

FAO No. 2042 of 2019

[1]

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 2042 of 2019 (O&M)

Date of decision: 13th March, 2023

Hari Ram and another

Appellants

Versus

DRO-cum-Land Acquisition Collector/competent authority & another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Tanmoy Gupta, Advocate for the appellants.

AVNEESH JHINGAN, J (Oral):

This appeal is filed aggrieved of order dated 2.12.2017 dismissing the objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') as time barred.

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 filed on 11.4.2016 were dismissed as time barred.

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.”

Learned counsel for the appellants submits that the appellants were not aware of the award hence the delay occurred in filing the objections.

The contention that the appellants were not aware of the award was specifically dealt with by Additional District Judge by stating that the award was announced in the presence of counsel for the appellants. Moreover, it was further noted that the application for applying certified copy was made on 9.9.2015 and delivered on 15.9.2015. The objections were filed beyond 120 days from the receipt of certified copy of award. The said facts are not disputed in the present appeal.

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. Reference is made to the decisions of the Supreme Court in ***Union of India v. Ms Popular Construction Co., AIR 2001 SC 4011*** and ***M/s Consolidated Engg. Enterprises v. Principal Secy. Irrigation Deptt. and others, (2008) 7 SCC 169.***

In the present case, the delay is beyond the period provided in the proviso to Section 34(3) of the Act for condoning the delay.

It would not be out of place to mention that the reason given for condoning delay was factually found wrong.

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.

[AVNEESH JHINGAN]
JUDGE

13th March, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |