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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: July 09, 2009
Date of Order: August 20, 2009

+OMP 450/2009

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20.08.2009

M/s J.S. Construction
Through proprietor Shri Jai Singh
Through: Mr. Sudhanshu Batra, Advocate

...Petitioner

Versus

DDA & Ors.
Through: Nemo

...Respondents

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. By this petition, the petitioner has filed objections against an award dated 17th March 2009 passed by the learned arbitrator in respect of Claim No.3 raised by the petitioner before the arbitrator.

2. The contention of the petitioner is that vide claim no.3, the petitioner had asked for an amount of Rs.47,03,737/- on account of extra rates claimed from time to time due to rise in prices of labour and material for the work done beyond the stipulated date of work. The learned arbitrator wrongly held that since the petitioner has already been compensated under Clause 10 CC of the agreement, further enhancement of rates was not justified.

3. It is submitted by the petitioner that the conclusion arrived at by the arbitrator was contrary to the true spirit of Section 73 and 74 of the Contract

Act and was against the settled principle of law, therefore, contrary to public policy of India.

4. By no stretch of imagination, it can be said that where the claim of petitioner has been turned down on the ground that petitioner had already received enhancement in terms of the contract and additional enhancement was not tenable or that additional amount was not payable, the award becomes contrary to public policy. The terms "*public policy*" cannot be trivialized to an extent that disallowing a claim of petitioner by the arbitrator after giving reasons can be held to be in violation of the public policy. The petitioner has already received the entire amount under the award. The challenge to the award made by petitioner on the ground that one of the claims of petitioner being not allowed by the arbitrator amounted to violation of public policy, is not tenable.

5. For the reasons stated above, I find no force in this petition. The petition is hereby dismissed. No orders as to costs.

August 20, 2009
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SHIV NARAYAN DHINGRA J.