

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO.1413 OF 2018
IN
ARBITRATION PETITION (L.) NO.371 OF 2018**

Esha Warrik & Anr.	..Applicants
In the matter between	
Esha Warrik & Anr.	..Petitioners
Vs.	
M/s.Dewan Housing Finance Corporation Ltd.	..Respondent

Mr.Tapan Agrawal and Mr.Abhirajdas K. i/b. M/s.Vishwakarma &
Associates for Applicant.
Ms.Sarita Yadav i/b. M/s.Shrivastav & Co. for Respondent.

CORAM : G.S. KULKARNI, J.

DATE : 11th DECEMBER, 2018

P.C.:

Heard learned Counsel for the applicants.

2. By this application, the applicants/petitioners have prayed for condonation of delay of 7 days in filing the above petition under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, "the Act"). The impugned award came to be passed on 29 December 2017. The submission of the learned Counsel for the applicant is that the acknowledgement of the receipt of the award has been misplaced at the hands of the applicants. It is submitted that the limitation period of 90

days in terms of Sub-Section (3) of Section 34 of the Act expired on 28 March 2018 and the extended period of 30 days expired on 27 April 2018. It is submitted that the present petition has been filed on 5 May 2018 and hence there is a delay of 7 days in filing the present Section 34 application which is within the extended period of limitation as stipulated under the proviso to Section 34(3). My attention has been drawn to the averments made in paragraphs 5, 6 and 7 of the notice of motion.

3. Learned Counsel for the respondent has vehemently opposed this application. She submits that the statement as made on behalf of the applicant in paragraph 7 of the affidavit in support of notice of motion of the holidays and more particularly the holiday on 29 March 2018 being Mahavir Jayanti is not correct. It is therefore her submission that delay is not properly explained and the notice of motion is deserved to be dismissed accordingly. On a query being made, learned Counsel for the respondent submits that she would make only oral submissions to oppose this application and the respondent would not be filing any reply affidavit.

4. Having perused the averments as made in the affidavit in support of notice of motion as also having considered the arguments as made on

behalf of the respondent, in my opinion, the delay has been sufficiently explained. Admittedly, the delay of 7 days is within prescribed extension of time as per Section 34(3) of the Act. It is thus in the interest of justice that delay in filing the above petition is condoned.

5. Notice of motion is accordingly allowed in terms of prayer clause (a), however, this shall be subject to payment of costs of Rs.5,000/- which shall be paid to the respondent by applicants within a period of two weeks from today.

[G.S. KULKARNI, J.]