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

\+ OMP (ENF.) (COMM.) 151/2016

ASHA SHARMA & ANR ..... Petitioners

Through: Mr D. P. Kaushik, Advocate with Mr Sudhir Sharma, Power of Attorney holder of the petitioners.

versus

M/S ANSAL PROPERTIES AND INFRASTRUCTURE LIMITED (API LTD.) ..... Respondent

Through: Mr Rohit Gupta, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% 09.03.2017

1. The petitioners have filed the present petition under Section 36 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act') for enforcement of the Arbitral Award dated 24.12.2014. The operative part of the said award reads as under:-

> **"<u>Relief</u>**
>
> In view of my findings on issues above, I grant the following reliefs in favour of the claimants and against the respondent.
>
> 1. Refund of a sum of Rs. 43,94,700/- (Rs Forty Three Lakhs Ninety Four Thousands Seven Hundred Only) along with interest @ 18% p.a. from the date of deposit of the several installments till payment.

2. A sum of Rs2,50,000/- (Rs Two Lakhs fifty thousands Only) alongwith pendent-lite and future interest@ 18% p.a. till payment.
3. A sum of Rs 3,00,000/- (Rs Three lakhs Only) alongwith future interest from the date of this award @18% p.a. till payment.
4. Cost of litigation which is assessed at Rs 4,00,000/- (Rs Four Lakhs Only) alongwith future interest from the date of this award @ 18% p.a. till payment."

2. The learned counsel for the respondent has today handed over a Manager's cheque bearing no.427483 dated 08.03.2017 for a sum of ₹2,36,972/- issued by HDFC Bank Ltd., K. G. Marg, New Delhi-110001 in favour of Ms Asha Sharma and it is claimed that the said amount would discharge the award in full.

3. The learned counsel for the petitioners disputes that the amount paid discharges the award in its entirety.

4. The issue raised by the learned counsel for the petitioners is with regard to the manner of calculation of future interest. According to him, in the first instance, the pre-award interest would have to be calculated and quantified and, thereafter, future interest would run on the sum so quantified. He relies on the decision of the Supreme Court in ***Hyder Consulting (UK) Ltd. v Governor, State Of Orissa:*** **(2015) 2 SCC 189** in support of his contention.

5. According to the respondent, the amounts paid by the petitioners have been repaid along with interest, which is calculated from the date of the payment of the said amount till date. The respondent has calculated the number of days and has calculated the interest at the rate of 18% p.a. for the

said period. In other words, simple interest has been calculated on the awarded amount. The amount awarded has not been bifurcated into claim and pre-award interest for the purposes of calculating further future interest.

6. The learned counsel for the petitioners submits that as per the decision of the Supreme Court in ***M/s Hyder Consulting (UK) Ltd.*** *(supra),* the Supreme Court had explained that the future interest under Section 31(7)(b) of the Act would run on the sum as quantified under Section 31(7)(a) of the Act which would include the pre-award interest.

7. This Court finds the contentions advanced by the learned counsel for the petitioners bereft of any merits. The opening words of Section 31(7)(b) clearly qualifies the amount payable with the words "unless the award otherwise directs". In the present case, the award published by the arbitrator is unequivocal and the arbitrator has specified the amounts; the rate of interest; and also the period for which interest is to be calculated. Thus, the specified sums awarded along with interest from the date of deposit till the date of payment are to be paid without any bifurcation as to pre award and future interest.

8. At this stage, the learned counsel for the petitioners contends that his contentions may be also considered in the context of relief no.2 which is for a sum of ₹2,50,000/- alongwith "*pendent lite* and future interest @ 18% p.a. till payment". A plain reading of the reliefs as awarded clearly indicate that the Arbitrator had not made any distinction between *pendent lite* and future interest and has awarded the interest @ 18% p.a. from the date on which the amount was due till the date on which the payment is made. Accordingly, the award of a sum of ₹2,50,000/- and the interest thereon is also be read in the same manner and other reliefs. Accordingly interest on ₹2,50,000/- shall

be payable from the date of commencement of the arbitral proceedings till the date of payment; admittedly, the same has already been paid.

9. The learned counsel for the respondent has also handed over a statement of calculation which was handed over by the learned counsel for the petitioners. It is seen that the amount paid by the respondent is in terms of the said statement. Therefore, the petitioners can have no further grievance in this regard.

10. The petition is, accordingly, disposed of.

VIBHU BAKHRU, J

MARCH 09, 2017
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