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IN THE HIGH COURT OF DELHI AT NEW DELHI

O.M.P. 529/2015 & IA No. 23052/2015

SUNIL KUMAR

..... Petitioner

Through: Mr S K Goyal, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Mr Anupam Sharma, Advocate.

CORAM: JUSTICE S. MURALIDHAR

ORDER

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09.11.2016

IA No.23145/2015

1. This is an application seeking condonation of delay of 22 days in filing the petition under Section 34 of the Arbitration and Conciliation Act, 1996 ('Act') against the impugned Award dated 30th March, 2015 passed by the sole Arbitrator.
2. Although, the applicant stated that the petition is filed after 22 days' delay by claiming that the copy of the impugned Award was received by the Petitioner only on 30th June, 2015, it is pointed out in the reply filed by the Delhi Development Authority that the learned Arbitrator himself vide his letter dated 4th January, 2016 in reply to the Respondent's letter dated 23rd December, 2015 annexed a copy of the delivery report which confirmed that the copy of Award was dispatched to both the parties by speed post.

3. The Court has examined the arbitral record in which the learned Arbitrator has included in Volume 2A, the copy of the delivery report. It contains the speed post card which gives the address of the Petitioner as Sunil Kumar s/o Shri Satish Kumar, r/o H.No.C-6, Gali No.1, Near Bus Stand, Bhajanpura, Delhi – 110053. As per the delivery report in respect of this address, it appears that the Petitioner received a copy of the Award on 22nd April, 2015.

4. The above fact is relevant in the context of the submission of the Petitioner that he had changed his address. In fact, earlier, the address of the Petitioner was 48A, DDA Flats, Ashok Vihar, Phase – 3, New Delhi, to which initially the Award was dispatched on 08th April, 2015. After the packet was returned with the remarks that the Petitioner had left that address, it was again sent to the Petitioner on 10th April, 2015 at the changed present address. The arbitral record clearly shows that the Petitioner received a copy the Award by speed post at his changed address on 22nd April, 2015.

5. In the rejoinder filed to the reply, no attempt has been made by the Petitioner to substantiate his plea that he received the copy of Award only on 30th June, 2015. In the circumstances, the Court is constrained to conclude that the delivery date of 30th June, 2015 is an arbitrary date chosen by the Petitioner himself without there being any document to substantiate such plea.

6. With the record showing that a copy of the Award was delivered to

the Petitioner on 22nd April, 2015, that becomes the relevant start date for the purpose of computation of limitation in terms of the Section 34 (3) of the Act.

7. In terms of Section 34(3) of the Act, the petition challenging the Award should have been filed within three months of the receipt of the Award i.e., on or before 21st July, 2015. Even if one were to grant the Petitioner the benefit of a further 30 days in terms of proviso to Section 34(3) of the Act, the Petitioner's objection could not have been filed later than 20th August, 2015. Admittedly, the present petition was filed on 26th October, 2015, far beyond the period of 120 days which is the outer limit permitted under Section 34 of the Act. Therefore, there is no scope for the Court to condone the delay in filing the present petition. The application is, accordingly, dismissed.

8. Consequently, OMP 529/2015 along with pending applications are dismissed.

S. MURALIDHAR, J

NOVEMBER 09, 2016
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