

OCD-18

ORDER SHEET

AP-COM/415/2024

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

AJAY RATNAM
VS
AXIS BANK LTD.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 26th February, 2024.

Appearance:

Meghajit Mukherjee, Adv.
Mr. Ramendu Agarwal, Adv.
Ms. Vidisha Gupta, Adv.
...for the petitioner

Ms. Soni Ojha, Adv.
Ms. Sambrita B. Chatterjee, Adv.
Ms. Sonia Nandy, Adv.
...for the respondent

The Court: The impugned Award is of 15th November, 2021.

The advocate-on-record of the petitioner seeks to invoke Section 14 of the Limitation Act, 1963 for proceedings which were pending before the learned City Civil Court from 16th February, 2022 – 17th January, 2024 on the ground that the petitioner filed the Section 34 application before the learned City Civil Court under wrong advice. According to the advocate-on-record, the petitioner would have the benefit of Section 14 since the learned City Civil Court restored

the Section 34 application, on 17th January, 2024 which had previously been dismissed for default.

It is submitted that the learned City Civil Court gave liberty to the petitioner to withdraw the application on the ground that the learned City Civil Court did not have pecuniary jurisdiction to hear the matter.

Learned counsel appearing for the award-holder disputes that the petitioner should be given the benefit under the Limitation Act beyond 22nd September, 2022 when the Section 34 application was dismissed by the learned City Civil Court.

The relevant order in the present case would be the order passed by the learned City Civil Court on 17th January, 2024. This order simply records that since the Court does not have pecuniary jurisdiction to hear matters above Rs.10 lakhs, the petitioner should be given liberty to withdraw the Misc. Case. The Misc. Case was accordingly dismissed for non-prosecution.

The Misc. Case being no. 1597 of 2023, which was before the learned City Civil Court, was the petitioner's application for restoration of the Section 34 application which was dismissed for default on 22nd September, 2022. The order dated 17th January, 2024 nowhere records that the said application for setting aside of the Award under Section 34 of the 1996 Act was being restored. Hence, without the petitioner's Section 34 application being restored to the file of the learned City Civil Court, the petitioner cannot claim the benefit of Section 14 of the Limitation Act. It would be clear from the order of 17th January, 2024 that the petitioner's Section 34 application remained in the

state that it was on 22nd September, 2022 when it had been dismissed for default.

In any event, the petitioner waited for almost a month from 17th January, 2024 before filing the present application in this Court on 17th February, 2024.

The facts show that the petitioner is way beyond the statutory time limit for filing a Section 34 application under Section 34(3) of the Act read with the proviso which is 3 months + 30 days. The petitioner also cannot get the benefit of Section 14 of the Limitation Act by reason of the petitioner's failure to ensure that Section 34 application was restored to the file before the learned City Civil Court.

AP-COM/415/2024 is accordingly dismissed for the reasons as stated above.

(MOUSHUMI BHATTACHARYA, J.)

sg.