

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

AP/559/2019

GOUTAM PALIT AND 6 OTHERS
VS
UNION OF INDIA

BEFORE:

The Hon'ble JUSTICE GAURANG KANTH

Date : 19th May, 2026.

Appearance

Ms. Chaitali Mukhopadhyay, Adv.
Mr. Krishnendu Bera, Adv.
...for the petitioners

Mr. Sunil Kumar Singhanian, Adv.
Mr. Sukanta Ghosh, Adv.
...for the respondent

1. The Court: The petitioners have preferred the present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, being the legal heirs of late G.C. Palit, seeking appointment of an Arbitrator for adjudication of the disputes alleged to have arisen between late G.C. Palit and the respondent out of an agreement dated 27.10.1983.
2. Learned Counsel appearing on behalf of the petitioners submits that the disputes between the parties was referred earlier to an Arbitral Tribunal and an award dated 04.05.2005 came to be passed in respect thereof. It is submitted that the said award was challenged by late G.C. Palit (since deceased) by filing an application under Section 34 of the said Act being Miscellaneous Case No. 217 of 2005 before the Learned 9th Additional District Judge at Alipore. The said application was allowed and the arbitral award dated 04.05.2005 was set aside by an order dated 27.02.2012. It is the contention of the

petitioner that late G.C. Palit died intestate on 10.08.2013 leaving behind the present petitioners and his other siblings as his legal heirs.

3. It is further submitted that the petitioner thereafter applied for a certified copies of all documents in July, 2014 and due to certain difficulties and lack of proper legal assistance, the matter could not be pursued immediately. According to the petitioners, on and from 17.04.2015 to 20.11.2018 several communications were addressed to the respondent requesting appointment of an Arbitrator. However, no Arbitrator was appointed. In such circumstances, the present petition was filed on 26.08.2019. Records further reveal that the present petition was dismissed for default on 22nd November, 2019 and was subsequently restored by an order dated 5th March, 2020.
4. Learned Counsel for the respondent states that the present petition is barred by limitation. He further states that the petitioners have nowhere satisfactorily explained the delay in filing the present petition.
5. Heard Counsel for the parties and perused the materials on record.
6. It is not in dispute that the disputes sought to be referred in the present proceedings had already been adjudicated upon by Arbitral Tribunal culminating in the award dated 04.05.2005. It is equally not disputed that the said award was set aside by the competent Court in proceeding under Section 34 of the Arbitration and Conciliation Act, 1996 vide order dated 27.12.2012. A perusal of the order dated 27.12.2012 reveals that while setting aside the Arbitral Award, the Learned Trial Court did not grant any liberty to the parties to initiate fresh proceedings or to commence the Arbitration afresh. As the said

order was never challenged before any appropriate forum, the same has attained finality. In the absence of any liberty having been granted by the Court while setting aside the award, this Court is unable to accept of the contention of the petitioners that a fresh Arbitral reference can now be initiated by invoking Section 11(6) of the Arbitration and Conciliation Act in respect of the same dispute which had already culminated in an Arbitral Award and subsequent proceedings under Section 34 of the Arbitration and Conciliation Act.

7. Further this Court also finds that the award was set aside on 27.02.2012 where the present petition has been filed only on 26.08.2019 after an inordinate and unexplained delay of more than seven years. The explanation sought to be furnished on behalf of the petitioners regarding family difficulties and communications exchanged with the respondent is not sufficient to explain such prolonged inaction, particularly when the order dated 27.02.2012 had already attained its finality.
8. In view of the aforesaid facts and circumstances, this Court is of the considered view that no case for exercising jurisdiction under Section 11(6) of the Arbitration and Conciliation Act, 1996, have been made out.
9. Accordingly, the present petition is dismissed.

(GAURANG KANTH, J.)