

IN THE COURT OF SHRI DHARMENDER SINGH
DISTRICT JUDGE-01 (WEST), TIS HAZARI COURTS, DELHI



ARBTN No.33/17

Municipal Corporation of Delhi
Through its Commissioner,
Civic Centre, JLN Marg,
New Delhi-110001.

... Petitioner

Versus

1A. Ms. Ritu Sahni
W/o Late Sh. B.K. Sahni

1B. Sh. Raghav Sahni
S/o Late Sh. B.K. Sahni.

All R/o K-76, Kirti Nagar,
New Delhi.

... Respondents

Date of Filing	: 12.03.2012
Date of Reserving Order	: 15.04.2026
Date of Order	: 21.04.2026

ORDER

1. Vide this order, this Court shall decide the present Objection petition filed under Section 34 of Arbitration & Conciliation Act, 1996 by petitioner *qua* arbitral Award dated 30.09.2011.

2. Arguments have already been heard. Record perused.

3. As per case of petitioner, one work was assigned by petitioner to respondent vide Work Order bearing no. EE-XX/2000-01/196 dated 11.10.2000 and work was conducted by respondent, however, respondent violated various contractual obligations in the course of the performance of the contract. It is submitted that petitioner paid all the due amount on the basis of mutually agreed terms and respondent did not raise any objection and accepted the amount without any protest.

4. It is submitted that after completion of the assigned work, respondent raised certain dispute and matter was referred to arbitration by Hon'ble Delhi High Court and Ld. Arbitrator after hearing the parties, pronounced the impugned Award and, whereby partially allowed the claim of respondent. It is submitted on behalf of petitioner that said Award is unjust and illegal on several grounds. Prayer has been made for setting aside the said order.

5. Perusal of record shows that in para A and B of the ground of Objections, petitioner has taken the plea that "the Ld. Arbitrator erred not to pronounce any finding in the Award regarding the statutory bar mentioned in Section 28(3) to the Ld. Arbitrator being *functus officio* to pronounce any Award/finding on Claim No.1-C, 2, 3, 5, 7, 8 & 9". It is further submitted that "Ld. Arbitrator has not given any finding as to how he reached to the conclusion in Awarding the claim mentioned above". It is submitted that "Ld. Arbitrator erred not to pronounce any finding of any preliminary objections/legal /contractual objections raised by the petitioner in their written statement". This Court is of the considered view that perusal of record shows that Ld. Arbitrator while passing the Award considered the terms of the Agreement, executed between the parties and

passed the Award and in view of the same, it cannot be held that Ld. Arbitrator committed any illegality while passing the Award regarding above claims.

6. Perusal of record shows that petitioner has also taken the objection that Award pertaining to claim no.2 is based on perverse findings and is not sustainable. It is submitted that claimant/respondent was not entitled to claim amount under escalation. It is submitted that claimant/respondent gave undertaking dated 06.08.2001 for not claiming any escalation amount for the revised work done at the site in question. This Court is of the considered view that a party should not suffer because of escalation of cost and he should be properly reimbursed for the same. So far the undertaking is concerned, this Court is of the considered view that considering the facts and circumstances of the case and dominating position of the petitioner, it cannot be ruled out that same was obtained from respondent under undue influence. Accordingly, finding of Ld. Arbitrator *qua* claim no.2 is justified.

7. Petitioner has also taken the objection that while Awarding the claim no.3, Ld. Arbitrator has acted beyond its jurisdiction in Awarding the amount of Rs.9,83,260/- as work contract tax in view of the statutory bar contained in Delhi Sales Tax Act. This Court is of the considered view that while deciding the claim no.3, Ld. Arbitrator relied upon clause 23 of the Agreement/relevant clauses of the terms and conditions governing work tenders. Perusal of said clause shows that as per said clause, “if any further tax or levy is imposed by statute, after the date of receipt of tender and contractor properly pays the same, contractor shall be reimbursed for the same”. This Court is of the considered view that in view of the above clause, there is no infirmity in the order of Ld. Arbitrator *qua* claim no.3.

8. Petitioner has also challenged the Award *qua* claim no.5. It is submitted on behalf of petitioner that Ld. Arbitrator while passing the Award in respect of claim no.5 has restored to ad-hocism by Awarding Rs.50,000/- as “ad hoc payment” without giving any finding for making such Award in favour of respondent / claimant and as such, said Award is unjustified and erroneous. This Court is of the considered view that regarding the finding *qua* claim no.5, Ld. Arbitrator has given the proper reasoning as due to insistence of petitioner, respondent suffered extra burden on account of extra labour and wastage/rejection and accordingly, he was reimbursed for the same by Ld. Arbitrator.

9. Petitioner has also challenged the finding of Ld. Arbitrator *qua* claim no.7. It is submitted that the interest Awarded by Ld. Arbitrator is highly excessive and beyond jurisdiction of the Arbitration. This Court is of the considered view that perusal of record shows that under said claim, interest was Awarded by Ld. Arbitrator on account of delayed payment and unpaid amount. Perusal of record shows that interest @ 8% and 10% has been Awarded by Ld. Arbitrator. This Court is of the considered view that considering the transaction between the parties, said rate of interest is not excessive and a party cannot be deprived for its amount at due time and should be reimbursed for the delayed payment. Accordingly, there is no infirmity in the finding of Ld. Arbitrator *qua* claim no.7.

10. Petitioner has also challenged the Award *qua* claim no.10, whereby Ld. Arbitrator awarded Rs.1,50,000/- as cost of arbitration to respondent/claimant. It is submitted that claim was filed by respondent / claimant without any merits and to harass the petitioner. This Court is of the considered view that claim of respondent / claimant was partly allowed by Ld. Arbitrator and in view of above findings, said Award is not

unjustified, so it is clear that respondent / claimant was justified in filing the claim and he should have been reimbursed for the cost suffered by him in instituting and continuing the litigation. Accordingly, there is no infirmity in the finding of Ld. Arbitrator *qua* claim no.10.

11. In view of aforementioned discussion, no ground is made out to interfere with the findings of Ld. Arbitrator. Accordingly, present Objection petition is dismissed. File be consigned to Record Room.

Announced in the open Court on
this 21st day of April, 2026.

(Dharmender Singh)
District Judge-01 (West)
Tis Hazari Courts/Delhi