

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.2336 OF 2020
IN
ARBITRATION PETITION (L) NO.398 OF 2020

Haribhai Gadhavi (Mindhani) and another ... Applicants / Petitioners
Vs.
Tata Motors Finance Limited and another ... Respondents

None for Applicants / Petitioners.

CORAM : MANISH PITALE, J.
DATE : APRIL 18, 2023

P.C. :

. None for the applicants / petitioners.

2. This petition was earlier listed on 14.12.2020. On that occasion also, there was no appearance on behalf of the petitioners.

3. The petition is filed under Section 34 of the Arbitration and Conciliation Act, 1996 to challenge an award dated 01.10.2009 passed by the arbitral tribunal. The petition is accompanied by an application seeking condonation of delay. In the application itself it is stated that the award is received by the applicants / petitioners and thereupon they had approached the concerned Court at Bhuj in Gujarat. Subsequently, the challenge raised on behalf of the petitioners was rejected on the ground of jurisdiction by an order dated 31.12.2018.

4. The applicants / petitioners state that the time period consumed in pursuing the challenge before the Court at Bhuj ought to be taken into account by this Court while considering the application for condonation of delay.

5. This Court is of the opinion that even if such time period is to be taken into account, the accompanying petition was eventually filed by

the applicants / petitioners on 20.03.2020. As noted hereinabove, the order passed by the Court at Bhuj was dated 31.12.2018. Section 34(3) of the Arbitration and Conciliation Act, 1996 stipulates that an arbitral award can be challenged by filing a petition under Section 34 of the said Act, within three months of receipt of the award. A further period of 30 days is available, provided the applicants convince the Court that there are sufficient reasons for raising the challenge beyond the period of three months. The provision clearly states that the Court can consider condoning the delay upto 30 days beyond the period of three months, but not thereafter. The said provision has been interpreted by the Supreme Court in various judgements including the judgement in the case of *Consolidated Engineering Enterprises Vs. The Principal Secretary (Irrigation Department) and others*, **(2008) 7 SCC 169** to hold that beyond the period of 3 months and 30 days, the Court does not have power to condone delay.

6. In view of the above, this Court finds that in the facts of the present case, the period of delay is far beyond 30 days beyond the period of 3 months prescribed in Section 34(3) of the said Act and that therefore, the application deserves to be dismissed.

7. Accordingly, the interim application is dismissed.

(MANISH PITALE, J.)

Minal Parab