
(1994) 12 DEL CK 0066

In the Delhi High Court

Case No : S. No. 959 and I.A. No. 2689 of 1991

Ram Narain Yadav

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 05-12-1994

Acts Referred:

Arbitration Act, 1940 — Section 20

Citation : (1995) 58 DLT 314

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

Bench : Single Bench

Advocate : Anil Airi, for the Appellant; Mala Goel, for the Respondent

Final Decision : Allowed

Judgement

R.C. Lahoti, J.—This is a petition u/s 20 of the Arbitration Act seeking appointment of an Arbitrator.

2. In April/May, 1986, the petitioner had entered into a contract with the respondents for "Sanitary, water supply and drainage work for 300 Type III Quarters at Vasant Vihar, New Delhi". The contract has concluded. Disputes have been raised by the petitioner which are sought to be referred for adjudication by arbitration.

3. The existence and validity of arbitration contract incorporated in Clause 25 of the contract is not disputed.

4. The only ground on which the prayer for appointment of Arbitrator has been resisted on behalf of the respondents is by reference to that part of Clause 25 of the contract which provides for "demand for arbitration being raised by the contractor in writing within 90 days of receiving the information from the Government that the bill was ready for payment, failing which demand, the claim of the Contract would be deemed to have been waived and become barred absolutely."

5. Learned Counsel for the petitioner has placed reliance on the decisions of the Supreme Court in Union of India (UOI) and Another Vs. L.K. Ahuja and Co., , Major (Retd.) Inder Singh Rekhi Vs. Delhi Development Authority, and a Full Bench decision of this Court in Ved Prakash Mittal Vs. Union of India and Others, ; which has approved an earlier Division Bench decision of this Court. The view taken in all these decisions is that whether the claim of the contractor has gone barred for failure to raise the same within the prescribed period of time lies within the jurisdiction of the Arbitrator and can be left to be determined by the Arbitrator. The law so laid down has not been seriously disputed by the learned Counsel for the respondents.

6. For the foregoing reasons, the petition is allowed. Consistently with Clause 25 of the Contract, the respondents are directed to appoint an Arbitrator within a period of six weeks from the date of communication of this order.

Petition stands disposed of.

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The interim order dated 22nd March, 1991 shall remain in operation till the conclusion of the proceedings in arbitration. is disposed of.