

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 2719 of 2018 (O&M)
Date of decision: 12th April, 2023

Harender Singh and others		Appellants
	Versus	
State of Haryana and another		Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Jasmer Singh Rozera, Advocate for the appellants.
Mr. Sharad Aggarwal, AAG, Haryana.

AVNEESH JHINGAN, J (Oral):

Aggrieved of the dismissal of objections under Section 34 of the Arbitration & Conciliation Act, 1996 (for short, 'the Act') as time barred, the present appeal is filed.

The undisputed facts are that on 2.9.2015 the award was passed in the presence of counsel for the parties. Learned counsel for the appellants applied for copy of the award on 9.9.2015 and received the copy on the same day. The objections under Section 34 of the Act were filed on 27.7.2016 i.e. beyond 120 days from the receipt of copy of the award.

Learned counsel for the appellants submits that Additional District Judge, Palwal erred in dismissing the objections as time-barred and not condoning the delay.

Learned counsel for the respondents defends impugned order.

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*** and ***M/s Consolidated Engg. Enterprises v. Principal Secy. Irrigation Deptt. and others, (2008) 7 SCC 169*** 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 case in hand, petition under Section 34 of the Act was 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 appeal is dismissed.

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

[AVNEESH JHINGAN]
JUDGE

12th April, 2023
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1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No