
(1994) 08 DEL CK 0019
In the Delhi High Court
Case No : Suit No. 922 of 1993

Naraindas R. Israni

APPELLANT

Vs

Delhi Development Authority

RESPONDENT

Date of Decision : 03-08-1994

Acts Referred:

Citation : (1994) 08 DEL CK 0019

Hon'ble Judges : R.C. Lahoti, J

Bench : Single Bench

Advocate : P.C. Markanda, for the Appellant;

Judgement

R. C. Lahoti J.

1. This is a judgment on admissions directing a part of the award to be made a rule of the court.

2. The petitioner was awarded a contract for construction of 1296 dwelling units at Trilokpuri by the respondent DDA. Certain disputes arose between the parties, which were referred to the sole arbitration by respondent No. 2 consistently with the arbitration clause in the contract. The Arbitrator has made an award on 7th April, 1993.

3. There were sixteen items of dispute referred to arbitration. The Arbitrator has allowed the petitioner's claim on items No. 1, 2, 3, 8, 10, 14, 15 and 16. Rest of the claims of the petitioner have been rejected.

4. The award having been filed in the court, the parties were noticed. The petitioner has not preferred any objection. The respondent DDA has preferred objections only to the award made by the Arbitrator under items of dispute No. 14, 15 and 16. In so far as the claims 1, 2, 3, 8 and 10 are concerned, there is no challenge laid to the award made by the Arbitrator. The awarded amount on unchallenged items is as under :

----- Claim

Description	Awarded	Amount	No.	Rs.
-----				1.
Claim for Rs. 17,910 on account of rebate, wrongfully deducted beyond estimated amount as stipulated 17,910				2.
Claim for Rs. 20,939 on account of withheld in final bill arbitrarily 20,939				3.
Claim for Rs. 13,845 on account of wrong deductions/reductions made in the final bill 13,845				8.
Claim for Rs. 42,000 on account of short payment made on extra/substituted items 42,000				9.
Claim for Rs. 1.45 lakhs as 18% interest on account of delay in final bill and part payment made in running bills due to non availability of funds 1,13,050				
-----	Total	:		2,08,051

5. The learned counsel for the petitioner has prayed for decree being passed to the extent to which the claim of the petitioner awarded by the Arbitrator has not been challenged by the respondent. Section 18 of the Arbitration Act confers powers on the court to pass interim orders. Section 27 contemplates an interim award being made by the Arbitrator unless a different intention appears in the arbitration agreement. Section 17 enjoins the court to pass judgments in terms of the award upon which judgment a decree shall follow if there be no reason to remit the award or any part thereof or to set aside the same. If an Arbitrator can make an interim award, there is no reason to assume why the court cannot render judgments followed by a decree in terms of so much of the award as is not under challenge. Order 12 Rule 6 CPC empowers the court to pass judgment on admissions. It flows from a collective reading of all the provisions above said that judgment, followed by a decree, can be passed in favor of a petitioner as regards the claim awarded by the Arbitrator and not challenged by other party within the prescribed period of limitation. To the extent to which award is not challenged is deemed to have been admitted.

6. The award of the Arbitrator on items 1, 2, 3, 8, and 10 referred to hereinabove is made a rule of the court. Let a decree be drawn up for payment of Rs. 2,08,051/- by the respondent to the petitioner with interest @ 9% pa. from the date of decree till realisation.