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

+ **FAO(OS) 361-362/2011**

RS AVTAR SINGH & CO Appellant
Through: Mr. Kaanan Kapur, Advocate

versus

NATIONAL PROJECT CONSTRUCTION CORP
LTD Respondent
Through

CORAM:
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE RAJIV SHAKDHER

% **ORDER**
17.11.2011

The respondent has been served but none chose to appear for the respondent. We have thus proceeded to hear learned counsel for the appellant on the appeal.

The dispute pertains to an award dated 29.08.2000 in which while dealing with claim no.11 of the appellant, the Arbitrator observed as under :-

“On going through the documents on record, it appears that though there were some delay in payment upto 15th R.A. bill, but the delay were not abnormal and are inherent in construction contract. However, for the 16th and 17th R.A. Bills, delay is

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abnormal. The claimants have asked for interest vide their letter dated 20.08.1987 (C-87). Had the bills paid by that time, no interest would have accrued. As such it is considered reasonable that interest on the net amount payable on the 16th and 17th R.A. Bills are paid @ 12% per annum. The net amount payable on these two bills is Rs.1,55,360.17. **The interest @ 12% for three years (between 8/87 to 8/2000) works out to Rs.55,929.66. Accordingly, an amount of Rs.55,929.66 (Rupees fifty five thousand nine hundred and twenty nine and paise sixty six only) is awarded in favour of the claimants."**

The appellant filed a petition under section 14 of the Indian Arbitration Act, 1940 (in short, the said Act), which was registered as CS(OS) 2416A/2000. The award was filed in court. The respondent filed objections vide IA No.4318/2004 under sections 30 and 33 of the said Act. Learned Single Judge as per its judgment dated 02.07.2010 partly allowed the objections and the award as modified in terms of the order was made rule of the court.

The appellant subsequently filed an application being :IA No.1644/2011 seeking correction of the judgment and decree passed in relation to the award made in claim no.11.

It was pleaded before learned Single Judge, which is also plea adopted before us that in terms of the operative paragraph of claim no.11, interest at the rate of 12% p.a. was awarded for the period 08/87 to 8/2000, which is for a period of 13 years, inadvertently the Arbitrator has mentioned

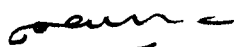
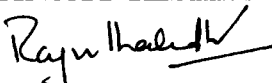
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the period as three years. Learned Single Judge, however, rejected this application by the impugned order dated 04.04.2011 noticing that the appellant had never filed any objections to the award nor this plea was ever urged by the appellant while considering the objections of the respondent to the award.

We are in agreement with the view taken by the learned Single Judge. The operative paragraph of claim no.11 does appear to have some inconsistencies to the extent that while on the one hand, interest has been granted for three years, the period mentioned is 8/87 to 8/2000 i.e., 13 years. However, the learned Arbitrator has gone further and worked out the amount at Rs.55,929.66 and thereafter awarded the said amount. There is thus no dispute about the amount due under the claim. If the appellant was of the view that there was a typographical error in the award, he ought to have had it corrected or ought to have filed objections to the award. Neither was done and the learned Single Judge has noticed that not even a plea was raised in this behalf. It is apparent that after passing the decree, this fact came to the mind of the learned counsel for the appellant. In our view, no grievance in this behalf, can be raised at this stage, by seeking a correction of the judgment and the decree.

We thus find no merits in the appeal.

Dismissed


SANJAY KISHAN KAUL, J

RAJIV SHAKDHER, J

NOVEMBER 17, 2011

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