
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO. 26 OF 2025
WITH
INTERIM APPLICATION (L) NO. 17367 OF 2024
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IN
ARBITRATION PETITION NO. 26 OF 2025

Arnav Vipankumar Goyal & Anr ...Petitioners

Versus

Executive Ship Management Private Limited ...Respondent

Mr. Tushad Kakalia, a/w Mr. Kayomars Kerawalla, i/b Vohuman
Legal, for the Petitioners.

Mr. K.P. Anil Kumar, a/w Mr. Amit Saple, Ms. Priyanka Kumar
and Mr. Chinmay Apte, for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.
DATE : OCTOBER 6, 2025

ORDER:

1. The principal question for consideration in this matter is whether the challenge under Section 34 of the Arbitration and Conciliation Act, 1996 (“*the Act*”) has been filed well after the applicable limitation period.

2. The challenge in the Petition is to an arbitral award dated October 16, 2019 (“*Impugned Award*”). The Respondent, Executive Ship Management Pvt. Ltd (“*Executive Ship*”) claims that the Impugned Award was served in December 2019. According to the Petitioners, Arnav Vipankumar Goyal and Vipin Kumar Goyal (“*Goyals*”), the Impugned Award was never served on them.

3. It was on February 3, 2024, the Goyals claim, that they became aware of the Impugned Award when summons were served on them in the course of execution proceedings. The receipt of the summons too did not lead to the Goyals getting a copy of the Impugned Award. They would contend that they applied for a certified copy of the proceedings and they received the Impugned Award appended thereto on March 12, 2024, as evidenced by the stamp and signature of the Superintendent of the execution court.

4. This facet had to be gone into as a preliminary issue since at the threshold, Learned Advocate for Executive Ship had instructions to

object on the ground of the Petition not being maintainable, and that the Goyals had failed to file an application for condonation of delay. Therefore, by consent of the parties, this facet was taken up as a preliminary issue and the Goyals were given liberty to bring on record any evidentiary support for the aforesaid contention.

5. Executive Ship has contended that the arbitral award had indeed been served on the Goyals but the same had been returned “unclaimed” on December 3, 2019. This, it is submitted, constitutes effective service and the arbitral award is deemed to have been refused. Therefore, the Goyals have been served in the eyes of law, and it is not open to them to contend that they were unaware of the Impugned Award.

6. It is in this backdrop that the material brought on record by the Goyals has to be considered. It is now settled law that if the addressee refuses service, it would be deemed to have been served, on a conjoint reading of Section 27 of the General Clauses Act read with Section 114 of the Evidence Act. The law in this regard is declared in ***K. Bhaskaran***¹ and in ***Ajeet Seeds***². To quote from the latter:

“Section 114 of the Evidence Act, 1872 enables the court to presume

¹ *K. Bhaskaran vs. Sankaran Vaidhyan Balan and Another – (1999) 7 SCC 510*

² *Ajeet Seeds Ltd. Vs. K. Gopala Krishnaiah – (2014) 12 SCC 685*

that in the common course of natural events, the communication sent by post would have been delivered at the address of the addressee. Further, Section 27 of the General Clauses Act, 1897 gives rise to a presumption that service of notice has been effected when it is sent to the correct address by registered post. It is not necessary to aver in the complaint that in spite of the return of the notice unserved, it is deemed to have been served or that the addressee is deemed to have knowledge of the notice. Unless and until the contrary is proved by the addressee, service of notice is deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of business.”

[Emphasis Supplied]

7. Applying the aforesaid declared position of the law to the facts of the case, one must consider what the Goyals have sought to bring to bear. They have submitted that one Mrs. Reshma Rani, the grandmother of Arnav Goyal and mother of Vipal Goyal passed way in Punjab on December 1, 2019. Towards this end, they have brought on record the death certificate of Mrs. Rani. To attend to the last rites, the Goyals contend that the entire family travelled from Mumbai to Amritsar on December 1, 2019. They have also brought on record an electronic ticket of flight no. AI-649 of that date. The upshot of the submission is that the entire family having been away, and it being confirmed that the package was returned and was not left back, the

presumption of service stands effectively rebutted. They would contend that these two circumstances backed by documentary proof would show that drawing a presumption of service would not be correct.

8. Having examined the material brought on record, in my opinion, the Goyals have brought to bear a reasonable and plausible explanation for holding that the presumption of service stands rebutted. In these circumstances, it is considered fit to allow the Petition to be heard on merits.

9. A Learned Single Judge of this Court has already directed that 50% of the amount awarded be deposited in Court, subject to which, the execution of the Impugned Award would be stayed. List under the caption “***Final Hearing – Section 34***” on ***October 15, 2025***.

10. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court’s website.

[SOMASEKHAR SUNDARESAN, J.]