

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.1329 OF 2018
IN
ARBITRATION PETITION (L) NO.710 OF 2018

Dhananjay Vijaypal Singh and another ... Applicants / Petitioners
Vs.
L & T Finance Limited (erstwhile known
as Family Credit Company) ... Respondent

Ms. Sejal A. Hariyan i/b. Mr. Padmanabh D. Pise for Applicants / Petitioners.

CORAM : MANISH PITALE, J.
DATE : MARCH 28, 2023

P.C. :

. By this notice of motion, the applicants are seeking condonation of delay in filing the accompanying petition under Section 34 of the Arbitration and Conciliation Act, 1996.

2. The impugned award in the present case is dated 04.12.2017. It is the case of the petitioners that they received the award much later i.e. on 22.02.2018. The accompanying petition was filed on 29.06.2018 and the notice of motion for condonation of delay appears to have been filed on 05.07.2018. There is admittedly delay on the part of the petitioners in filing the accompanying petition.

3. Insofar as the power of the Court to condone the delay in such circumstances is concerned, Section 34(3) of the said Act applies, which reads as follows:-

“34. Application for setting aside arbitral award.-

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award

or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.”

4. In the present case, the accompanying petition having been filed on 29.06.2018 shows that it was filed beyond the period of 3 months and 30 days specified in the above-quoted provision. The petitioners themselves have stated in the petition as well as in the notice of motion that the award was received on 22.02.2018. The period of 3 months elapsed on 21.05.2018 and by the time the petition was filed on 29.06.2018, the further period of 30 days also expired. The above-quoted provision specifically uses the words ‘but not thereafter’, indicating that the Court does not have power to condone the delay beyond the extended period of 30 days after the 3 months’ period has elapsed. This is specifically held in judgements of the Supreme Court in the case of *Consolidated Engineering Enterprises Vs. Principal Secretary, Irrigation Department*, (2008) 7 SCC 169 and *Simplex Infrastructure Limited Vs. Union of India*, (2019) 2 SCC 455.

5. In view of the settled position of law and applying the same to the facts of the present case, this Court is of the opinion that the notice of motion cannot be allowed. Accordingly, the notice of motion is dismissed.

(MANISH PITALE, J.)