

HIGH COURT OF CHHATTISGARH AT BILASPUR

ARBA No. 56 of 2019

Manohar Lal Sahu S/o Tungan Lal Sahu Aged About 50 Years R/o Qtr. No. 54, Village Lakhanpur (Jhalap) , Revenue Circle Pithora, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Petitioner

Versus

1. Cholamandalam Investment And Finance Company Limited, Registered Under Indian Companies Act, Head Office, Dare House No. 2, N. M. C. Bose Road, Paris, Chennai And Branch Office, Raipur Road, Mahasamund, District Mahasamund Chhattisgarh
2. Tungan Lal Sahu S/o Bali Ram Sahu Aged About 80 Years R/o Qtr. No. 54, Village Lakhanpur (Jhalap) Revenue Circle Pithora, District Mahasamund Chhattisgarh.

---Respondents

For Petitioner : Shri Shikhar Sharma, Adv.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05.12.2019

1. The challenge in the present writ petition is to the order dated 16.10.2019 passed by the Additional District Judge (Fast Track Court Mahasamund) in M.J.C. No. 15/2019. Vide the said order, the Learned Court below has rejected the application under Section 34 filed by the appellant. The rejection has been done on the ground of barred limitation.
2. The contention of the Appellant is that the Learned Court below has not properly appreciated the explanation that the Appellant had provided in the application for condonation of delay.
3. According to the Counsel for the Appellant, he has come to the knowledge of the award passed by the Arbitrator only after getting certified copy of the award on 09.10.2018 and thereafter the appellant has been filed an application within time on 01.11.2018.
4. Perusal of the record would show that the Learned Court below has specifically dealt with the application for condonation of delay and has in the course of deciding the application found that the appellant himself had

infact appeared before execution Court on 27.01.2017 and on which date, the appellant had appeared in person and had taken time / adjournment for settlement of the issue.

5. This fact is not controverted by the Counsel for the Respondent.
6. Given the said fact that the appellant was well aware of the award passed by the Arbitrator and the award being under execution as early as 27.01.2017. The date on which, he had appeared before the Learned Court below and even thereafter, he had filed the application under Section 34 only after about 23 months i.e. on 01.11.2018 with a contention that the limitation would start from the date he has received certified copy on 09.10.2018 is therefore unacceptable and not sustainable. The reason assigned cannot be said to be either plausible or justifiable. It also cannot be presumed that the petitioner was not in knowledge of the award passed by the Arbitrator prior to 09.10.2018 as claimed by him in his application for condonation of delay. The rejection of the application under Section 30 by the respondents on the ground of limitation seems to be proper legal and justified, therefore, the application being devoid of merits stands rejected.

Sd/-

(P. Sam Koshy)
Judge

Jyotijha