



2026:DHC:426



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

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Date of Decision: 09.01.2026

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FAO 100/2023

AKHIL MOHAN BAJAJ (DECEASED) THROUGH HIS LRS.

.....Appellants

Through: Mr. Shreyas Mehrotra, Mr. Manish
Kr. Mishra, and Mr. Garvit Sharma,
Advocates.

versus

KOTAK MAHINDRA BANK LTD

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. None for the respondent.
2. It is noted that the respondent has remained unrepresented even on the previous dates of hearing and, in fact, the Predecessor Bench had closed the opportunity to file a reply on 28.03.2025.
3. The present challenge under Section 37 of the Arbitration and Conciliation Act, 1996 has been preferred against the order dated 02.02.2023 passed by the learned ADJ-08, Central District, Tis Hazari Courts in Misc DJ 54/2019 in Arbitration Petition No. 738/2017.
4. Vide the aforesaid order, the application filed by the appellants under Order XXII Rule 3 read with Order XXII Rule 9 read with Section 151 of the Code of Civil Procedure, 1908 ("CPC") read with Section 5 of the Limitation Act, 1963 for restoring the suit and bringing on record the LRs of



the deceased was dismissed.

5. Briefly, the facts in the context of which the impugned order came to be passed are that the respondent, claiming itself to be an assignee of CitiFinancial Consumer Finance India Ltd. (hereinafter “CFCFIL”), instituted arbitral proceedings against *Akhil Mohan Bajaj*, in relation to a loan of Rs.6,92,135/- (rescheduled to Rs.3,72,220/-) extended by CFCFIL to him. The said arbitral proceedings resulted in the passing of an award against *Akhil Mohan Bajaj*, which was assailed before the learned District Judge by way of objections filed under Section 34 of the Arbitration and Conciliation Act, 1996. Notably, during the pendency of the said petition, *Akhil Mohan Bajaj* expired on 03.04.2018. Steps to bring on record the legal heirs of *Akhil Mohan Bajaj* could not be taken in time, and the petition stood abated on 16.11.2018. The subject application was preferred on 14.01.2019 praying that the legal heirs of the deceased be brought on record and also seeking condonation of delay under Section 5 of the Limitation Act on the ground that the wife of the deceased, namely *Smt. Tripta Bajaj*, had been unwell and therefore the requisite steps could not be taken within the period of limitation. The application, however, did not find favour with the Court, and was accordingly dismissed. In the present proceedings, though the respondent was duly served, neither has a reply been filed nor has anyone appeared.

6. Learned counsel for the appellants has contended that while passing the impugned order, the Court failed to appreciate that though the application was prepared in the month of May 2018 itself, the same could not be filed on account of the continued illness of *Smt. Tripta Bajaj*, the wife of the deceased. The application was supported by a medical certificate



given under the signatures of the treating doctor at Apollo Hospitals. The same reflects that *Smt. Tripta Bajaj* is aged about 72 years and was operated upon earlier for fractures in her femur and humerus bones. The treating doctor has stated that he has been doing regular home visits as *Smt. Tripta Bajaj* had also developed fractures in the dorsolumbar and lumbar spine. The certificate also reflects that she was advised extensive physiotherapy and B/L total knee arthroplasty.

7. Besides the above, it is also contended that the entire arbitral proceedings were *mala fide* and amount to double jeopardy as CFCFIL, prior to assigning its loans to the respondent, had initiated proceedings under Section 138 of the NI Act, in which a one-time settlement was arrived at, in pursuance of which late *Akhil Mohan Bajaj* had paid a sum of Rs.1.50 lakhs as a full and final settlement. The offence was compounded. In this regard, learned counsel has referred to the proceedings dated 07.05.2014 and 25.05.2014 before the learned Magistrate and the learned Presiding Judge respectively, in CC No. 852/2012.

8. Learned counsel for the appellants additionally contended that the award was also assailed for the reason that the learned Arbitrator was appointed unilaterally and no compliance under Section 12(5) of the Arbitration Act was done, despite objections in this regard being raised at the very beginning.

9. Notably, the subject application came to be filed after a delay of about 7 months, and the appellants had sought to explain the delay on account of the medical issues of *Smt. Tripta Bajaj*. A medical certificate had also been filed, wherein the treating doctor had stated the prolonged orthopaedic issues suffered by her, the details of which have been noted hereinabove. In the



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considered opinion of this Court, the appellants have adequately explained the delay, and the application filed by the appellants seeking to bring on record the legal heirs of the deceased *Akhil Mohan Bajaj* and restoration of the concerned petition under Section 34 Arbitration Act ought to have been allowed.

10. Accordingly, in the totality of the facts noted hereinabove, the impugned order is set aside. The delay in filing of the subject application is condoned, the legal heirs of the late *Akhil Mohan Bajaj* are directed to be brought on record, and the concerned petition under Section 34 is restored.

11. The matter be listed at the first instance before the concerned Court on 02.02.2026, for directions.

MANOJ KUMAR OHRI
(JUDGE)

JANUARY 9, 2026

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