

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6341 OF 2011  
[ARISING OUT OF S.L.P. (C) NO. 27203 OF 2008]

M/S. SHARMA ENTERPRISES ... Appellant(s)

Versus

NATIONAL BUILDING CONSTITUTION CORPORATION LTD ... Respondent(s)  
AND ANOTHER

O R D E R

1. Leave granted.

2. We have heard learned counsel appearing for the parties at length.

3. It is an admitted position that the counter-claim filed by respondent No. 1 herein was not entertained and hence, not decided by Hon'ble Mr. Justice Satpal, learned Arbitrator on the ground that the same was not referred to him. Respondent No. 1 has, therefore, taken steps for reference out of which the present proceedings have arisen.

4. Learned counsel for the parties agree that the matter can be referred back to a new Arbitrator for deciding the counter-claim also and he should be requested to dispose of the whole controversy involved i.e. the claim and the counter-claim within a specific time frame.

5. With the consent of the parties, we appoint Hon'ble Mr. Justice R.C. Chopra, a former Judge of Delhi High Court

2

to be a new sole Arbitrator who will decide the arbitration dispute in the light of the observations made by us after considering the claim and counter-claim of the parties.

However, we make it clear that the learned Arbitrator shall proceed from the last step taken by Justice Satpal before writing the award and the proceedings already conducted shall be retained so that the parties are not required to

give fresh evidence all over again in regard

to the claim.

Learned Arbitrator shall, however, be free to allow the parties to lead fresh evidence in respect of the claim as well as the counter-claim, if so required.

Respondent No.1

is granted four weeks' time to file counter-claim.

6. With these observations, we set-aside the arbitration award dated 12.9.2005 made by Justice Satpal on the ground of non-consideration of the counter-claim of the respondent No. 1. We make it clear that this order shall not be viewed as an expression of opinion on the merits of the award one way or the other.

7. The arbitration proceedings before the High Court at the instance of respondent No. 1 for setting-aside of the award made by Justice Satpal have become infructuous in the light of this order and stand disposed of as such.

8. Needless to mention here that the appointment of Justice R.C.Chopra will result to the cancellation of appointment of Mr. A.K. Gupta made by the Chairman-cum-  
3

Managing Director of respondent No.1.

9. Hon'ble Mr. Justice R.C. Chopra shall be free to decide his remuneration. Registry is directed to send a copy of this order to Hon'ble Mr. Justice R.C. Chopra for information. We request Hon'ble Mr. Justice R.C. Chopra to dispose of the arbitration preferably within six months from the date of communication of this order.

10. The appeal stands disposed of accordingly.

.....J.  
(V.S.SIRPURKAR)

.....J.  
(T.S.THAKUR)

New Delhi,

AUGUST 3, 2011.

4

ITEM NO.1

COURT NO.8

SECTION XIV

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

Petition(s) for Special Leave to Appeal (Civil) No(s).27203/2008

(From the judgement and order dated 20/08/2008 in OMP No. 144/2003  
of The HIGH COURT OF DELHI AT N. DELHI)

SHARMA ENTERPRISES

Petitioner(s)

VERSUS

NATIONAL BUILDING CONSTRN.CORP.LD.& ANR.

Respondent(s)

(With appln(s) for permission to file rejoinder affidavit and with  
prayer for interim relief and office report )  
[for final disposal ]

Date: 03/08/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.S. SIRPURKAR  
HON'BLE MR. JUSTICE T.S. THAKUR

For Petitioner(s) Ms. Anusuya Salwan, Adv.  
Ms. Neha Mittal, Adv. for  
Ms. S. Janani,Adv.

For Respondent(s) Mr. Manoj Kr. Das, Adv. for  
Mr. Sibor Sankar Mishra,Adv.

UPON hearing counsel the Court made the following  
O R D E R

5

Leave granted

The appeal is disposed of in terms of signed order.

(Pardeep Kumar)  
Court Master

(Shashi Bala Vij)  
Assistant Registrar

[ SIGNED ORDER IS PLACED ON THE FILE ]