



FAO-3703-2023(O&M)

-1-

234

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

FAO-3703-2023(O&M)

Date of Order:-03.10.2024

Shamsher and others

...Appellants

Versus

Indian Railway and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Rajender Kumar, Advocate for
Mr.M.S. Tewatia, Advocate
for the appellants.

Mr.Vivek Singla, Advocate
for respondent No.1.

Mr.Arvind Seth, Advocate
for respondent No.2.

Mr.Sharad Aggarwal, DAG, Haryana.

SUVIR SEHGAL, J.**CM-12176-CII-2023**

1. For the reasons mentioned in the application, same is allowed.

2. Delay of 24 days in re-filing of the appeal is condoned.

FAO-3703-2023(O&M)

3. This appeal has been filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short 'the Arbitration Act') assailing judgment dated 09.09.2022, passed by the learned Additional District Judge, Palwal, whereby application for condonation of delay and



234

consequently objections under Section 34 of the Arbitration Act, for setting aside/modification of arbitral award have been dismissed. Appeal is accompanied with an application for condonation of delay of 33 days, in its filing.

4. Factual matrix leading to the filing of the appeal is that the appellants are owners of land, which has been acquired by the respondents for Western Dedicated Freight Corridor vide notification issued under Section 20-A of the Railways Act, 1989. The competent authority announced award dated **29.11.2012** assessing the compensation for the acquired land. Dissatisfied with the assessment, appellants filed applications under the Railways Act for enhancement of compensation, which was culminated in passing of award dated 07.10.2016. The appellants preferred objections under Section 34 of the Arbitration Act, alongwith application for condonation of delay, which have been rejected by order impugned herein.

5. While inviting attention of the Court to Section 34(3) of the Arbitration Act, counsel for the appellant submits that the learned Additional District Judge has failed to exercise the power vested in it for condonation of delay. He asserts that the objections preferred by the appellants were within the time as prescribed under the Arbitration Act.

6. Advance copy of the appeal has been served upon the respondents. Counsel for the respondents submits that the objections were filed beyond the period as laid down under Section 34 of the Arbitration Act and have rightly not been entertained by the learned Additional District Judge.

7. I have heard counsel for the parties and considered their



234

respective submissions.

8. Section 34 (3) of the Arbitration Act provides a period of limitation of three months for preferring objections from the date of delivery of the signed copy of the Award by the appellant, which can be further extended by another period of 30 days, if the party challenging the Award is able to show sufficient cause. This is the settled legal position. In *Union of India Versus M/s Popular Construction Company, 2001 AIR (SC) 4010; M/s Consolidated Engineering Enterprises Versus Principal Secretary, Irrigation Department and others, (2008) 7 SCC 169; M/s Simplex Infrastructure Limited Versus Union of India, 2019 (1) RCR (Civil) 205, and Mahindra and Mahindra Financial Services Limited Versus Maheshbhai Tinabhai Rathod and others, (2022) 4 SCC 162*, the Supreme Court has held that the limitation for filing objections is prescribed under Section 34 of the Arbitration Act and the extent to which it can be condoned is also circumscribed. It has been clarified that Section 5 of the Limitation Act, 1963, is not applicable to condone the delay beyond the period prescribed under Section 34 (3) of the Arbitration Act. The result is that application under Section 5 of the Limitation Act, 1963, is ousted by proviso to Sub-Section 3 of Section 34 of the Arbitration Act.

9. Coming to the facts of the present case, counsel for the appellants could not dispute that the signed copy of the arbitral award was delivered to the appellants on 31.08.2017 and the objection petition under Section 34 of the Arbitration Act has been instituted on 21.02.2018. It is, therefore, evident that objections are clearly beyond the period of limitation specified in Section 34 of the Arbitration Act. Even

**FAO-3703-2023(O&M)****-4-****234**

if an extended period of 30 days is granted to the appellants as laid down under Section 34(3) of the Act, even then the objections filed by the appellants are barred by time. This Court, therefore, does not find any perversity in the impugned judgment passed by the learned Additional District Judge, Palwal, which is upheld.

10. Appeal is devoid of merit and is dismissed with no order as to costs.

11. Application for condonation of delay is also dismissed as main appeal has been found to be meritless.

(SUVIR SEHGAL)
JUDGE

03.10.2024**Brij****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**