

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

4 ARBITRATION APPEAL NO.1 OF 2020
WITH CA/75/2020 IN ARBA/1/2020

SHAIKH JAHANGIR SHAIKH AAJAM
VERSUS
MAHINDRA AND MAHINDRA FINANCE SERVICE LTD. THROUGH ITS
REGIONAL MANAGER, MUMBAI

...
Advocate for Appellant : Mr. Deshpande Dhananjay P.

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CORAM: ROHIT BABAN DEO, J.

Date: JANUARY 6th, 2020

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PER COURT :-

1 This Appeal is directed against the order rendered by the Principal District Judge, Beed in a proceedings initiated under section 34 of the Arbitration & Conciliation Act, 1996 (for short "Arbitration Act").

2 The appellant is the father of the borrower and was arrayed before the Arbitrator on the premise that he was a guarantor.

3 The appellant assailed the award in an application under section 34 of the Act, contending that he did not stand as a guarantor for the finance availed by his son. The appellant further contended that he was not served with the notice in the arbitral proceeding.

4 The learned District Judge has rejected the application filed under section 34 of the Act preferred by the appellant, holding that the application is filed beyond the statutorily prescribed period. This finding is consistent with the record. The arbitral award was delivered on 7.12.2011. The appellant contends that he became aware of the arbitral award only on 24.4.2014, when he was served with notice of the execution. Even if it is presumed that the appellant came to know of the arbitral award when he received the notice of execution, then also section 34 of the application is filed beyond the statutorily prescribed period. Further, the learned District Judge has found against the appellant even on merits. This aspect need not detain me, since I am satisfied that the learned District Judge did not have jurisdiction to condone the delay beyond the period of 120 days.

5 Appeal is without substance and is rejected.

6 Pending civil application is also disposed of.

(ROHIT BABAN DEO, J)