

MUNICIPAL CORPORATION OF DELHI ... APPELLANT(s)

Versus

J.P. SAINI . RESPONDENT(s)

O R D E R

We have heard Mr. Ravi Shankar Parshad, learned senior counsel for the Municipal Corporation of Delhi (MCD).

2. By order dated August 24, 2011, this Court directed the appellant-MCD to produce the following documents:

1. the contract;
2. the dates of the contracts and the date on which Clause 20 was added in the contract;
3. the date of intimation by the Engineer in-charge to the contractor that the bill is ready for payment and the date of payment.

3. In pursuance of the above order, an affidavit has been filed on behalf of the MCD by Mr. Rajiv Kumar Jain,

Executive Engineer, Division MS-2, South Zone.

In paragraph

4 of the affidavit, clause 25, which deals with the arbitration in the general conditions attached to Form A-32,

has been quoted. It reads as under:

"It is also a term or the contract that if the contractor(s) do/does not make any demand for arbitration in respect of any claim in writing within 90 days of receiving the intimation from the corporation or any officer authorised in this behalf that the bill is ready for payment to claim of the contractor(s) will be deemed to have been waxed and absolutely barred and the corporation shall be discharged and released of all liabilities under the contract in respect of these claims."

4. While dealing with stage-III, after Stage-I and

Stage-II in the affidavit, it is stated that an agreement

which was a standard form one page agreement which

incorporated terms and conditions 1 to 30 attached to the

bill of quantity of tender

was entered into.

Then, in

paragraph 5 of the affidavit, it is stated that after work was completed, the standard billing procedure was adopted.

As per the affidavit, the billing procedure is this: after

work is completed, the Junior Engineer (J.E.) prepares the final bill after recording the work done by the contractor and also recording the date of start and completion of work.

The Contractor is, thereafter, called upon to check the said bill and thereafter the contractor signs in every bill recording his satisfaction that the bill is in order.

Thereafter, the said bill gets signed again by the Junior Engineer, Assistant Engineer and finally by the Executive Engineer. Final calculations are made and the final figure which is to be paid to the contractor is arrived at.

The

contractor is, thereafter, informed that the bill is ready for payment. The contractor, thereafter, again signs the

pre-receipt of the bill in full and final satisfaction of the final amount which is arrived at.

5. Mr. Ravi Shankar Prashad, learned senior counsel for the MCD, in the backdrop of the billing procedure set out in the affidavit, invited our attention to one of the final bills (pages 86 to 89 of the compilation containing affidavit of Mr. Rajiv Kumar Jain, Executive Engineer and the documents annexed thereto). He submitted that the signature of the contractor on the final bill is an acknowledgment of the intimation from the Corporation or the officer authorised in this behalf in terms of Clause 25 noted above.

6. We are unable to agree with the submission of Mr. Ravi Shankar Parshad for more than one reason. In the first place, having regard to the nature of the Clause 25 and the discharge of liability of the MCD under the contract in respect of the claims of the contractor, if no demand for arbitration in respect of any claim in writing is received within 90 days of receiving the intimation from the Corporation or any officer authorised in this behalf that

bill is ready for payment, the Clause has to be construed strictly. The period of limitation bars the remedy but does not extinguish the right of a party. However, Clause 25 not only bars the remedy but also extinguishes the claim of a party if no demand for arbitration in respect of any claim in writing is made by the contractor within 90 days of receiving the intimation from the Corporation or any officer authorised in this behalf that the bill is ready for payment. The expression "receiving the intimation from the Corporation or any officer authorised in this behalf" in Clause 25 has to be construed to mean receipt of the intimation by the contractor from the Corporation or any officer authorised in this behalf that the bill is ready for payment. Mere knowledge of the contractor that the bill is ready for payment by itself will not tantamount to the intimation contemplated in Clause 25.

7. Secondly and more importantly, even if it is assumed as contended by the learned senior counsel for the MCD that the signature of the contractor on the final bill is an intimation to the contractor, as contemplated in Clause 25, a bare look of the final bill (pages 86-89 of the compilation) will show that there is no date mentioned on which the contractor signed the final bill.

8. In view of the above, the period of 90 days contemplated in Clause 25 has not begun to run.

9. There is, thus, no merit in the appeal and it is dismissed accordingly. No order as to costs.

.....J.
(R.M. LODHA)
.....J.
(H.L. GOKHALE)

NEW DELHI
DECEMBER 8, 2011.

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 10713 OF 2011
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 17964 OF 2010]

MUNICIPAL CORPORATION OF DELHI ... APPELLANT(s)
Versus
ASHOK KUMAR BANSAL & ANOTHER . RESPONDENT(s)

O R D E R

Leave granted.

Appeal is dismissed in view of the order passed by us
today in Civil Appeal No. 2972 of 2007 Municipal Corporation
of Delhi vs. J.P. Saini. No costs.

.....J.
(R.M. LODHA)
.....J.
(H.L. GOKHALE)

NEW DELHI
DECEMBER 8, 2011.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 10714 OF 2011
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 18063 OF 2010]

MUNICIPAL CORPORATION OF DELHI ... APPELLANT(s)
Versus
RAJ KUMAR SHARMA . RESPONDENT(s)

O R D E R

Leave granted.

Appeal is dismissed in view of the order passed by us
today in Civil Appeal No. 2972 of 2007 Municipal Corporation
of Delhi vs. J.P. Saini. No costs.

.....J.
(R.M. LODHA)

.....J.
(H.L. GOKHALE)

NEW DELHI
DECEMBER 8, 2011.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 10715 OF 2011
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 18062 OF 2010]

MUNICIPAL CORPORATION OF DELHI ... APPELLANT(S)

Versus

SHASHI BHUSHAN . RESPONDENT(S)

O R D E R

Leave granted.

Appeal is dismissed in view of the order passed by us
today in Civil Appeal No. 2972 of 2007 Municipal Corporation
of Delhi vs. J.P. Saini. No costs.

.....J.
(R.M. LODHA)

.....J.
(H.L. GOKHALE)

NEW DELHI
DECEMBER 8, 2011.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 10716 OF 2011
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 18066 OF 2010]

MUNICIPAL CORPORATION OF DELHI & ANOTHER ... APPELLANT(S)

Versus

O R D E R

Leave granted.

Appeal is dismissed in view of the order passed by us today in Civil Appeal No. 2972 of 2007 Municipal Corporation of Delhi vs. J.P. Saini. No costs.

.....J.
(R.M. LODHA)

.....J.
(H.L. GOKHALE)

NEW DELHI
DECEMBER 8, 2011.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 10717 OF 2011
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 18145 OF 2010]

MUNICIPAL CORPORATION OF DELHI . . . APPELLANT(s)

Versus

BALRAJ TANWAR . RESPONDENT(s)

O R D E R

Leave granted.

Appeal is dismissed in view of the order passed by us today in Civil Appeal No. 2972 of 2007 Municipal Corporation of Delhi vs. J.P. Saini. No costs.

.....J.
(R.M. LODHA)

.....J.
(H.L. GOKHALE)

NEW DELHI
DECEMBER 8, 2011.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 10718 OF 2011
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 18153 OF 2010]

MUNICIPAL CORPORATION OF DELHI ... APPELLANT(s)

Versus

SATISH KHANDELWAL . RESPONDENT(s)

O R D E R

Leave granted.

Appeal is dismissed in view of the order passed by us
today in Civil Appeal No. 2972 of 2007 Municipal Corporation
of Delhi vs. J.P. Saini. No costs.

.....J.
(R.M. LODHA)

.....J.
(H.L. GOKHALE)

NEW DELHI
DECEMBER 8, 2011.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 10719 OF 2011
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 18183 OF 2010]

MUNICIPAL CORPORATION OF DELHI & ANOTHER ... APPELLANT(s)

Versus

MUKESH KUMAR . RESPONDENT(s)

O R D E R

Leave granted.

Appeal is dismissed in view of the order passed by us today in Civil Appeal No. 2972 of 2007 Municipal Corporation of Delhi vs. J.P. Saini. No costs.

.....J.
(R.M. LODHA)

.....J.
(H.L. GOKHALE)

NEW DELHI
DECEMBER 8, 2011.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 10720 OF 2011
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 18184 OF 2010]

MUNICIPAL CORPORATION OF DELHI ... APPELLANT(s)

Versus

NAROTTAM KUMAR GAUR . RESPONDENT(s)

O R D E R

Leave granted.

Appeal is dismissed in view of the order passed by us today in Civil Appeal No. 2972 of 2007 Municipal Corporation of Delhi vs. J.P. Saini. No costs.

.....J.
(R.M. LODHA)

.....J.
(H.L. GOKHALE)

NEW DELHI
DECEMBER 8, 2011.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 10721 OF 2011

[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 18185 OF 2010]

MUNICIPAL CORPORATION OF DELHI & ANOTHER ... APPELLANT(s)

Versus

MUKESH KUMAR . RESPONDENT(s)

O R D E R

Leave granted.

Appeal is dismissed in view of the order passed by us today in Civil Appeal No. 2972 of 2007 Municipal Corporation of Delhi vs. J.P. Saini. No costs.

.....J.
(R.M. LODHA)

.....J.
(H.L. GOKHALE)

NEW DELHI
DECEMBER 8, 2011.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 10722 OF 2011
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 18209 OF 2010]

MUNICIPAL CORPORATION OF DELHI ... APPELLANT(s)

Versus

YOGESH KUMAR . RESPONDENT(s)

O R D E R

Leave granted.

Appeal is dismissed in view of the order passed by us today in Civil Appeal No. 2972 of 2007 Municipal Corporation of Delhi vs. J.P. Saini. No costs.

.....J.
(R.M. LODHA)

.....J.
(H.L. GOKHALE)

NEW DELHI
DECEMBER 8, 2011.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 10723 OF 2011
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 22512 OF 2010]

MUNICIPAL CORPORATION OF DELHI & ANOTHER ... APPELLANT(s)

Versus

MUNSHI RAM HARJAI . RESPONDENT(s)

O R D E R

Leave granted.

Appeal is dismissed in view of the order passed by us
today in Civil Appeal No. 2972 of 2007 Municipal Corporation
of Delhi vs. J.P. Saini. No costs.

.....J.
(R.M. LODHA)

.....J.
(H.L. GOKHALE)

NEW DELHI
DECEMBER 8, 2011.
ITEM NO.101
Part-heard

COURT NO.10

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 2972 OF 2007

MUNICIPAL CORPN. OF DELHI Appellant (s)

VERSUS

J.P. SAINI Respondent(s)

(With appln(s) for withdrawal and with prayer for interim relief and office report)

WITH SLP(C) NO. 17964 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 18062 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 18063 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 18066 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 18145 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 18153 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 18183 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 18184 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 18185 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 18209 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 22512 of 2010
(With prayer for interim relief and office report)

Date: 08/12/2011 These Appeals/Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE H.L. GOKHALE

For Appellant(s) Mr. Ravi Shankar Prasad, Sr. Adv.
Mr. Sanjiv Sen, Adv.
Mr. Ujjal Banerjee, Adv.
Mr. P. Parmeswaran, Adv.
Mr. Praveen Swarup, Adv.
: 2 :

For Respondent(s) Mr. Jitendra Mohan Sharma, Adv.
Mr. Sandeep Singh, Adv.
Mr. Sameer Singh, Adv.
Mr. Rajeev Singh Pilania, Adv.

SLP 18062 & 18184 Mr. Jasbir Singh Malik, Adv.
Mr. Naushad Ahmed Khan, Adv.
Mr. Arun Kumar, Adv.
Ms. Alka Aggarwal, Adv.
Ms. Kamakshi S. Mehlwal, Adv.

SLP 17964, 18063,
18066, 18145, 18145
18153, 18183, 18185 Mr. Jasbir Singh Malik, Adv.
Mr. Naushad Ahmed Khan, Adv.
Mr. Arun Kumar, Adv.
Ms. Alka Aggarwal, Adv.
Mr. Milind Kumar, Adv.

SLP 18209 Mr. Jasbir Singh Malik, Adv.
Mr. Naushad Ahmed Khan, Adv.
Mr. Arun Kumar, Adv.
Ms. Alka Aggarwal, Adv.
Mr. S.K. Sabharwal, Adv.

Mr. Shiv Sagar Tiwari, Adv.

UPON hearing counsel the Court made the following

O R D E R

C.A. No. 2972 of 2007:

Appeal is dismissed in terms of signed order. No
order as to costs.

SLP (C) Nos. 17964, 18063, 18062, 18066, 18145, 18153,
18183, 18184, 18185, 18209 and 22512 of 2010:

Leave granted.

The appeals are dismissed vide separate orders in
each appeal.

(Pardeep Kumar (Renu Diwan)
Court Master Court Master

[TWELVE SIGNED ORDERS ARE PLACED ON THE FILE]