



CNR: KAHC010673352024

NC: 2026:KHC:53588
WP No. 31805 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

WRIT PETITION NO. 31805 OF 2024 (GM-RES)

BETWEEN:

H. NAVANEESH PRASAD
SINCE DECEASED BY LRS.,

1. DR. B. R. LALITHA
W/O. LATE NAYANEESH PRASAD,
AGED ABOUT 54 YEARS,
2. PRATUSHA BHUVANA PRASAD
D/O. LATE NAYANEESH PRASAD,
AGED ABOUT 30 YEARS,
BOTH ARE R/AT NO. 4
CHIKKANNA COTTAGES,
LOOP LANE, OFF RACE COURSE ROAD,
BENGALURU - 560 009.
REPRESENTED BY POA
MR. GURU PRASAD HANUMANTHAIAH,
S/O. LATE M. HANUMANTHAIAH,
AGED ABOUT 67 YEARS,
R/AT NO. 4/2, CHIKKANNA COTTAGES,
LOOP LANE, OFF RACE COURSE ROAD,
GANDHI NAGARA,
BENGALURU - 560 009.

Digitally signed by
PAVITHRA B
Location: HIGH
COURT OF
KARNATAKA

...PETITIONERS

(BY SRI. PRUTHA BHARATHI, ADVOCATE)



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AND:

1. J MANJUNATH
S/O. H. JAYARAM,
AGED ABOUT 50 YEARS,
R/AT FLAT NO. B-3219,
GOKULAM COMPLEX, DODDAKALLASANDRA,
KANAKAPURA ROAD, BENGALURU - 560 062.
2. M. SHASHIDHAR
S/O. LATE D. MARANNA,
AGED ABOUT 50 YEARS,
R/AT NO.7, 2ND FLOOR,
WEST OF CHORD ROAD,
SERVICE ROAD,
MAHALAKSHMI PURAM,
2ND STAGE, ABOVE UNION BANK OF INDIA,
RAJAJINAGAR BRANCH,
BENGALURU - 560 086.

...RESPONDENTS

(R1 AND R2 ARE SERVED AND UNREPRESENTED)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER DTD. 04.11.2024 PASSED BY THE LXXXVII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, COMMERCIAL COURT, BENGALURU (CCH-88) IN COMMERCIAL ARBITRATION PETITION BEARING NO. 36 OF 2024 (ANNX-A) AS ILLEGAL ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE T.P.VIVEKANANDA



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ORAL ORDER

This writ petition is filed challenging the order dated 04.11.2024 passed in Com.A.P.36/2024 by the LXXXVII Additional City Civil and Sessions Judge, Commercial Court, Bengaluru. The petitioners herein are the respondents before the Commercial Court.

2. The Com.A.P.36/2024 has been filed by the respondents on herein challenging the Arbitration Award dated 02.08.2023 in AC No.159/2022. The petitioners herein, who are the respondents before the Commercial Court have raised preliminary objections to the petition filed under Section 34 of the Arbitration and Conciliation Act (for short 'the Act'), contending that the same is barred by limitation, since the petition was filed beyond the prescribed period of 120 days.

3. It is the contention of the petitioners that, after the award was passed by the learned Arbitral Tribunal, I.A.No.3 was filed on 31.08.2023 for correction of the award under Section 33(1)(a) of the Act and I.A.No.4 was filed for passing



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an additional award under Section 33(4) of the Act, insofar as the claims which were not considered in the original award.

4. The notice of the said applications was given to the respondents before the learned Arbitral Tribunal. The application for correction of the award was not opposed. However, the application for passing the additional award in respect of the claims which were not considered in the original award was opposed.

5. The learned Arbitral Tribunal disposed of the application for correction of the award on 25.09.2023 and the application for additional award was disposed of on 27.09.2023 in the presence of the respondents.

6. Therefore, it is the contention of the petitioners that the period of limitation of 90 days for filing the petition under Section 34 commences from the date of disposal of the application under Section 33 of the Act, i.e., on 27.09.2023. If it is so considered, the petition under Section 34 ought to have been filed on or before 26.12.2023 and, even with the



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extension of 30 days, the last date for instituting the petition under Section 34 was 26.01.2024.

7. The Commercial Court, after hearing the parties, passed the impugned order holding that the petition filed under Section 34 filed by the respondents herein was within time. It is this order which is called in question in the present writ petition. Though notice of this petition was issued to the respondents and duly served, they remained unrepresented.

8. Learned counsel for the petitioners submits that the fact of pendency of this petition is within the knowledge of respondents Nos.1 and 2, who are the petitioners before the Commercial Court.

9. It is also necessary to notice that this Court passed an interim order on 28.11.2024, staying the further proceedings before the Commercial Court. Therefore, it is quite obvious that the respondents are very much in knowledge of the pendency of the present writ petition.

10. Heard the learned counsel appearing for the petitioners and perused the material on record.



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11. Before considering the submission of the learned counsel for the petitioners, I deem it appropriate to extract the provision of Section 34(3) of the Act, which reads as follows:

"34. Application for setting aside arbitral award. - (3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal.

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter."

12. Learned counsel for the petitioners has reiterated the grounds urged in the writ petition and contentions urged before the Commercial Court and places reliance on the judgment of the Hon'ble Supreme Court in **Geojit Financial Services Limited vs. Sandeep Gurav¹**. It is pointed out that, in the said judgment, the Hon'ble Supreme Court has clarified that the limitation for filing a petition under Section 34 in case an application for correction of the award is made under Section 33 of the Act, shall be reckoned from the date of

¹ Civil Appeal No.10970/2025 DD 19.08.2025



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disposal of the application under Section 33 and not from the date on which the copy of the corrected award is received by the parties. The relevant portion of the said judgment is as follows:

(i) Where an application under Section 33 of the 1996 Act has not been filed, the legislature was conscious enough to state that it would be the date of the receipt of the award which would earmark the commencement of limitation for an application for setting aside of an award in terms of Section 34 of the 1996 Act. Whereas, in the case where an application under Section 33 of the 1996 Act has been filed, the legislature was conscious enough to lay down that it would be the date of disposal of such request or application, that would be the starting point for calculation of limitation.

(ii) Where such an application under Section 33 of the 1996 Act is filed, irrespective of whether the arbitral tribunal upon considering such application, either makes or does not make any correction or modification or choose to render or to not render an additional award in terms of Section 33 of the Act, 1996, the starting point for the period of limitation for challenging the same under Section 34 as per subsection (3) would be the date of disposal of such application under Section 33 by the arbitral tribunal, as long as the application under Section 33 of the 1996 Act had been filed within the prescribed period of limitation under sub-section (1) thereto AND with notice to the other party. Any other interpretation to the contrary, would do violence to plain and unambiguous language used in Section 34 sub-section (3) of the Act, 1996.

(iii) In the aforesaid scenario, neither the date of passing of the original award or date of receipt of the same by the party nor the date of receipt of the corrected award or date of receipt of the decision of the



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arbitrator disposing the application under Section 33 of the 1996 Act is of any significance. What is of significance, under Section 34 sub-section (3) of the Act, 1996 is the date on which the application or request under Section 33 came to be disposed by the arbitral tribunal."

13. The important dates and events which are germane for consideration of the present case are as follows:

Sl.No.	Date	Event
1	02.08.2023	Arbitral Award
2	03.08.2023	Original signed copy of Arbitral Award received by the parties
3	31.08.2023	IA.3 filed for correcting typographical errors and IA.4 is filed by the petitioners for passing additional Arbitral Award
4	25.09.2023	IA.3 was allowed
5	27.09.2023	IA.4 was allowed
6	23.02.2024	Petition filed under Section 34 of A & C Act

14. In the present case, on perusal of the impugned order, it is seen that the learned Commercial Court was persuaded to accept the contention of the respondents that the limitation for filing the petition under Section 34 commences from the date on which the copy of the corrected award under Section 33 of the Act is received. The interpretation made by the Commercial Court with regard to limitation for filing the petition under Section 34 is contrary to the provisions of



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Section 34(3) of the Act, as also the judgment of the Hon'ble Supreme Court in ***Geojit Financial Services Limited*** (*supra*). Hence, the impugned order cannot be sustained.

15. In the result, I proceed to pass the following:

ORDER

- i. The writ petition is ***allowed***.
- ii. The order dated 04.11.2024 in Com.A.P.36/2024 passed by the LXXXVII Additional City Civil and Sessions Judge, Commercial Court, Bengaluru, holding that it is within time vide Annexure-A is hereby set aside.
- iii. Consequently, Com.A.P.36/2024 is ***dismissed*** as barred by limitation.
- iv. No order as to costs.

**Sd/-
(T.P.VIVEKANANDA)
JUDGE**

SMC
List No.: 1 Sl No.: 19