respondent no. 1 in
RPWST/3185/2020 and original petitioner.

Ms. M.P. Thakur- AGP for respondent nos. 2 and 3.

CORAM : SUNIL B. SHUKRE &
SMT. BHARATI DANGRE, J.J.
(IN CHAMBER)

DATE : 4th AUGUST 2023.

ORAL JUDGMENT: (PER SUNIL B. SHUKRE, J).

. Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.

3. It is submitted on behalf of the review petitioner that this is a case wherein fraud has been played upon the Court and therefore, the review petition deserves to be allowed. He relies upon the judgment of the Supreme Court rendered in the case of '*S.P Chengalvaraya Naidu (dead) by L.R.'s Vs. Jaganmath (dead) by L.R.s and Others*'¹.

4. Learned counsel for the original petitioner submits that even though there is no mention about the earlier petition and the order passed therein on 12th September 2005, the fact remains that mother of the petitioner had sent a letter dated 7th November 2005, following the order dated 12th September 2005, to Indian Oil Corporation reminding it of the pendency of petitioner's claim for providing of employment as per the policy of the Indian Oil Corporation and therefore, it could not be said that this is a case where fraud has been played upon the Court.

1 AIR 1994 SC 853

5. In order to examine the issue of fraud, it would be appropriate for this Court to consider as to what transpired in the earlier petition, which is reflected in the order dated 12th September 2005 delivered in Writ Petition No. 1787 of 2005 along with Writ Petition No. 2178 of 2005. For the sake of convenience, the order is reproduced as below:-

“This petition can be conveniently disposed of with liberty to the petitioners to approach the respondent – Corporation if there are vacancies in future. The petitions are accordingly disposed of”.

6. It would be clear from the order that the earlier petition filed by this petitioner along with his mother was not dismissed on any ground, rather it was disposed of by this Court with liberty to the petitioners to approach respondent-Corporation, if there was to arise any vacancy in future.

7. Considering such nature of order, we are of the view that nothing really turned on the fact of mentioning or not mentioning of earlier petition and its disposal by the order dated 12th September 2005. Things would have been different had the claim made on behalf of the petitioner vide his letter dated 7th November 2005 was expressly rejected by the Indian Oil Corporation as its rejection would have

required the petitioner to challenge it and if the petitioner had not challenged it, the order sought to be reviewed here could not have been passed without setting aside that rejection. But, that is not the case here.

8. About the letter dated 7th November 2005, we must mention here that the petitioner has indeed mentioned about it in Para 10 of the original petition when he averred that his mother had sent a letter dated 7th November 2005 to the Indian Oil Corporation thereby reminding the Corporation to provide employment to the respondent no. 2. Although it is not clarified by the petitioner that this letter was in pursuance of the liberty granted by this Court in the earlier round of litigation, the inference is that it was so obviously, in view of the liberty granted to this petitioner and his mother. So, this is not a clear case of suppression of a material fact. Then, the Corporation, has not informed the petitioner in any manner about the fate of the letter dated 7th November 2005 sent to it by the mother of the petitioner. It was because of such attitude of the Corporation that petitioner was required to file the present petition. Such being the factual background of the writ petition, we do not think that there was suppression by petitioner of any such fact as would have had a material bearing upon

the decision under review, and then it follows that there was no fraud played upon the Court. In order that the doctrine of fraud is applied, there must be suppression of facts or documents and those facts or documents must be so important and so material that in the absence of those facts or documents no effective decision could be made or if made, it would be patently unjust. In other words, the suppression must be of material facts or documents and only those facts or documents are material which have the potential to alter the decision or change the perspective of the decision, if brought on record by disclosure or filing.

9. In the case of “*S.P Chengalvaraya Naidu (dead) by L.R.’s Vs. Jaganmath (dead) by L.R.s and Others*” the Apex Court has held that :-

“...It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and honest in the eyes of law. Such a judgment/decree - by the first court or by the highest court - has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings”

10. In para 8 of the judgment, the Supreme Court has further held that:-

“.....A litigant, who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital

document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party”.

11. We would say that it is only by applying ratio of this judgment that we have recorded our findings hereinabove.

12. In the result, we find no merit in the petition. The petition stands dismissed.

13. Learned counsel for the review petitioner prays for staying the effect and operation of this order. The prayer is opposed by the learned counsel for the original petitioner. Learned counsel for the original petitioner is right. There is nothing in this order which would require its operation to be kept abeyance. The prayer is rejected and it is all the more so because the original petitioner is waiting for employment since about 18 years.

14. Rule is made absolute in the above terms.

(SMT. BHARATI DANGRE, J)

(SUNIL B. SHUKRE, J)