

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 3433 of 2022 (O&M)
Date of decision: 26th April, 2023

Ram Kishan

Appellant

Versus

Competent Authority and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ram Bilas Gupta, Advocate for the appellant.
Mr. Vivek Singla, Advocate for the respondents.
Mr. Sharad Aggarwal, AAG, Haryana.

AVNEESH JHINGAN, J (Oral):

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is filed aggrieved of dismissal of objections under Section 34 of the Act.

2. The brief facts are that land of the appellant in village Nachauli, District Faridabad was acquired for dedicated freight corridor green field project. The competent authority vide award dated 24.9.2013 determined the compensation. The arbitration proceedings initiated at the instance of the appellant culminated in award dated 28.4.2018. The objections filed by the appellant on 26.9.2018 were dismissed as time barred.

3. Learned counsel for the appellant submits that it has wrongly been recorded in the impugned order that the appellant applied for certified

copy of the award on 12.5.2018 and the copy was delivered on the same day. The contention is that certified copy was sent to the appellant by registered post on 12.5.2018 and the same was received on 20.5.2018 and thereafter the objections were filed.

4. Learned counsel for the respondents submits that even if the limitation is considered from 20.5.2018 as argued by learned counsel for the appellant, the objections were filed beyond 120 days.

5. The relevant portion of grounds of present appeal is reproduced:

“13..... the Appellant has filed the petition U/s 34 of the Act before the Ld. ADJ on 26.9.2018 whereas in fact the Arbitrator Award was pronounced on 28.4.2018 and moreover the Appellant has not applied certified copy of award dated 28.4.2018 on 12.5.2018 infact the award dated 28.4.2018 was sent to the Appellant by Registered Post by the Office of Arbitrator on 12.5.2018 and the same was received by the Appellant on 20.5.2018. Hence the petition U/s 34 of the Act was well within time and the judgment dated 5.3.2021 is liable to be set aside/modified.”

6. 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 applicability of Section 5 of the Limitation Act, 1963 is excluded by Section 34(3) of the Act and that delay beyond 30 days after

expiry of limitation period cannot be condoned.

7. As per the case set up by learned counsel for the appellant that copy of award was received on 20.5.2018 and objections filed on 26.9.2018 thereby , delay in filing the objections was more than thirty days, the same cannot be condoned under proviso to Section 34(3) of the Act.

7. No interference is called for in the impugned order.

8. The appeal is dismissed.

9. Since the main appeal has been dismissed, pending application, if any, is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

26th April, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |