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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO (COMM) 54/2024 & CM APPL. 17902-17904/2024**
ROMESH CHANDER CHOPRA

..... Appellant
Through: Mr.Anunaya Mehta, Ms.Satya Jha
and Mr.Vinayak Thakur, Advocates.

versus

AMAR SINHA

..... Respondent
Through:

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **21.03.2024**

1. The appellant has filed the present appeal impugning an order dated 06.12.2023 (hereafter *the impugned order*) passed by the learned Commercial Court in OMP (I) (COMM) No.29/2023 captioned *Romesh Chander Chopra v. Amar Sinha & Anr.*
2. The appellant had filed the said petition under Section 34 of the Arbitration and Conciliation Act, 1996 (hereafter *the A&C Act*) praying that the Arbitral Award dated 20.08.2007 (hereafter *the impugned award*) rendered by the Arbitral Tribunal comprising of the Sole Arbitrator be set aside.
3. The learned Commercial Court had rejected the said petition on the ground that it was filed beyond the period of limitation as provided under Section 34(3) of the A & C Act.



4. The learned Commercial Court noted that it was the appellant's case that the petition was filed within the prescribed period, as the Arbitral Tribunal had failed to serve the copy of the impugned award to the appellant within time. The appellant contended that he became aware of the execution proceedings only on receipt of the notice of the said proceedings, that is, on 15.01.2020.

5. Mr. Mehta, learned counsel appearing on behalf of the appellant, submits that after receipt of the notice, the appellant had applied for the certified copies of the record and on receipt of the same, became aware that the learned Arbitral Tribunal had rendered the impugned award on 20.08.2007.

6. The learned Commercial Court held that the plea raised by the appellant was unmerited as the record indicated that the appellant was duly served with the copy of the impugned award delivered through courier (DTDC) on 23.06.2007 as well as through registered post on 22.08.2007.

7. In so far as the service through the courier is concerned, it is obvious that the same cannot be a service of the Arbitral Award as the couriered item is stated to have been received on 23.06.2007, which was prior to the date of the Arbitral Award (20.08.2007). There is an Acknowledgement Due (AD) card, which bears the signatures of the appellant indicating the receipt of the registered post on 22.08.2007. This does evidence receipt of the impugned award. Immediately after the impugned award was delivered, the respondent had instituted the proceedings for its enforcement. The report dated 29.05.2008 of the Process Server in respect of service of summons in those



proceedings is on record. The said report indicates that the appellant was duly served with the copy of the summons, but had declined to receive the same. Thereafter, the summons were pasted on the '*door of the floor at the second floor of the flat*'.

8. Mr. Mehta, submits that refusal to accept summons cannot be construed as a receipt of the impugned award.

9. The learned Commercial Court found that the appellant was delivered the impugned award on the basis of the registered AD post. The report of the Process Server is also relevant and the appellant is deemed to have been served with the execution proceedings. Thus, it is necessary to impute that the appellant was aware of the proceedings for enforcement of the impugned award. It necessarily follows that the appellant was also aware about the impugned award.

10. It is also noted that despite service of summons of the enforcement proceedings, the appellant did not appear in the said proceedings. By an order dated 09.02.2024, learned Executing Court issued the warrants of arrest against the appellant.

11. In view of above, we do not find any infirmity with the decision of the learned Commercial Court in rejecting the petition under Section 34 of the A&C Act filed by the appellant, as barred by limitation.

12. It is clarified that this Court has not examined the merits of the impugned award or the appellant's contentions in that regard. The present appeal is being dismissed solely for the reason that we find no infirmity in



the decision of the learned Commercial Court in holding that the appellant's petition under Section 34 of the A&C Act was filed beyond the limitation period.

13. Pending applications also stand disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MARCH 21, 2024

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Click here to check corrigendum, if any