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

+ **RFA 847/2017 and C.M. Appl. Nos. 36125-27/2017**

NORTH DELHI MUNICIPAL CORPORATION & ANR

..... Appellants

Through: Ms. Renu Gupta, Advocate.

versus

ASHISH SEHGAL

..... Respondent

+ **RFA 849/2017 and C.M. Appl. Nos. 36135-37/2017**

NORTH DELHI MUNICIPAL CORPORATION & ANR

..... Appellants

Through: Ms. Renu Gupta, Advocate.

versus

ASHISH SEHGAL

..... Respondent

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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09.10.2017

1. Similar RFAs have been decided by this Court and three such RFAs are RFA Nos. 818/2017, 820/2017 and 821/2017 decided on 25.9.2017.

2. The order dated 25.9.2017 was thereafter referred to by this Court in RFA Nos. 835/2017, 836/2017 and 837/2017 decided on 27.9.2017 and the order dated 27.9.2017 reads as under:-

"1. On 25.09.2017, in RFA Nos. 818/2017, 820/2017 and 821/2017, the following order was passed:

"1. The only issue which is argued on behalf of the appellant/North Delhi
RFA 847/2017 and RFA 849/2017

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Municipal Corporation before this Court impugning the judgments of the courts below dated 10.8.2017/22.4.2014/10.3.2017 is that no doubt the suits can be decreed for monies with respect to the bills of the contractors/respondents, which have been passed, and as conceded in the written statement, however, payment to the contractors have to be by queue in terms of admitted Clause 9 of the contract. Clause 9 of the contract has been reproduced in para 16 of the impugned judgment dated 10.8.2017.

2. Since this clause is an admitted clause, therefore, the only amendment which is required to be made in the impugned judgments and decrees is that the impugned judgment and decrees decreeing the suit under Order 12 Rule 6 CPC in terms of the bills passed by the appellant itself, will stand, however plaintiffs will be paid in queue as per Clause 9 of the Contract.

3. I however direct that within a period of eight weeks from today, appellant will, on its website, display an exhaustive list as to the contractors whose bills have been cleared who were standing in queue, how the earlier serial numbers of the list of contractors have been satisfied and from which serial number, and with respect to which contractor payment is due, what would be the amount available in the concerned head of the account of the appellant for each financial year and how that amount has been utilized for payment of dues of the contractors in a serialized manner pursuant to the clause 9 of the contract. This list be positively uploaded on the website of the appellant and an affidavit be filed in this Court within next eight weeks with regard to compliance of this direction. While preparing the serial numbers and the list appellant will note that the contractors will be put in the serialized list as per the serial numbers with the work completed earlier point of time and final bills prepared being put at an earlier serial number then as compared to those contracts and contractors whose work have been completed later and final bills prepared later.

4. Learned counsel for the appellant has drawn the attention of this Court to a similar judgment passed by a learned Single Judge of this Court in bunch of cases decided on 23.1.2017 with lead case being W.P.C 10055/2015 titled as **Ghanshyam Dass Vs. North Delhi Municipal Corporation**. I may note that in the judgment dated 23.1.2017 an earlier judgment of a learned Single Judge of this Court in RFA 786/2016 dated 17.11.2016 has been quoted, and the appellant will ensure that the directions given in the aforesaid judgments passed by learned Single Judges of this Court are complied with.

5. The appeal is disposed of in terms of the aforesaid observations modifying the impugned judgments of the courts below limited to the extent of the contractors/respondents being paid in queue as stated above."

2. These appeals are disposed of in terms of the directions contained in the order dated 25.09.2017.

3. I do not find any inconsistency or conflict in the order passed by this Court on 25.09.2017 with the judgment passed by a learned Single Judge of this Court on 01.12.2016 in RFAs 192/2016 and 786/2016. The sum and substance continues to remain is that payment will be made in queue in terms of Clause 9 of the Contract with the earlier final bills

prepared being paid earlier to the final bills which are prepared later.

4. Appeals are accordingly disposed of.”

3. These appeals are therefore also disposed of in terms of the order dated 27.9.2017 passed in RFA Nos. 835/2017, 836/2017 and 837/2017 decided on 27.9.2017.

4. RFAs stand disposed of accordingly.



VALMIKI J. MEHTA, J

OCTOBER 09, 2017

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