

FAO No. 261 of 2021 and connected cases [1]

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Date of decision: 20.1.2023.

(1) FAO No. 261 of 2021

Meer Singh and others

Versus Appellants

Union of India and others

Respondents

(2) FAO No. 359 of 2021

Meer Singh and others

Versus Appellants

Union of India and others

Respondents

(3) FAO No. 385 of 2021

Meer Singh and others

Versus Appellants

Union of India and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sudhir Rana, Advocate for the appellants.
Mr. Arun Gosain, Senior Govt. counsel for respondent No. 1.
Mr. Vivek Singla, Advocate for respondent No. 2

AVNEESH JHINGAN, J (Oral):

The afore-mentioned three appeals are filed against dismissal of the objections filed under Section 34 of the Arbitration & Conciliation Act, 1996 (for short, 'the Act') as time barred. As the parties are same and the issue involved is common, these are being decided by common order. For convenience, the facts from FAO No. 261 of 2021 are being taken.

The undisputed facts are that on 7.10.2016 the award was passed in the presence of counsel for the parties. Learned counsel for the appellants applied for copy of the award on 1.3.2017 and received the copy on 11.3.2017. The objections under Section 34 of the Act were filed on 11.8.2017 i.e. beyond 120 days from the receipt of copy of the award.

Learned counsel for the appellants submits that the appellants were not supplied signed copy in consonance with the provisions of Section 31 of the Act, hence District Judge, Rewari erred in dismissing the objections as time-barred.

Learned counsel for the respondents submits that copy of award was received by counsel for the appellants on 11.3.2017.

For convenience, 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 Pvtr. Ltd., 2021 AIR (SC)1014* held that applicability of Section 5 of the Limitation Act is excluded by Section 34(3) of the Act and that delay beyond 30 days after expiry of limitation period cannot be condoned.

In cases in hand, petitions under Section 34 of the Act were filed after 120 days from the date of receipt of copy of the award.

It is settled 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(3) of the Act for condoning the delay.

No interference is called for with the impugned order.

The appeals are dismissed.

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

Photocopy of the order be placed on the file of each connected case.

[AVNEESH JHINGAN]
JUDGE

20th January, 2023.
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |