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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6003/2016**
EAST DELHI MUNICIPAL CORPORATION Petitioner
Through **Mr.Kumar Rajesh Singh, S.C.**
versus
LEKH RAM Respondent
Through **Ms.Meghna De, Adv.**

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **17.01.2020**

1. The present writ petition filed by the East Delhi Municipal Corporation seeks to assail the recovery certificate dated 02.05.2016 issued by the Deputy Labour Commissioner, East District, Delhi. Under the impugned recovery certificate, the petitioner has been directed to release a sum of Rs.30,260/- to the respondent towards conveyance allowance for the period between 01.01.2013 to 30.10.2015, in accordance with award dated 08.03.2011 passed by the Labour Court in I.D.No.12/2007.

2. Learned counsel for the petitioner while not disputing the calculations based on which the impugned recovery certificate has been issued submits that the respondent, as per his terms of employment, was not entitled to any conveyance allowance, which fact the Labour Court failed to appreciate while passing the award and, therefore, it was incumbent upon the Deputy Labour Commissioner to examine, as to whether, the respondent was, in fact, entitled to any conveyance allowance. He, therefore, prays that the impugned recovery certificate, which allows the claims of the

respondent, which are beyond the terms of his employment be set aside.

3. On the other hand, learned counsel for the respondent while supporting the impugned order submits that once the award based on which the recovery certificate has been issued, had attained finality, the petitioner is estopped from assailing the recovery certificate. She, therefore, prays that the writ petition be dismissed.

4. Having heard learned counsel for the parties and perused the record with their assistance, I find absolutely no merit in the petition. All the grounds urged in the writ petition pertain to the merits of the award dated 08.03.2011, which has admittedly attained finality. The recovery proceedings before the Deputy Labour Commissioner were merely seeking execution of the award and, therefore, in the light of the settled legal position that the Executing Court cannot go behind the decree or modify the same, it was not open for the Deputy Labour Commissioner to either go beyond the award or to once again examine the merits of the respondent's claim, which already stood adjudicated by the Labour Court.

5. The writ petition must, therefore, fail and is, accordingly, dismissed.

6. At this stage, learned counsel for the parties submit that in terms of this Court's order dated 18.07.2016, the petitioner had deposited the entire awarded amount of Rs.30,260/- with the Registrar General of this Court, whereafter vide order dated 06.01.2017 the respondent was permitted to withdraw 50% of the said amount. Learned counsel for the respondent, therefore, prays that the

remaining amount alongwith upto date accrued interest be also released in favour of the respondent.

7. In view of the writ petition being dismissed, the Registry is directed to forthwith release the balance amount in favour of the respondent alongwith upto date accrued interest thereon.

REKHA PALLI, J

JANUARY 17, 2020/sr