
(1995) 08 DEL CK 0092

Delhi High Court

Case No: Suit No. 2709A of 1992 and Interim Application No. 1031 of 1993

Vishal Builders

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision: Aug. 14, 1995

Citation: (1995) 59 DLT 591 : (1995) 34 DRJ 458

Hon'ble Judges: K. Ramamoorthy, J

Bench: Single Bench

Advocate: D.P. Sharma and Monica Kharola, for the Appellant;

Judgement

K. Ramamoorthy, J.

(1) The matter lies in a narrow compass. The petitioner in this suit M/s Vishal Builders made a claim against the respondent Union of India. The claims were referred to Arbitrator. The sole Arbitrator Sh. N.H. Chandwani passed the award on 13.12.90. There are ten claims dealt with by the Arbitrator. The Arbitrator had allowed partly claims No. 1 to 4, 7 and 9 in favor of the claimant-contractor and rejected the rest of the claims. The operative portion of the award reads as under :-

"NOW, Therefore, on consideration of the claims of the claimant I do hereby make this Award that the respondent do pay to the claimant a sum of Rs. 49,328.75 (Forty Nine Thousand Three Hundred Twenty-Eight and Paise Seventy five) only plus simple interest @ 14% on Rs. 49,328.75 from the date of award till the date of decree or actual payment whichever is earlier."

(2) The learned counsel for the contractor fairly submitted that the claim No. 1 ordered by the arbitrator cannot be sustained. Accordingly, the award with respect to claim No. 1 stands set aside

(3) The learned counsel for the Union of India submitted that the award of the Arbitrator on claim No. 2 is vitiated by error apparent on the face of the record. She submitted that there is no provision in the contract that water should be provided

by the respondent. The respondent- objector has completely over looked what is decided by the Arbitrator. The Arbitrator on claim No. 2 has held as under :-

" CLAIM No .2: The contractor claims a sum of Rs. 30,000.00 on account of water bound macadam done in the road work.

AWARD: The Claims alleged that the Agreement item 1/0.6 is not .water bound(C-I, 2,3). However, claimants further said that during the execution the claimants was asked to do water bound macadam even though the agreement item 1/0.6 did not provide use of water. The Claimants also said that extra item was initiated by the Respondents staff and entry made in the M.B., but no payment was made. On plain reading of the agreement item it is seen that the agreement item does not contemplate execution of water bound services. Since the Claimants had to actually incur extra expenses in executing the water bound madam services which was not contemplated under the agreement item 1/0.6. As such the claimants are entitled to extra payments. Based on evidence of record and facts and circumstances of the matter, it is seen that claim is payable for Rs. 22,500.00 .

(4) The learned counsel for the petitioner relied on the decision of the Supreme Court in [Hindustan Tea Co. Vs. K. Sashikant Co. and Another](#) , [Puri Construction Pvt. Ltd. Vs. Union of India \(UOI\)](#), on the scope of Section 30 and the jurisdiction of this Court to go into the reappraisal of evidence. The Supreme court has laid down the principles relating to the grounds on which an award could be set aside by a Court and, in my view, none of the grounds mentioned by the Supreme Court is available to the respondent in this case.

(5) It may be noticed that the respondent objector challenged the award of the arbitrator in respect of claim No. 2 above.

(6) Therefore, the objection by the respondent as stated above, is without any substance and can not at all be accepted.

(7) Accordingly, the Award is modified and the awarded claim No. 1 is set aside and rest of the award is confirmed and the award is made rule of the Court.

(8) There shall be a decree directing the respondent to pay the sum of Rs. 49,028.75 with interest @ 14% per annum on Rs. 49,028.75 from the date of the award till the date of realisation. There shall be no order as to costs.