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

+ CM (M)-2490/2024, CM APPL. 26242/2024 & CM APPL.
26243/2024

MMTC LIMITED

..... Petitioner

Through: Mr. Chetan Sharma, ASG with
Mr. S. Kumar, Mr. Akhil Sachar,
Ms. Sunanda Tulsayan, Mr. R. V.
Prabhat, Mr. Vinay Yadav, Mr. Amit
Gupta, Mr. Saurabh Tripathi,
Mr. Vikramaditya Singh,
Mr. Ashutosh Kumar and
Mr. Nityanand Sharma Sr. Manager,
Law

versus

SMT. DAVINDER KAUR, PROPRIETRESS, JATINDRA
ENGINEERING CORPORATION

..... Respondent

Through:

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

% **03.05.2024**

CM APPL. 26243/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

CM (M)-2490/2024 & CM APPL. 26242/2024 (Stay)

3. The present petition is filed under Article 227 of the Constitution to set aside the impugned order dated 12.04.2024 passed by the court of Sh. Surinder S. Rathi, District Judge, Commercial Courts-03, Shahdara District, Karkardooma Courts, New Delhi.



4. Mr. Chetan Sharma, Additional Solicitor General for the petitioner during the course of arguments drew the attention of this Court towards the award dated 10.03.2016 whereby interest @ 9% per annum was awarded as damages and compensation and argued that in the impugned order, the concerned trial court has mentioned that no interest was awarded in favour of the petitioner which was factually incorrect.

5. The learned Additional Solicitor General also drew the attention to various observations made by the trial court which reads as under:-

It is found that by not filing the Execution Petition, the officials of the MMTC were evidently manner supporting the JD. As such, CMD of MMTC is directed to hold a fact finding inquiry to fix the responsibility for not filing the execution in award for recovery of Rs. 45 lacs passed in its favour by Ld. Arbitrator Tribunal on 10.03.2016. The inquiry report be placed on record within three weeks.

It is pertinent to mention here that the execution petitioner is not a private company but a Public Sector Undertaking run on Tax Payer's money. The manner in which the officials of MMTC sat over an Award of Rs. 45 lacs even though it had no stipulation of interest. It is a writing on the wall that it was a deliberate act of providing relief to the JD without any stay order.

6. It is argued on behalf of the petitioner that these observations made by the concerned trial court were totality unwarranted and beyond the jurisdiction of the trial court. It is further argued that if the trial court was of the opinion that the execution petition before the trial court was filed beyond the period of limitation, then the execution petition should have been dismissed and these observations which were referred in the impugned order are out of context and unwarranted. It is prayed that the operation of the



impugned order be stayed.

7. Issue notice to the respondent on taking necessary steps by the petitioner within four weeks from today through all permissible modes.
8. List before the Roster Bench on 30.07.2024.
9. In the meantime, the operation of the impugned order dated 12.04.2024 shall remain stayed.
10. Copy of this order be sent to the trial court for information.
11. *Dasti.*

DR. SUDHIR KUMAR JAIN, J

MAY 3, 2024

Sk/ak