

OCD-30

ORDER SHEET
AP/305/2023
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

JIYAUl HAQUE AND ANOTHER
VS
TATA CAPITAL FINANCE SERVICES LIMITED

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 19th June, 2023

Appearance:

Mr. Debashis Banerjee, Adv.
Mr. Suvanil Chakraborty, Adv.
Mr. Rakesh Jana, Adv.
...For the Petitioner

Mr. Avishek Guha, Adv.
Mrs. Debarati Das, Adv.
Ms. A. Chopra, Adv.
Ms. A. Dutta, Adv.
...For the Respondent

The Court: The present application for setting aside under Section 34 of the 1996 Act relates to an award dated 20th February, 2021. The petitioner prays for condonation of delay as well as the setting aside of the award. The delay in this case is substantial.

The relevant pleadings in the applications state that the petitioners received the award on 29th March, 2021. The present application was filed on 10th May, 2023.

Learned Counsel submits that the petitioners were prevented from taking steps for setting aside of the award under Section 34 by reason of the pandemic and the petitioners' appearance being urgent at the relevant point of time.

The proviso to section 34 (3) of the Act confers a limited discretion on the Court where the Court is of the view that the petitioners were prevented from taking steps under Section 34 by reason of sufficient cause. The proviso, however, limits the discretion to a maximum period of three months plus thirty days which would be clear from the last words of the proviso which is "*...but not thereafter.*"

The three months in the present application expired on 28th June, 2021 and the additional thirty days expired on 28th July, 2021. Section 34 (3) does not allow for any scope of further extension even if the Court finds sufficiency of cause in the delay in filing of the application for setting aside of the award. The present application which is almost two years thereafter was filed on 10th May, 2023.

AP No.305 of 2023 is accordingly dismissed without any order as to costs.

(MOUSHUMI BHATTACHARYA, J.)