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

% **Date of decision: 29th April, 2025**

+ **FAO 128/2023, CM APPL. 27234/2023 & CM APPL. 15105/2025**

**DELHI URBAN SHELTER IMPROVEMENT
BOARD**

.....Appellant

Through: Mr. Ajay Vikram Singh, Adv.
with Mr. Pranzull Verma,
Assistant Engineer, Civil (C-
10) from DUSIB in person.

versus

**M/S GANGA PARSHAD SINGAL AND BROS.
& ANR.**

.....Respondents

Through: Mr. Moni Chinmoy, Adv.

**CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA**

DHARMESH SHARMA, J. (ORAL)

1. Having heard the learned counsels for the parties and on perusal of the record, this Court proceeds to decide the present appeal under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 ('A&C Act') thereby assailing the order dated 09.02.2023 passed by the learned ADJ-03, West District, thereby upholding the award dated 08.10.2009 passed by the learned Sole Arbitrator.

2. Briefly stated, the dispute between the parties arose out of the works contract dated 26.05.2001 awarded to the respondent no.1/decree holder which pertained to the work of special repair and maintenance of 1040 slum tenements at Raghubir Nagar, behind Shivaji College, having Sub-



awarded refund of the security deposit of Rs.20,862/- in favour of the claimant (claim no.2) and Rs.40,000/- to claimant towards the litigation charges (claim no. 10). The learned Sole Arbitrator lastly provided that the claimant shall be entitled to simple interest @ 9% per annum on the withheld amount w.e.f. 01.01.2003 till 08.10.2009, and in the event the said amount alongwith interest remained unpaid by 07.11.2009, it would be payable alongwith litigation charges @ 11% per annum w.e.f. 08.11.2009 till the date of actual payment.

6. In the instant appeal, learned counsel for the appellant/judgement debtor has vehemently urged that although the issue of claim of the respondent no.1/claimant being time barred was not espoused before the learned Sole Arbitrator, the same was agitated before the learned first Appellate Court but it was rejected *vide* a cryptic order without any reason.

7. Learned counsel for the appellant alluded to the impugned award dated 08.10.2009 and referred to the tabular chart prepared by the Sole Arbitrator setting out the details/contents of various letters/communications sent by the respondent no.1/claimant to the Engineer-in-Charge and other higher officers, and it was urged that as per the details *vide* serial no.6, it was the case of the respondent no.1/claimant that the work had been completed in the month of November, 2001 but evidently the arbitration was invoked beyond the period of three years i.e. on 15.02.2005.

8. *Per contra*, learned counsel for the respondent no.1/claimant referred to the pleadings as well as the documents filed on the record by the appellant besides the calculation sheets of the learned Sole Arbitrator and it was urged that it was their own case that the work had been stopped on or about 11.07.2003 and on the said date, the work performed by the



respondent no.1/claimant was unilaterally assessed/tested. It was also pointed out that it is the case of the appellant that the last flat in the slum tenement was repaired and physically handed over on 12.06.2002, and therefore, it was urged that the plea raised by the learned counsel for the appellant that the claim espoused by the learned counsel for the respondent no.1/claimant was beyond limitation cannot be sustained in law.

9. This Court finds considerable merit in the submissions advanced by the learned counsel for the respondent no.1/claimant. A careful perusal of the documents that were placed for consideration before the learned Sole Arbitrator and the calculation sheet (Annexure-A,) would show that in their reply/counter-statement to the claim dated 18.12.2006, the appellant took the stand that the work was physically started by the contractor/respondent no.1 on 17.08.2001 and was stopped by them on 11.07.2003 for reason best known to them despite availability of fully clear site for performing the work.

10. Further, it is pertinent to mention that the learned Sole Arbitrator, who was none other than the Superintendent Engineer of the appellant/department and was well aware of the internal working of the Department *vide* Annexure-3 concerning the statement of fact and claims along with the documents had an occasion to observed that except for the five items, the measurements of which were not got signed from the contractor nor by the AE, in charge and the Executive Engineer, there was no other dispute. It was *inter alia* also observed that the finding of the unilateral measurements done after 11.07.2003 were not even shared with the respondent no.1/claimant.

11. Further, it is also brought to the fore by the learned Sole Arbitrator



that the first and final bill was processed and passed by Sh. Shanti Swaroop, Executive Engineer CD (S) II on behalf of the appellant on 21.04.2008. Learned Sole Arbitrator also observed that it was the case of the appellant that the last of the flat was repaired and physical possession was handed over on 12.06.2002 and eventually, the award was passed in favour of the respondent no.1/claimant entitling him for interest at the rate of 9% per annum w.e.f. 01.01.2003.

12. The crux of the aforesaid discussion is that the plea raised by the learned counsel for the appellant, that the claim espoused by the respondent no.1/claimant was time barred, is not sustainable in law. In view of the fact that it is the own case of the appellant that the work was stopped on 11.07.2003. There was no dispute with regard to the quality and quantum of the work performed by the respondent no.1/claimant except five items regarding which some unilateral measurements were taken but only remained unsigned by the concerned officials of the appellant and also not shared with the respondent no.1/claimant. Even a bare perusal of the record of the impugned award dated 08.10.2009 would show that the learned Arbitrator has assigned detailed reasons while dealing with each and every claims put forth by the respondent no.1/claimant.

13. The bottom line is that if the work had been stopped on 11.07.2003, and thus, the invocation of the arbitration by the respondent no.1/claimant on 15.02.2005 cannot be held to be barred by limitation.

14. It is well ordained in law that the scope of interference under Section 37 of the A&C Act is very limited. The appellant has woefully failed to show that the impugned award suffers from any patent illegality or grave jurisdictional error or is contrary to any public policy. Therefore, the



reasons assigned by the Sole Arbitrator do not suffer from any illegality, perversity or incorrect approach in law.

15. In view of the foregoing discussion, the present appeal is hereby dismissed. All pending applications are also disposed of.

DHARMESH SHARMA, J.

APRIL 29, 2025
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