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C.A.No. 2965 OF 1997

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1.ITEM No. 104

Court No. 3

SECTION XV

ADJN

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO. 2965 OF 1997

STATE OF RAJASTHAN

Petitioner (s)

VERSUS

THE SPENCON (I) LTD. & ORS.

Respondent (s)

(With APPLN. FOR PERMISSION)

Date : 30/04/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH
HON'BLE MR. JUSTICE ARUN KUMAR

For Petitioner (s)

MR. DUSHYANT A. DAVE, SR. ADV.
MR. H.B. RAGVESH SINGH, ADV.
MR. V.N. RAGHUPATHY, ADV.
MS. RANJI THOMAS, ADV.
MS. BHARTI UPADHYAY, ADV.

For Respondent (s)

MR. S.S. JAVELI, SR. ADV.
MR. B.V. DESAI, ADV.
MR. SANJEEV KR. SINGH, ADV.
MS. VANDANA JALAN, ADV.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

Appeal stands disposed of in terms of the signed order with no order as to costs.

KALYANI(JANKI BHATIA)
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

STATE OF RAJASTHAN.....APPELLANT (S)

VERSUS

THE SPENCON (I) LTD. & ORS. RESPONDENT (S)

O R D E R

Heard the learned counsel for the parties.

By impugned order dated 19th August, 1998, this Court set aside the award passed in favour of the claimant and appointed Mr. Justice N.M. Kasliwal (Retd. Judge of the Supreme Court) as a Sole Arbitrator to decide the dispute. After hearing the parties at length and considering the claims made by the parties, on 13th May, 2000 the award was made by the Sole Arbitrator.

Claimant filed objections to that award and it was submitted at the time of the hearing that the learned Arbitrator committed an error in not accepting the claim of

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the contractor because admittedly there was delay on the part of the office of the respondent in supply of water, land and raw materials which were required to be supplied by the Department. Still, however, the arbitrator held that claimant was not entitled to get any compensation or damages because claimant had abandoned the work on 11th July, 1989 i.e., before nine months of the expiry of the contract period i.e., 12th November, 1990. For this, the Arbitrator arrived at the conclusion that during these nine months which were available to the Contractor for work, he could have manufactured and supplied at least 81 lakhs tiles but he has delivered only 36,53,000 tiles. The learned Arbitrator, therefore, arrived at the conclusion that it proves a very slow progress of the work on the part of the claimant. Considering all these aspects, the Arbitrator arrived at the conclusion that Contractor was not entitled to get any compensation on the ground of delay in supplying water, land and raw materials. Finally the

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Arbitrator awarded the following amounts along with interest at the rate of 10 per cent:

- 1. Carriage of Clay 1,36,512.00
- 2. Grooves 33,560.00
- 3. Water Charges 45,388.00
- 4. Refund of security deposit 3,03,950.00
- 5. For cost of land Acquisition 55,000.00

TOTAL 5,74,410.00

In our view, there is no error apparent on the face of the record which call for our interference in the said award. The award cannot be said to be in any way illegal or erroneous and is based on appreciation of facts. Hence, the objections raised by the claimant are rejected.

Learned counsel for the appellant, however, submitted that the direction for payment of interest on the amount which was paid to the claimant on the basis of the previous award is erroneous. In the present case, admittedly except Rs.55 lakhs, the claimant has

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refunded the remaining amount. Hence, the claimant is directed to refund Rs.55 lakhs with 10%

interest per annum from the date of the award, i.e. 13Th May, 2000 till the date of its deposit with the respondent.

The award is modified to the aforesaid extent only. Decree accordingly.

Learned senior counsel for the claimant, on instructions, undertakes that the aforesaid amount along with interest would be deposited in the office of the Executive Engineer, 29th Division, Indira Gandhi Nehar Project, Jaisalmer, Rajasthan within a period of twelve weeks from today.

The appeal stands disposed of accordingly with no order as to costs.

.....J
(M.B.SHAH)

.....J
(ARUN KUMAR)

New Delhi,
April 30, 2003