



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4687 OF 2024

Bhanudas Sudhakar Waghchaure And Others
VERSUS
Shriram City Union Finance Ltd Through
Its Gpa Shrikant Narayan Zine

- Mr. S. C. Swami, Advocate for the Petitioners
- Mr. V. Y. Bhide, Advocate for the Respondent

CORAM : R. M. JOSHI, J
DATE : MARCH 20, 2025

PER COURT :

1. This Petition takes exception to the order dated 16.03.2024 passed by the Principal District Judge, Aurangabad (for short 'PDJ') in Civil Misc. Application No. 137/2022, which was an application under Section 34 of the Arbitration and Conciliation Act, 1996 (for short '**the Act**').

2. The facts are they are indicated from the record shows that ex-parte arbitration award came to be passed on 29.07.2017 in Arbitration Case No. TWAL-126/2017. Even if the case of the Petitioner is accepted that the Petitioner had no knowledge of the said award, admittedly in Arbitration Darkhast No.

382/2018 he caused appearance on 30.04.2019. Thus, even from the date of knowledge of the award, application under Section 34 of the Act ought to have been filed within a period of 90 days initially and with conventional delay in 30 days thereafter. In any case, the award could not have been challenged under Section 34 of the Act by filing application beyond 120 days. Learned PDJ considering the provision of Section 34 of the Act as well as judgments of the Hon'ble Supreme Court rejected application. Hence, this Petition.

3. Learned Counsel for the Petitioners submit that the award passed by the arbitral tribunal was ex parte and hence, same was not within knowledge of the Petitioners. It is his submission that owing to the Covid 19 pandemic situation, application under Section 34 of the Act could not be in time. He, therefore, seeks exclusion of the said period of Covid 19 pandemic for the purpose of calculation of the period of limitation.

4. Learned Counsel for Respondent submits that in view of settled position of law that there cannot be

any extension of period of limitation beyond 120 days of award for filing application under Section 34 of the Act, no interference is required in the impugned order. To support his submissions, he placed reliance on the judgment in case of *My Preferred Transformation and Hospitality Pvt Ltd and Another vs. M/s Faridabad Implements Pvt Ltd, 2025 INSC 56.*

5. The law on the point of non applicability of Section 5 of the Limitation Act to Section 34(3) of the Act is no more res integra. The Hon'ble Supreme Court in case of *Union of India vs. Popular Constructions Company, (2001) 8 SCC 470* as well as in case of *My Preferred Transformation and Hospitality Pvt Ltd* (supra) has held so.

6. As far as the case of the present case is concerned, though arbitration award is passed ex parte on 29.07.2017 and even if it is accepted that the said award was not within the knowledge of the Petitioners, admittedly on causing appearance in Arbitration Darkhast No. 382/2018 on 30.04.2019 knowledge thereof could be attributed against Petitioners and thus the

period of limitation would in any case start running against them from that date. It is a matter of common knowledge that the Covid 19 pandemic started its effect after January, 2020 and the lockdown was imposed on 24.03.2020. Since the knowledge of the Petitioner of Award goes back to the date on 30.04.2019, 120 days have lapsed even before on set of Covid 19 pandemic.

7. In such circumstances, by following provisions of Section 34(3) of the Act read with the judgments cited supra, there is no merit in the Petition. Hence, Petition stands dismissed. The amount deposited by the Petitioners is permitted to be withdrawn by them.

(R. M. JOSHI, J.)