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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **O.M.P. (COMM) 98/2023, I.A. 4655/2023 & 4656/2023**

**SURYA LANDMARK DEVELOPERS
PRIVATE LIMITED & ORS.**

..... Petitioners

Through: None.
versus

RELIGARE FINVEST LIMITED

..... Respondent

Through: Mr. Kushal Mittal, Adv. (M.
7784065429)

**CORAM:
JUSTICE PRATHIBA M. SINGH**

ORDER
% **04.01.2024**

1. This hearing has been done through hybrid mode.
2. This is a petition filed by the Petitioners- Surya Landmark Developers Private Limited and two of its Directors under Section 34 challenging the impugned award dated 31st May, 2022 passed by the Id. Sole Arbitrator. The matter was heard on 10th March, 2023 on which date, the Court passed the following order:

“2. It is the case of the petitioners that on 02.09.2021, when the arbitration proceedings were listed before the learned Arbitrator, the petitioners could not join the proceedings through virtual mode, due to some network issues. Later, on a telephonic conversation with the learned Arbitrator, the petitioners were informed that the next date of hearing would be confirmed to the petitioners through notice. The petitioners thereafter kept waiting for the receipt of such notice of the next date of hearing, however, in December 2022 learnt that the learned Arbitrator has already passed the impugned Award.

3. I have perused from the petition that barring the



above assertion, the petitioners have not filed the affidavit of the person who purportedly contacted the learned Arbitrator and was informed of the above. There is also no mention as to when and how the copy of the impugned Arbitral Award was received by the petitioners.

4. The learned counsel for the petitioners prays for and is granted two weeks' time to file the affidavit in support of the above assertions.

5. List on 19th April, 2023.”

3. The petition is delayed, and condonation of delay of 210 days has been sought vide **I.A. 4656/2023**. The reason for seeking condonation is that the certified copy of the award dated 16th December, 2022 was obtained only on 20th December, 2023. The allegation made in the application has already been captured in the order dated 10th March, 2023. The averment in the application is obviously a bald assertion and despite repeated opportunities given to the Petitioner to file an affidavit as to who contacted the Arbitrator the said affidavit has not come on record.

4. The matter has been adjourned on 19th April, 2023, 12th July, 2023 and on 13th October, 2023 on account of the non-filing of the affidavit in compliance with order dated 10th March, 2023. Vide order 13th October, 2023 this Court granted a last opportunity to place the said affidavit on record within four weeks. The said order is extracted as under:

*“1. The affidavit stated to have been filed by the petitioner is still not on record. As prayed for, the petitioner is granted further **four weeks time** by way of a **last opportunity** to have the same placed on record.*

2. List on 04.01.2024.”

5. This Court observes that it has been repeatedly stated that the requisite affidavit was filed, but the same had not come on record. Even to



this date, the said affidavit has not come on record. Consequently, the averment made in the application for condonation of delay, accordingly, does not inspire any confidence. Clearly, the Petitioner was well aware of the arbitral proceedings. There is no appearance on behalf of the Petitioner even today.

6. Accordingly, the petition is dismissed. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

JANURARY 04, 2024

dj/bh