

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision: 11th January, 2023

(1) FAO No. 2025 of 2019

Sukh Ram and others

Appellants

Versus

DRO-cum-Land Acquisition Collector and another

Respondents

(2) FAO No. 2187 of 2019

Patram and another

Appellants

Versus

DRO-cum-Land Acquisition Collector and another

Respondents

(3) FAO No. 2269 of 2019

Har Chand and others

Appellants

Versus

DRO-cum-Land Acquisition Collector and another

Respondents

(4) FAO No. 2397 of 2019

Chet Ram and others

Appellants

Versus

DRO-cum-Land Acquisition Collector and another

Respondents

(5) FAO No. 2404 of 2019

Dal Chand

Appellant

Versus

DRO-cum-Land Acquisition Collector and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Tanmoy Gupta, Advocate for the appellants.
Mr. D. K. Singal, Advocate for respondent No. 2.

AVNEESH JHINGAN, J (Oral):

The afore-mentioned five appeals have been filed aggrieved of order dated 18.12.2018 dismissing the objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') as time barred. As the facts are similar, the same are being decided by a common order. For the sake of convenience, facts are being taken from FAO No. 2025 of 2019.

The facts in brief are that land of the appellants was acquired. The matter was referred to the arbitrator. The award was passed on 2.9.2015. The objections were filed on 11.4.2016.

Section 34 (3) of the Act is reproduced below:

“(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.”

The Supreme Court in ***Union of India v. Ms Popular Construction Co., AIR 2001 SC 4011; M/s Consolidated Engg. Enterprises v. Principal Secy. Irrigation Deptt. and others, (2008) 7 SCC 169*** and ***Chintels India Ltd. v. Bhayana Builders Pvt. Ltd., 2021 AIR***

(SC)1014 held that Section 5 of the Limitation Act is excluded by Section 34(3) of the Arbitration Act, 1996 and that delay beyond 30 days after expiry of limitation period cannot be condoned.

Learned counsel for the appellants submits that the appellants were not aware of the award and after getting the award were arranging for money, hence the delay occurred.

It is not the case set up in appeal that objections were filed within 120 days from the receipt of copy of the award, rather the reason put forth for condonation of delay is that the appellants were arranging money for filing petition under Section 34 of the Act.

It is settled position of law that Section 5 of the Limitation Act cannot be invoked for condoning the delay in filing objections under Section 34 of the Act. In the present case, the delay is beyond the period provided in the proviso to Section 34 of the Act for condoning the delay.

No interference is called for with the impugned order.

The appeal is dismissed.

Since the main appeal is dismissed, pending applications, if any, rendered infructuous.

Photo copy of the order be placed on the files of each connected case.

[AVNEESH JHINGAN]
JUDGE

11th January, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |