IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10378 OF 2017

MUNICIPAL CORPORATION OF DELHI (NORTH) **Appellant(s)**

VERSUS

M/S HARCHARAN DASS GUPTA **Respondent(s)**

WITH

CIVIL APPEAL NO. 10380 OF 2017

WITH

CIVIL APPEAL NO. 10379 OF 2017

O R D E R

1. This order shall dispose of the three Civil Appeals filed by the Municipal Corporation of Delhi [in short, "the Corporation"]

C.A.No. 10378 OF 2017 and C. A. No. 10380 OF 2017

2. These two appeals by the Corporation are against the Judgment and Order dated 08.11.2012 passed by the High Court of Delhi in FAO (OS) No. 535 of 2012 and FAO (OS) No. 534 of 2012.

3. The Municipal Corporation and the respondent contractor entered into an Agreement dated 20.04.1992 pursuant to a work order, that was issued in 1991. It

is the case of the respondent that work commenced in 1991 and was completed on 18.09.1992 in FAO (OS) No. 534 of 2012 and on 17.08.1992 in FAO (OS) No. 535 of 2012. Thereafter, the respondent contractor kept on asking the Municipal Corporation to make the necessary payment, but as the Corporation was not making the necessary payments, disputes arose between the parties and they were referred to the Sole Arbitrator for adjudication and determination.

4. Before the Arbitral Tribunal, the Corporation did not take the plea of limitation at the very outset. It is also on record that even at the time of arguments the plea of limitation was not pressed. However, it is an admitted fact that in the written submissions filed after the Arbitral Tribunal reserved the case for Award, the plea of limitation was specifically taken. Eventually, the Arbitral Tribunal passed its Award *inter alia*, rejecting the plea of limitation.

5. The Corporation filed objections under Section 34 of the Arbitration and Conciliation Act [in short, "the Act"], and the plea of limitation was raised and also contested. The learned Single Judge of the High Court by its judgment dated 09.05.2006, accepted the said objections and allowed the Section 34 petition holding that the invocation as well as claims are barred by limitation.

6. In the Section 37 appeal filed by the respondent, the Division Bench of the High Court, by the order impugned before us, set aside the judgment of the learned Single Judge and remanded the matter back to the Arbitral Tribunal for deciding the issue of limitation afresh after taking necessary evidence on record. The relevant portion of the order is as follows:-

> ***"9. We are of the view that the manner in which the respondents sought to slip-in this plea of bar of limitation cannot be appreciated. We are conscious that a plea of bar of limitation can be raised at any stage but given the situation, it was a mixed question of law and fact. It should have been specifically pleaded giving an opportunity to the appellant to respond to that plea and the parties ought to have been given opportunity to produce the material in support of this plea. We are not inclined to disturb the findings of the Arbitrator qua the other aspects, especially when they have not been dealt with by the learned Single Judge. We are, thus, of the view that the appellant must get full opportunity to meet this plea and, thus, the impugned order dated 21.08.2012 is set aside.***
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> ***10. The specific plea of limitation setting out the relevant facts will be filed by the respondent before the learned Arbitrator within four weeks from today with supporting documents and the appellant will respond to the same with relevant documents within four weeks thereafter. The matter is remanded to the Arbitrator for decision on this limited issue and, in case, the finding is adverse to the respondent, it will naturally be open to the respondent to challenge the said finding as also the finding on merits, as the learned Single***

> ***Judge has not dealt with the objections on merits filed by the respondent.***
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> ***11. The record of the Arbitrator, which is lying in the court, be remitted back to the Arbitrator. It is agreed that the record will be collected by the learned counsel for the respondent in a sealed cover to be handed over to the Arbitrator."***

7. Heard Mr. Yatinder Singh, learned senior counsel assisted by Mr. Praveen Swarup, learned counsel appearing for the appellant Corporation and Mr. Harish Malhotra, learned senior counsel assisted by Mr. Dhruv Kapur, learned counsel appearing for the respondent.

8. Having considered the matter in detail, we are of the opinion that there was sufficient material on record for the Division Bench of the High Court, exercising appellate jurisdiction under Section 37 of the Act to take a decision on the issue of limitation.

9. We see no justification whatsoever for the Division Bench to remand the matter back to the Arbitral Tribunal, particularly when the said Tribunal considered the issue of limitation in detail and gave its award. Further, the learned Single Judge of the High Court also considered the objection under Section 34 of the Act and in fact accepted the plea of limitation and held that the claims are barred in this background. The Division Bench of the High Court was only exercising the appellate jurisdiction under

Section 37 of the Act and the material on record, coupled with the reasoning and conclusion of the Arbitral Tribunal as well as the High Court under Section 34 was available to it to arrive at an appropriate conclusion as regards the issue of limitation. We have no doubt in our minds that remanding the matter back to the Arbitral Tribunal after a period of six years is unnecessary and unjustified in the facts and circumstances of the case.

10. In view of the above, the C.A. Nos. 10378 of 2017 and 10380 of 2017 are allowed, and the judgment and order passed by the Division Bench of the High Court in FAO (OS) No. 535 of 2012 and FAO (OS) No. 534 of 2012 dated 8.11.2012 are set aside and Section 37 appeal(s) before the High Court are restored to their original number. The High Court will now consider Section 37 appeal(s) on merits, as well as on limitation, and decide the appeal(s) in accordance with law.

11. In view of the fact that the original reference to arbitration is of the year 2003, we request the High Court to take up and dispose of the Section 37 appeal(s) as expeditiously as possible, preferably within a period of four months from today.

12. Learned counsel for the appellant(s) and the respondent(s) have agreed to move a joint application

before the High Court for early listing of Section 37 appeal(s).

13. Pending interlocutory application(s), if any, is/are disposed of.

C.A. No. 10379 OF 2017

1. In this appeal by the Municipal Corporation, it is an admitted fact that the plea of limitation was not raised at any point of time.

2. Though Mr. Yatinder Singh, learned senior counsel, seeks to submit that such a plea can be raised for the first time before the Court, we are not inclined to entertain such a plea in the facts and circumstances of the case. The question of law raised by Mr. Yatinder Singh is kept open for being considered in an appropriate case.

3. The civil appeal is, accordingly, dismissed and the accompanying interlocutory application(s), if any, stands disposed of.

……J.
[PAMIDIGHANTAM SRI NARASIMHA]

……..J.
[ALOK ARADHE]

NEW DELHI;
OCTOBER 14, 2026.

ITEM NO.101 COURT NO.4 SECTION XIV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 10378/2017

MUNICIPAL CORPORATION OF DELHI (NORTH) Appellant(s)

VERSUS

M/S HARCHARAN DASS GUPTA Respondent(s)

WITH

C.A. No. 10380/2017 (XIV-A)
C.A. No. 10379/2017 (XIV-A)

Date : 14-10-2026 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ALOK ARADHE

For Appellant(s) : Mr. Yatinder Singh, Sr. Adv.
Mr. Praveen Swarup, Adv.
Mr. Rohit Swarup, Adv.
Ms. Pareena Swarup, Adv.
Mr. K.p. Singh, Adv.
Mr. Ravi Kumar, Adv.
Mr. Ashu Tomar, Adv.
Mr. Yunus Malik, Adv.
Mr. P.R. Abhimanyu Karthikeya Raja, Adv.
Mr. Devesh Maurya, Adv.

For Respondent(s) :Mr. Harish Malhotra, Sr. Adv.
Mr. Dhruv Kapur, Adv.
Mr. Maharshi Kaler, Adv.
Ms. Shruti Goyal, Adv.
Mr. Arpan Rathore, Adv.
Mr. Yash Pal Dhingra- 1071, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Civil Appeal Nos. 10378 of 2017 and 10380 of 2017 are allowed and Civil Appeal No. 10379 of 2017 is dismissed in terms of the signed order.

2. Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(NIDHI WASON)
ASSISTANT REGISTRAR

(Signed order is placed on the file)