

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO No. 2663 of 2015 (O&M)
Date of Decision: 01.04.2019**

Gurmit Singh and another

..... Appellants

VERSUS

The Project Director, National Highway Authority of India and another

..... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Ms. G.K. Mann, Advocate,
for the appellants.

Mr. D.K. Parjapati, Advocate, for
Mr. R.S. Madan, Advocate,
for respondent No.1.

JAISHREE THAKUR, J. (ORAL)

1. This is an appeal that has been filed seeking to challenge the order dated 21.10.2014 whereby the application under Section 34 of the Arbitration and Conciliation Act, 1996 for setting aside the arbitral award dated 29.09.2011 stands dismissed.

2. A few facts need to be noticed for the adjudication of this case. It is not in dispute that the land of the appellants herein was acquired under the National Highway Act, 1956. The claimants aggrieved against the compensation awarded by the Sub Divisional Magistrate-cum-Land Acquisition Collector, Amritsar-II, filed an appeal under Section 3-G(5) of the National Highway Act, 1956 seeking enhancement. The Deputy

Commissioner-cum-Arbitrator, Amritsar, dismissed the said appeal on the ground that adequate compensation had been given to the applicants. Aggrieved against the said award, an application under Section 34 of the Arbitration and Conciliation Act came to be filed on 01.07.2014 along with an application under Section 5 of the Limitation Act seeking condonation of delay. The District Judge, Amritsar, dismissed the said application and the appeal on the ground of limitation which led to the filing of the instant appeal.

3. Learned counsel for the appellants herein stresses that the District Judge has erred in dismissing the appeal of the claimants on hypertechnical ground and the same should have been heard on merits.

4. Per contra, learned counsel appearing on behalf of respondent No.1 submits that the District Judge would not have the jurisdiction to entertain the appeal and the application for condonation of delay beyond the period as specified in Section 34 of the Arbitration and Conciliation Act, 1996.

5. I have heard learned counsel for the parties and have also perused the pleadings of the case.

6. Admittedly, the award came to be passed in the presence of the claimants who then applied for a copy of the award on 05.03.2014 and filed their objections thereafter. A perusal of the application filed under Section 5 of the Limitation Act does not disclose any reason as to why there was such an inordinate delay in preferring objections under Section 34 of the Act other than stating that the award was announced on 29.09.2011 and copy of the same was applied on 05.03.2014 which was completed on 27.03.2014 and was made available to them on 31.05.2014. The appellants have not taken the plea that the copy of the award was not served upon them which led in the delay in filing of the appeal. If that would have been the case there would have been a

ground to condone the delay. As noticed by the District Judge, no adequate reasons have been given regarding the delay in filing the application.

7. Section 34 of the Arbitration Act provides that an application for setting aside an award has to be made within a period of three months and the delay can be condoned if court is satisfied that the applicant was prevented by sufficient cause from making the application within the specified time if such application seeking condonation is filed within a further period of 30 days, but not thereafter. In other words, the undisputed position is that there was an inordinate delay in filing of the application under Section 5 of the Limitation Act for condoning the delay in filing the appeal and that too without sufficient cause. In the latest judgment rendered by the Supreme Court in *Union of India vs. M/s Popular Construction Co. 2002(1) R.C.R. (Civil) 124* it has been held that an application for setting aside an award beyond the period prescribed under Section 34(3) is liable to be rejected.

7. Finding no merit, the appeal stands dismissed.

01.04.2019

Satyawan

Whether speaking/reasoned

Whether reportable

(JAISHREE THAKUR)
JUDGE

Yes

No