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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision: 22nd May, 2025**
+ CM(M) 1153/2023 & CM APPL. 31716/2025 & CM APPL.
31715/2025
DELHI JAL BOARD

.....Petitioner

Through: Mr. Karunesh Tandon, Advocate.

versus

SHRI I. M. SINGH AND ANR

.....Respondent

Through: Mr. Laksh Khanna and Ms. Diksha
Suri, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT (oral)

1. Delhi Jal Board has suffered an award on 21.07.2015.
2. Feeling aggrieved, they filed an objection petition under Section 34 of Arbitration and Conciliation Act, 1996 (in short 'A&C Act') on 28.10.2015.
3. On 02.11.2015, said petition was taken up by the concerned Court of learned Additional District Judge-04, South, Saket Courts and notice was issued. The petitioner, simultaneously, sought permission to deposit the award amount and was permitted to deposit the same.
4. The award amount has, thus, already been secured and deposited by way of *Fixed Deposit* in name of the decree-holder i.e. respondent herein.
5. However, during further consideration of the abovesaid petition filed under Section 34 of A&C Act, the learned Trial Court took the view that the petition should have rather been filed before this Court, i.e. Delhi High Court



and, therefore, keeping in mind the amount claimed in the claim-petition, the learned Trial Court directed the petitioner to file appropriate application under Order VII Rule 10A CPC.

6. On 07.10.2017, noticing that no such application had been filed by the petitioner, the learned Trial Court, in view of Section 15(2) of Commercial Courts Act, 2015, directed the matter to be placed before Court of learned District & Sessions Judge (South) for transferring the matter to this Court.

7. Learned District & Sessions Judge (South), and rightly so, held that the matter could not be transferred in the abovesaid manner and returned the file to the learned Trial Court.

8. The abovesaid petition under Section 34 of A&C Act was, again, taken up by the learned Trial Court on 02.11.2017 and, eventually, the petition was returned in view of observation appearing in order dated 31.08.2017 and 14.09.2017.

9. However, instead of taking any immediate step for the purposes of return of the abovesaid petition, the petitioner filed an application under Section 151 CPC in which it was contended that with the change in pecuniary jurisdiction, he was unable to comply with the abovesaid order and, therefore, requested the Court to continue to deal with the same. It was mentioned therein that, in view of the development in terms of Notification No.58/DHC/Gaz./G-1/VI.E.2(a)/2018, the District Courts may rather take up the abovesaid petition and decide the same in accordance with law.

10. Learned Trial Court, however, declined to entertain such request and dismissed the abovesaid application subject to cost of Rs.20,000/-.

11. Such order dated 17.08.2022 is under challenge.

12. Quite evidently, the petitioner-Board has taken things for granted. The



order whereby the learned Trial Court had directed return of the petition is, now, not disputed at all.

13. Having accepted the abovesaid order whereby the petition was directed to be returned, the petitioner should have taken immediate steps for the purposes of submitting the petition before this Court after its return. Learned counsel for petitioner, in all fairness, does admit that the petitioner-Board was not quick and swift enough.

14. However, at the same time, it is contended that the petitioner is now rendered completely remediless as the District Court has refused to take up the abovesaid petition and on account of change in pecuniary jurisdiction, such petition can now, no longer, be entertained by this Court, either.

15. He submits that in such a peculiar position, the appropriate solution would be to request the learned District Court to consider the abovesaid petition, particularly, in view of the change in pecuniary jurisdiction. He, therefore, prays that impugned order be set aside to the above extent.

16. The abovesaid request has been resisted by learned counsel for respondent/claimant.

17. It is submitted that the petitioner should have taken immediate steps once the learned Trial Court had directed return of the petition and for the reasons best known to the petitioner, it did not take any step.

18. She submits that after order dated 31.08.2017, and subsequent order dated 02.11.2017, the petitioner was in complete hibernation mode and did not take any step and, therefore, this Court should not grant any indulgence to the petitioner.

19. Learned counsel for the petitioner submits that, for all practical purposes, they accepted the order whereby the learned Trial Court had



directed return and had also initiated requisite steps for the purposes of filing the petition before this Court. They had even applied for the certified copies of the petition but in the interregnum, since, there was the abovesaid Notification, they moved an application under Section 151 CPC which has, somehow, been dismissed by the learned Trial Court.

20. Notification dated 07.07.2018 reads as under:-

“In pursuance of Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018, Hon’ble the Acting Chief Justice and Hon’ble Judges of this Court have been pleased to order that all the District Judges/Additional District Judges of respective districts are nominated as Commercial Courts as an interim measure to deal with the commercial matters valued between rupees three lacs to rupees two crores.”

21. There is no dispute with respect to the fact that in terms of Notification No.58/DHC/Gaz./G-1/VI.E.2(a)/2018 dated 07.07.2018, the Court of District Judge/Additional District Judge were nominated as Commercial Courts as an interim measure to deal with commercial matters valued between Rs. 3 lacs to Rs. 2 crores and, therefore, the abovesaid petition could not have been entertained by this Court.

22. The petitioner is now, virtually, remediless as the District Court has refused to entertain his petition under Section 34 of A&C Act and this Court is also in no position to accept said petition in view of above.

23. Things would have been different had the petitioner acted quickly and swiftly.

24. For its such inaction and delay, the other side can, however, be adequately compensated.

25. Keeping in mind the overall facts and circumstances of the case and also in the interest of justice, the present petition is disposed of with the



direction that the parties would appear before the learned Principal District & Sessions Judge, South District on 27.05.2025 at 2:00 P.M and learned Principal District & Sessions Judge shall allocate the abovesaid petition to the concerned Commercial Court for consideration of the abovesaid petition in accordance with law.

26. However, for causing unnecessary and avoidable delay in the matter, Delhi Jal Board is burdened with cost of Rs.80,000/- which be paid to the opposite side, within a period of four weeks from today. The payment of such cost would be a pre-condition for hearing argument in said petition.

27. It is, however, made clear that this Court has not expressed any opinion to the merits and demerits of the abovesaid petition filed under Section 34 of the Act. Additionally, all rights and contentions which are available to the non-petitioner/claimant have also been left open and the claimant would also be at liberty to take all permissible objections and contentions before the abovesaid Court.

28. The petition stands disposed of in aforesaid terms.

29. Pending applications also stand disposed of.

30. The next date i.e. 22.09.2025 stands cancelled.

(MANOJ JAIN)
JUDGE

MAY 22, 2025/ss/pb