

Sanjiv Katyal Vs. Delhi Development Authority and ors.

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Court : Delhi

Decided On : Aug-03-2001

Reported in : 94(2001)DLT7; 2001(60)DRJ166

Judge : Mr. Vijender Jain, J.

Acts : Arbitration Act - Sections 14 and 17

Appeal No. : Suit No. 1330 of 1992

Appellant : Sanjiv Katyal

Respondent : Delhi Development Authority and ors.

Advocate for Def. : Ms. Ansuya Salwan, Adv.

Advocate for Pet/Ap. : Mr. Raman Kapur, Adv

Disposition : Petition allowed

Judgement :

ORDER

Vijender Jain, J.

1. The petitioner has filed this petition under Section 14 and 17 of the Arbitration Act for making the award rule of the Court. The respondents have filed objections by way of is 2724/93. Most of the objections filed by the respondents relate to the

counter claim of the respondent. Ms. Salwan, learned counsel for the respondents has vehemently contended that non-award in relation to counter claim no. 3 in which the respondent has claimed Rs. 31,586/- on account of levy of compensation under Clause 2 of the agreement was not proper on the part of the arbitrator. The arbitrator ought to have allowed counter claim no. 3 of respondent. In support of her submission, learned counsel for the respondent has cited Arbitration Law Report 1995 (2) p. 307. She has further contended that clause 2 of the agreement was not arbitral and hence the rejection of the counter claim on that score was illegal and the arbitrator has committed legal misconduct and to that extend the award be set aside.

2. On the other hand, Mr. Kapur, learned counsel for the petitioner has contended that the arbitrator, after holding that the delay were on the part of the respondents and there was a wrongful recession of the contract by the respondent no compensation under clause 2 could be levied and, therefore, the arbitrator has rightly rejected the counter claim no. 3 of the respondent.

3. I have given my careful consideration to the arguments advanced by learned counsel for both the parties and perused the award. The arbitrator has specifically mentioned that the date of start of the work was 23.7.1987 and stipulated date of completion of the agreement was 26.2.1987. Notice of this proportionate progress were not issued by the respondents as prescribed under clause 2 of the agreement. In fact, the show cause notice under Clause 2 was issued on 23.9.1987 (Ex. R 10), whereas compensation was levied on 7.3.1989 (Ex. R 12), i.e. after about one year and six months of recession of contract. therefore, the arbitrator has held that under those circumstances the action of the respondent in making compensation under clause 2 was not found to be justified.

4. The authority cited by learned counsel for the respondents is of no help to her in the facts and circumstances of the case. In any event of the matter, when the parties has chosen a forum other than the normal civil law remedy by referring the matter to arbitration, this court will not substitute its own finding in place of the finding of the arbitrator. I see no force in the objections. The same are dismissed. The award is made rule of the Court. Decree in terms of the award be passed. The

petitioner shall also be entitled to interest at the rate of 12% per annum on the amount of award from the date of decree till its realisation.

5. Petition is allowed.

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