

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

CR-596-2021

Date of Decision: 12.03.2021

Haryana Urban Development Authority now Haryana Shehri Vikas
Pradhikaran)

...Petitioner

Versus

M/s Dwarka Dhruv Developers

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Arvind Seth, Advocate,
For the petitioner.
(Presence marked through video conference).

ARUN MONGA, J.(ORAL)

Petition herein under Article 227 of Constitution of India is for setting aside the award dated 09.08.2017 (Annexure P-3) passed by the Arbitrator and the order dated 13.11.2018 (Annexure P-5) passed by the learned Additional District Judge, Gurugram vide which the prayer of the petitioner seeking condonation of delay in filing petition under Section 34 of the Arbitration and Conciliation Act has been turned down and consequently, petition has been dismissed being not maintainable.

2. Learned counsel for the petitioner contends that vide impugned order dated 13.11.2018, learned Additional District Judge Gurugram dismissed the application seeking condonation of delay in filing the petition under Section 34 of the Arbitration and Conciliation Act and failed to appreciate the objections raised by the petitioner qua the award dated 09.08.2017.

3. Having heard learned counsel for the petitioner and going through the impugned order, I find no ground to interfere in the impugned order, which is premised on the following reasons:-

“8. Coming to the facts of the case as per the case of the petitioner the award was announced on 09.08.2017, Present objection petition for setting aside this arbitral award has been filed on 09.07.2018 i.e. after expiry of twelve months period. There is no justifiable reason mentioned in the application why award was not challenged within three months time. Moreover even if the applicant could seek condonation of the delay that was only a further one month period after three months time as envisaged under Section 34(3) of the Arbitration Act. What can be culminated is that in fact at the most a petition for setting aside an arbitral award under Section 34 of the Arbitration Act can be filed within a period of four months (three months + one month extended period) from the date of receipt of the award. In this case the petition has been filed after expiry of twelve months period. However after expiry of four months period the limitation cannot be extended and delay cannot be condoned as per the language of Section 34(3) of the Arbitration Act which itself is a complete code. This limitation period is not extendable by Court by taking aid of Limitation Act, 1963 as has been so settled in catena of judgments.

9. Consequently there is no ground made out in this case to condone delay in filing the petition for setting aside the arbitral award which has been filed in fact much after expiry of limitation period of four months (twelve months in this case). Therefore the application moved by the petitioner seeking condonation of delay in filing the petition is meritless and same is hereby dismissed. As a result thereof the main petition under Section 34 of the Arbitration Act, which in fact is barred by time, is found to be not maintainable and is hereby dismissed with costs. Memo of costs be drawn accordingly. Consign the file to records after necessary compliance.”

4. A perusal of the above would show that the Court below based its findings on correct appreciation of facts and law. The Legislature in its wisdom has prescribed the period of limitation of three months in filing objections to the award with an exception to extend the same for another one months, subject, of course, to the party challenging the award showing sufficient cause which prevented filing of application within prescribed period of three months **and not thereafter**(emphasis supplied). Thus, in all,

the maximum period prescribed as extendable for challenging the award is four months. It is apparent that in the instant case, the petitioner filed the objections to the award after lapse of considerable period of about 12 months. Apparently, no justifiable reason or explanation is forthcoming as to why the objections were not filed within the stipulated period. In the circumstances, no fault could be found with the approach adopted by the Court below. It would not be in the fitness of things to reopen an issue which otherwise has attained finality by virtue of legislative intent.

5. Dismissed.

March 12, 2021

Vandana/ Jiten

(ARUN MONGA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No