

BEFORE THE LEARNED SOLE ARBITRATOR
JUSTICE NARESH PATIL
FORMER CHIEF JUSTICE OF BOMBAY HIGH COURT

In the matter of Arbitration between:

Supreme Manor Wada Bhiwandi Infrastructure Pvt. Ltd. ... Claimant

And

State of Maharashtra & Ors. ... Respondents

ISSUES

1. Whether the Claimant proves that the termination of the Concession Agreement dated 8th March 2010 by the Respondent vide notice dated 11th October 2019 is illegal and untenable?
2. If the answer to Issue No.1 is in affirmative then whether the Claimant proves that the Respondents are liable to specifically perform the Concession Agreement?
3. Whether the Claimant proves that they have followed the Dispute Resolution Mechanism under Article 19 of the Concession Agreement? In case, the Claimants fail to establish that they followed said procedure then whether the claims are still maintainable?
4. Whether the requirement under Article 16.2 of the Concession Agreement have been waived by the Claimant?
5. Whether the Claimant proves that they are entitled to termination payment either under Clause 16.2 (a) (3) or under Clause 16.2 (b) (2) and if yes, in what sum?

6. Whether the Claimant proves that they are entitled to recover loss of profits as claimed in terms of Claim No.2 and if yes, what amount to be granted?
7. Whether the Claimant proves that it is entitled to recover loss of revenue in terms of Claim No. 3 and if yes, in what amount?
8. Whether the Claimant proves that it is entitled to recover cost and expenses incurred for private land acquisition and for shifting of electrical poles in terms of Claim No. 4 and if yes, in what amount?
9. Whether the Claimant proves that it is entitled to recover cost and expenses towards utility shifting in the project place in terms of Claim No. 5 and if yes, in what amount?
10. whether the Claimant proves that it is entitled to recover cost of construction work done for a bypass road as per work order No.2, if the answer is in affirmative, whether the Claimant established Claim No.6 and if yes, in what amount?
11. Whether the Claimant proves that it is entitled to recover costs incurred for acquisition of private land for construction of Bypass road in terms of Claim No. 7 and if yes, in what amount?
12. Whether the Claimant proves that it is entitled to recover the compensation as assured on account of unilateral exemptions granted by Respondent to certain class of vehicles in terms of Claim No. 8 and if yes, in what amount?
13. Whether the Claimant proves that it is entitled to recover extra cost incurred towards maintenance in areas around unauthorized gaps in terms of Claim No. 9 and if yes, in what amount?
14. Whether the Claimant proves that it is entitled to recover the cost incurred by the Claimant for forest land acquisition in terms of Claim No. 10 and if yes, in what amount?

15. Whether the Claimant proves that it is entitled to recover the cost incurred due to prolongation of contract work in terms of Claim No. 11 and if yes, in what amount?
16. Whether the Claimant proves that it is entitled to additional cost for repairs and maintenance of on account of non-widening of road in terms of Claim No. 12 and if yes, in what amount?
17. Whether the Claimant proves that the amounts claimed in Claim Nos. 2 to 12 are dehors the amounts claimed in Claim No.1?
18. What order as to cost?
19. What order as to interest?
20. Whether the Claimant proves all and/or any of the counterclaim(s) filed by the Respondent is not within the jurisdiction of this Tribunal?
21. Whether the Claimant proves that all and/or any of the counterclaim(s) filed by the Respondent is barred by limitation?
22. Whether the Respondent proves that it is entitled to recover from the Claimant the money spent on repairs and maintenance of the Project Road and interest accrued thereon as claimed in Claim No. 1 of the Counter-Claim?
23. Whether the Respondent proves that it is entitled to receive from the Claimant penalty due to the Claimant's failure to repair and maintain the Project Road as claimed in Claim No. 2 of the Counter-Claim?
24. Whether the Respondent proves that it is entitled to recover from the Claimant the costs to be incurred in renewal and strengthening/reconstruction of certain patches/locations of the Project Road, completing pending works on the Project Road and

completion of Bypass Road as claimed in Claim No. 3 of the Counter-Claim?

25. Whether the Respondent proves that it is entitled to recover from the Claimant the increased cost of land acquisition and ground rent payable to the account holders whose lands have been acquired but to whom consideration hasn't been fully paid as claimed in Claim No. 4 of the Counter-Claim?
26. Whether the Respondent proves that it is entitled to receive from the Claimant damages in lieu of the wastages of human and natural resources and adverse impacts of the Claimant's acts of commission/omission as claimed in Claim No. 5 of the Counter-Claim?
27. Whether the Respondent proves that it is entitled to receive from the Claimant damages for maligning and dis-reputing the Respondents as claimed in Claim No. 6 of the Counter-Claim?
28. Whether the Respondent proves that it is entitled to recover from the Claimant the cost of the present Arbitration Proceeding as claimed in Claim No. 7 of the Counter-Claim?
29. Whether the Respondent proves that it is entitled to receive from the Claimant interest @ SBI-PLR as claimed in Claim No. 8 of the Counter-Claim?

Dated : 4th May, 2021

Justice Naresh Patil (Retd.)
Former Chief Justice of Bombay High Court
Sole Arbitrator