



FAO-2589-2021 (O&M) and connected case

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(106)

FAO-2589-2021 (O&M)

Smt. Chanderwati

...Appellant

Versus

The Land Acquisition Collector-cum-DRO and another

...Respondents

FAO-2695-2021 (O&M)

Smt. Chanderwati

...Appellant

Versus

The Land Acquisition Collector-cum-DRO and another

...Respondents

Date of decision:- 19.09.2024

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Shiv Kumar, Advocate
for the appellant (in both the cases).

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SUVIR SEHGAL, J. (Oral)

CM-11369-CII-2021 IN FAO-2589-2021 AND

CM-14440-CII-2021 IN FAO-2695-2021

For the reasons given in the applications, they are allowed.

Delay in refiling the appeals is condoned.

FAO-2589-2021 (O&M) AND FAO-2695-2021 (O&M)

1. This order shall dispose of both the above noted appeals, as they involve common questions of law and facts. For the sake of convenience,

actual position is being taken from FAO-2589-2021.

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2. This appeal has been filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short "the Arbitration Act") assailing order dated 02.07.2019, passed by learned Additional District Judge, Faridabad, whereby objections under Section 34 of the Arbitration Act, have been dismissed, as being barred by limitation. Appeal is accompanied with an application for condonation of delay of 67 days, in its filing.

3. Brief facts leading to the filing of the appeal are that land belonging to the appellant was intended to be acquired for development of National Highway NE-11 (Eastern Peripheral Express Highway) and Notification under Section 3-A of the National Highways Act, 1956, was issued on 02.12.2007, which was followed by a declaration under Section 3-D, *ibid*, on 21.03.2007. Competent Authority-cum-DRO, Faridabad, assessed the compensation for the acquired land. Dissatisfied with the assessment, appellant invoked Section 3-G of the National Highways Act, 1956, and by award dated 05.02.2016, Arbitrator enhanced the compensation, and also awarded additional 10% towards easmentary rights to the landowner. Appellant preferred objections under Section 34 of the Arbitration Act, which have been dismissed by the learned Additional District Judge, Faridabad, vide order impugned herein.

4. By placing reliance upon the judgment of the Supreme Court in *State of Maharashtra and others Versus M/s. Ark Builders Pvt. Ltd., 2011 (4) SCC 616*, counsel for the appellant has contended that the Court has erred in rejecting the objections as being barred by time as the limitation has to be computed from the date when a signed copy of the award is received by the



appellant. He asserts that the objections were instituted within the period of limitation provided under the Arbitration Act.

5. I have considered the contentions of the counsel and have examined the documents appended with the appeal with his able assistance.

6. Section 34 (3) of the Arbitration Act provides a period of limitation of three months from the date of delivery of a signed copy of the award for preferring objections, which may further be extended by another period of 30 days, if the party challenging the award, is able to show sufficient cause. The law in this regard is well-settled and reference can be made to the judgments rendered by the Hon'ble Supreme Court of India in *Union of India Versus M/s Popular Construction Company 2001 AIR SC 4010*; *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*. It has been held that as limitation is prescribed in Section 34, *ibid*, the extent to which it can be condoned, is circumscribed and 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.

7. Adverting to the factual position in the instant appeal, counsel for the appellant could not give the specific date, on which, the signed copy of the award was delivered or served upon the appellant. Perusal of the *xerox* copy of the award appended with the appeal shows that its certified copy was prepared and delivered on 05.02.2016. Objections have been filed by the appellant on



10.04.2017. The objections are clearly beyond the specified period of limitation. Appellant has neither moved an application for extension of time, as provided in Section 34 (3) of the Arbitration Act, nor has she given any reason for the delay. Appellant has failed to show any sufficient cause in approaching the Court at a belated stage. Even before this Court, counsel for the appellant has not been able to advance any argument to explain the delay.

8. Therefore, this Court does not see any reason to interfere with the order passed by the learned Additional District Judge, Faridabad.

9. Consequently, both the appeals sans merit, and are hereby dismissed.

10. Applications for condonation of delay in filing are also dismissed as the main appeals have been found to be meritless.

(SUVIR SEHGAL)
JUDGE

19.09.2024
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes