

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6132 OF 2024

M/s. TAA Construction

...Petitioner

Versus

The Kalyan Agriculture Produce Marketing
Committee

...Respondent

Mr. Rajmani Jarma, a/w *Kanishk Varma*, i/b *Namita Mestry*, for
the Petitioner.

Mr. Kirit J. Hakani, a/w *Rahul Hakani*, *Niyati Mankad*,
Pratishtha Shukla, for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : February 12, 2026

Oral Judgement:

1. Rule. Rule made returnable forthwith. By consent of the parties, heard finally.

Context and Factual Background:

2. The challenge in this Petition is to an order dated June 27, 2006 (“*Impugned Order*”) passed by the Learned Civil Judge Senior Division, Kalyan, rejecting an Application filed by the Petitioner under Section 14 of the Arbitration Act, 1940 (“*the 1940 Act*”).

3. The foundational ground on which the Impugned Order has been passed is that the Application was hopelessly barred by limitation.

4. A brief overview of the facts would be appropriate. On September 16, 1997, a Learned Arbitral Tribunal proceeded to publish a unanimous award in favour of the Petitioner (“**Arbitral Award**”). District Courts in Kalyan came to be established on September 1, 1996, i.e. well over a year before the Arbitral Award was passed. The Arbitral Award was filed under Section 14(2) of the 1940 Act for confirmation by the Court, before the District Court in Thane, on the premise that the agreement between the parties alluded to Courts in Thane having jurisdiction.

5. The Learned Judge in Thane was faced with an objection from the Respondent on the ground of territorial jurisdiction. The Respondent had contended that the appropriate forum for filing such Application would be the Kalyan Court which had been established even before the making of the Arbitral Award and that the Application ought to have been filed in Kalyan and not in Thane.

6. On February 5, 1999, the Thane District Court returned the Application with liberty to file the Application before the Kalyan Court, and directed that further steps be taken in view of Order VII, Rule 10(2)

of the Civil Procedure Code, 1908 (“*CPC*”). Promptly thereafter, on February 23, 1999, the Application was filed before the District Court in Kalyan. Eventually, on June 27, 2006, the District Court in Kalyan rejected the Application on the ground of the Application being barred by limitation, citing Article 119 in the Schedule to the Limitation Act, 1963 (“*the Limitation Act*”).

7. Thereafter, Civil Revision Application No.206 of 2006 was filed, which eventually came to be disposed of on January 4, 2024, with liberty to file appropriate proceedings. This Petition is a product of the outcome in such proceedings.

Analysis and Findings:

8. Heard Learned Advocates for both sides and with their assistance, examined the material on record. It is seen that the arbitral award was passed on September 16, 1997 and the filing with the District Court in Thane took place promptly on September 23, 1997. Eventually, the Thane Court returned the Application on the ground that it did not have territorial jurisdiction in the matter. Promptly thereafter, on February 23, 1999, the same Application was filed in the District Court in Kalyan.

9. Learned Advocate for the Petitioner would submit that the time period between September 23, 1997 when the award was filed before the Thane Civil Judge, until February 5, 1999, the date on which the Thane District Court returned the Application, would need to be excluded from computing limitation. On that basis, he would submit, that he is well within the 30-day period provided for in Article 119 in the Schedule of the Limitation Act.

10. Learned Advocate for the Petitioner would invoke Section 14 of the Limitation Act to indicate that time spent *bona fide* in a forum that did not have jurisdiction ought to be excluded while computing limitation.

11. Learned Advocate for the Respondent, on the other hand, would draw my attention to provisions of Order VII, Rule 6 of the CPC and point out that the application filed in the Kalyan Court did not seek condonation on account of the time spent in the Thane Court. He would submit that the Kalyan Court was left guessing as to whether a sufficient cause had been made out for condonation of the delay. The contention of Learned Advocate for the Respondent is that there has to be clear notice as to what the sufficient cause for the delay is, and neither the

Court nor the counterparty should be left guessing or made to presume that there is sufficient cause for the delay.

12. Having examined the material on record with the assistance of the parties, bearing in mind the extraordinary jurisdiction of this Court, what is writ large is that an arbitral award that was passed way back in September 1997 remains at the same stage thirty-years later, on the premise of a wrong forum having been approached under Section 14 of the Arbitration Act. On a perusal of the record, neither the Respondent nor the Kalyan District Court had been left in any manner of doubt as to what they were seized of and why there had been a delay in approaching the Kalyan Court. The filing in Thane appears to have been on the basis of the interpretation by the Applicant of the jurisdiction clause in the agreement, providing for Courts in Thane having jurisdiction. It is another matter that it has taken this long for the matter to remain at the same stage.

13. However, it is now settled law that a hyper-technical approach ought not to be adopted while examining the application of principles of the CPC, particularly, in the context of arbitration law, including the application of the 1940 Act.

14. In a recent judgement, the Supreme Court in the case of *Krishna Devi v. Union of India & Ors., 2025 (1) S.C.R 81*, has had occasion to consider a somewhat similar interplay between Article 119 of the First Schedule of the Limitation Act read with the CPC and read with the 1940 Act.

15. The Court has cautioned against the rules of procedure being implemented in a hyper-technical manner which undermines the foundational basis of expeditious dispute resolution under arbitration, bearing in mind the fact that it was the 1940 Act that was in play. In that case, the issue was of when the award-debtor had notice of the arbitral award being filed for purposes of Section 14 of the 1940 Act, Commenting on what the approach should have been to Section 14 of the 1940 Act and the interplay with technicalities of notice after the award was filed, the Supreme Court's following observations are noteworthy:-

As far as the respondents' contention of taking the date of receiving the copy of the award is concerned, it is taken to be an impermissible departure from Section 14(2)'s text. This Court in Bharat Coking Coal Ltd. v C.K. Ahuja ([1995] 2 SCR 65 : (1995) Supp. 1 SCC 744) has laid down that what this provision requires is that parties simply become aware of the filing of the award. In the said case, the Supreme Court had referred a dispute to arbitration and its registry had issued

a notice to both parties about the filing of the award. The award-holder, however, relied on the much later date of a formal notice to calculate limitation for filing objections to the award. Relying on the authorities discussed above, it was held that the date of receiving a copy of the award is not the requirement of Section 14(2), but merely awareness that it is available to the parties. This holding signifies that the parties have to take steps to scrutinise the award themselves as soon as it becomes accessible and they are aware of its accessibility. We find that the interpretation in this decision is in line with the intent of the 1940 Act, which is designed to resolve disputes at a quick pace. Any contrary interpretation will give a licence to the award-debtor to delay the arbitration by insisting on procedural nuances despite of being aware that an award exists and that its contents are accessible to it.

[Emphasis Supplied]

16. In the same spirit and applying the same principles as aforesaid, I am satisfied that the Respondent has clear notice of why the Petitioner had taken time to approach the Kalyan Court. It was the Respondent's objection on territorial jurisdiction that waylaid the Petitioner's approach to the Thane Court. That apart, even if the legal advisors of the Petitioner were unaware that the Courts in Kalyan had been set up and that they ought to go to Kalyan, once the Thane Court returned the Application, it must be examined whether the Petitioner forthwith moved the Kalyan Court once the Thane Court returned the Application.

17. The Petitioner did so within a period of 18 days of the Thane Court returning the Application. The Thane Court had been approached within four days of the Arbitral Award. Therefore, no fault can be found with the Petitioner as regards the absence of a specific pleading as to the reason for the delay. The Respondent was left in no manner of doubt as to what had transpired since the passing of the Arbitral Award. Equally, going by the Impugned Order itself, it is apparent that even the Court was in no manner of doubt as to what had transpired in the intervening period, since it has discussed the filing of the Application in the Thane Court, which led to the delay in presenting the Application to the Kalyan Court. This is precisely, why in my view, the stand adopted by the Respondent in these proceedings and the stand adopted by the Kalyan Court in the Impugned Order falls in the bracket of a hyper-technical approach, mortgaging the substance to formal technicality. This by itself has led to nearly three decades going by with no meaningful movement in the matter.

18. In these circumstances, in exercise of the extraordinary writ jurisdiction, the Impugned Order is hereby ***quashed*** and set aside. The Application is restored to the Kalyan Court. The Kalyan Court shall examine the filing under Section 14 in accordance with the 1940 Act.

19. Needless to say, nothing in this order is an expression of an opinion on the merits of the matter, including the merits of the Arbitral Award. What is interfered with is the outright rejection of the application under Section 14 of the 1940 Act, at the threshold, on the premise of limitation since this Court is satisfied that a sufficient cause has indeed been made out and a hyper technical approach has led to an arbitral award remaining at the same stage for nearly thirty-years.

20. At this stage, Learned Advocate for the Respondent makes a request for stay of this order for a period of eight weeks. Considering the sheer passage of time in the matter and the pace at which this matter has progressed, the request is declined.

21. Another ground raised before the Kalyan Court was of adequacy of Court fees. The same shall be examined in accordance with law and the Petitioner shall be at liberty to rectify any defect in this regard.

22. The Petition is ***finally disposed of***, quashing and setting aside the Impugned Order in the aforesaid terms.

23. 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.]