117

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(1) **CR No.2586 of 2026 (O&M)**
Date of Decision: 06.05.2026

Municipal Corporation, Moga and another

…..Petitioners.

Versus

M/s JITF Urban Waste Management (Ferozepur) Ltd. & others

.....Respondents.

(2) **CR No.2599 of 2026 (O&M)**

Municipal Corporation, Jalandhar and another

…..Petitioners.

Versus

M/s JITF Urban Waste Management (Jalandhar) Ltd. & others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

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Present:- Dr. Anmol Rattan Singh Sidhu, Senior Advocate with
Ms. Mandeep Kaur, Advocate and
Mr. Kamal Gupta, Advocate
for the petitioners (in both petitions).

Mr. Anand Chhibbar, Senior Advocate with
Mr. Aditya Jain, Advocate (through video-conferencing) and
Mr. Inderjeet Singh, Advocate
for respondent No.1-Caveator (in both petitions).

VIKRAM AGGARWAL, J.

1. This order shall decide the afore-titled revision petitions, both assailing orders dated 23.08.2023 (Annexure P-3) and 18.11.2023

(Annexure P-4) passed by the Court of Additional District Judge, Chandigarh.

2. Parties in both cases are the same, so is the import of the impugned orders. The only difference is as regards different arbitral Awards having been assailed before the Court of Additional District Judge, Chandigarh, under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as the '1996 Act') by the Municipal Corporation, Moga and the Municipal Corporation, Jalandhar, respectively.

3. Facts shall be extracted from CR No.2586 of 2026, though reference to the facts pertaining to CR No.2599 of 2026 shall also be made at the appropriate place.

4. The revision petitions are also supported by separate applications under Section 5 of the Limitation Act, 1963 (hereinafter to be referred as the 'Limitation Act') for condonation of delay of 774 days in filing both the revision petitions.

5. A concession agreement dated 02.12.2011 (Annexure P-5) was executed between the parties pursuant to which, an integrated Municipal Solid Waste (MSW) Management Project was awarded to respondent No.1 (M/s JITF Urban Waste Management Ltd.). Certain disputes arose during the execution of the project which resulted into issuance of termination notices. In terms of Article 11 of the concession agreement, arbitration was invoked. The arbitral Tribunal rendered the majority Award dated 15.01.2022 (Annexure P-1) awarding approximately Rs.92.29 Crores (Rs.204 Crores in CR No.2599 of 2026). The Award, as

per the petitioners, included a huge sum towards alleged future loss of profits under Claim No.10 despite all counter-claims of the petitioners having been rejected.

6. A petition under Section 34 of the 1996 Act (Annexure P-12) was filed accompanied by an application (Annexure P-13) under Section 36(2) and 36(3) of the 1996 Act.

7. In the said petition, preferred under Section 34 of the 1996 Act, order dated 23.08.2023 (Annexure P-3) was passed vide which the operation of the Award was ordered to be stayed subject to deposit of 100% of the awarded amount in the shape of FDR. It was also ordered that the said amount would not be released to respondent No.1 till the final disposal of the petition instituted under Section 34 of the 1994 Act. The application under Section 36(2) and 36(3) of the 1996 Act was, therefore, disposed of. It was also stated that in case of failure to deposit the said amount, the stay order would be automatically vacated.

8. Aggrieved by the said order, CR No.6628 of 2023 was instituted by the petitioners. However, in the meantime, an application was filed by the petitioners before the Court of Additional District Judge, Chandigarh, seeking extension of stay granted vide order dated 23.08.2023. The said application was dismissed vide order dated 18.11.2023 (Annexure P-4) and the stay was vacated, while simultaneously extending time to deposit till 08.01.2024.

9. CR No.6628 of 2023 was, therefore, withdrawn with liberty to challenge order dated 18.11.2023 and to raise all pleas, as had been raised

in CR No.6628 of 2023.

10. Thereafter, a fresh revision petition was filed by the petitioners on 18.12.2023 challenging both orders i.e. orders dated 23.08.2023 and 18.11.2023 in which certain objections were raised. The matter was re-filed again in January, 2024 but in the meantime, on 08.01.2024, the Court of Additional District Judge, Chandigarh, dismissed the petition under Section 34 of the 1996 Act (Annexure P-23) itself on the ground of non-deposit of the 100% award amount.

11. This led to the filing of the FAO-CARB-9 of 2024 under Section 37 of the 1996 Act, which was ultimately dismissed by a Division Bench of this Court on 09.12.2025 (Annexure P-24).

12. The said order was carried by the petitioners to the Hon'ble Apex Court which, vide order dated 20.02.2026 (Annexure P-25), set-aside the order dated 08.01.2024 passed by the Court of Additional District Judge, Chandigarh and the order dated 09.12.2025 passed by the Division Bench of this Court. As a result of the said order, the petition under Section 34 of the 1996 Act was restored.

13. The present revision petition has now been instituted assailing the orders dated 28.03.2023 and 18.11.2023. The revision petition, as stated in the opening part of the judgment, is accompanied by an application for condonation of delay of 774 days in filing the petition.

14. Learned Senior counsel for the petitioners has strenuously urged that the condition of 100% deposit of the awarded amount is illegal and arbitrary since the Award is completely illegal. Learned Senior counsel

has referred to the operative part of the Award and has submitted that a huge amount has been awarded on account of alleged future loss of profits despite all counter-claims of the respondent having been rejected. It has been submitted that under the circumstances, the condition of deposit of 100% of the awarded amount deserves to be set-aside.

15. Learned Senior counsel has also referred to all orders passed by the Court of Additional District Judge, Chandigarh, from time to time as also by this Court in various revision petitions and FAO-CARB-9 of 2024 as also the order passed by the Hon'ble Apex Court on 20.02.2026. It has been submitted that the petitioner is a State agency and, therefore, there was no occasion for the Court of Additional District Judge, Chandigarh, to have imposed the condition of deposit of 100% of the awarded amount in the petition under Section 34 of the 1996 Act as a condition for the grant of stay.

16. Per contra, learned Senior counsel representing respondent No.1 has submitted that there is no illegality in the impugned orders. It has been submitted that the revision petition is barred by delay and laches since it assails orders dated 23.08.2023 and 18.11.2023. It has further been submitted that a revision petition had duly been filed earlier against order dated 23.08.2023 but the same was withdrawn, as a result of which no fresh revision petition would be maintainable. It has also been submitted that another revision petition was filed assailing order dated 18.11.2023 which kept on lying in the Registry but the objections were not removed. It has been submitted that once the said revision petition had been filed, the

instant revision petition could not have been filed.

17. On merits, learned Senior counsel has submitted that there is no illegality in the impugned order, the same have been passed keeping in view the settled law on the subject. In support of his contentions, learned Senior counsel has placed reliance upon the judgments passed by the Hon'ble Apex Court in ***State of Orissa and another Vs. Laxmi Narayan Das (Dead) through LRs and others, 2023 INSC 619; State of Orissa and another Vs. Mamata Mohanty, (2011) 3 Supreme Court Cases 436; Sharda Sanghi and others Vs. Asha Agarwal and others, 2026 INSC 292; Postmaster General and others Vs. Living Media India Limited and another, (2012) 3 Supreme Court Cases 563; Toyo Engineering Corporation and another Vs. Indian Oil Corporation Limited (Civil Appeal Nos.4549-4550 of 2021***, **decided on 02.08.2021);** ***International Seaport Dredging Pvt. Ltd. Vs. Kamarajar Port Limited, 2024 INSC 827;*** judgment passed by a Co-ordinate Bench of this Court in ***Haryana State Road & Bridges Development Corporation Limited Vs. M/s Gawar Constructions Ltd. and another (CR No.2630 of 2026, decided on 23.03.2026)*** and the judgment passed by the Division Bench of Delhi High Court in ***Sepco Electric Power Construction Corporation Vs. M/s Power Mech Projects Limited*** [***FAO(OS) (COMM) No.109 of 2023, decided on 21.08.2023].***

18. Responding to the objections raised by learned Senior counsel for respondent No.1 as regards the previous revision petition having been filed, learned Senior counsel for the petitioners has submitted that the

previous revision petition i.e CR No.6628 of 2023 had been withdrawn with liberty to challenge both orders dated 23.08.2023 and 18.11.2023. He has submitted that the subsequent revision petition filed in the Registry in December, 2023 impugning both orders could not be listed on account of some objections and in the meantime, vide order dated 08.01.2024, the petition under Section 34 of the 1996 Act itself was dismissed leading to the filing of FAO-CARB-9 of 2024 which went upto the Hon'ble Apex Court and the issue was decided by the Hon'ble Apex Court on 20.02.2026 after which the instant revision petition has been filed. It has been submitted that the revision petition filed in the Registry was taken back after which the present revision petition was filed.

19. Responding to the issue of delay and laches, it has been submitted that the delay occurred on account of dismissal of the petition under Section 34 of the 1996 Act followed by filing of FAO-CARB-9 of 2024 and the matter before the Hon'ble Apex Court. It has been submitted that the matter is, therefore, not barred by delay and laches and the delay, instead, occurred since legal remedies were being pursued by both sides.

20. I have considered the submissions made by learned Senior counsel for the parties.

21. Coming first to the issue of delay, since the present revision petition has been instituted under Article 227 of the Constitution of India, no limitation as such is prescribed. The applications for condonation of delay were, therefore, not required to be filed. It is well settled that such petitions are to be otherwise filed within a reasonable period of time. The

orders impugned were passed on 23.08.2023 and 18.11.2023 whereas the present revision petition has been preferred in the year 2026. During this period, the petition under Section 34 of the 1996 Act was dismissed on 08.01.2024 after which FAO-CARB-9 of 2024 was filed which was dismissed on 09.12.2025 after which the matter went to the Hon'ble Apex Court by way of ***SLP(C) No.839 of 2026*** tilted as ***Municipal Corporation, Moga Vs. M/s JITF Urba Waste Management (Ferozepur) Ltd. & others*** which was decided on 20.02.2026 and the following order was passed by the Hon'ble Apex Court:

> ***"Leave granted.***
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> ***Challenge in these appeals is to the orders dated 09.12.2025 passed by a Division Bench of the High Court of Punjab and Haryana at Chandigarh in FAO-CARB-9-2024 (O&M) and FAO-CARB-10-2024 (O&M). By the said orders, the High Court confirmed the orders dated 08.01.2024 passed by the learned Additional District Judge, Chandigarh, exercising the power of a Commercial Court, dismissing the applications filed by the appellant-Corporation under Section 34 of the Arbitration and Conciliation Act, 1996, on the ground that the appellant-Corporation had failed to comply with the condition imposed in the orders dated 23.08.2023, staying the operation of the arbitral awards, subject to deposit of 100% of the amounts due and payable thereunder. The Division Bench was of the same opinion that once the appellant-Corporation failed to abide by the conditional stay orders dated 23.08.2023, by depositing 100% of the awarded amount, it was not open to it to continue with its challenge to the awards under Section 34 of the Arbitration Act.***

We are unable to agree with this construction placed upon the scheme of the Arbitration Act by the Commercial Court and the High Court. Challenge to an arbitral award under Section 34 of the Arbitration Act is independent of compliance or non-compliance with a conditional stay order passed in relation to the award under Section 36(2) and (3) of the Arbitration Act. In the event a party fails to abide by a conditional stay order passed under the aforestated provision, it would no longer have the benefit of protection against execution of the award, but that would not, by itself, adversely impact the challenge that such party wants to maintain against the award under Section 34 of the Arbitration Act.

Therefore, the orders passed by the learned Additional District Judge, Chandigarh/Commercial Court, dated 08.01.2024 in Arbitration Petition Nos.496/2022 and 497/2022, as confirmed by the Division Bench of the High Court, vide the orders dated 09.12.2025 passed in FAO-CARB-9-2024 (O&M) and FAO-CARB-10-2024 (O&M), are set aside and Arbitration Petition Nos. 496/2022 and 497/2022 are restored to the file of the Commercial Court/ learned Additional District Judge, Chandigarh.

We may, however, make it clear that restoration of the arbitration petitions filed by the appellant-Corporation under Section 34 of the Arbitration Act would have no impact on the pending execution proceedings, which would necessarily have to proceed, taking into account the fact that the orders granted earlier, staying the operation of the arbitral awards, no longer hold the field.

The appeals are disposed of in the aforestated terms.

Pending application(s), if any, stand disposed of."

22. Under the circumstances, this Court is of the considered opinion that the revision petition is not barred by delay and laches.

23. As regards the withdrawal of the previous revision petition, the order dated 14.12.2023 (Annexure P-21) clearly states that the revision petition was permitted to be withdrawn with liberty to assail order dated 18.11.2023 and to raise all pleas as have been raised in CR No.6628 of 2023. Subsequently, a revision petition was filed on 18.12.2023 which could not be listed on account of certain objections and the same has now been taken back after which the present revision petition has been instituted. Though, strictly speaking, the present revision petition should not have been filed and the previous revision petition should have been filed with an application for condonation of delay in re-filing, this Court does not intend to non-suit the petitioners only on this ground. It is well settled that matters should be heard on merits and parties should normally not be non-suited on technicalities. Under the circumstances, I do not deem it appropriate to non-suit the petitioners on these grounds.

24. Coming to the merits of the case, Sections 36(2) and 36(3) of the 1996 Act lay down as under:

> *"36. **Enforcement**. (1) x x x x x*
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> *(2) Where an application to set aside the arbitral award has been filed in the Court under section 34, the filing of such an application shall not by itself render that award unenforceable, unless the Court grants an order of stay of the operation of the said arbitral award in accordance with the provisions of sub-section (3), on a separate application made for that purpose.*

(3) Upon filing of an application under sub-section (2) for stay of the operation of the arbitral award, the Court may, subject to such conditions as it may deem fit, grant stay of the operation of such award for reasons to be recorded in writing: Provided that the Court shall, while considering the application for grant of stay in the case of an arbitral award for payment of money, have due regard to the provisions for grant of stay of a money decree under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

Provided further that where the Court is satisfied that a Prima facie case is made out that,—

(a) the arbitration agreement or contract which is the basis of the award; or

(b) the making of the award, was induced or effected by fraud or corruption, it shall stay the award unconditionally pending disposal of the challenge under section 34 to the award."

25. As per Section 36(3) of the 1996 Act, the Court before which such an application for stay is filed, may, subject to conditions as it may deem fit, grant stay of the operation of the award for reasons to be recorded in writing. There are two provisos to the said statutory provision which have to be satisfied before grant of stay.

26. The Court of Additional District Judge, Chandigarh, directed deposit of 100% of the awarded amount and ordered that the said amount would be kept in an FDR and would not be disbursed to respondent No.1. Learned Senior counsel for the petitioners has not been able to show as to how the said order is illegal or arbitrary. Learned Senior counsel has also not been able to point out as to how the two provisos to Section 36(3) of the 1996 Act are not attracted in his case. Concededly, the Award is to be

considered as a money decree and, therefore, the provisions for grant of stay of a money decree, as provided under the Code of Civil Procedure, 1908 have to be followed. Further, learned Senior counsel for the petitioners has not been able to *prima facie* show that the arbitration agreement or contract or the making of the award was induced or affected by fraud or corruption. Mere grant of a high amount of compensation would not *ipso facto* mean that the Award was obtained by fraud or by corruption.

27. It is well settled that in such cases, the Court can impose conditions for the deposit of the awarded amount while granting stay. Reference can be made to the judgment of the Hon'ble Apex Court in ***Hindustan Construction Company Limited Vs. Union of India, (2019) SCC Online Supreme Court 1520; Manish Vs. Godawari Marathwada [SLP(C) Nos.11760-11761/2018, decided on 16.07.2018]*** and the judgment of Delhi High Court in ***Power Mech Projects Vs. Sepco Electric Power Construction Corporation [O.M.P.(I) (COMM.) 523/2017, decided on 17.02.2020]***.

28. It has also been held in the case of ***Toyo Engineering Corporation and another's case (supra)*** and many other cases that merely because the amount is to be deposited by Government Corporations, it cannot be ordered that there would be no such requirement and even the Government Corporations and Bodies would be required to comply with the provisions applicable to money decrees and arbitral awards.

29. Even otherwise, the Court of Additional District Judge,

Chandigarh, did not order disbursal of the awarded amount and very fairly ordered that the said amount would be retained in an FDR and would not be disbursed to respondent No.1 during the pendency of the petition under Section 34 of the 1996 Act. The said order, cannot, by any stretch of imagination, be said to be illegal or arbitrary warranting interference in revisional jurisdiction.

30. That being so, the instant revision petitions are found to be devoid of merit and are accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

May 06, 2026
Yag Dutt

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*