

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

+ **OMP (COMM) 447/2017**

*Reserved on: 18<sup>th</sup> December, 2017,  
Date of decision: 22<sup>nd</sup> January, 2018*

M L LAKHANPAL

.....Petitioner

Through: Mr.Mohit Madan, Adv. along  
with petitioner in person.

Versus

DARSHAN LAL & ANR.

..... Respondents

Through: None

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

1. This petition under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner challenging the Arbitral Award dated 16.08.2017 passed by the Sole Arbitrator, dismissing the counter claim filed by the respondent, however, not awarding any cost of the arbitration proceedings in favour of the petitioner. The challenge of the petitioner is to the non-award of the cost as also to the rejection of the Sole Arbitrator to allow the petitioner to file his Statement of Claim as also rejecting his application seeking extension of time to file such Statement of Claim.

2. The disputes between the parties are in relation to the Collaboration Agreement dated 06.08.2010 executed by the petitioner and his brother, Shri. Ravinder Kumar Sharma (who was not a party in the arbitration proceedings) on the one side, being the owner of property bearing No. E-386, Greater Kailash-I, New Delhi (herein referred to as

the 'Property') and the respondents who were the developers of the said property.

3. The Collaboration Agreement was modified to a certain extent by way of a Memorandum of Understanding dated 05.10.2011. It was further modified by way of an Addendum Agreement dated 20.05.2012.

4. In terms of the above documents, the petitioner was entitled to get the ground floor / upper ground floor, his brother, Mr. Ravinder Kumar Sharma was to get the First Floor with stilt having two servant rooms with common toilet and a car parking, while the respondent was to get the basement and the second floor and one Ms. Kinshuk Malhotra was to get third floor with terrace alongwith car parking, in whose favour the petitioner and his brother had executed the agreement to sell dated 20.05.2012.

5. The petitioner alleging that the building was not fully completed, however, still the respondent had allowed third parties to enter into the possession of the basement, second and third floor, filed a civil suit being CS (OS) 805/2015 titled ML Lakhani Pal Vs. Kinshuk Malhotra & Ors. inter alia, praying for cancellation / declaration, possession and permanent injunction against the defendants therein. In the suit, Ms. Kinshuk Malhotra filed a counter claim being CC No. 73/2015 claiming specific performance of the agreement to sell dated 20.05.2012.

6. The petitioner also filed OMP (I) 208/2015 under Section 9 of the Act seeking certain interim relief qua the ground floor of the said property.

7. It is alleged that a civil suit being CS (OS) No. 1565/2015 was also filed by one Mr.Vineet Gupta seeking declaration and specific performance qua the second floor of the said property.

8. On 26.05.2015 the following order was passed in OMP (I) 208/2015:

*“1. It has been agreed between the parties that the Respondents, will without prejudice to their rights and contentions, pay the Petitioner a sum of Rs. 5 Lakhs by way of a demand draft within a period of four weeks from today. Within the same period in a mutually acceptable time schedule both parties will simultaneously take the following steps:*

*(a) The Petitioner will execute sale deeds in respect of the basement, second floor and the third floor of the property at E-386, Greater Kailash-I, New Delhi in favour of the nominees of the Respondents.*

*(b) The Respondents shall hand over vacant and peaceful possession of the ground floor of the aforementioned property to the Petitioner.*

*2. Learned counsel for the Respondents states that the sale deeds are already ready and they simply have to be signed by the Petitioner at the Office of the Sub-Registrar concerned. It is made clear that simultaneous with the Petitioner signing the sale deeds in the Office of the Sub-Registrar, the keys for the ground floor of the aforementioned property will be handed over to the Petitioner. Further, by or at the time of execution of the sale deeds the demand draft for the aforementioned sum of Rs. 5 lakhs shall be handed over by the Respondents to the Petitioner.*

*3. The above orders are without prejudice to the rights and contentions of either party in the arbitration proceedings. After the above steps are completed, it will be open to the Respondents to file an application in the pending suit being CS (OS) No. 805/2015 for appropriate directions.*

*4. With the consent of the parties, the Court appoints Mr. Ram Murti Bajpai, a former Additional District & Sessions Judge, Uttarakhand, residing at D-95, Flat No.2, Green Apartment, Paryavaran Complex, IGNOU Road, South of Saket, New Delhi-*

*110030 (Mob. No. 9654312693) as Sole Arbitrator to adjudicate the disputes between the parties including their claims and counter-claims. The Arbitrator shall fix his own terms and communicate them to the parties. The parties will appear before the learned Arbitrator on 14<sup>th</sup> July, 2015 at 4 pm or such other date and time not later than ten days thereafter which he may fix and communicate to them at least three days in advance.*

*5. The petition is disposed of in the above terms. A copy of this order be delivered to the learned Arbitrator forthwith.*

*6. Order dasti to the parties.”*

9. It is to be noted that the above order was an order passed with consent of the parties. It is also relevant to note here that as per the petitioner, his brother had already settled the disputes with the respondents and had executed sale deeds dated 30.01.2015 in respect of his 50% share in the basement, second floor and third floor of the property.

10. The petitioner thereafter filed an application being IA No. 12363/2015 seeking modification of the order dated 26.05.2015 of this court in OMP (I) No. 208/2015. It was prayed that the order be modified to the extent that the petitioner should be directed to execute the sale deed only in respect of basement of the property and not with respect to the second or third floor. This application was dismissed by this Court vide its order dated 28.09.2015.

11. In the meantime, the petitioner did not appear before the Sole Arbitrator on 24.07.2015 and 26.08.2015.

12. On 26.08.2015, the plea of the respondents that the right of the petitioner to file the Statement of Claim be closed due to his absence, was rejected by the Sole Arbitrator and four weeks' time was granted to the

petitioner to file the Statement of Claim. The next date of hearing was fixed as 30.09.2015.

13. This Court, while dismissing the application I.A. No.12363/2015 filed by the petitioner seeking modification of the order dated 26.05.2015, again directed the petitioner to appear before the Arbitrator on 30.09.2015. The relevant portion of the order dated 28.09.2015 is reproduced herein below:-

*“5. The Court has been informed by the counsel for the respondents that despite the fact that the Arbitrator has been calling upon the parties the parties to appear before him, the petitioner has been absenting himself. Counsel for the respondents hand over the copy of the order dated 26.08.2015, passed by the learned Arbitrator wherein, it has been recorded that despite notice, none has appeared for the claimant. The next date fixed before the learned Arbitrator is 30.09.2015. The petitioner is directed to ensure that he appears before the Arbitrator on the aforesaid date and participates in the arbitration proceedings.”*

14. The petitioner submits that on 29.09.2015 the petitioner sent a SMS to the Arbitrator expressing his inability to attend the hearing on 30.09.2015. The Arbitrator through his return SMS called upon the petitioner to send a written application through his representative or by mail with reasons for his absence.

15. In spite of order of this Court as also the SMS communication by the Arbitrator, the petitioner chose not to appear before the Sole Arbitrator on 30.09.2015 or send an application seeking exemption from appearance and giving reasons thereof to the Arbitrator. The Arbitrator, therefore, vide his order dated 30.09.2015 closed the right of the

petitioner to file the Statement of Claim. The relevant portion of the order is reproduced herein below:-

*“In the context Ld. Counsel for the respondent has submitted that the claimant appeared in person on 28<sup>th</sup> Sept. 2015 before Delhi High Court and he was hale and hearty. Today he has not filed any adjournment application along with medical certificate. Otherwise also the Claimants’ presence is not necessary. It was for him to have sent his advocate or representative along with the Statement of Claim. It was obligatory for the claimant to have filed the statement of claim which he could have sent by post also with a copy to the counsel for respondent. None of the obligations have been fulfilled by the claimant so far, in order to facilitate the hearing of arbitration. Therefore, the recourse to provisions under the Arbitration and Conciliation Act, 19936 as envisaged in Sec. 23 read with Sec. 25(a) should be adopted and the opportunity for filing statement of claim by the claimant should be closed. The respondent wants to file his counter claim in terms of the liberty given by order dated 26.05.2015 passed by the Hon’ble Delhi High Court.*

*I have considered the submissions made on behalf of the respondent. Since the claimant has consistently failed to perform his part of the duty in the progress of hearing of this arbitration therefore I have no just reason to disagree with the submissions made on behalf of respondent. Waited up to 12.05 pm. In the result therefore the opportunity for filing statement of claim by the claimant is hereby closed.”*

16. The petitioner, it seems had sent an application seeking adjournment of the hearing on 30.09.2015. The application was sent through post knowing fully well that the same would not be received by the Arbitrator at the time of hearing.

17. The petitioner thereafter filed an application before the Sole Arbitrator seeking recall of order dated 30.09.2015.

18. The Sole Arbitrator vide his order dated 04.11.2015 allowed the above application while imposing the cost of Rs. 33,000/- on the petitioner.

19. The petitioner, thereafter filed yet another application, this time seeking waiver of the cost imposed by the Arbitrator. In the application it was asserted that the Statement of Claim could not be filed as the possession of the ground floor was yet to be handed over to the petitioner and in absence thereof, the petitioner could not estimate the expenses that may be incurred to complete the said floor in all respect.

20. The Arbitrator vide his order dated 26.11.2015 dismissed the said application and closed the right of the petitioner to file the Statement of Claim holding that the inability expressed by the petitioner for not filing the claim petition was not genuine.

21. The petitioner also challenged the order of this Court dated 28.09.2015 dismissing his application seeking modification of the order dated 26.05.2015 by way of an appeal being FAO (OS) No. 654/2017, which was disposed off by the Division Bench of this Court vide its order dated 07.12.2015 giving direction to the petitioner to execute the sale deeds for basement, second and third floor and to the respondents to hand over the possession of the ground floor to the appellant.

22. Placing reliance on the above order passed by the Division Bench, the petitioner moved yet another application before the Sole Arbitrator seeking recall of the order dated 26.11.2015 and for grant of further time to file the Statement of Claim.

23. The parties thereafter, complied with the directions as contained in the order dated 07.12.2015 passed by the Division Bench of this Court

and before the Arbitrator they submitted that they are in process of arriving at a settlement and for this purpose repeated adjournments were taken.

24. Finally vide order dated 01.07.2016 the Arbitrator dismissed the application of the petitioner seeking recall of the order dated 26.11.2015 and proceeded to framing issues confined to the counter claim raised by the respondents.

25. The petitioner claims that he filed a petition under Article 227 of the Constitution of India challenging the orders dated 01.07.2016 and 26.11.2015 passed by the Sole Arbitrator. The petitioner stated that the same was, however, not listed before Court due to an objection raised by the registry of this Court regarding its maintainability.

26. The petitioner then filed an application being CM No. 34876/2016 in FAO (OS) No. 654/2015. The said application was dismissed as withdrawn vide order dated 25.11.2016 recording the statement of the petitioner that he would be filing an application before the Arbitral Tribunal. The relevant portion of the order is reproduced herein below:-

**“CM 34876/2016 in FAO(OS) 654/2015**

*The learned counsel for the appellant states that he shall be filing an application before the Arbitral Tribunal and therefore wished to withdraw this application.*

*The application is dismissed as withdrawn.”*

27. Admittedly, no application was filed by the petitioner before the Arbitral Tribunal seeking recall of its order(s) closing the right of the petitioner to file the Statement of Claim and / or dismissing his application seeking recall of the said order. On the other hand, the

petitioner continued to participate in the Arbitral proceedings resulting in the impugned Award.

28. As noted above, the challenge of the petitioner to the impugned Award is on two aspects:-

- (i) Closure of the right of the petitioner to file the Statement of Claim;
- (ii) Non-grant of cost of proceedings, in spite of rejection of the counter claim filed by the respondent.

29. It is contended by the counsel for the petitioner that the Arbitrator had erred in closing the right of the petitioner to file the Statement of Claim even before the possession of the ground floor was handed over to the petitioner. It is submitted that possession of the ground floor was a pre-requisite for filing of a proper Statement of Claim as only after receiving the possession of the ground floor, that the petitioner could have ascertained the final amount of damages to be claimed in the Statement of Claim. It is further submitted that the petitioner did not file an application before the Arbitrator seeking recall of its orders, in spite of making such submission before the High Court while withdrawing his application in FAO (OS) 654/2015, as the Arbitrator had already rejected a similar application vide order dated 01.07.2016.

30. I find no merit in the above contention of the learned counsel for the petitioner. As far as the first aspect of the submission is concerned, it is to be noted that the order dated 26.05.2015 appointing the Sole Arbitrator had been passed with the consent of the parties. The petitioner, thereafter, did not appear before the Arbitrator for three dates, in spite of the direction of this Court in its order dated 28.09.2015 while dismissing petitioner's application seeking modification of the order dated

26.05.2015. The Arbitrator, still granted further time to the petitioner to file the Statement of Claim albeit subject to payment of cost vide his order dated 04.11.2015. The petitioner, however, again failed to file the Statement of Claim resulting in closure of his right to file his Statement of Claim vide order dated 26.11.2015. It , therefore, seems that more than adequate opportunity was granted by the Sole Arbitrator to the petitioner to file the Statement of Claim.

31. The plea of the petitioner that the Statement of Claim could not be filed by the petitioner in absence of possession of the ground floor cannot be a justified excuse for not filing the Statement of Claim in as much as the claim of the petitioner was also with respect to the delay in construction. The petitioner could also have reserved his right to modify the Statement of Claim after assessing damages on receipt of possession of the ground floor. However, instead of doing any of the above, he chose not to appear before the Arbitrator and not file the Statement of Claim at all, in spite of opportunities being given. It is also noted that in the application seeking recall of order dated 30.09.2015 passed by the Arbitrator, it was not pleaded that in absence of possession of the ground floor, the petitioner would, in any manner, be incapacitated to file the Statement of Claim. It is only in the application seeking recall of order dated 04.11.2015 that the respondent, while pleading for waiver of cost and grant for further time to file Statement of Claim, raised the issue of non grant of possession of the ground floor as a justification for non filing of the Statement of Claim. As noted above, the Arbitrator dismissed the said application vide his order dated 26.11.2015.

32. The petitioner also did not file any application before this Court in OMP(I) No. 208/2015 or in FAO (OS) No. 654/2015 claiming that further time be granted to the petitioner for filing of the Statement of Claim as possession of the ground floor had not been handed over to him. The petitioner, on the other hand, chose to file the petition under Article 227 of the Constitution of India challenging the order of the Sole Arbitrator closing his right to file the Statement of Claim. This petition was clearly not maintainable in view of the judgment of this Court in *Awasthi Construction Company vs. Government of NCT of Delhi 2013* (1) Arb LR 70 (Delhi) (DB).

33. The petitioner also filed an application, being CM No. 34876/2016 in FAO (OS) 654/2015, however, withdrew the same wishing to file a proper application before the Arbitral Tribunal. Admittedly no application thereafter was filed before the Arbitral Tribunal seeking permission to file the Statement of Claim.

34. In view of the above no infirmity can be found in the orders passed by the Sole Arbitrator, first closing the right of the petitioner to file the Statement of Claim and thereafter dismissing his application seeking recall of such order.

35. The present petition, so far so it challenges the orders closing the right of the petitioner to file Statement of Claim and dismissing the application seeking recall of the said order, even otherwise, is not maintainable.

36. Section 25 of the Act provides for termination of the Arbitral Proceedings upon failure of the claimant to file the Statement of Claim in

accordance with sub-Section (1) of Section 23 of the Act. Section 23(1) and Section 25(a) of the Act are reproduced herein under:-

*“23. Statements of claim and defence.—(1) Within the period of time agreed upon by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defence in respect of these particulars, unless the parties have otherwise agreed as to the required elements of those statements.*

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*25. Default of a party.—Unless otherwise agreed by the parties, where, without showing sufficient cause,— (a) the claimant fails to communicate his statement of claim in accordance with sub-section (1) of section 23, the arbitral tribunal shall terminate the proceedings.”*

37. Section 32 of the Act also provides for the termination of the Arbitral Proceedings by the final Arbitral Award or by an order of the Arbitral Tribunal under sub-Section 2 of the Section 32 of the Act. The same is reproduced herein below:-

*“32. Termination of proceedings.—(1) The arbitral proceedings shall be terminated by the final arbitral award or by an order of the arbitral tribunal under sub-section (2).*

*(2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings where—*

- (a) the claimant withdraws his claim, unless the respondent objects to the order and the arbitral tribunal recognises a legitimate interest on his part in obtaining a final settlement of the dispute,*
- (b) the parties agree on the termination of the proceedings, or*

*(c) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.*

*(3) Subject to section 33 and sub-section (4) of section 34, the mandate of the arbitral tribunal shall terminate with the termination of the arbitral proceedings.”*

38. This Court in **Awasthi Construction Company** (Supra), while holding that the petition under Article 226 or 227 of the Constitution of India would not be maintainable challenging the order of termination of proceedings under Section 25(a) of the Act, held that such an order would fall within the meaning of ‘Arbitral Award’ as defined under Section 2(1)(c) of the Act and remedy against the same would be available under Section 34 of the Act. Paragraph 19 and 20 of the said judgment are quoted herein below:-

*“19. Before parting with the said line of reasoning, the consequences of the arbitral tribunal entertaining such procedural review may also be discussed. If the arbitral tribunal finds sufficient cause and restores the arbitral proceedings, the challenge to such order of restoration would lie along with challenge to the award itself if against such aggrieved party. However, if the arbitral tribunal does not accept as sufficient, the cause furnished for default, the arbitral tribunal would necessarily give reasons therefor within the meaning of Section 31 and such order of the arbitral tribunal would definitely constitute an award remedy whereagainst would be available under Section 34 of the Act. The definition in Section 2(1)(c) of the Act of an “arbitral award” is an inclusive one, i.e. of the same including an interim award; else an arbitration award is not defined. However, sub-Section (1) of Section 32 provides for termination of arbitral proceedings either by an arbitral award or by an order of the arbitral tribunal under sub-section (2) of Section 32. An order of dismissal of an application for review/recall of an order under Section 25(a) does not fall under any of the clauses in sub-section*

(2) of Section 32. The same thus has to necessarily fall within the meaning of award.

20. We are further of the view that the proceedings under the Arbitration Act cannot at all times be viewed through the prism of CPC. The Act equates the award to a 'decree' only for the purposes of the enforcement thereof under Section 36 and our concepts and terminology of a suit cannot otherwise be applied to arbitration proceedings. The Supreme Court in *Paramjeet Singh Patheja vs. ICDS Ltd.*, (2006) 13 SCC 322=2006 SCACTC 565 (SC)=2006(4)/ Arb. LR 202 (SC) held that the legal fiction of equating the award to a decree is for the limited purpose of enforcement and not intended to make an award a decree for all purposes. Ordinarily, even the default termination order under Section 25(a) would be an award, with the remedy however available to the party of approaching the arbitral tribunal with sufficient cause for setting aside of the default termination order. We may in this regard notice that Section 34 allows an arbitral award to be set aside when a party was under some incapacity or when proper notice of the arbitral proceedings was not served or when the party was otherwise unable to present his case. The said grounds for setting aside would be invoked only if orders as under Section 25(a) were to be an award and there would have been no occasion for the legislature to provide such grounds under Section 34 if default orders were not to be an award. The same also follows from sub-section (4) of Section 34 whereunder, upon challenge under Section 34 being made to such termination, the court has been empowered to relegate the parties to the arbitral tribunal. We see no reason to not hold an order under Section 25(a) to be an award merely because the remedy of appeal against orders of termination under such Section 16(2) and (3) has been provided. Further, the order under-section 25(a), stating default on the part of the party, would satisfy the requirement of the award to contain reasons. Moreover, merely because the arbitral tribunal fails to give any reasons cannot be a ground for making its orders unassailable under Section 34."

39. The above said judgment was also followed by this Court in ***ATV Projects India Ltd. vs. Indian Oil Corporation Ltd. & Anr.*** 200 (2013) DLT 553 (DB) and as far as the issue of the power of the Arbitral Tribunal to recall its order terminating the arbitral proceedings due to non filing of Statement of Claim within time, by the Supreme Court in **SREI Infrastructure Finance Limited vs. Truff Drilling Private Limited (2017) SCC online SC 1210.**

40. In the case of **Lalit Kumar V. Sanghvi vs. Dharamdas V. Sanghvi (2014) 7 SCC 255,** Supreme Court held that an order passed by the Arbitral Tribunal terminating the proceedings on the ground that the claimant took no interest in the matter, would be an order falling within the scope of Section 32(2)(c) and the remedy there against would be under Section 14(2) of the Act. The relevant paragraphs of the said judgment are quoted herein below:-

*“10.3. Section 14 declares that “the mandate of an arbitrator shall terminate” in the circumstances specified therein. They are—*

*“14. Failure or impossibility to act.—(1) The mandate of an arbitrator shall terminate if—*

*(a) he becomes de jure or de facto unable to perform his functions or for other reasons fails to act without undue delay; and*

*(b) he withdraws from his office or the parties agree to the termination of his mandate.*

*(2) If a controversy remains concerning any of the grounds referred to in clause (a) of sub-section (1), a party may, unless otherwise agreed by the parties, apply to the court to decide on the termination of the mandate.”*

*Section 14(2) provides that if there is any controversy regarding the termination of the mandate of the arbitrator on any of the grounds referred to in clause (a) then an application may be made to the Court — “to decide on the termination of the mandate”.*

11. Section 32 of the Act on the other hand deals with the termination of arbitral proceedings. From the language of Section 32, it can be seen that arbitral proceedings get terminated either in the making of the final arbitral award or by an order of the Arbitral Tribunal under sub-section (2), sub-section (2) provides that the Arbitral Tribunal shall issue an order for the termination of the arbitral proceedings in the three contingencies mentioned in clauses (a) to (c) thereof.

12. On the facts of the present case, the applicability of clauses (a) and (b) of Section 32(2) is clearly ruled out and we are of the opinion that the order dated 29.10.2007 by which the Tribunal terminated the arbitral proceedings could only fall within the scope of Section 32, sub-section (2), clause (c) i.e. the continuation of the proceedings has become impossible. By virtue of Section 32(3), on the termination of the arbitral proceedings, the mandate of the Arbitral Tribunal also comes to an end. Having regard to the scheme of the Act and more particularly on a cumulative reading of Section 32 and Section 14, the question whether the mandate of the arbitrator stood legally terminated or not can be examined by the Court as provided under Section 14(2).”

41. Therefore, the order passed by the Sole Arbitrator closing the right of the petitioner to file the Statement of Claim and rejecting his application seeking recall of the said order could either be challenged under Section 34 of the Act or under Section 14(2) of the Act. A challenge under Section 34 of the Act can be filed only within three months from the date on which the party making that application has received the Arbitral Award. Therefore, in the present case, the same should have been filed within three months of receipt of the order dated 01.07.2016 which rejected the application of the petitioner seeking recall of the order closing his right to file the Statement of Claim. The present petition, if considered as a petition challenging the said order dated

01.07.2016, would clearly be barred by Section 34(3) of the Act and is liable to be dismissed.

42. The petitioner also did not file any application under Section 14(2) of the Act challenging the order dated 01.07.2016 of the Sole Arbitrator. The said order, therefore, has become final and cannot be challenged in the present petition which impugns the final award dated 16.08.2017 passed by the Sole Arbitrator on the Counter Claim filed by the respondent.

43. The only other ground of challenge to the impugned award is to the non grant of the cost of the Arbitral proceedings to the petitioner. It is submitted by the learned counsel for the petitioner that having found that the delay in construction was attributable to the respondents and that the respondents were the defaulters, the Sole Arbitrator should have awarded the cost of the proceedings with respect to the Counter Claim in favour of the petitioner.

44. In my opinion, this was the case where both the parties had failed to prosecute their respective case with diligence. Certain claims of the respondents were also rejected by the Sole Arbitrator on the ground of lack of evidence in support thereof. The Arbitrator, therefore, in his discretion thought it fit to order parties to bear cost of Arbitration equally. Section 31(8) of the Act confers discretion on the Arbitral Tribunal to fix the cost, including specifying in the award who is entitled to cost and who shall pay the cost. The Arbitral Tribunal, in its discretion having found that both the parties have to bear the cost equally, this Court in exercise of its power under Section 34 of the Act does not find anything unreasonable so as to interfere in the Award.

45. The present petition is, therefore, dismissed with no order as to cost.

**NAVIN CHAWLA, J**

**JANUARY 22, 2018/rv**

