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

+ **FAO (COMM) 51/2022 and CM APPL. 17827/2022 (Stay)**

**THE SECRETARY (HEALTH) & ANR. ....Appellants**

Through: Mr. Anuj Aggarwal, ASC with  
Mr. Yash Upadhyay & Mr.  
Siddhant Dutt, Advs.

versus

**MRS POONAM THAKRAN .....Respondent**

Through: Mr. Peeyoosh Kalra & Mr.  
Yashwant Singh Baghel, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE YASHWANT VARMA**

**HON'BLE MR. JUSTICE DHARMESH SHARMA**

**ORDER**

**25.11.2024**

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1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 [“Act”] seeks to assail the judgment handed down by the District Judge, Commercial dated 20 December 2021 dismissing a petition referable to Section 34 of the Act. The challenge which came to be laid before the District Judge, Commercial was in respect of an Arbitral Award dated 19 December 2018.

2. It was the case of the appellant that it had invited tenders for the supply of potable drinking water and which ultimately led to the award of the contract in favour of the respondent in 2010. As per the recordal of facts which appear in the order impugned before us, that contract founded on an agreement dated 15 July 2013 came to be renewed from time to time.



3. Since the respondent had not released the payments which flowed from that contract, arbitration proceedings were initiated in terms of Section 21. It is those proceedings which culminated in the rendition of a final award on 19 December 2018.

4. As would be evident from the record, the solitary question which appears to have been urged for the consideration of the District Judge, Commercial was the issue of limitation. The District Judge has while dealing with that challenge held as follows:-

“13. I have perused the arbitral record. I am of the opinion that issue of limitation has to be determined on the basis of certain facts. If issue of limitation is properly raised, the Arbitrator would be required to give a finding as to from which date limitation starts and on which date limitation ends. For this purpose, the plea of the limitation has to be raised properly. Perusal of the reply to the claim before Arbitrator shows that petitioner herein raise the issue of limitation stating in para 4 of preliminary objections that the last payments sanctioned in favour of claimant was on 19.6.2013 i.e. much prior to the period of three years preceding the date of lodging the present claim. But it is nowhere specified as to which bills are time barred. The petitioner herein also filed written submission before Ld. Arbitrator in which a general remark has been made in para 13 that matter is barred by limitation as the last payment sanctioned in favour of claimant was on 19.6.2013 i.e. much prior to the period of three years immediately preceding the date of lodging the present claim. However, no specific mention has been made as to which bills are barred by time. Now before this court, the petitioner is specifying that out of ten bills in question, eights bills were time barred at the time of filing of the claim petition. Details of the bills have been annexed as Annexure P-4. I am of the opinion that this is no way to raise an objection. The petitioner must have specified bill number and its date in the reply to the claim as well as in the objections before this court and should have specifically mentioned the date on which the claim against a particular bill became time barred. A general and vague contention before Ld. Arbitrator as well as before this court is of no benefit to a party. When the issues were framed by the Arbitrator, it was for the petitioner to raise the issue of limitation, which the petitioner failed to do. Now hearing objections under Order 34 of Arbitration and Conciliation Act, no such issue can be considered, which was vaguely raised before Ltd. Arbitrator and remained uncontested.”



5. As is manifest from the aforesaid facts, the District Judge has ultimately found that the claim was not barred by time and in any case, there was an abject failure on the part of the appellant to have placed that case with sufficient clarity and details. The District Judge has thus come to hold that a vague allegation of the claim being barred by time cannot be countenanced.

6. On an overall conspectus of the aforesaid and bearing in mind the contours of the power that stands conferred by virtue of Section 34, we find no manifest error which may warrant interference on the appeal.

7. The appeal fails and shall, consequently, stand dismissed.

**YASHWANT VARMA, J**

**DHARMESH SHARMA, J**

**NOVEMBER 25, 2024**  
**Ch**