

ORDER SHEET

AP/118/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

RAJU JANA
Versus
M/S. MOTILAL OSWAL FINANCIAL
SERVICES LIMITED (TM) AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 31st July, 2023.

Appearance:

Mr. Raju Jana (appears in person)

*Mr. Meghajit Mukherjee, Adv.
...for respondents*

The Court: The petitioner, appearing in person, seeks setting aside of an Award dated 4th July, 2019. The Award is by a learned Sole Arbitrator. The petitioner seeks setting aside of the Award, inter alia, on the ground that the petitioner was not served with a copy of the arbitration agreement and that the petitioner was also forced to choose the Arbitrator from a list given by the respondents. The petitioner also says that the petitioner was forced to sign on documents.

The Court is further informed that the petitioner's claim before the Arbitrator was rejected.

Whatever may be the grievance, these are matters for the Court to consider under an application for setting aside of an Award under Section 34 of

the 1996 Act subject to the application being filed within the statutory time period under Section 34(3) of the Act.

The documents in the application itself disclose a mail written by the petitioner to a person from the NSE on 8th August, 2019 stating that the petitioner is not “satisfied of the judgment by Sole Arbitrator”. The mail mentions the name of the Sole Arbitrator, as well as the mail also bears a number which deals with the Award enclosed with the application. Hence, there is no doubt that the petitioner’s mail of 8th August, 2019 refers to the impugned Award.

The mail is a testimony to the fact that the petitioner was aware of and had knowledge of the impugned Award at least on 8th August, 2019. The present application has, however, been filed on 3rd March, 2023.

Section 34(3) of the Act read with the proviso contains strict timelines for filing of an application under Section 34 for setting aside of an Award. Any application filed after three months plus thirty days cannot be entertained by the Court. Even if the Court’s sympathies are with the petitioner for allegedly being misled by the respondent no. 1, the present case would fall within that window since the petitioner cannot claim not to have had knowledge of the impugned Award at the material point of time.

AP/118/2023 is accordingly dismissed without any order as to costs.

(MOUSHUMI BHATTACHARYA, J.)