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HIGH COURT OF DELHI AT NEW DELHI

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FAO 96/2016 & CM APPL.7498-7501/2016

Decided on: 9th March, 2016

PANJAB SINGH

..... Appellant

Through: Mr. Rohit Singh, Advocate with
Mr. Sadashiv Gupta, Advocate

versus

INDIA BULL FINANCIAL SERVICES LIMITED & ORS.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. This is an appeal filed by the appellant against the order dated 19.09.2015 by virtue of which the objections of the appellant against the award dated 20.07.2012 were dismissed as barred by the limitation. There was an award passed against the appellant Punjab Singh in the capacity of a guarantor along with principal borrower for a sum of Rs.10,95,790/- along with interest @ 2.25 per month starting from 12.05.2012.
2. The learned arbitrator in his award has specifically noted that despite the notices having been served on the present appellant and the principal borrower there was no appearance on their behalf and, therefore, they were proceeded ex-parte. Even at the stage of

recording evidence, the matter was adjourned by the learned arbitrator on three occasions to enable them to appear before him so as to enable them to cross examine the witnesses. Copies of the order sheet were also sent to the appellant. Despite this indulgence shown by the learned arbitrator, still the appellant and the principal borrower did not respond. Consequently, resulting in passing of an *ex-parte* award.

3. The present appellant filed objections contending that the copy of the award was served on the wife of the principal borrower only in month of July, 2014 and immediately thereafter he filed the objections under Section 34 of the Arbitration & Conciliation Act.
4. It has been stated by the learned counsel for the appellant that in the impugned order dated 19.09.2015, the learned arbitrator has noted that the copy of the award was served on the wife of respondent No.1 therein (the principal borrower) in March, 2013 which is factually incorrect. The fact of the matter remains irrespective of the service of the award the objections which have been filed by the appellant are beyond a period of 90 days. The learned arbitrator has relied upon the judgment in *Union of India v. M/s. Popular Construction Company, (2001) 8 SCC 470*, wherein it has observed that the learned Court has no power of condone the delay beyond a period of 90 days and accordingly the objections were dismissed.

5. Still feeling dissatisfied, the present appeal has been filed. I have not been shown any provision which will empower the Court to condone the delay.
6. There is no illegality in the order or any infraction of Section 34 of the Act so far as the rejection of the objections filed by the appellant is concerned. Accordingly, the present appeal is without any merit and the same is dismissed.
7. Since appeal itself is dismissed, therefore, no orders on the miscellaneous applications are called for.
8. All the applications are accordingly dismissed.
9. File be consigned to record room.

MARCH 09, 2016
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V.K. SHALI, J.