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

Date of Decision: 02nd December, 2024

\+ W.P.(C) 4530/2022

M/S. KAVITA ENTERPRISES .....Petitioner

Through: Mr. Natwar Rai, Advocate with Ms. Aliya Parveen, Advocate.

versus

AIRPORT AUTHORITY OF INDIA .....Respondent

Through: Ms. Anjana Gosain, Advocate with Ms. Nippun Sharma and Mr. Devesh Khanagwal, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. Through the present petition, the Petitioner seeks the return of Fixed Deposit Receipts[1] and Earnest Money Deposits[2] dating back to the years 1993 to 1996 for work executed by the Petitioner at the Regional Headquarters, Operational Office located at Rangpuri, Gurgaon Road, New Delhi.

2. The Petitioner contends that sixteen FDRs, detailed in Annexure P-2 of the petition, have been deposited and are still being withheld by the Respondent under various contracts. Having successfully completed the

[1] "FDRs"
[2] "EMDs"

contractual work, the Petitioner assert their right to the return of these FDRs and EMDs. It is further alleged that during multiple personal meetings, Respondent consistently agreed to return the FDRs upon completion of formalities on their part, however, these assurances have not been fulfilled. Additionally, the Petitioner submits that they have executed other contracts for the Respondent, for which no action has been initiated. Under these circumstances, the Petitioner seeks a writ of *mandamus* directing the Respondent to release the FDRs as specified in Annexure P-2.

3. The Respondent in their counter affidavit vehemently opposes the relief sought by the Petitioner. First and foremost, they argue that the claims are time-barred and that the petition is grossly impeded by delay and laches, as it pertains to FDRs furnished between 1993 and 1996. The Respondent asserts that the claims lack corresponding details of the contracts under which these FDRs were allegedly submitted and cannot be examined in the absence of documentation and for this purpose, multiple letters were issued by the Respondent for details of the said FDRs and EMDs which have not been provided by the Petitioner. Further, on 2nd May, 2006, the management and operation of Indira Gandhi International Airport[3] was transferred to GMR Group resulting in shifting of many records and therefore, the Respondent has limited documents pertaining to the Petitioner and they cannot be expected to retrieve records or verify claims related to events that transpired over two decades ago. It is also highlighted that the Petitioner only sought to revive these claims through a communication dated 31st March, 2018—after a lapse of 25 years. This belated communication does

[3] "IGI Airport"

not extend the period of limitation, and any claims regarding the FDRs are *ex-facie* time-barred.

4. The Court has carefully considered the contentions presented by both parties. For reasons elaborated below, the relief sought in the present petition cannot be granted.

Claim being barred by limitations

5. The primary issue before the Court is whether the Petitioner's claim for the return of FDRs and EMDs, allegedly furnished between 1993 and 1996, can be entertained after such an inordinate delay. Upon careful consideration, it is evident that the claim is grossly barred by limitation and cannot be sustained for several reasons. In paragraph No. 9 of the petition, the Petitioner asserts that the work under the relevant contracts was successfully completed in the year 1996-1997, and there was no dispute raised by the Respondent regarding the executed work. The said paragraph reads as follows:

> "9. *That the respondent has no right to hold the said FDRs and EMDs with them as the work was completed successfully in the year 1996-97 and there was no dispute with regard to the said work executed by petitioner, neither any objection has ever been raised by respondent in respect of the said contracts. Therefore, the said FDRs and EMDs should have been returned to the petitioner immediately, but due to inaction on the part of respondent the said FDRs and EMDs are still lying with respondents for no reasons."*

6. From the above, it is evident that the cause of action for the return of the FDRs accrued in 1996-1997 upon completion of the contractual obligations. Under Article 113 of the Limitation Act, 1963, the Petitioner was required to initiate legal proceedings within three years from the date when the right to sue accrued. The Petitioner, however, failed to take any

legal recourse within the prescribed period.

Delay and Laches

7. The Petitioner approached this Court after a lapse of over two decades, which is an inordinate delay by any standard. The doctrine of laches operates as an equitable defence, barring relief to those who sleep over their rights and neglect to act timely. The Supreme Court in ***Pundlik Jalam Patil (Dead) by LRs v. Executive Engineer, Jalgaon Medium Project***[4] observed, *"Delay defeats equity. The Court helps those who are vigilant and do not slumber over their rights."* In the present case, Petitioner's prolonged inaction disentitles them from seeking any relief from this Court. The Petitioner, in an attempt to revive the stale claim, initiated correspondence with the Respondents after more than two decades through communication dated 31st March, 2018. However, such belated correspondence does not extend or revive the limitation period, as per Section 18 of the Limitation Act, 1963 which requires a clear acknowledgment of liability before the expiration of the prescribed period. The Respondent, in their communication dated 22nd/31st October, 2019, clarified that the FDRs claimed by the Petitioner are not available and sought for details of the contracts against which the FDRs have been submitted. This communication does not constitute such an acknowledgment. For ease of refence, the said communication reads as follows:

[4] (2008) 17 SCC 448

To, 31

M/s Kavita Enterprises,
L – 323 A, Near IGI Airport,
NH – 8, Mahipalpur Extension,
New Delhi – 110037

Subject: Request for release of FDRs in r/o Kavita Enterprises – reg.

Ref: CHQ letter no. AAI/CHQ/FA/REV/NTR/Outstanding/2019 /62 dated 07/10/2019
(Your letter dated 23/09/2019 to The Chairman AAI, CHQ, New Delhi)

Sir,

This is with reference to request submitted by M/s Kavita Enterprises for release of FDRS furnished to AAI against various contracts at T – 1, NIAMAR and International Cargo Complex, IGI Airport, New Delhi. In this regards AAI has already informed the agency vide this office letter having ref. no. AAI/IGIA CO-ORD. CELL/2008 09/137 dated 24/02/2010 and then further again in response to your letter dated14/04/2015 vide this office letter no. AAI/FA/REV/2015/885 dated 07/05/2015 that the mentioned FDRs are not being held by IGI Co-ordination Cell. It is again being informed that the FDRs as requested are not available with IGI Co-ordination Cell.

AS stated above that the FDRs being very old as demanded by M/s Kavita Enterprises are not available or being held by IGI Co-ordination Cell, the agency is requested to furnish the details as below:

- Details of Contract against which the FDRs have been submitted.
- Status of FDRs may be sought from concerned bank by the agency and further be provided to AAI.

M/s Kavita Enterprises is herewith requested to furnish above details so that further efforts be made to search out the FDRs.

Lack of Necessary Particulars and Factual Disputes

8. Furthermore, the afore-noted communication categorically called upon the Petitioner to furnish the necessary details of the contracts against the FDRs had been submitted and to give the status of the FDRs and the details of the concerned banks. This communication was followed by a reminder sent by the Respondent through an e-mail communication dated 5th April, 2022 and such request were reiterated through several

communications annexed with the counter affidavit. The Petitioner, however, has failed to furnish any such details. The entire petition is completely devoid of necessary particulars regarding the contracts relating to FDRs. On this issue, Petitioner relies on Annexure P-2 to the petition to submit that the details of the FDRs have duly been provided. However, Annexure P-2 lists the FDRs but lacks critical information such as contract numbers, dates and specific terms. It must also be noted that the Petitioner has enclosed certain contracts as Annexure P-1 to the petition, however, none of these contracts can be correlated with the FDRs in question. This lack of correlation Petitioner has failed to establish a clear connection between the contracts and the FDRs in dispute.

9. Moreover, the Respondent has strongly refuted the Petitioner's claims, highlighting discrepancies and asserting that they cannot locate records dating back over two decades, especially when the records were handed over to GMR Group on 2nd May, 2006. The absence of evidence and disputed facts is another reason for declining adjudication in writ proceedings under Article 226 of the Constitution of India, 1950.

Encashment of FDRs and Non-Compliance with Statutory Obligations

10. The Respondent, in their counter affidavit, have enclosed communication dated 19th August, 1998 which indicates that two FDRs for INR 1,30,5000/- and INR 4,35,0000/- were submitted by the Petitioner as security deposit in respect of a management of car parking at Terminal-1B, IGI Airport and the Respondent had proceeded to encash the same for adjustment of the dues payable by the Petitioner. This action was also assailed before this Court which can be taken note of through

communication of dated 11th August, 1998:

No. AAD/EST-362(CCP)/T-I/Kavita/97/2977-78 17.08.98

The Sr. Branch Manager,
Vijaya Bank,
Delhi Cantt.-10

Sub :- Encashment of FDRs.

Dear Sir,

This has reference to the following FDRs issued by you in absolute favour of Airport Director, Airports Authority of India, IGI Airport.

FDR No.	FACE VALUE AMOUNT
VB/96/TDR/MPP/0022648	Rs. 13,05,000/-
VB 93/VSU 177686	Rs. 4,35,000/-

Airports Authority of India has decided to opt for premature encashment of the subject FDRs. You are requested to encash the FDRs issued in absolute favour of AAI and prepare bankers Cheque/Pay Order alongwith interest accrued on the FDRs as on date and remit the same to Sh. Vijay Kumar, Asstt. Grade-III, whose specimen signature is given below :-

(17/8/98)

Specimen Signature of Sh. Vijay Kumar,
Asstt. Grade-III, A A I , I G I Airport.

This may kindly be treated as Most Urgent.

Thanking you.

Yours faithfully,

(S. BASU)
DY. GENERAL MANAGER (COMMERCIAL)

Copy to :-

Sh. C.V. Deepak,
ACCOUNTS MANAGER (R)

11. The above-noted communication also indicates the existence of factual disputes between the parties relating to adjustment of dues. It was therefore, incumbent upon the Petitioner to have perused the matter in time,

giving full particulars of the contract numbers and other details pertaining to the FDRs and EMDs for the Respondent to respond to the allegations made in the petition which, as discussed above, are *ex facie* time barred.

12. Additionally, the Respondent highlights Petitioner's alleged failure to fulfil obligations under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. A communication dated 25th February, 1999 was issued to the Petitioner in this regard. Respondent's communication dated 25th February, 1999 reads as follow:

Telephones: 3317120, 3317134
Fax: 011-3317121

Employees' Provident Fund Organization

(Regional Office, Delhi)

8th 9th Floor, Mayur Bhawan, Connaught Circus,
New Delhi – 110001

No. E/D4/18037/…./VI/5567 Dated:25/02/99

To,

Commercial manager
Airport Authority of India,
I. G. I. Terminal - I, Delhi Cantt.- 10

Subject:- Employees' Provident Fund and Miscellaneous Provisions Act-1952 and schemes created under it.

Sir,

M/s Kavita Enterprises, 8/180, Mehram Nagar, Delhi Cantt-10 which is covered under Section-1(4) of Employees' Provident Fund Act from 1-5-96, the provident fund amount of whose employees have not been deposited since 01-05-96 till date. Therefore, you are directed not to pay any kind of amount to the above institute without the permission of this office.

13. Although the afore-noted allegations are disputed by the Petitioner, however, this constitutes another factual dispute which this Court is not inclined to examine under exercise of Article 226 of the Constitution of

India. The Petitioner has not furnished any plausible explanation for the extraordinary delay in asserting its claims. The Petitioner had the option to pursue appropriate civil remedies within the limitation period but failed to do so. The writ petition cannot be employed as a substitute for a civil suit, especially when the claims are time-barred and involve disputed facts. In light of the foregoing, this Court refrains from exercising its extraordinary writ jurisdiction.

14. The present writ petition is completely devoid of the merit and accordingly is dismissed, along with pending application(s), if any.

SANJEEV NARULA, J

DECEMBER 2, 2024
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