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

Date of decision: 19.11.2025

+ **O.M.P. (COMM) 326/2022 & I.A. 12400/2022, I.A. 12295/2022**

M/S J AND S PRIVATE LIMITED & ANR.Petitioners

Through:
versus

HANSALAYA HOLDINGSRespondent

Through: Mr. Shiv Chopra, Mr. Shravan
Pandey, Ms. Surbhi Arora, Advts.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (ORAL)**

1. This is a petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 ("**1996 Act**") seeking to challenge the Arbitral Award dated 30.10.2019 ("**impugned Award**").
2. The brief facts are that the petitioner No. 1 i.e., M/S J & S Private Limited, is a company incorporated under the Indian Companies Act, 1956 and petitioner No. 2 i.e., Mr. Krishan Jalan, is the director of the petitioner No. 1 company.
3. The respondent is a partnership firm. It has been stated that one Mr. U.N. Marwah is the Managing Partner of the respondent firm and was pursuing the matter before the Arbitral Tribunal on behalf of the respondent firm.
4. A Collaboration Agreement dated 25.09.2001 ("**Collaboration**")



Agreement”) was executed between the petitioners and the respondent for the development of the property purchased by the petitioner No. 2’s father and bequeathed in favour of the petitioners upon his demise, namely Freehold Cinema Plot situated at South Extension Part I, New Delhi – 110049 (**“said property”**) in the revenue estate of Village Mubarakpur, Kotla, within the limits of Municipal Corporation of Delhi.

5. The said Collaboration Agreement contains an arbitration clause being Clause No. 11.1, which reads as under: -

“11. ARTICLE- XI- ARBITRATION

11.1 All disputes and differences under or arising out of and incidental to this Agreement shall be referred to the sole arbitration of Mr. Satish Sood son of Mr. J.R. Sood, resident of 19, Golflinks, New Delhi who has accepted the same. The venue of the Arbitration proceedings shall be New Delhi and the courts at New Delhi alone shall have jurisdiction in respect of the Arbitration Proceedings.”

6. The Collaboration Agreement, contingent on obtaining Archeological Survey of India (ASI) permissions, became incapable of performance as both parties failed to secure the mandatory clearances. For 13 years there was no steps taken and there was no communication between the parties with respect to the Collaboration Agreement.
7. Eventually, petitioner No. 2 relinquished his 50% ownership in the said property in favor of Mr. Dhruv Jalan *vide* a Relinquishment Deed. However, the property could not be transferred out of the joint names of the petitioners into Mr. Dhruv Jalan’s name due to financial



difficulties. Petitioner No. 1 acknowledges that it holds the said property in trust for Mr. Dhruv Jalan.

8. It is stated that Mr. U.N. Marwah got executed a Settlement Agreement wherein it was agreed that on the sale or mortgage of the said property the respondent would receive a total sum of Rs. 15,90,00,000/- which would also include the sums given to the petitioners under the Collaboration Agreement.
9. Between the years 2014 to 2016 several efforts were made by the respondent through Mr. Marwah to sell or mortgage the said property, however all efforts remained unsuccessful and the said property could neither be sold nor mortgaged.
10. In the year 2017, the respondent through Mr. Marwah approached the petitioners seeking refund of the amounts payable under the Collaboration Agreement. After discussion, it was decided that the petitioners would, in full and final settlement of all the respondent's claim, would refund a total amount of Rs. 90 lakhs to it. In view of the same, the petitioner No. 2 handed over two-post-dated cheques for a total amount of Rs. 90 lakhs.
11. Sometime in July, 2017 the petitioner No. 2 received Legal Notices from the respondent and the respondent proceeded to file petitions under Section 138A of the Negotiable Instruments Act, 1881 against the petitioner No. 2.
12. Since there were disputes between the parties, the respondent invoked arbitration and the learned Arbitrator entered reference. Consequently, the impugned Award dated 30.10.2019 was passed by the learned Arbitrator, wherein it was held as under:-



“(i) That an amount of Rs 15,90,00,000/ [Rs Fifteen Crores Ninety Lakhs Only] be paid by the Respondents to the Petitioner in full and final settlement of all the claims, demands, disputes, etc of the Petitioner against the Respondents towards the amounts paid by the Petitioner to them under the MOU and the Collaboration Agreement and duly accepted in the Settlement Agreement dated 29.05.2015. Further no interest for the period 1st July 2015 till date shall be separately chargeable.

(ii) The payment shall be paid within 90 days from date of award failing which the amount shall carry interest @ 12% p.a. payable monthly till payment is made.

(iii) The petitioner shall have a paramount 1st Charge/ Lien on the Cinema Plot Land admeasuring 2,296 Sq Yds situated at New Delhi South Extension, Part-1, New Delhi and the Respondent shall not part with possession of create any third party rights therein without written permission of the Petitioner....

(iv) In case of failure to pay the aforesaid amount within 9 months hereof; the Petitioner shall be entitled to ownership right over 50% of the said land alongwith physical possession thereof. In the event of sale being concluded then the Petitioner shall be entitled to 50% of the sale proceeds thereof.”

13. Aggrieved by the impugned Award, the petitioners filed the present petition.



14. The petitioners have challenged the impugned Award alleging, among other things, that they never received any intimation of the impugned Award nor any signed copy of it. It has been stated that it was only in September 2020 that the petitioner became aware of the impugned Award when the respondent filed the execution petition being O.M.P (ENF.) (COMM.) No. 42/2020. The same has been stated in paragraph No. 12 of the petition, which reads as under:-

“12. The present petition is being filed within the limitation period prescribed under Section 34 of the Arbitration Act. The Ld. Arbitrator is required under Section 31 of A&CA to deliver to the Petitioners a signed copy of the Award. In the present case the Petitioners are yet to receive a signed copy of the Award. Petitioners through its Legal Representative has sent a letter dated 25th May 2022 to the Ld. Arbitrator requesting him to provide and deliver a signed copy of the Award forthwith. However, the same has not till date been replied nor has a copy of the Award been provided. The Petitioners are therefore constrained due to the above circumstances to challenge the impugned Award dated 30.10.2019 on the basis of the photocopy of the Award filed by the Respondent along with Execution Petition No. OMP (Enf.) (Comm.) No. 42/2020.”

15. Mr. Chopra, learned counsel for the respondent, has drawn my attention to the Arbitral Award records, wherein the learned Arbitrator has annexed speed post receipt showing dispatch of the impugned Award dated 30.10.2019 to one Krishan Kumar and M/s J & S Pvt.



Ltd. at “201, Golf Links, 110003, Lodi Road HO”. He states that the address of the petitioners, in the present petition is also stated to be 201, Golf Links, New Delhi-11003, as also stated in the affidavit by the petitioners. Hence, he states that there is a presumption that the impugned Award has been duly served on 31.10.2019 to the petitioners.

16. In view of the aforesaid, the statement made by the petitioners that they got to know about the impugned Award in September, 2020 when they received intimation of filing of execution petition by the respondent or that they have not received the signed copy of the impugned Award does not inspire confidence.
17. Hence, the present petition filed on 29.07.2022 challenging the impugned Award dated 30.10.2019 is clearly barred by limitation provided under Section 34(3) of the 1996 Act and is liable to be dismissed on the said cause alone.
18. At this juncture it is imperative to look into Section 34(3) of the 1996 Act, which reads as under:-

“Section 34: Application for setting aside arbitral awards.-

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(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was



prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.”

19. The Hon’ble Supreme Court in ***Union of India v. Popular Construction, (2001) 8 SCC 470***, while elaborating the scope of Section 34(3) of the 1996 Act has laid down the absolute nature of the limitation provided under Section 34(3) of the 1996 Act. The relevant paragraphs from the said judgment are extracted below:-

“12. As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are “but not thereafter” used in the proviso to sub-section (3). In our opinion, this phrase would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of Section 5 of that Act. Parliament did not need to go further. To hold that the court could entertain an application to set aside the award beyond the extended period under the proviso, would render the phrase “but not thereafter” wholly otiose. No principle of interpretation would justify such a result.

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14. Here the history and scheme of the 1996 Act support the conclusion that the time-limit prescribed under Section 34 to challenge an award is absolute and unextendible by court under Section 5 of the Limitation Act. The Arbitration and Conciliation Bill, 1995 which preceded the 1996 Act stated



as one of its main objectives the need “to minimise the supervisory role of courts in the arbitral process”

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16. Furthermore, Section 34(1) itself provides that recourse to a court against an arbitral award may be made only by an application for setting aside such award “in accordance with” sub-section (2) and sub-section (3). Sub-section (2) relates to grounds for setting aside an award and is not relevant for our purposes. But an application filed beyond the period mentioned in Section 34, sub-section (3) would not be an application “in accordance with” that sub-section. Consequently by virtue of Section 34(1), recourse to the court against an arbitral award cannot be made beyond the period prescribed. The importance of the period fixed under Section 34 is emphasised by the provisions of Section 36 which provide that

“where the time for making an application to set aside the arbitral award under Section 34 has expired ... the award shall be enforced under the Code of Civil Procedure, 1908 in the same manner as if it were a decree of the court”.

This is a significant departure from the provisions of the Arbitration Act, 1940. Under the 1940 Act, after the time to set aside the award expired, the court was required to “proceed to pronounce judgment according to the award, and upon the judgment so pronounced a decree shall follow” (Section 17). Now the consequence of the time expiring under



Section 34 of the 1996 Act is that the award becomes immediately enforceable without any further act of the court. If there were any residual doubt on the interpretation of the language used in Section 34, the scheme of the 1996 Act would resolve the issue in favour of curtailment of the court's powers by the exclusion of the operation of Section 5 of the Limitation Act.”

(Emphasis added)

20. Further, the Hon’ble Supreme Court in ***Simplex Infrastructure Ltd. v. Union of India***, (2019) 2 SCC 455, while reiterating the principles laid down in ***Popular Construction (supra)***, observed as under:-

“18. A plain reading of sub-section (3) along with the proviso to Section 34 of the 1996 Act, shows that the application for setting aside the award on the grounds mentioned in sub-section (2) of Section 34 could be made within three months and the period can only be extended for a further period of thirty days on showing sufficient cause and not thereafter. The use of the words “but not thereafter” in the proviso makes it clear that the extension cannot be beyond thirty days. Even if the benefit of Section 14 of the Limitation Act is given to the respondent, there will still be a delay of 131 days in filing the application. That is beyond the strict timelines prescribed in sub-section (3) read along with the proviso to Section 34 of the 1996 Act. The delay of 131 days cannot be condoned. To do so, as the High Court did, is to breach a clear statutory mandate.”

(Emphasis added)



21. From above mentioned judgement, the principles pertaining the time limitation prescribed under Section 34(3) of the 1996 Act are quite well-settled. The proviso to Section 34(3) of the 1996 Act permits further extension by only thirty days on satisfaction of the Court that sufficient cause existed. The use of the words “*but not thereafter*” in the proviso to Section 34(3) of the 1996 Act lays down the intent of the legislature of absolute bar to a petition filed beyond limitation.
22. Applying the said principles to the present case, the present petition is beyond the prescribed time limit provided in Section 34(3) of the 1996 Act and is liable to be dismissed as being barred under Section 34(3) of the 1996 Act.
23. Thereby, the limitation period of three months for challenging the impugned Award expired on or around 31.01.2020. Even after granting the thirty days extension as provided in the proviso to the Section 34(3) of the 1996 Act, the deadline was around 02.03.2020.
24. The present petition has been filed in July, 2022, after more than 2 years beyond the limitation provided in Section 34(3) of the 1996 Act including the extended thirty days, that too without any application seeking condonation of delay in filing the present petition.
25. In view of the law as laid down in ***Popular Construction (supra)*** and ***Simplex Infrastructure Ltd. (supra)***, the bar of three months plus thirty days is absolute in nature and delay beyond the said period cannot be condoned. Further, no reasonable explanation, except not having received the signed copy of the impugned Award, has been given by the petitioners to show sufficient cause as to satisfy this Court to condone the delay.



26. Additionally, there is nobody present on behalf of the petitioners to argue the matter and the present petition is also liable to be dismissed for non-prosecution.
27. For the said reasons, the present petition is dismissed.
28. Consequently, all pending applications are disposed of.

JASMEET SINGH, J

NOVEMBER 19, 2025/AS

(Corrected and released on 04.12.2025)