



FAO-2355-2022 and connected appeals *-1-*

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

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FAO-2355-2022 (O&M)
Date of Decision: 16.10.2024

DULI CHAND AND ANR

.... Appellants

V/S

STATE OF HARYANA AND OTHERS

... Respondents

240-2

FAO-2357-2022 (O&M)

DULI CHAND AND ANR

.... Appellants

V/S

STATE OF HARYANA AND OTHERS

... Respondents

240-3

FAO-2358-2022 (O&M)

RANBIR SINGH

.... Appellant

V/S

STATE OF HARYANA AND OTHERS

... Respondents



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FAO-2363-2022 (O&M)

DULI CHAND AND ANR

.... Appellants

V/S

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Amit Jain, Advocate for the appellants.

Mr. Aman Bahri, Addl. A.G. Haryana.
for respondents No. 1 and 2.

Mr. Vivek Singla, Advocate
for respondents No. 3 and 4.

SUVIR SEHGAL, J. (ORAL)

1. This order shall dispose of the above noted four appeals as they involve common question of law and facts.
2. For the sake of convenience, factual position is being taken from FAO-2355-2022.
3. This appeal has been filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short 'the Arbitration Act') assailing order dated 04.05.2022, passed by the learned Additional District Judge, Gurugram, whereby objections filed by the appellants under Section 34 of the Arbitration Act, have been rejected as barred by limitation.
4. Counsel for the appellants submits that a portion of the land owned by the appellants in revenue estate of village Sancholi, Tehsil Sohana, District Gurugram, was acquired by virtue of notification issued under Section 20-A of the Indian Railways Act, 1989, for maintenance,

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management and operation of Western Dedicated Freight Corridor. The value of the land was assessed by the competent authority, but dissatisfied with the assessment, the land owners filed a reference, which was decided by the Arbitrator vide award dated 23.12.2014, whereby the compensation was enhanced. Seeking modification of the award, land owners preferred objections under Section 34 of the Arbitration Act, which as noticed above, have been dismissed as being beyond limitation.

5. Counsel for the appellants urges that the vacation period has to be excluded while computing the period of limitation under Section 34(3) of the Arbitration Act and the learned Additional District Judge, has overlooked Section 4 of the Limitation Act, 1963 (for brevity “the 1963 Act”).

6. On the other hand, counsel for the respondents has supported the order under challenge. It has also been urged by the respondents that the appeal challenging the order dismissing the objections on account of limitation, is not maintainable.

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

8. In **Chintels India Limited versus Bhayava Builders Private Limited (2021) 4 SCC 602**, Supreme Court has held that an order refusing to condone the delay in filing the application under Section 34 of the Arbitration Act has the effect of finally disposing of the original petition. Such an order can therefore, be treated as an award and hence, it is appealable under Section 37(1)(c) of the Arbitration Act. The instant appeal is therefore, held to be maintainable.

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9. There is no dispute about the factual position. The compensation for the acquired land was determined by the Arbitrator vide award dated 23.02.2018. In their objections, appellants have taken a stand that a copy of the award was received by them on 03.03.2018, whereas stand of the respondents is that signed copy of the award was dispatched to the appellants on 07.03.2018. Be that as it may. The period of three months, as prescribed under Section 34(3) of the Arbitration Act for preferring the objections expired in the month of June, 2018. As per notification No.21 Gaz.II XVII.I dated 1st May, 2018, issued by High Court of Punjab and Haryana, under Section 47 of Punjab Courts Act, 1918, the Subordinate courts were closed for summer vacations from 01.06.2018 to 30.06.2018. 1st July, 2018 was a Sunday and the very first opportunity available for the appellants to file the objections was on 02.07.2018, when the objections were instituted. The question that falls for determination is whether the appellants are entitled to exclude the vacation period for the purposes of computation of the prescribed period. This precise question came for determination before the Supreme Court in **Assam Urban Water Supply and Sewerage Board Versus M/s Subhash Projects and Marketing Ltd. (2012) 2 SCC 624** and it was held as under:-

“ 11. The question, therefore, that falls for our determination is whether the appellants are entitled to extension of time under **Section 4** of the 1963 Act in the above facts?

12. **Section 4** of the 1963 Act reads as under :-



"4. Expiry of prescribed period when court is closed.-Where the prescribed period for any suit, appeal or application expires on a day when the court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the court reopens.

Explanation.-A court shall be deemed to be closed on any day within the meaning of this section if during any part of its normal working hours it remains closed on that day."

The above Section enables a party to institute a suit, prefer an appeal or make an application on the day court reopens where the prescribed period for any suit, appeal or application expires on the day when the court is closed.

13. *The crucial words in [Section 4](#) of the 1963 Act are 'prescribed period'. What is the meaning of these words?*

14. *[Section 2\(j\)](#) of the 1963 Act defines*

“2(j) 'period of limitation' (which) means the period of limitation prescribed for any suit, appeal or application by the Schedule, and 'prescribed period' means the period of limitation computed in accordance with the provisions of this Act.



Section 2(j) of the 1963 Act when read in the context of Section 34(3) of the 1996 Act, it becomes amply clear that the prescribed period for making an application for setting aside arbitral award is three months. The period of 30 days mentioned in proviso that follows sub-section (3) of Section 34 of the 1996 Act is not the 'period of limitation' and, therefore, not 'prescribed period' for the purposes of making the application for setting aside the arbitral award. The period of 30 days beyond three months which the court may extend on sufficient cause being shown under the proviso appended to sub-section (3) of Section 34 of the 1996 Act being not the 'period of limitation' or, in other words, 'prescribed period', in our opinion, [Section 4](#) of the 1963 Act is not, at all, attracted to the facts of the present case.”

10. When examined in the light of the above interpretation, it is clear that when the period prescribed for filing the objections expires during the summer vacation and the objections are preferred immediately upon the reopening of the Court, the benefit of Section 4 of the 1963 Act, has to be extended to the objector. The objections have to be held to be within the prescribed time. Therefore, the impugned order passed by learned Additional District Judge, Gurugram cannot be sustained and is accordingly set aside.



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10. Appeals are disposed of. Objections are restored to their original number. Parties are directed to appear before the Additional District Judge, Gurugram on 04.12.2024 for further proceedings in accordance with law.

12. Additional District Judge, Gurugram shall decide the objections on merits, after hearing the parties.

16.10.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>