$~28

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

\+ **O.M.P. 517/2012**

SURESH MEHENDIRATTA AND ANOTHER ..... Petitioners

Through: Mr. Rajat Aneja, Ms. Pusshp Gupta & Mr. Sambit Nanda, Advocates (M-9818291376).

versus

KULVINDER SINGH AND OTHERS ..... Respondents

Through: Mr. Ravi Sikri, Senior Advocate with Mr. Gurinder Pal Singh & Mr. Siddharth Borah, Advocates (M-9643379563).

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER

% 05.10.2018

1. The present petition has been filed under Section 34 of the Arbitration and Conciliation Act, 1996 challenging the award dated 13th January, 2012 passed by the Learned Sole Arbitrator. The operative portion of the award is set out herein below:

> *"As a result of the above discussion and findings recorded under various claims above, an award in the following terms is passed in favour of the Claimants and against the Respondent:*
> *(a) the Claimants shall be entitled to possession of the premises in dispute by ejectment of the Respondent;*

(b) the Claimants shall be entitled to recover arrears of rent upto July 31st, 2011 amount to Rs.46,49,808/- and shall further be entitled to recover rent at the rate of Rs.1,81,244/- per month for the period beyond July 31st , 2011 till the date the Respondent is actually evicted from the premises;

(c) the Claimants shall be entitled to recover arrears of operation/maintenance charges amounting to Rs.6,95,484/- from the Respondent;

(d) the Claimants shall be entitled to costs of the present proceedings amounting to Rs.1,47,000/- plus the cost of stamp duty payable on the present award;

(e) the Claimants shall be entitled to interest on the above sums awarded at the rate of 9 per cent per annum from the date of commencement of the present proceedings, that is, May 19th, 2011 till the date of payment/realisation of the amounts awarded. The Respondent shall pay the amount due under this award along with interest at the rate of 9 per cent per annum within ninety days from the date on which a signed copy of the award is served on him, failing which the Respondent shall be liable to pay interest at the rate of 18 per cent per annum on the amounts awarded from the date of expiry of the above said period of ninety days till date of payment/realization of the amounts awarded.

Before parting with the award it is pointed out that the Claimants were not asked to furnish E-stamp of the requisite value for the purpose of rendering the award as such an intimation would have made the Claimants aware of the outcome of the proceedings before the formal pronouncement of the award. Keeping this mind, the award is engrossed on a non-judicial stamp paper of Rs.100/- secured by this arbitral tribunal. The deficiency in the stamp duty shall be made good by the Claimants by producing E-stamp of the requisite value within 30 days from today.

This award has been made and pronounced in *the presence of the learned Counsel for the Claimants this 13th day of January, 2012. A signed copy of the award will be sent to the parties by speed post on the Claimants making good the deficiency in stamp duty.”*

2. The background of the present case is that the Petitioners had entered into a lease deed with the predecessors of the Respondents, M/s Galleria, for leasing shop no.116, First Floor, DT City Centre, Shalimar Bagh, Delhi vide agreement dated 17th April, 2006. The monthly rent payable by the Petitioners to M/s Galleria was Rs.2.59 lakhs. The initial lease period was three years. The lease deed was itself an unregistered document. On 29th February, 2008, M/s Galleria entered into an agreement to sell with the Respondents in respect of the premises. Vide letter dated 29th February, 2008, M/s Galleria informed the Petitioners that all their leasehold rights and obligations under the agreement dated 17th April, 2008 stood attorned to the Respondents and the Respondents would stand effectively substituted as the Lessor.

3. Disputes had arisen between the parties in view of the notice which was given by the Respondent dated 30th September, 2010. In the reply to this notice dated 16th October, 2010, the Petitioners had expressed their intention not to retain the shop, however, this is disputed by the Respondents. The disputes were referred to the Learned Sole Arbitrator who has awarded the rental amounts for the entire period during which the Petitioners retained possession of the shop.

4. The award grants rental amount for the period up to 31st July, 2011. Admittedly, as is evident from the Local Commissioner’s report, which is filed in the present case, the final physical possession was handed over to

the Respondents only on 2nd June, 2012.

5. Arguments were heard on the challenge to the award yesterday. The parties had wanted to consider settlement proposals at the end of the hearing. Today, they submit that they have agreed to settle the disputes on the following terms and conditions:

i) The Petitioners agree and undertake to pay to the Respondents a sum of Rs.40 lakhs on or before 31st March, 2019. The same shall be paid in four instalments of Rs.10 lakhs each. The schedule for payments is as follows:

- Rs.10 lakhs on or before 15th November, 2018;
- Rs.10 lakhs on or before 1st January, 2019;
- Rs.10 lakhs on or before 15th February, 2019; and
- Rs.10 lakhs on or before 31st March, 2019.

ii) The entire amount shall be paid on or before 31st March, 2019. The Petitioners shall hand over post-dated cheques for the above mentioned amounts on or before 22nd October, 2018.

iii) Upon receipt of the said payment and the cheques being honoured, no further claims would exist in respect of the lease dated 17th April, 2006.

iv) The payment of Rs.40 lakhs shall be in full and final settlement of all the disputes between the parties. Upon the payment of the said amount, the award shall also stand completely satisfied and no further claims would be outstanding.

6. The Petition is disposed of as settled in the above terms. All parties shall be bound by their undertakings and statements given. Ld. Counsels for the Petitioners and Respondents shall file affidavits of their respective clients that they would abide by the undertakings/terms given above, on or before 22nd October, 2018.

7. List on 22nd October, 2018 for compliance and for filing of the affidavits and for handing over the cheques.

8. In case any of the cheques are dishonoured, or the payment is not made by 31st March, 2019, the award dated 13th January 2012, shall be executable.

9. The payments shall be handed over by the Petitioner to Mrs. Gulraj Kaur, the constituted attorney of the Respondents.

10. Order *Dasti*.

PRATHIBA M. SINGH, J.

OCTOBER 05, 2018

Rahul