

Order below Exh.44 in Special Darkhast No. 185/2023
Uttam Anna Shelke
Vs.
Competent Authority and Spl. Land Acq. Officer etc.

The JD No.2 has filed this application under Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure to review the order passed below Exh.34.

2. It is contended that the application Exh.34 was filed for impounding of the arbitral award which is the subject matter of this execution petition. While passing the order on Exh.34, this Court has not considered the ruling in the judgment of Hon'ble Apex Court in case of **National Highway Authorities of India Vs. Sayadabad Tea**. Further, this Court has committed an error while observing that the award between the cases relied upon by the JD was between the private parties. The award in the present case is not between the private parties or it is commercial arbitral award. Therefore, there is apparent error on the face of the record. Hence, this application.

3. The DH filed reply vide Exh.46 by contending that the reasons mentioned in the application are not come within the scope of Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure. The case law about which there is general reference in this application, is not applicable to the execution petition. The said case law was referred by the JD on hearing of the application Exh.19 and while deciding the said

application, this Court has considered the said case law on page No.7. This application has been filed only to prolong the matter and to delay the payment. So, urged to reject the application.

4. Heard the Ld. Advocate appearing for both the sides. Gone through the material on record.

5. As per the provisions of Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, the order passed can be reviewed in the circumstances mentioned in Rule 1. The said circumstances are (1) discovery of new and important matter or evidence which after the exercising of due diligence was not within the knowledge or could not be produced at the time when the order was passed or (2) on account of some mistake or error apparent on the face of the record and (3) on any other sufficient reasons.

6. This review petition was filed mainly on the ground that this Court has not considered the judgment in the case of **National Highway Authorities of India Vs. Sayadabad Tea.**

So far as this ground is concerned, in the application Exh.34, the JD No.2 referred two citations. Further in the oral submissions also relied upon some rulings. In para Nos. 2 and 4, of the order, the judgments relied upon by the JDs have been mentioned and in para No.9 and 10 of the order, the said judgments have been considered. The facts of the present matter and the facts in the case laws relief upon have been considered

and observed how the said case laws are not helpful to the JD No.2 in present facts and scenario.

7. The judgment in the case of **National Highway Authorities of India Vs. Sayadabad Tea** was not relied upon by the Ld. Advocate for the JD while deciding the application Exh.34. However, the said authority was relied upon by the Advocate for the JD while arguments below Exh.19 and the said judgment was considered by this Court while passing the order below Exh.19. In such circumstances, it cannot be said that there is any error apparent on the face of the record.

8. This Court has observed in detail about the various objections taken by the JD No.2 in this execution proceeding while passing the order below Exh.15. There is no ground for review the order passed below Exh.34. Hence, the following order.

Order

1. The application is hereby rejected.

Wai
Date: 23.01.2026

(D.B.Mane)
District Judge-2, Wai.