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

Judgment reserved on: 05.12.2023

% ***Judgement pronounced on: 20.12.2023***

\+ **O.M.P. (COMM). 240/2023 & I.A. 12568/2023**

GOVT. OF NCT OF DELHI ...Petitioner

Through: Mr. Bharat Singh Sisodia and Mr. Z.A. Khan, Advocates

versus

M/S R.S SHARMA CONTRACTORS PVT. LTD …Respondent

Through: Mr.Sanjeev Anand, Sr.Adv. with Mr. Vipin Prabhat, Advocates

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J.

1. By way of present petition under section 34 of the Arbitration and Conciliation Act, 1996 (hereafter, *'the A&C Act'*), the petitioner has laid challenge to the impugned award dated 26.12.2022 passed by the learned Sole Arbitrator Sh. Dinesh Kumar in Arbitration Petition No. ARB/DK/71.
2. The impugned award came to be passed in the context of a dispute having arisen between the parties in respect of a contract dated

16.02.2017 for construction of a four-lane bridge at RD 12230m and the double-lane bridge at RD1111OM at trunk drain no.1. The claimant's tender being the lowest was accepted by the government and the tender was awarded vide agreement of Rs. 7,75,42,8444/- (Seven Crore seventy-five Lakhs forty-two thousand eight hundred and forty-four Only). The stipulated date for commencement and completion of the project was 15.02.2018. However, the actual completion date was on 24.12.2019 with a delay of 677 days.

3. Due to the delay certain disputes arose between the Petitioner and the Respondent concerning the clearance of the bills of the Respondent. The claimant therefore invoked the Arbitrator clause No. 25 vide letter dated 16.08.2021. Consequently, Sh. Dinesh Kumar Former DG, CPWD was appointed as a Sole Arbitrator vide letter dt. 24.01.2022. Ld. Sole Arbitrator, Sh. Dinesh Kumar passed the award dated 26.12.2022, in Arbitration Petition No. ARB/DK./71, whereby the award has been passed by allowing the claims of the Respondent and the petitioner was directed to pay the amount of Rs. 1,73,91,632/- along with the *pendent-lite* and the future interest.

4. Petitioner has filed the present petition under Section 34 of the Arbitration and Conciliation Act, 1996 challenging the impugned award. It has been submitted that the Impugned Award is liable to be set aside as the claims have been allowed by following a manifestly unjust procedure unknown to the law laid down under section 34 (b) (ii) and in terms of Section 34 of the Act as vitiated by patent illegality appearing on the face

of the record [Section 34 (2A)] and the Impugned Award traverses beyond the terms of the agreement.

5. It has been submitted that the Agreement contemplates a very specific manner of raising a claim and any claims that are not raised in the said manner stand waived. Moreover, the submission of the final bill and acceptance of payment in terms thereof constitutes a full and final settlement in terms of the Agreement and the impugned award runs contrary to the agreed terms passed of the contract.
6. The petitioner submitted that in ***Nathani Steels Ltd. v. Associated Constructions 1995 Suppl.*** (3) SCC 324, it was *inter-alia* held that it is well established that the terms of full and final closure have to be accepted and neither party can deviate from the same.
7. The petitioner further submitted that the learned sole arbitrator has also deviated from the terms laid down in the agreement between the parties and has overlooked the full and final settlement in terms of the final bill and no further or additional claims can be entertained in terms of Clause 9 of the Agreement.
8. The petitioner submitted that the learned Sole Arbitrator, without any basis or evidence, concluded that the undertaking given by the Respondent as well as its acceptance of dues under the final bill was the result of "economic duress". The conclusion reached by the Ld. Sole Arbitrator is without any basis, justification or evidence.
9. The petitioner has further submitted that the Arbitrator is a creature of contract and cannot traverse beyond the terms of the contract. Learned Sole Arbitrator failed to apply a "judicial approach" and has acted arbitrarily by reaching on unfounded conclusions not backed by any

material and has failed to follow the principles of natural justice. Therefore, the Impugned Award is liable to be set aside and quashed.

10. It has further been submitted that in addition to the undertaking and acceptance of the final payment, the petitioner submitted all the Running Account Bills and the Final Bills as per Clause 6A of the Agreement without demanding any enhanced rates. All the RA Bills and the Final Bill stand duly paid by the Petitioner, and payment was accepted by the Respondent without protest or demur. Thus, the findings rendered in the Impugned Award lack any basis in fact or law.
11. The petitioner submitted that the claim was filed by the Respondent before. the Ld. sole Arbitrator lacks any proper or adequate documentary evidence and lacks any basis in terms of the Agreement between the parties. The Petitioner duly complied with the terms of the Agreement, whereas the entire claim raised by the Respondent herein is contrary to the express terms of the Agreement. The express terms of the Agreement have been ignored, overlooked or bypassed by the Ld. Sole Arbitrator while rendering the Impugned Award.
12. The petitioner further submitted that the Impugned Award wrongfully allows the Respondent to approbate and reprobate by giving it the benefit of the Petitioner's undertaking to extend time without levy of compensation while washing away the Respondent's parallel undertaking that he would not claim anything extra on account of the delay. The Petitioner's agreement to extend time without levy of compensation was premised upon the Respondent's parallel undertaking. Hence, having availed the benefit of the extension of time by the Petitioner and even having received full payment pursuant thereto, the Respondent cannot be

permitted to resile from its own undertaking and make claims arising out of the delay/ extended period.

13. It has been submitted that the Impugned award also wrongly passed the award for damages despite the lack of any notice in terms of Section 55 of the Contract Act, of 1872. It was submitted that the claim for damages cannot be entertained for the reason that the parties ought to have put each other to caution/notice that the contract would be performed subject to claims for damages. Moreover, an extension of time for completion of a project is essentially a novation in the contract, and by application of Sections 62 and 63 of the Contract Act, relieves the opposite party from performing the obligations pertaining to time as contained in the original contract. Where the extension of time is unconditional, the original date is substituted by the extended date sans any liability. The principles laid down are squarely applicable in the present case as no notice was issued by the Respondent stating that the performance during the extended period was subject to the payment of damages or other charges.
14. The petitioner further assailed the impugned award on the ground that the respondent undertook not to raise any claim based on the extended time. In the circumstances, the Respondent's claims which are based on the performance during the extended period were liable to be rejected outright. The Impugned Award errs gravely by failing to apply the principles laid down by Courts.
15. Learned counsel for the petitioner has relied upon ***K. Ramchandra Rao vs. Union of India*** (1995) 3 scale 738 wherein it was held that if the 'No claim certificate" was valid, then there was no subsisting dispute which required arbitration. It has been further submitted that the

claimant/respondent didn't submit the integrated chart program along with the performance guarantee, which shows that the claimant was not serious about executing the contract.

16. Learned counsel for the petitioner has further submitted that the manpower statement showing the individual names of the staff deputed at the site was not submitted by the claimant/respondent which was a necessary condition under the contract. It has further been submitted that the submission of the final bill and acceptance of payment constitutes a settlement of all dues and nothing remains to be paid in terms of clause 9 of the agreement. Learned counsel for the petitioner has further submitted that the acceptance of dues under the final bill closes the case and no further disputes can be raised on the basis of economic duress. Reliance has been placed on the judgement of the Supreme Court in ***Union of India vs. Om Construction Co.***, 2019 SCC OnLine Del 9037 to emphasize that coercion cannot be claimed simplistically but it has to be proved vide cogent evidence.
17. Learned counsel for the petitioner has further submitted that the undertaking which was made on behalf of the claimant/respondent on EOT Application, never intended to give any such no-claim undertaking on its own. Notably, reasons given by the learned Tribunal are based on conjectures and surmises which do not have the basis of sound legal principles.
18. Shri Sanjeev Anand, Learned Senior Counsel on behalf of respondents submits that the learned arbitrator has passed the impugned arbitral award dated 26.12.2022 solely based on the factual findings and no

question of interpretation of any contractual clause is involved in the arbitral award, hence the arbitral award is not liable to be set aside.

19. Learned senior counsel submitted that it is a well-settled law that the interpretation of a clause by the arbitrator is plausible interpretation and therefore the courts may not interfere with such interpretation and in furtherance of the same, reliance has been placed **on *Mcdermott International Inc vs Burn Standard Co. Ltd*** (2006) 11, SCC 181 and ***Rastriya Ispat Nigam Ltd vs Dewan Chand Ram Saran*** (2012) 5 SCC 306.

20. Learned senior counsel has further submitted that an arbitrator is a chosen Judge by the parties and it can be interfered with on limited parameters. It has been further submitted that the award can be set aside only in very exceptional circumstances. Reliance has been placed on ***Associates Builder v. Delhi Development Authority*** (2015) 3 SCC 49, ***Sutlej Constructions Limited vs Union of Territory of*** **Chandigarh** 2018 (1) SCC 718 (SC), ***MMTC Limited vs Vedanta Limited*** (2019) 4 SCC 163, **Dyna *Technologies Pvt Ltd. vs Crompton Greaves Ltd.*** 2020(1) Arb.LR 1(SC).

21. Learned senior counsel further submitted that herein the parties have chosen to avail of an alternate mechanism and the parties must be left to reconcile themselves to the wisdom of the decision of the arbitrator and therefore the scope of jurisdiction under section 34 of the Arbitration and Conciliation Act, 1996 indicates that the civil courts have highly constricted powers to interfere with an arbitral award.

22. Learned senior counsel further submits that the learned arbitrator has passed a well-reasoned order based on available evidence and the

applicable law and furthermore, the petitioner has failed to demonstrate as to how the impugned award suffers from any infirmity or perversity. It is also submitted that after due appreciation of the evidence the learned arbitrator gave a specific finding and a well-reasoned order showing that there was a delay on the part of the petitioners and they had committed a breach concerning the agreement dated 16.02.2017.

23. It is further submitted that the arbitral tribunal in the impugned award dated 26.12.2022 has considered the aspects concerning the parties and therefore the arbitrator categorically in paragraphs 7.4.2.1 to 7.4.2.5 and 10.3.1.4.3 and 10.3.1.4.4 held that undertaking given by the claimant/respondent was given under duress**.** Reliance has been placed on "Government of NCT of Delhi vs R.S. Sharma Contractors Pvt. Ltd" in the matter of O.M.P. (COMM) 130/2023.

ANALYSIS & FINDINGS:

24. The mandate of the legislative procedure while deciding the petition under Section 34 of the Arbitration and Conciliation Act is to provide an expeditious and binding dispute resolution process, with minimal court intervention. The proceedings under Section 34 are summary in nature. The scheme and provisions of the Act disclose two significant aspects, i.e. minimal interference by the courts and expeditious disposal of disputes. The scope of enquiry under Section 34 is restricted to a consideration of whether any of the grounds mentioned in Section 34 (2), 13 (5) or 16 (6) are made for setting aside the award. The petitioner is required to specifically mention the grounds for setting the award as provided under the law and is required to make out the ingredients of the grounds in Section 34 (2) to establish that the award is liable to be set

aside. The grounds mentioned under Section 34 (2) of the Act are as follows:

> *2) An arbitral award may be set aside by the Court only if—*
> *(a) the party making the application furnishes proof that—*
>
> *(i) a party was under some incapacity, or*
> *(ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or*
> *(iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or*
> *(iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration:*
> *Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or*
> *(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or*
> *(b) the Court finds that—*
> *(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or*
> *(ii) the arbitral award is in conflict with the public policy of India.*
> *[Explanation 1. —For the avoidance of any doubt, it is*

clarified that an award is in conflict with the public policy of India, only if, —

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice.

Explanation 2. —For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.]

[(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by reappreciation of evidence.]

25. It is a settled proposition that the court at this stage cannot make a roving enquiry and has to rely on the material placed before the arbitrator. It is pertinent to mention here that the grounds of challenge are quite limited in nature and the party making an application to set aside the award can rely on any of the grounds mentioned in Section 34 (2) A of Arbitration and Conciliation Act, 1996 been discussed above. The court has to see the procedural irregularities, either in the arbitral proceedings or in the award itself. The scheme of the Act makes it clear that the Arbitral Tribunal is the sole judge of the quality as the quantity of the evidence.

The court is not required to take upon itself the task of being a judge on the evidence adduced before the arbitrator except if there is a perversity appearing on the face of the award.

26. The Supreme Court in ***UHL Power Company Ltd. vs State of Himachal Pradesh*** in Civil appeal No. 10341 of 2011 has *inter-alia* held that there should be minimal intervention. It is also pertinent to mention here that the jurisdiction of the court under Section 34 of the Act is limited and the court does not act as a court of appeal or subject the award to review on merits. The court is also not required to reassess the material placed before the arbitrator nor can it correct the error of the arbitrator. It is a settled proposition that the approach of the court to an award must be to support it if it is reasonably possible rather than annul it. The reliance has been placed on ***Santa Sila vs. Dhirendranath***, AIR 1963 SC 1677. There is always a legal presumption in favour of the award being valid. The court is not required to re-appreciate the evidence or interfere with the findings of the facts rendered by the arbitral tribunal. The court can only set aside the award if the findings are totally perverse, and are contrary to the terms of the contract, or in violation of the principles of the natural justice or in conflict with the public policy, or contrary to grounds specified in Section 34 of the Act. Reliance can be placed upon ***ONGC vs. Interocean Shipping (India) Pvt. Ltd***, 2017 (5) Arb. LR 402 (Bom). The arbitrator is always considered to be the final judge of the facts and the same cannot be interfered with on the ground that the terms of the contract were not correctly interpreted by it. Reference can be placed upon ***Swan Gold Mining Ltd. vs. Hindustan Copper Ltd***. (2015) 5 SCC 739.

27. The underlying object is to give finality and encourage resolution of dispute by the arbitral tribunal having consensual jurisdiction. It is also a settled proposition that if two interpretations are possible, and the view taken by the arbitrator is a plausible one, the courts would usually not interfere with the view taken by the arbitrator. However, this cannot be applied mechanically. It has to be read in the context of the contact between the parties.

28. The award can be set if the same is perverse and the same may be covered under the head 'patent illegality'. Such cases would fall in the parameter if the arbitrator ignores the substantive law in force in India and passes an award which causes a miscarriage of justice. The expression "perverse" refers to findings which are not supported by the evidence on record, or are against the law, or suffer from the vice of procedural irregularity. The court has to see whether some relevant material has been considered or not or that some inadmissible material has been taking into consideration. An award has been defined to be perverse in ***Associate Builders vs. DDA*** (2015) 3 SCC 49 if (i) it contains a finding based on no evidence or an (ii) arbitral tribunal takes into account material which is irrelevant or extraneous to the decision; or (iii) it ignores crucial evidence.

29. In the present case, there were a total of six claims and one counter claim and the parties filed statements of facts of all claims. The perusal of the record indicates that the learned arbitrator carefully examined the pleadings, oral arguments, written submissions, case laws cited and documents filed. The claimant had alleged that there was a major delay on the following grounds:

(i) Non-availability of hindrance-free site

(ii) Delay due to issue of drawings

(iii) Hindrance due to the late decision of the foundation

(iv) Hindrance due to blockage of passage due to other agency

(v) Due to short payment and delayed payment due to want of fund

(vi) Hindrance due to NGT orders

(vii) Hindrance due to monsoon seasons

30. The case of the claimant/respondent was that he was not able to execute the work as planned and the respondent was intimated from time to time for removal of the above hindrances but the respondent had failed to remove them hence the work was delayed.

31. The respondent has taken preliminary objections, inter alia:

(a) The claimant deliberately concealed and suppressed certain very vital facts.

(b) The claimant deliberately presented facts in a distorted manner, and

(c) The claimant deliberately projected wrong and incorrect facts.

32. In ***Oil and Natural Gas Corporation Ltd. vs. Saw Pipes Limited*** 2003 SCC online SC 545, it was inter alia held that the award would be set aside if it is contrary to (a) fundamental policy of Indian law, or (b) the interest of India: or (c) justice or morality; or (d) in addition, if it is patently illegal. It was further inter alia held that illegality must go to the root of the matter. If the illegality is of trivial nature it cannot be held that award is against the public policy. The Apex Court said that Award could also be set aside if it is so unfair and unreasonable that it shocks the conscience of the Court and the award is opposed to public policy and is required to be adjudged void.

33. ***In UHL Power Company Ltd. vs. State of Himachal Pradesh*** 2022 SCC OnLine SC 19 wherein it was inter alia held as under:

> "16. As it is, the jurisdiction conferred on Courts under *Section 34 of the Arbitration Act is fairly narrow, when it comes to the scope of an appeal under Section 37 of the Arbitration Act, the jurisdiction of an Appellate Court in examining an order, setting aside or refusing to set aside an award, is all the more circumscribed. In MMTC Limited v. Vedanta Limited, the reasons for vesting such a limited jurisdiction on the High Court in the exercise of powers under Section 34 of the Arbitration Act has been explained in the following words:*
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> > *"11. As far as Section 34 is concerned, the position is well-settled by now that the Court does not sit in appeal over the arbitral award and may interfere on merits on the limited ground provided under Section 34(2)(b)(ii) i.e. if the award is against the public policy of India. As per the legal position clarified through decisions of this Court prior to the amendments to the 1996 Act in 2015, a violation of Indian public policy, in turn, includes a violation of the fundamental policy of Indian law, a violation of the interest of India, conflict with justice or morality, and the existence of patent illegality in the arbitral award. Additionally, the concept of the ―fundamental policy of Indian law would cover compliance with statutes and judicial precedents, adopting a judicial approach, compliance with the principles of natural justice, and Wednesbury [Associated Provincial Picture Houses v. Wednesbury Corpn., [1948] 1 K.B. 223 (CA)] reasonableness. Furthermore, ―patent illegality‖ itself has been held to mean contravention of the substantive law of India, contravention of the 1996 Act, and contravention of the terms of the contract.*
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> *17. A similar view, as stated above, has been taken by this Court in K. Sugumar v. Hindustan Petroleum Corporation Ltd. , where it has been observed as follows:*

> *2. The contours of the power of the Court under Section 34 of the Act are too well established to require any reiteration. Even a bare reading of Section 34 of the Act indicates the highly constricted power of the civil court to interfere with an arbitral award. The reason for this is obvious. When parties have chosen to avail an alternate mechanism for dispute resolution, they must be left to reconcile themselves to the wisdom of the decision of the arbitrator and the role of the court should be restricted to the bare minimum. Interference will be justified only in cases of commission of misconduct by the arbitrator which can find manifestation in different forms including exercise of legal perversity by the arbitrator.*

18. It has also been held time and again by this Court that if there are two plausible interpretations of the terms and conditions of the contract, then no fault can be found, if the learned Arbitrator proceeds to accept one interpretation as against the other. In Dyna Technologies (P) Ltd. v. Crompton Greaves Ltd. , the limitations on the Court while exercising powers under Section 34 of the Arbitration Act has been highlighted thus:

> *24. There is no dispute that Section 34 of the Arbitration Act limits a challenge to an award only on the grounds provided therein or as interpreted by various Courts. We need to be cognizant of the fact that arbitral awards should not be interfered with in a casual and cavalier manner, unless the Court comes to a conclusion that the perversity of the award goes to the root of the matter without there being a possibility of alternative interpretation which may sustain the arbitral award. Section 34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under Section 34 is to respect the finality of the arbitral award and the party autonomy to get their dispute adjudicated by an alternative forum as provided under the law. If the Courts were to interfere with the arbitral award in the usual course on factual aspects, then the commercial*

wisdom behind opting for alternate dispute resolution would stand frustrated.

19. In Parsa Kente Collieries Limited v. Rajasthan Rajya Vidyut Utpadan Nigam Limited , adverting to the previous decisions of this Court in McDermott International Inc. v. Burn Standard Co. Ltd. and Rashtriya Ispat Nigam Ltd. v. Dewan Chand Ram Saran , wherein it has been observed that an Arbitral Tribunal must decide in accordance with the terms of the contract, but if a term of the contract has been construed in a reasonable manner, then the award ought not to be set aside on this ground, it has been held thus:

> *9.1 .....**It is further observed and held that construction of the terms of a contract is primarily for an Arbitrator to decide unless the Arbitrator construes the contract in such a way that it could be said to be something that no fair-minded or reasonable person could do.** It is further observed by this Court in the aforesaid decision in paragraph 33 that when a court is applying the ―public policy test to an arbitration award, it does not act as a court of appeal and consequently errors of fact cannot be corrected. **A possible view by the Arbitrator on facts has necessarily to pass muster as the Arbitrator is the ultimate master of the quantity and quality of evidence to be relied upon when he delivers his arbitral award.** It is further observed that thus an award based on little evidence or on evidence which does not measure up in quality to a trained legal mind would not be*
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> *9.2 Similar is the view taken by this Court in NHAI v. ITD Cementation (India) Ltd., (2015) 14 SCC 21, para 25 and SAIL v. Gupta Brother Steel Tubes Ltd., (2009) 10 SCC 63, para 29.*
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> *[emphasis supplied]*

20. In Dyna Technologies (P) Ltd. (supra), the view taken above has been reiterated in the following words:

> *25. Moreover, umpteen number of judgments of this Court have categorically held that the courts should not interfere with an award merely because an alternative view on facts and interpretation of contract exists. The courts need to be cautious and should defer to the view taken by the Arbitral*

Tribunal even if the reasoning provided in the award is implied unless such award portrays perversity unpardonable under Section 34 of the Arbitration Act.

21. An identical line of reasoning has been adopted in South East Asia Marine Engg. & Constructions Ltd. [SEAMAC Limited] v. Oil India Ltd. and it has been held as follows:

12. It is a settled position that a court can set aside the award only on the grounds as provided in the Arbitration Act as interpreted by the courts. Recently, this Court in Dyna Technologies (P) Ltd. v. Crompton Greaves Ltd. [Dyna Technologies (P) Ltd. v. Crompton Greaves Ltd., (2019) 20 SCC 1 : 2019 SCC OnLine SC 1656] laid down the scope of such interference. This Court observed as follows : (SCC pp. 11-12, para 24)

24. There is no dispute that Section 34 of the Arbitration Act limits a challenge to an award only on the grounds provided therein or as interpreted by various Courts. We need to be cognizant of the fact that arbitral awards should not be interfered with in a casual and cavalier manner, unless the Court comes to a conclusion that the perversity of the award goes to the root of the matter without there being a possibility of alternative interpretation which may sustain the arbitral award. Section 34 is different in its approach and cannot be equated with a normal appellate jurisdiction. The mandate under Section 34 is to respect the finality of the arbitral award and the party autonomy to get their dispute adjudicated by an alternative forum as provided under the law. If the Courts were to interfere with the arbitral award in the usual course on factual aspects, then the commercial wisdom behind opting for alternate dispute resolution would stand frustrated.

34. The perusal of the award indicates that the learned arbitrator has copiously gone through all the clauses of the award and has given

findings after duly considering the submissions made by both parties. The findings of the learned arbitrator start from para 7.4. The bare perusal of this makes it clear that the learned arbitrator has given findings on all the issues separately. It is pertinent to mention that the proceedings before the learned arbitrator are not required to be technical in nature and the learned arbitrator is within its power to decide the same on the basis of material on record. Learned arbitrator has also gone into the issue of extension of time and no claim certificate given by the petitioner.

35. I do not find any perversity or procedural irregularity in the award of the learned arbitral tribunal. The court is conscious of the fact that the court cannot go into the nitty-gritties and cannot sit as a court of appeal.

36. In view of the facts and circumstances of the petition, this court is of the view that there is no illegality or violation in the collusion arrived at by the arbitral tribunal. I consider that the applicant has failed to make out any case to interfere with the order of the learned arbitrator. Thus, the present petition along with pending application is dismissed accordingly.

DINESH KUMAR SHARMA, J

DECEMBER 20, 2023
rb/sj/ak.