



FAO-388-2024 (O&M)

-1-

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

(112-1)

FAO-388-2024 (O&M)

Date of decision:- 22.08.2024

Abhi Ram Tayal

... Appellant

Versus

National Highway Authority of India and others

... Respondents

(112-2)

FAO-701-2024 (O&M)

Rameshwar Dass (since deceased) through LRs

... Appellants

Versus

National Highway Authority of India and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rose Gupta, Advocate and
Ms. Hardeep Kaur, Advocate
for the appellant in FAO-388-2024.

Mr. Ram Kumar Saini, Advocate
for the appellants in FAO-701-2024.

Mr. Sumit Gupta, Advocate
for the respondents-NHAI in FAO-388-2024.

SUVIR SEHGAL, J. (ORAL)

1. Mr. Ravish Kaushik, Advocate has put in appearance on behalf of the respondents-NHAI in FAO-701-2024 and has filed Power of Attorney, which is taken on record.
2. This order shall dispose of the above noted two appeals as they involve common questions of law and facts. For the sake of convenience, factual position is being taken from FAO-388-2024.

**FAO-388-2024 (O&M)****-2-**

3. This appeal has been filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short “the Act of 1996”) assailing order dated 21.02.2023, whereby learned Additional District Judge, Hisar has dismissed application dated 10.09.2018, Annexure A-3, filed by the appellant, seeking condonation of delay in filing objections under Section 34 of the Act of 1996. Appeal is accompanied by an application under Section 5 of the Limitation Act, 1963 for condonation of delay of 200 days in the filing of the appeal.

4. Factual matrix leading to the filing of the appeal is that land owned by the appellant was acquired for widening and four-laning of National Highway No.10, vide notification dated 27.11.2009 issued under Section 3A of the National Highways Act, 1956. Competent Authority Land Acquisition (CALA), Hisar announced award dated 30.04.2012 assessing compensation for the land acquired in revenue estate of Tehsil Hansi, District Hisar. Dissatisfied with the Award, appellant sought reference before the Arbitrator, which has been declined by award dated 04.05.2016, Annexure A-1, by the Arbitrator-cum-ADC, Hisar. Appellant filed objections, Annexure A-2, on 10.09.2018 under Section 34 of the Act of 1996 before the learned Additional District Judge, Hisar, along with an application, Annexure A-3, for condoning of delay. After contest by respondents No.1 and 2, application and consequently the objections have been dismissed vide order dated 21.02.2023, which has been impugned herein.

5. Counsel for the appellant has argued that learned Additional



FAO-388-2024 (O&M)

-3-

District Judge has erred in dismissing the application for condonation without considering the explanation given by the appellant for the delay in filing the objections. He has sought setting aside of the order under challenge. Appeal has been opposed by the counsel for NHAI.

6. I have heard counsel for the parties and considered their arguments.

7. The sole question to be considered is whether provisions of Section 5 of the Limitation Act, 1963 are applicable to objections filed under the Act of 1996. This matter is no longer *res integra* and has been answered by the Supreme Court in a number of cases.

8. Section 34 (3) of the Act of 1996 provides a period of limitation of three months for preferring objections from the date of receipt 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,*** Supreme Court has held that the limitation for filing objections is prescribed under Section 34 of the Act of 1996 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 Act of 1996. 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 Act of 1996.

9. Adverting to the factual position in the instant case, appellant could not dispute that the certified copy of the award was delivered to him on 06.10.2016 and the objections were preferred on 10.09.2018. The objections were clearly beyond the period of limitation specified in Section 34 of the Act of 1996. Although, application for condonation of delay has been moved, but in view of the settled position of law as noticed above, the delay could not be condoned as application for condonation of delay was not maintainable. This Court, therefore, does not find any illegality or infirmity in the impugned order passed by the learned Additional District Judge, Hisar, which is affirmed.

10. Finding no merit in the appeals, they are dismissed with no order as to costs.

11. Application for condonation of delay as well as other miscellaneous applications instituted with the instant appeal are also dismissed as the main appeals have been found to be meritless.

(SUVIR SEHGAL)
JUDGE

22.08.2024
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No