



\$~41

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

+ **RFA(COMM) 344/2024 & CM APPL. 48042/2024**

SATISH SHARMA

.....Appellant

Through: Mr Sandeep Sharma, Mr Sarthak Mannan, Ms Konika Mitra and Mr Mayank Sharma, Advs.

versus

THE COMMISSIONER OF MCD AND ORS

.....Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

%

22.08.2024

[Physical Hearing/Hybrid Hearing (as per request)]

CM APPL. 48042/2024

1. Allowed, subject to just exceptions.

RFA(COMM) 344/2024

2. This appeal is directed against the judgment and decree dated 21.05.2024 passed by Ms Neelam Singh, learned District Judge (COMM-02), South-East District, Saket Court, New Delhi.

3. Via the impugned judgment, the suit instituted by the appellant/plaintiff was dismissed on the ground that it was time-barred.

4. The record discloses that the appellant/plaintiff had preferred a suit for recovery of Rs.9,29,725/- for work carried out on behalf of the RFA(COMM) 344/2024

Page 1 of 3



respondents/defendants. Broadly, the contract between the parties involved the use and deployment of 'Tractor Trolleys' for the removal of garbage, as per instructions. The instant case revolves around the work carried out between 01.07.2015 and 31.10.2016.

5. Mr Sandeep Sharma, learned counsel who appears for the appellant/plaintiff, says that bills were submitted between November and December 2016. The value of these bills [which according to the appellant/plaintiff are outstanding], is Rs.8,77,725/-. Besides outstanding bills, other claims are made which included Rs.22,000/- concerning expenses on conveyance charges, and Rs.30,000/- by way of compensation.

6. There is no dispute that the suit for recovery was filed by the appellant/plaintiff on 23.12.2022.

7. The trial court has dismissed the suit on the grounds of limitation.

8. Mr. Sharma, however, says that an error has been committed by the trial court since there were 'file notings' available in the record maintained by the respondents/defendants which would show that amounts concerning the aforementioned period were due and payable to the appellant/plaintiff.

9. We have looked at the 'file notings'. Although there are notes that concern the issue at hand, Mr Sharma was not able to demonstrate whether these notes received approval from the competent authority.

10. That apart, the other difficulty in the way of the appellant/plaintiff is that 'file notings', *prima facie*, do not fall within the purview of Section 18 of the Limitation Act, 1963, which concerns acknowledgment of liability in writing. Admittedly, the 'file notings' were never communicated to the appellant/plaintiff.



10.1 At this stage Mr Sharma seeks time to cite judgments in support of his pleas.

11. As requested, list the matter on 11.09.2024.

RAJIV SHAKDHER, J

AMIT BANSAL, J

AUGUST 22, 2024/ds

[Click here to check corrigendum, if any](#)