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

+ **OMP No.650/2008**

DELHI DEVELOPMENT AUTHORITY Petitioner
Through: Ms. Geeta Mehrotra, Advocate.

versus

M/S. GLOBE CONSTRUCTION COMPANY Respondent
Through: None.

CORAM: JUSTICE S. MURALIDHAR

ORDER

% **02.12.2016**

1. Notice in this petition was confined by the order dated 3rd December, 2008 to the question of interest and the date from which the interest is payable.

2. In this regard, Ms. Geeta Mehrotra, the learned counsel appearing for the Petitioner Delhi Development Authority (DDA) refers to claim No.6 which was for a sum of Rs.5,12,906/- “on account of interest on delayed payment of final bill”. According to the learned Arbitrator although the final bill was not prepared by the claimant, a duty was cast upon the DDA to prepare the final bill immediately. The learned Arbitrator noted that the date of completion was 2nd June 1989, the R.A bill was paid on 6th March, 1990 after nearly nine months from the date of completion of work and the final bill was paid on 5th June 2002, i.e. after 13 years after completion of work. On that basis, interest @ 9 per cent per annum on the sum of Rs.1,64,393/-

was awarded for the period from 1st July, 1989 to 5th June, 2002. The total amount on that head was worked out as Rs. 1,92,339.81.

3. Ms. Mehrotra further refers to Claim No. 11 where, while awarding interest *pendente lite* and future @ 9 % per annum, the learned Arbitrator in para 8.11.3 again awarded interest on the aforementioned sum as well.

4. It is pointed out that the contractor himself had written to the DDA stating that due to paucity of staff, he was unable to prepare the final bill. It is seen that by letter dated 29th April 2002, the claimant wrote to the DDA stating *inter alia* as under:

“As per clause 7 and 8 of the agreement of the caption work it is written that I cannot submit the final bill or R/A bill.

It is requested that due to staff not available, the bill please be prepared at your end and my account finalised, as already been discussed.

It is further submitted that I will not claim any compensation on this account.”

5. The above letter which was placed on record by the DDA before the learned Arbitrator along with its reply to the claims. However, the learned Arbitrator failed to discuss the above reply of the DDA much less the above letter written by the claimant himself. Consequently, by awarding interest for the period of delay in the preparation of the final bill, the learned Arbitrator overlooked a vital piece of evidence. If indeed even as of 29th April, 2002, the contractor was admitting to have not prepared the final bill and the payment was in fact made on 5th June, 2002 then there can hardly be

said to be any delay in making the payment. Consequently, the award of Rs.1,92,339.81 under Claim No. 6 on account of interest on delayed final bill is set aside. Consequently, the award under claim No.11 of further interest on the above amount for the *pendente lite* and future period is also hereby set aside.

6. The petition is disposed of.

S. MURALIDHAR, J.

DECEMBER 02, 2016
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