

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

+ **CS(OS) No.22/2008**

% **Date of Decision: 30.01.2009**

Sh.S.K. Marwaha Plaintiff

Through Mr.Vivekanand, Advocate

Versus

Airports Authority of India & Others Defendants

Through Mr.S.K. Chandwani, Advocate with
Mr.Satvir Singh, Sr. Manager.

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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1. This is a petition under Section 8 and 20 of Arbitration Act, 1940 contending inter alia that petitioner is a sole proprietor of M/s.Marwah Construction Co. An agreement dated 28th May, 1985 was executed between the petitioner and International Airport Authority of India acting through its Executive Engineer (C) APD-I which has been amalgamated and taken over by Airports Authority of India.

2. The plaintiff has contended that the agreement dated 28th May, 1985 contemplated settlement of all claims and disputes between the parties by way of arbitration under clause 25 of the agreement. A copy of agreement dated 28th May, 1985 is filed which is not denied by the defendants.

3. The plaintiff has also contended that the disputes and differences arose between the parties relating to subject work in the year 1985 itself and the plaintiff had sought appointment of arbitration and had filed a petition under Section 20 of Arbitration Act, 1940 being Suit No.1396A/1985, which was allowed by this Court by order dated 6th September, 1985 directing respondents to appoint an arbitrator. Consequent thereto Brigadier Gobinder Singh was appointed as the sole Arbitrator by letter dated 4th November, 1985.

4. According to the pleas of the plaintiff, additional claims and disputes arose between the parties in respect of subject work and another petition under Section 20 of Arbitration Act, 1940 being Suit NO.2037A/1986 was filed and additional claims were also referred to the sole Arbitrator.

5. Because of some disputes, a contempt petition being contempt Petition No.1/1987 in Suit No.2037 of 1986 was also filed where Shri K.B. Andley, Advocate, was appointed as an Arbitrator for adjudicating the original claims and additional claims and they were referred to him.

6. Thereafter there had been proceedings between the parties for appointment of another arbitrators and arbitrators were appointed who resigned and ultimately the appointment of Shri K.B. Andley was also recalled by order dated 28th March, 1985 and the defendants were directed to appoint another arbitrator. Consequent thereto Shri W.D. Dandge was appointed as Arbitrator by letter dated 29th February, 1996.

7. On account of alleged misconduct on behalf of the said Arbitrator another petition for revocation of his authority was filed, however, Shri W.D. Dandge resigned and on his resignation Shri D.A.K. Chari was appointed as an Arbitrator. Shri D.A.K. Chari also resigned as an Arbitrator on 10th April, 2003 on his retirement where after Shri K.B. Rajoria was appointed as a sole arbitrator by letter dated 22nd May, 2003 who also resigned on 27th December, 2004.

8. The assertion of the plaintiff is that after the resignation of Shri D.A.K. Chari plaintiff has been seeking filling up the vacancy and various communications have been addressed to the respondents, however, the arbitrator has not been appointed nor the disputes have been referred him. The petition has been filed consequent thereto for appointment of arbitrator and reference of the disputes as detailed in the list of disputes/claims annexed as Annexure P7 at page 31 of the documents filed along with the petition.

9. The petitioner has suggested names of three arbitrators including the name of Shri I.M. Singh, Former Engineer in Chief, PWD, GNCT, Delhi, C-447, Sheikh Sarai-I, New Delhi-110017.

10. Learned counsel appearing for the defendants, on instructions, states that defendants have no objection to the appointment of Shri I.M. Singh, Former Engineer in Chief, PWD, GNCT, Delhi, C-447, Sheikh Sarai-I, New Delhi-110017, as the sole Arbitrator.

11. Consequently, the petition is allowed. Shri I.M. Singh, Former Engineer in Chief, PWD, GNCT, Delhi, C-447, Sheikh Sarai-I, New Delhi-110017, is appointed as the sole Arbitrator and disputes/claims as detailed in Annexure P7 annexed with the petition are referred to

him. Arbitrator shall give the award in accordance with law within the time prescribed. Parties are directed to appear before the Arbitrator on 12th February, 2009 at 4.30 PM. A copy of the order be sent to the Learned Arbitrator forthwith. Copies of the order be also given to the parties dasti. The petition is disposed of.

JANUARY 30, 2009
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ANIL KUMAR, J.