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

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Date of decision: 04.03.2020

+ **ARB. A. (COMM.) 12/2020**

SONA CORPORATION INDIA PVT.LTD.Appellant

Through: **Ms. Maneesha Dhir, Mr.
Karan Batura & Ms. Mallika
Chadha, Advocates**

versus

INGRAM MICRO INDIA PVT.LTD. & ANR.

..... Respondents

Through: **Mr. Sudhir Kumar & Mr.
Sumit Gaur, Advocates**

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JYOTI SINGH, J. (ORAL)

I.A. 3048 & 3049/2020

Exemptions allowed, subject to all just exceptions.

Applications stand disposed of.

ARB. A. (COMM.) 12/2020 & I.A. 3047/2020

1. The present appeal has been filed impugning the order dated 27.02.2020 passed by the Sole Arbitrator.

2. Ms. Dhir, learned counsel for the appellant submits that the Arbitrator has erred in not granting further time to the appellant

herein for producing documents in support of the valuation of the property sought to be offered as security in aid of Arbitration. She submits that there is a Government Notification dated 16.05.2017 issued by Government of NCT of Delhi which has changed the status of the said property from “agricultural land” to “urban area / urbanised area”. She further submits that the Arbitrator has failed to take into consideration that in furtherance of the said Notification, the Ministry of Housing and Urban Affairs (Delhi Division) has issued a Notification dated 11.10.2018, pursuant to which the property being offered now comes under Land Pooling Policy, under “R-Zone”, that is, Residential Zone Category / Entitlement.

3. She also relies on a judgment of a Division Bench of this Court in the case of ***L.G. Electronics India (P) Ltd. vs. Dinesh Kalra 2018 LawSuit(Del) 2067***, and contends that the Division Bench has clearly held that the circle rate is not a conclusive evidence for valuation of a property. Relevant paras read as under:

“Thus, the circle rate is not a conclusive evidence at all for the valuation. The Circle rate is giving only a guidance to the Collector for determination of the value under Section 47A of the Act, 1899. If the Collector has to mechanically adopt circle rate and multiply it with area of the plot, for determination of value of the property, perhaps Section 47-A(2) would not be needed at all.

6. *Counsel for the respondent (original petitioner) has also relied upon several decisions. As the matter is being*

*remanded by the learned Single Judge and as we are dismissing this appeal, without going into the details of the judgments, **but**, suffice it to say that the circle rates are not the only factors to be kept in mind by the Collector. The circle rate can be one of the factors to be kept in mind by the Collector for determination of the value under Section 47A of the Indian Stamp Act, 1899, especially, when the person who has approached for registration of the sale deed is disputing the valuation pointed out by the registering authority. In such an eventuality, detailed procedure ought to have been followed by the Collector as per Section 47-A(2) of the Act, 1899 keeping in mind the aforesaid aspects of the matter as well as the principles propounded by the Hon'ble Supreme Court, for determination of the value of the property. The mechanical approach of the Collector only to follow the circle rate is hereby deprecated.*”

4. Ms. Dhir further submits that had the Arbitrator given them some more time, the relevant documents could have been produced before the Arbitrator and the appellant may have been successful in satisfying that the property was correctly valued. She also submits that since the Valuation report was by a Government Valuer, the impression of the appellant was that the Arbitrator would not doubt or dispute the valuation.

5. Learned counsel for the respondent, who appears on advance copy, however, submits that all the documents which are now being sought to be relied upon are of the period prior to the passing of the order and therefore, there was nothing that prevented the appellant from filing these documents along with the application. Having

chosen not to file those documents, the appellant cannot be allowed to improve its case in an appeal. He further submits that there is no illegality in the impugned order, as the Arbitrator was required to decide the matter only on the basis of the documents, that were placed before him.

6. Counsel for the respondent further argues that the appellant is repeatedly filing appeals and applications only to evade compliance with the order of the Arbitrator directing the appellant to secure the respondents during the Arbitration Proceedings. Once this Court has dismissed the earlier appeal being Arb. A. COMM. 4/2019, the same issue cannot be reagitated in the present appeal.

7. Having heard learned counsels for the parties, I am of the opinion that the contention of the respondent is legally justified.

8. The Arbitrator in the impugned Award has given a reasoning to decline the prayer of the appellant herein and the relevant para reads as under:

“I have gone through the documents filed with the application. The value of the property which is sought to be offered as surety is shown to be Rs.15,60,00,000/- on the basis of a valuation report of a Government approved valuer. A perusal of the documents shows that the property was purchased by Ms. Sita Gupta in 1992 for Rs.1,78,000/-. The circle rate of land as per the valuation report is Rs.53,00,000/- per acre. The total land is 3.12 acres and thus the total value of land as per the circle rate comes to Rs.1,65,36,000/-. The valuer has however assessed the rate of land at Rs.5 crores per acre after

the considering the characteristics of the subject plot. The report does not show that the valuation arrived at by the valuer is based on any cogent evidence like recent sales of neighbouring properties.”

9. Reading of the impugned Order clearly shows that the Arbitrator has proceeded on the basis of the documents that were filed before it. The Notification and the judgment that are sought to be relied upon by the appellant in the present appeal were admittedly not produced before the Arbitrator either along with the application or during the hearing of the application. The appellant cannot be permitted to rely on the said documents for the first time in the present appeal in order to argue that the impugned Order suffers from an error. The respondent is right in its contention that the documents now sought to be relied upon were in existence before the application was filed by the appellant and the appellant should have been cautious and diligent enough to file the said documents along with the application. In his wisdom, the Arbitrator has gone by the Valuation Report placed before it and formed an opinion that the valuation of the property is not enough to secure the amount in aid of the arbitration proceedings. I find no infirmity in the impugned order.

10. The appeal, along with the accompanying application, is dismissed.

11. At this stage, learned counsel for the appellant seeks liberty to approach the Arbitrator to bring to his notice the relevant documents

being relied upon in the Court, so that proper valuation of the property, sought to be offered as security, can be carried out. The appellant is at liberty to resort to whatever appropriate remedies that may be available to the appellant in accordance with law.

12. *Dasti.*

MARCH 04, 2020
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JYOTI SINGH, J

