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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P. (COMM) 299/2024 & I.A. 42965/2024**
MI2C SECURITY AND FACILITIES PVT LTD

.....Petitioner

Through: Mr. Gogna, CGSC
versus

INSTITUTE OF HUMAN BEHAVIOUR AND ALLIED SCIENCES
.....Respondent

Through: Mr. Tushar Sannu, SC with Ms.
Ankita Bhadouriya, Mr. Hardik Saxena, Advs.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
07.11.2024

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1. This is a petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 ("1996 Act") for correcting typographical/clerical mistake in the Award dated 26.02.2024 passed in Case Reference No. 6275 Arb. 0021/2022.
2. The facts are that the petitioner was awarded a tender for providing security services at the respondent-institute. Since there were disputes regarding payments, the petitioner invoked arbitration and this Court *vide* order dated 23.03.2022 appointed an Arbitrator to adjudicate the disputes between the parties.
3. The Arbitrator, after hearing the parties and recording evidence, was pleased to allow the claims of the petitioner to the tune of Rs. 1.37 crores (approx.) along with interest *vide* Award dated 26.02.2024.
4. It is stated that the Award wrongly recorded the name of the petitioner as "MI 2 Securities and Facilities" instead of "MI2C Security and Facilities Pvt. Ltd."



5. Pursuant to this, the petitioner filed an application under Section 33 of the 1996 Act for rectification of the typographical error. The said application was dismissed on 13.05.2024 by the learned Arbitrator being barred by limitation as provided under Section 33(1)(a) of the 1996 Act.

6. Hence, the present objections.

7. Mr. Sannu, learned Standing Counsel appearing on behalf of the respondent states that changing the title would be modification of the Award which is impermissible under Section 34 of the 1996 Act. He further states that the order dated 13.05.2024 dismissing the application under Section 33 of the 1996 Act has not been challenged and hence, the same has attained finality.

8. In addition, Mr. Sannu also states that right from day one, in all the order sheets, the name of the petitioner has been recorded as “MI 2 Securities and Facilities” and at no point in time, the petitioner took any steps to rectify the same.

9. He submits that Section 34(4) of the 1996 Act can only be invoked in order to save an Arbitral Award. He states that in the present case, the respondent’s petition being O.M.P. (COMM) 286/2024 is pending and hence, this Court cannot entertain the present petition.

10. I am unable to agree with the respondent.

11. In the present case, admittedly, the order dated 23.03.2022 in ARB.P. 186/2022, *vide* which the Court appointed the Arbitrator, correctly records the name of the petitioner as “MI2C Security and Facilities Pvt. Ltd.”. In order dated 07.02.2023, *vide* which summons were issued to witnesses, the name of the petitioner was recorded as “MI2C Security and Facilities Pvt. Ltd.”. The stamp paper submitted for publication of the Award was in the



name of “MI2C Security and Facilities Pvt. Ltd.”. The statement of claim filed by the petitioner before the learned Arbitrator is in the name of “MI2C Security and Facilities Pvt. Ltd.”. The statement of defence filed by the respondent also correctly records the nomenclature as “MI2C Security and Facilities Pvt. Ltd.”.

12. Hence, in my opinion, only the procedural orders and the Award wrongly records the name of the petitioner as “MI2 Securities and Facilities”, which is purely a typographical error.

13. The Coordinate Bench in ***Ahmad Mian v. Bhasin Infotech & Infrastructure Pvt. Ltd.***, (2018) SCC OnLine Del 10575 has held as under:

“10. In my opinion, Section 33 of the Act provides an additional remedy in favour of the petitioner to seek correction of any typographical error that may have crept in the Award. As in the present case, it is not denied by the respondent that the respondent itself had changed the allotment in favour of the petitioner from shop no. 104 to shop no. 73, merely because the petitioner, due to oversight not noticing the said mistake in the Award and, therefore, not filing an application under Section 33 of the Act before the Arbitrator, cannot be made to suffer for such typographical error.

11. In view of the above, the petition is allowed holding that the operative portion of the Impugned Award shall stand modified and the petitioner is held entitled to get clear title of Shop No. 73, Lower Ground Floor in shopping mall known as ‘Grand Venezia’ situated at Plot No. SH-3, Site-IV, Industrial Area, Surajpur, Greater NOIDA, Uttar Pradesh along with vacant, physical and peaceful possession thereof from the respondent. Other conditions/directions mentioned in



the Award shall remain unaltered.”

14. Further, in the judgment and order dated 12.09.2024 passed in OMP (ENF.) (COMM.) 36/2024 titled “*M/s Pradeep Vinod Construction Co. v. Union of India*”, this Court has observed as under:

“14. *In these circumstances, what happens to the Award if an application is not preferred under section 33 of the Arbitration and Conciliation Act, 1996? Will the party, who has an award in his/her favour, have no remedy? The answer is no.*

....

18. To enforce the award dated 23.09.2023, this court in the impugned order dated 02.08.2024, while dismissing the objections under section 47 read with Order 21 CPC filed by the judgment debtor, has held that the error in the Award is merely a typographical error and it does not affect the merits of the award in any manner. The said determination has been made, in exercise of its power under section 47 of CPC, which permits this court to determine questions arising between the parties for the purpose of satisfying the decree. The order dated 02.08.2024 is passed in exercise of those powers.”

(emphasis supplied)

15. I am of the view that in the present case, the cause title of the parties in the Award is a typographical error and needs to be corrected.

16. That argument that the said error was also found in earlier procedural orders does not find favour with this Court as the same was a typographical error which continued for a couple of years. The argument that the order dated 13.05.2024 has not been challenged also does not find favour with this Court as the application filed under Section 33 of the 1996 Act was



dismissed purely on grounds of limitation, and the petitioner, even if it chooses not to challenge the order, cannot be worse off. The argument on Section 34(4) of the 1996 Act also does not help the respondent as said section categorically states that the Court “may” take action which will eliminate grounds for setting aside the Arbitral Award.

17. The ground urged by the petitioner only pertains to correction of a typographical error, which is clear from the facts as stated above, and the present petition only seeks to rectify the same.

18. For the said reasons, the petition is allowed and the title of the Award dated 26.02.2024 passed in Case Reference No. 6275 Arb. 0021/2022 shall read as “MI2C Security and Facilities Pvt. Ltd. v. Institute of Human Behaviour and Allied Sciences”.

19. The petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

NOVEMBER 7, 2024 / (MS)

Click here to check corrigendum, if any