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

+ **FAO(OS) 259/2015**

SURINDER MOHAN TALWAR AND ANR Appellant
Represented by: Appellant No.1 in person.

versus

**CHOLAMANDALAM INVESTMENT
AND FINANCE CO LTD** Respondent
Represented by: Mr.J.L.Joel, Adv.

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER
22.02.2016

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1. Vide impugned order dated February 09, 2015 980 days delay in filing OMP No.867/2014, an objection under Section 34 of the Arbitration and Conciliation Act, 1996 has been dismissed. The reason given by the learned Single Judge is that when the award dated November 21, 2011 was put into execution the appellants were served on November 22, 2013. They would therefore have knowledge of the award.
2. The impugned order overlooks the fact that as per Sub-Section (3) of Section 34 of Arbitration and Conciliation Act limitation commenced to challenge an award from the date when an arbitral award is received.
3. Mere knowledge of an arbitral award sans the reasons in the award is meaningless. It is actionable knowledge which has to be looked into in law.

4. To untie this knot, on December 07, 2015, after the respondent was served, direction was issued to obtain from the Arbitrator the record of arbitration which has not been received in this Court till date.
5. Learned counsel for the respondent, the claimant, states that they contacted the Arbitrator who stated that the record is not traceable with him.
6. Since, in the absence of arbitral record which the learned Arbitrator is unable to produce it would be impossible for this Court to find out as to when did the learned Arbitrator notify the appellants the award dated November 21, 2011, we dispose of the appeal setting aside the impugned order dated February 09, 2015. We declare that there was no need to seek any delay to be condoned for the reason the trigger off date wherefrom limitation had to be commenced has not even commenced.
7. OMP No.867/2014 and IA 14343/2014 are restored for adjudication on merits.
8. On an application being filed enclosing therewith a certified copy of the present order the OMP and the interim application would be listed by the Registry as per the Roster to the Bench nominated.
9. No cost.

CM 8639/2015 (stay)

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 22, 2016

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