2026:DHC:7459

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC013179852016**

\+ O.M.P. (COMM) 549/2016

DELHI JAL BOARD .....Petitioner

Through: Mr. Tushar Sannu, Ms. Rajbala and Mr. Ritik Anmol, Advs.

versus

M/S RAJORA BUILDERS .....Respondent

Through: Mr. Sandeep Sharma, Sr. Adv. with Mr. Hunny Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 25.08.2026

1. The present petition under Section 34 of the Arbitration and Conciliation Act, 1996[1] has been filed by the Delhi Jal Board assailing the arbitral award dated 22.07.2013 rendered by the learned Sole Arbitrator, Hon'ble Mr. Justice R. C. Chopra (Retd.).

2. The dispute arises out of the work relating balance work of construction of 15 MGD Sewage Pumping Station at Geeta Colony, Shahdara, Delhi. The work was awarded to the Respondent *vide* letter dated 10.01.1992 for a value of Rs.36,65,799.08/-, with the stipulated date of commencement as 25.01.1992 and the stipulated date of completion as 24.01.1993.

3. The work was ultimately completed on 22.01.1997. The learned Arbitrator was appointed pursuant to the order dated 19.01.2007 passed by this Court. The proceedings before the learned Arbitrator continued thereafter and culminated in the award dated 22.07.2013.

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The Petitioner challenges the award principally on the grounds of limitation, acceptance of the final bill and measurements, appointment and reliance upon the report of the technical expert, award under claim nos. 1, 2, 4, 5 and 11.

4. Mr. Sandeep Sharma, learned Senior Counsel appearing for the Respondent has opposed the petition and submits that the award is a finding of facts after considering the entire material on record and there is no need for this court's interference under Section 34 of the Act.

5. It is also submitted that the plea of limitation was not taken by the Petitioner before the learned arbitrator and is sought to be raised for the first time in the objections.

6. It is also submitted that the final bill relied upon by the Petitioner was not accepted by the Respondent and that the technical expert was appointed with the consent of the parties, the name of the expert having itself been suggested by the Petitioner-Delhi Jal Board.

7. The principal objection of the Petitioner is that the claims adjudicated by the learned Arbitrator are barred by limitation. It is pleaded that the work was completed in January, 1997 and that arbitration was invoked for the first time on 18.07.2005.

8. Ms. Rajbala, learned Counsel appearing for the Petitioner

[1] "the Act" hereinafter

further relies upon the final bill submitted on 19.03.1997, payment made on 26.08.1997 and the alleged finalisation of the subsequent bill on 21.12.1998.

9. On the contrary, Mr. Sandeep Sharma, learned Senior Counsel appearing for the Respondent, has stated that the bill submitted on 19.03.1997 was the pre-final bill and that the alleged 16th and final bill was shown to the Respondent only in September, 1999.

10. Learned senior counsel appearing for the Respondent specifically pointed out, *vide* letter dated 20.09.1999, that the bill was incomplete and that several quantities were missing. Thereafter, the Respondent continued to address letters and reminders to the Petitioner, including the letters dated 12.01.2000, 16.06.2000, 14.07.2001, 06.02.2002 and 25.07.2002.

11. The Petitioner thereafter wrote on 02.09.2002 that the matter be sorted out and on 15.09.2003 informed the Respondent that the case was under process of approval and would be finalized at the earliest. Arbitration was invoked by letter dated 18.07.2005.

12. Significantly, the Respondent has specifically pleaded that no objection regarding limitation was taken by the Petitioner before the learned Arbitrator and that the award itself does not record any adjudication of such an objection.

13. In view of this court, the material placed with the petition does

not demonstrate that the learned Arbitrator was called upon to adjudicate the present limitation objection in the manner in which it has been raised before this Court.

14. The Petitioner has sought to rely upon the measurements recorded by it and the payment made against the 15th running bill.

15. However, the Respondent's case before the learned Arbitrator was that the 16th and final bill was neither accepted by it nor passed by the executive engineer and that the omissions and incorrect entries therein had been repeatedly pointed out. This aspect finds specific consideration in the arbitral award.

16. In the circumstances, the objection based upon limitation, insofar as it seeks to invite this Court to substitute its own conclusion for the findings reached by the learned Arbitrator on the factual controversy concerning the final bill, cannot be accepted.

17. Under the claim No. 1, the claimant had originally sought Rs.13,71,251.58/- towards balance payment. During the arbitral proceedings, the claimant agreed that the amount found payable by the Technical Expert could be awarded. The Technical Expert, Shri S.C. Gupta, Retd. Chief Engineer, Delhi Jal Board who was appointed with consent of the parties inspected the site, considered the material and submitted his report dated 07.07.2010.

18. The learned arbitrator considered the objections raised by the Petitioner and held that the objections were baseless and without

substance. It was found that the work executed by the claimant had not been correctly recorded in the measurement books, that the 16th and final bill did not bear the signatures of the claimant or the Executive Engineer, and that the bill did not give a true picture of the quantities of work executed at site.

19. The expert found the total value of the work executed as Rs.44,61,401.28/-, against which Rs.36,02,884.95/- had been paid, leaving a balance of Rs.8,56,763.38/-. The said amount was accordingly awarded under claim no.1.

20. The objection raised by the Petitioner is that Clause 10 B of the contract contained a mechanism for recording measurements and that the measurements were final and binding in the absence of any protest. The Respondent, however, submits that the technical expert was appointed with the consent of the parties and was engineer from Delhi Jal Board only and that the expert was a person suggested by the Petitioner itself.

21. In view of the circumstances recorded in the award, particularly the fact that the technical expert was appointed in the proceedings and that his report was considered after site inspection and examination of the measurement books, this Court finds no sufficient basis, from the grounds raised, to interfere with the award of Rs.8,56,763.38/- under claim no.1.

22. Claim No.2 was for Rs.20,50,000/- on account of expenditure

allegedly incurred because the Respondent's E&M work was not completed in time.

23. The learned arbitrator found that the site remained with the Respondent for more than three years before it was handed back for completion of finishing items. Although the learned arbitrator did not accept the claimant's asserted expenditure of Rs.50,000/- per month, it was held that watch and ward staff was required to be maintained during the prolonged period. One or two watchmen were found sufficient and the expenditure was assessed at Rs.15,000/- per month for 34 months, resulting in an award of Rs.5,10,000/-.

24. The contention of the Petitioner is that one or two watchmen were found sufficient, the amount could not have been assessed at Rs.15,000/- per month. The award, however, specifically records the basis upon which the learned arbitrator restricted the claim and assessed the expenditure. The Respondent has also submitted that the award under this claim is a finding of fact upon consideration of the material available on record.

25. I agree with the submissions of the Respondent that this is a finding of fact and this court cannot substitute its view.

26. The objection is, therefore, not sufficient to warrant interference with the finding recorded under claim no.2.

27. As far as claim no.4 is concerned, it is the case of the claimant

that, because of non-availability of the required steel bars, dewatering had to be continued with pumps and generator sets.

28. Upon consideration of the correspondence and material on record, the learned arbitrator found that the Respondent had not fulfilled its obligation regarding supply of steel bars of the required diameter. At the same time, the learned arbitrator did not accept the deployment of 20 pumps and three generators and assessed the requirement at six motors and two generators. A sum of Rs.5,10,000/- was consequently awarded.

29. Under claim no.5, the learned arbitrator considered the continued dewatering from 06.07.1992 onwards. The award records that the drawings for the building were supplied belatedly and that the Respondent had itself admitted that drawings for the plinth area were sell to be made.

30. The learned arbitrator concluded that the execution of the work was delayed on account of delays on the part of the Petitioner and assessed the dewatering at Rs.7,500/- per day for 179 days, awarding Rs.13,40,500/-.

31. The learned Counsel for the Petitioner highlights condition no.3 of the contract, under which the contractor was to keep the works well drained and free from standing water. The Petitioner therefore contends that no extra amount for dewatering could have been awarded.

32. On the contrary, the Respondent submits that the claims under claim nos.4 and 5 were not based upon routine dewatering contemplated under the contract, but upon losses caused by breaches committed by the Petitioner, particular failure to provide cement, steel and etc. It is further submitted that the learned arbitrator recorded findings of fact on the basis of the material placed before him.

33. A reading of the award shows that the learned arbitrator considered the contractual provision relied upon by the Petitioner in the factual selling of the dispute and thereafter recorded findings regarding the non-supply of the required steel and drawings and the consequent expenditure on dewatering. T

34. The challenge raised by the Petitioner seeks, in substance, reconsideration of the evidence and the factual conclusions reached by the learned arbitrator. No sufficient ground is made out, on the material placed before this Court, to interfere with the awards under claim nos.4 and 5.

35. Under claim no.10, the learned arbitrator considered Clause 10CC of the contract and the circumstances in which extension of time had been granted without levy of compensation. The award records that the execution of the work was delayed on account of failure on the part of the Delhi Jal Board to perform its part of the contract and accordingly held the claimant entitled to escalation.

36. The escalation was assessed at Rs.5,28,792.70/-, from which Rs.9,171.07/- already paid was deducted, leaving Rs.5,19,621.63/-.

37. The operative part of the award accordingly records an award of Rs.5,19,621.63/- under claim no.10.

38. According to this court, the Petitioner could not establish any good ground warranting interference with the said finding.

39. The learned arbitrator awarded interest at the rate of 9% per annum on the amounts awarded, with effect from 21.04.1997, treating that date as the date on which the defect liability period of three months expired and the claimant became entitled to the amounts due. The learned arbitrator gave reasons for awarding interest, noticing the findings regarding incorrect recording of the measurement books, delay in supply of drawings and material and the prolonged period taken by the E&M Department.

40. The Petitioner contend that the interest component is disproportionate to the principal amount and that the learned arbitrator ought to have declined interest or fixed it at a lower rate. The Petitioner has also relied upon the period between completion of the work and invocation of arbitration and the period during which the arbitration proceedings continued.

41. The award, however, records reasons for the rate and commencement of interest. The rate awarded is 9% per annum simple.

The challenge raised by the Petitioner essentially seeks reconsideration of the discretion exercised by the learned arbitrator after adjudication of the claims. No good ground has been shown to interfere with the said award of interest.

42. The learned arbitrator has dealt with the individual claims separately and has recorded reasons for allowing or declining the claims.

43. Claim no.1 was considered with the assistance of the technical expert appointed with consent of the parties and was from Delhi Jal Board only, claim no.2 was assessed after rejecting the larger amount asserted by the claimant, claim nos.4 and 5 were considered in the context of the Petitioner's failure to provide the required steel and drawings, claim no.10 was considered with reference to Clause 10CC; and the award of interest and costs has also been supported by reasons recorded in the award.

44. The grounds raised by the Petitioner substantially seeking re-appreciation of the evidence and reconsideration of findings of fact recorded by the learned Arbitrator.

45. The Petitioner has not been able to demonstrate, from the material forming part of the present record, that the award suffers from such infirmity as would justify setting it aside within the scope of Section 34 of Act.

46. Accordingly, the petition under Section 34 of the Arbitration and Conciliation Act, 1996 is dismissed.

47. The arbitral award dated 22.07.2013 passed by the learned Sole Arbitrator, Hon'ble Mr. Justice R. C. Chopra (Retd.), is upheld.

48. There shall be no order as to further costs.

OM PRAKASH SHUKLA, J

AUGUST 25, 2026/*ss*