



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 ARBITRATION APPEAL NO. 107 OF 2020
WITH CIVIL APPLICATION NO. 1001 OF 2020
WITH ARBA NO. 26/2020 WITH ARBA NO. 96/2020
WITH ARBA NO. 95/2020 WITH ARBA NO. 60/2020
WITH ARBA NO. 36/2020 WITH ARBA NO. 91/2020
WITH ARBA NO. 90/2020 WITH ARBA NO. 72/2020
WITH ARBA NO. 4/2020 WITH ARBA NO. 54/2020
WITH ARBA NO. 70/2020 WITH ARBA NO. 22/2020
WITH ARBA NO. 33/2020 WITH ARBA NO. 38/2020
WITH ARBA NO. 94/2020 WITH ARBA NO. 55/2020
WITH ARBA NO. 5/2020 WITH ARBA NO. 59/2020
WITH ARBA NO. 61/2020 WITH ARBA NO. 89/2020
WITH ARBA NO. 67/2020 WITH ARBA NO. 74/2020
WITH ARBA NO. 88/2020 WITH ARBA NO. 64/2020
WITH ARBA NO. 101/2020 WITH ARBA NO. 85/2020
WITH ARBA NO. 100/2020 WITH ARBA NO. 24/2020
WITH ARBA NO. 56/2020 WITH ARBA NO. 68/2020
WITH ARBA NO. 58/2020 WITH ARBA NO. 69/2020
WITH ARBA NO. 92/2020 WITH ARBA NO. 45/2020
WITH ARBA NO. 44/2020 WITH ARBA NO. 73/2020
WITH ARBA NO. 62/2020 WITH ARBA NO. 65/2020
WITH ARBA NO. 35/2020 WITH ARBA NO. 49/2020
WITH ARBA NO. 93/2020 WITH ARBA NO. 118/2020
WITH ARBA NO. 34/2020 WITH ARBA NO. 37/2020
WITH ARBA NO. 23/2020 WITH ARBA NO. 19/2020
WITH ARBA NO. 21/2020 WITH ARBA NO. 82/2020
WITH ARBA NO. 71/2020 WITH ARBA NO. 20/2020
WITH ARBA NO. 25/2020 WITH ARBA NO. 77/2020
WITH ARBA NO. 50/2020 WITH ARBA NO. 17/2020
WITH ARBA NO. 57/2020 WITH ARBA NO. 78/2020
WITH ARBA NO. 86/2020 WITH ARBA NO. 31/2020

NATIONAL HIGHWAYS AUTHORITY OF INDIA, PROJECT IMPL. UNIT,
JALGAON T/H PROJECT DIRECTOR C.M. SINHA

VERSUS

NITIN BHAGWANDAS CHAJED

Mr. D. S. Manorkar a/w Mr. D. P. Madkar, Advocate for the appellant
Mr. K. M. More, Advocate for the respondent

CORAM : R. M. JOSHI, J.
DATE : 27th MARCH, 2025

PER COURT :-

1. Since common question of facts and law are involved in these appeals, by consent of the learned counsel for both sides, all appeals are taken up for hearing at admission stage.
2. In all these appeals filed under Section 37 of the Arbitration and Conciliation Act, 1996 (fort short 'the Act'), the orders impugned dated 28/11/2019 and 27/08/2019 passed by the Principal District Judge, Jalgaon in an application under Section 34 of the Act for condonation of delay which came to be dismissed.
3. The appellant- National Highways Authority of India filed application under Section 34(3) of the Act r/w Section 151 of the Code of Civil Procedure for condonation of delay caused in filing application for setting aside arbitral award dated 15/01/2019 passed by Arbitrator and District Collector, Jalgaon.
4. Admittedly, the appellant could not file applications under Section 34 of the Act against the award passed by the Arbitral Tribunal within a period of three months nor it was filed within 30 days thereafter.

It is claimed by the appellant that within these 30 days there was summer vacation for the Court and since the Court was closed during this period, the period for filing of the application stood extended till reopening of the Court as contemplated by Section 4 of the Limitation Act, 1963. The learned Principal District Judge, Jalgaon rejected the applications, hence these appeals.

5. The issue sought to be agitated before this Court is no more res-integra. The Hon'ble Supreme Court in case of ***Assam Urban Water Supply & Sew.Board Vs. Subash Projects & Marketing Ltd.*** 2012 ***Legal Eagle (SC) 46*** has dealt with this issue. In paragraph 13 the Hon'ble Supreme Court has concluded thus;

"13. The above Section enables a party to institute a suit, prefer an appeal or make an application on the day court reopens where the prescribed period for any suit, appeal or application expires on the day when the court is closed. The crucial words in Section 4 of the 1963 Act are 'prescribed period'. What is the meaning of these words? Section 2(j) of the 1963 Act defines 'period of limitation' which means the period of limitation prescribed for any suit, appeal or application by the Schedule, and 'prescribed period' means the period of limitation computed in accordance with the provisions of this Act. Section 2(j) of the 1963 Act when read in the context of Section 34(3) of the 1996 Act, it becomes amply clear that the prescribed period for making an application for setting aside arbitral award is three months. The period of 30 days mentioned in proviso that follows sub-section (3) of Section 34 of the 1996 Act is not the 'period of limitation' and, therefore, not 'prescribed period' for the purposes of making the application for setting aside the arbitral award. The period of 30 days beyond three months which the court may extend on sufficient cause being shown under the proviso appended to sub-section (3) of Section 34

of the 1996 Act being not the 'period of limitation' or, in other words, 'prescribed period', in our opinion, Section 4 of the 1963 Act is not, at all, attracted to the facts of the present case."

6. In view of the settled position of law, no interference is necessary in the impugned order. Hence, all appeals stand dismissed. Pending civil applications, if any, stand disposed of.

(R. M. JOSHI, J.)

ssp