

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

2023:PHHC:043361

FAO-2899-2021 (O&M)

Date of decision: 21st March, 2023

Parkashveer and others

...Appellants

Versus

Competent Authority cum DRO and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S.K. Yadav, Advocate for the appellants.
Mr. Sharad Aggarwal, Assistant Advocate General, Haryana.
Mr. Sudhir Nar, Advocate for the respondent-UI.

AVNEESH JHINGAN , J.(Oral)

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') is filed against order dated 1st April, 2021 dismissing the objections under Section 34 of the Act as time barred.

2. The relevant facts are that land of the appellant was acquired for the purpose of Railway Freight Corridor. The issue of determination of compensation was referred to the arbitration and the proceedings culminated in award dated 28th April, 2018. The objections filed by the appellant were dismissed on 1st April, 2021.

3. The undisputed facts are that the award is dated 28th April, 2018. The certified copy was supplied to the appellant on 12th May, 2018 and the objections under Section 34 of the Act were filed on 8th August, 2018 i.e. beyond ninety days of receipt of the certified copy.

4. Learned counsel for the appellant submits that there was a delay of seven days, they were wrongly advised by learned counsel that the application was filed within limitation and no opportunity was provided for

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moving an application for condonation of delay.

5. Learned counsel for the respondent opposes the prayer and submits that no application for condonation of delay was filed.
6. The appellants were deprived of an opportunity to make a prayer for condoning the delay of seven days. The application for condonation of delay was not filed along with objections due to wrong advice of the counsel. It would not be out of place to mention that under Proviso to Section 34(3) of the Act, delay upto thirty days can be condoned.
7. The **Supreme Court in Rafiq and another v. Munshilal and another, AIR 1981 SC 1400** held that party should not suffer for the conduct of the counsel.
8. The impugned order is set aside and matter is remitted back to the court concerned to decide the matter afresh after providing opportunity to the appellants.
9. Since the main appeal has been disposed of, pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

21st March, 2023
Parveen Sharma

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No