



2026:DHC:1479



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 18.02.2026**

+ O.M.P. (COMM) 206/2024, I.A. 10280/2024 (Stay), I.A. 10281/2024 (Stay), I.A. 10283/2024 (Delay of 149 days in filing the petition), I.A. 10284/2024 (Delay of 7 days in Re-filing the petition) & I.A. 8637/2025 (Delay of 149 days in filing the petition)

SPORTS AUTHORITY OF INDIA

.....Petitioner

Through: Mr. Ratan Kumar Singh, Senior Advocate with Ms. Awantika Manohar, Ms. Parul Dhurvey, Advocates.

versus

SARVESH SECURITY SERVICES PRIVATE LIMITED

.....Respondent

Through: Ms. Sneha Singh & Mr. Uday Malhotra, Advocates.

CORAM:**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR**

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JUDGEMENT (ORAL)**HARISH VAIDYANATHAN SHANKAR, J.**

1. The present Petition, filed under Section 34 of the **Arbitration and Conciliation Act, 1996**¹, challenges the Award dated 21.07.2023 passed by the learned Arbitral Tribunal.

2. The present Petition has been accompanied by an application being I.A. No. 10283/2024, seeking condonation of delay of 149 days

¹ Act



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in filing the petition.

3. For the sake of convenience, the relevant chronology from the date of passing of the Arbitral Award till the date of the listing of the Petition before this Court is set out hereunder:

Date	Event	Statutory / Legal Consequence
21.07.2023	Arbitral Award passed	Award made and handed over to both the parties <i>[Limitation period commences from 22.07.2023 (after excluding the date of decision in terms of Section 12 of the limitation Act) and ends on 21.10.2023]</i>
20.10.2023	Section 34 filed before Learned Saket District Court	Petition filed within the 3 months period. <i>[Filed one day before the limitation ends, therefore 1 day remains from the statutory period of 3 months]</i>
20.10.2023 - 07.03.2024	Matter remains pending before the Saket District Court.	Period excludable under Section 14 of the Limitation Act, 1963
07.03.2024	The matter was withdrawn by the Petitioner.	The limitation period starts ticking from 08.03.2024. <i>[From 08.03.2024, 1 day + 30 days (as per proviso) i.e., total 31 days remain]</i>
08.03.2024	The statutory period of 3-months ends.	Remaining period of 31 days would start commencing from this date
08.03.2024-16.03.2024	Time taken to file the present Petition before this Court.	As during this period, no <i>lis</i> is pending in any Court, the same falls within the window of the time provided under proviso Section 34(3),

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		which is subject to sufficient cause. <i>[9 days are exhausted from the 31 days left, therefore now only 22 days remain to file within the limitation of 3 months and 30 days]</i>
16.03.2024	Section 34 Petition preferred before this Court	On this date it was a non-est filing in eye of law, since admittedly <i>Vakalatnama</i> and Arbitral Award not attached along with the filed petition.
07.04.2024	Completion of the 3 months and 30-days period	The outer limit under the proviso to Section 34(3) expires.
The maximum permissible period, including under proviso to Section 34(3), to file Section 34 petition expired on 07.04.2024, even after discounting the entire period permissible under Section 14 of the Limitation Act, 1963.		
12.04.2024	Substantial defects were cured with respect to filing of foundational documents	Since substantial defects were cured on this date thereby the clock concerning the limitation stopped running from this date in terms of the judgment of <i>Pragati Constructions v. UOI, 2025 SCC OnLine Del 636</i> . By this date there has been total Delay of 05 Days <i>[Computed from 08.04.2024 to 12.04.2024]</i>
04.05.2024	Curing all defects, finally, re-filing was done on this date and thereafter the matter was listed before this Court on 06.05.2024.	Since, the filing was effectively considered to be done on 12.04.2024, the petitioner had 30 days to cure the other defects, to be within the statutory period of re-filing, which

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		was eventually done with this period. It is clarified that delay in re-filing is not the subject matter of this adjudication.
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4. Learned Senior Counsel appearing for the Petitioner submits that Section 14 of the **Limitation Act, 1963**² is to be applied for the purpose of excluding the period commencing from the date of filing of the petition under Section 34 of the Act before the learned District Court, Saket, till the filing of the present petition before this Court, and accordingly prays that the period from 20.10.2023 to 16.03.2024 be excluded while computing limitation.

5. Section 14 of the Limitation Act reads as follows:

“14. Exclusion of time of proceeding bona fide in court without jurisdiction.

(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation for any application the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908, the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by

² Limitation Act



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reason of a defect in the jurisdiction of the court or other cause of a like nature.”

6. A perusal of the said provision clearly reveals that it is only that period which has been *bona fide* or in good faith spent in prosecuting the proceedings “*in a Court*” that is liable to be excluded. This clearly indicates that any time spent after the said Court is no longer *in seisin* of the matter cannot be excluded under the said provision. Therefore, the contention of the learned Senior Counsel that the exclusion of the time period should extend till 16.03.2024 is unsubstantiated and contrary to the statutory mandate. This Court is of the view that the benefit of Section 14 of the Limitation Act can be accorded only for the period from 20.10.2023 to 07.03.2024.

7. Turning now to the filing effected on 16.03.2024 before this Court, it is an admitted position that the initial filing was without the Arbitral Award and without a Vakalatnama. In terms of the decision rendered by the full bench of this Court in ***Pragati Construction Consultants v. Union of India and Another***³, any such filing is non-est in the eyes of law and does not arrest the running of the period of limitation. The relevant portions of the judgment are reproduced hereinunder:

77. In ***Planetcast Technologies Ltd. case***³, the court was considering an appeal against an order where a learned Single Judge had inter alia held that an application under Section 34 of the A&C Act must be accompanied with at least a statement of truth, vakalatnama and the Award impugned, and in absence of all these vital documents, cumulatively, it can only be said that a “bunch of papers” has been filed. As far as the issue of non-filing of the statement of truth is concerned, the learned Single Judge discussed the same only to point out that even at the time of refiling of the application under Section 34 of the A&C Act, the statement of

³ 2025 SCC OnLine Del 636



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truth and other objections pointed out earlier had not been removed. The court, therefore, found that the delay in refiling was also unreasonable.

78. In appeal, the Division Bench placing reliance on the earlier judgment of this Court in *Jay Polychem (India) Ltd. case*⁶ and in *Sarvesh Security Services (P) Ltd. case*⁷ held that the affidavit of statement of truth is mandatorily required to be filed along with the petition in order to produce a document worth considering under the law.

79. As far as *Jay Polychem (India) Ltd. case*⁶ is concerned, the court was considering a petition under Section 34 of the A&C Act, which was neither signed on behalf of the petitioners therein, nor supported by signed and attested affidavits. It was in those facts that the court held that the application filed therein under Section 34 of the A&C Act was a non est filing. Similarly, in *Sarvesh Security Services (P) Ltd. case*⁷, the application filed under Section 34 of the A&C Act neither bore the signatures of the petitioner therein, nor was accompanied with an affidavit of the petitioner; and there was even no vakalatnama from the petitioner authorising the counsel to sign the same. Therefore, in view of the cumulative effect of all the defects in the application filed initially, it was declared as a non est filing. The view of the court in *Planetcast Technologies Ltd. case*³, that mere non-filing of the statement of truth would make the application filed under Section 34 of the A&C Act to be declared as a non est filing, therefore, is not correct.

81. Now we will enumerate the various judgments cited before us, to deal with them, as below.

82. In *Steel Strives Wheels Ltd. case*, the court was again considering an application wherein though the statement of truth was filed along with the application under Section 34 of the A&C Act, there were blanks, therein also the vakalatnama had not been properly executed. It was under these circumstances that the court found that the application under Section 34 of the A&C Act had been filed in “shoddy manner”. The court had also relied upon the judgment of the Division Bench of this Court in *Sai Rama Engg. Enterprises case*², which has been discussed by us hereinabove, as far as the issue on hand is concerned.

83. Similarly, in *SPML Infra Ltd. case*³⁵ also, the court was confronted with an application under Section 34 of the A&C Act which was filed without a vakalatnama, a signed petition and a statement of truth. It was in those facts that the court held that the application filed was non est.

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84. In *Indira Gandhi National Open University v. Sharat Das & Associates (P) Ltd.*⁴⁷ also, the court was confronted with an application filed under Section 34 of the A&C Act which contained only 29 pp. with blanks, it had no signatures of the petitioners or its authorised representative, and there was no vakalatnama filed authorising the advocate to file “the said bunch of papers”. So much so, the arbitral award was also not annexed. These led the court to hold that the filing of the application was “non est”.

85. In *Three C Universal Developers (P) Ltd. v. Horizon Crest India Real Estate*⁴⁸, a learned Single Judge of this Court held that the absence of supporting affidavit/statement of truth/vakalatnama is a fatal defect which has an effect on the application filed under Section 34 of the A&C Act to be declared as non est. Similar is the view of this Court in *Air India Ltd. case*²⁹.

86. In *Reacon Engineers (India) (P) Ltd. case*²⁴, the application filed under Section 34 of the A&C Act was not accompanied by a copy of the impugned award and other documents. Further, a statement of truth was also not filed. It was in those facts that the court held the application to be a non est filing.

87. Contrarily, in *Bajaj Electricals Ltd. case*³⁷ and *KNR Constructions case*³⁸, the learned Single Judge of this Court held that for an application filed under Section 34 of the A&C Act to be termed as “properly” filed, it must fulfil the basic parameters, such as, each page of the petition as well as the last page should be signed by the party and the advocate; vakalatnama should be signed by the parties and the advocates, and the statement of truth should be signed by the parties and attested by the Oath Commissioner. However, as we are not in agreement with the view expressed in either of the aforesaid judgments, we shall be dealing with the other ingredients, which have been described by the learned Single Judge as to be compulsory, hereinbelow separately.

94. Though not referred to us, however, as the learned counsels for the parties assisting us have made submissions on the various other defects, like the non-filing or defect in filing a vakalatnama, unsigned application under Section 34 of the A&C Act, substantive increase in pages for non-filing of the documents, changes made in the contents or grounds of the application at the time of refiling, or the application being without or with improper verification, or there being no court-fee filed or insufficient court-fee being filed at the time of initial filing of an application under Section 34 of the A&C Act, or there being blanks in any of the pleadings filed at the time of the initial filing, we shall briefly discuss these defects as well.

8. Admittedly, the Petition, in the present form, and which

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included a copy of the Arbitral Award and the *Vakalatnama*, came to be filed only on 12.04.2024, by which time the statutory period of three months and thirty days had already elapsed, thereby overshooting the mandate prescribed under Section 34(3) of the Act.

9. In view of the aforestated, it is held that the matter though filed within the 3 months and 30 days condonable period, was filed in a manner that would render it non-est in terms of the judgment in *Pragati Construction (supra)*. The Petition came to be filed with Arbitral Award, Affidavits (attested and signed), *Vakalatnaama*, and other requisite particulars only after the expiry of the condonable period as well, viz. on 12.04.2024. The condonable period ended on 07.04.2024, meaning thereby that the present Petition is barred by limitation, as it is filed beyond the statutorily prescribed period.

10. Since the present matter has been filed beyond the statutorily prescribed period, this Court is of the opinion that the present Petition is liable to be dismissed on the ground of limitation.

11. Accordingly, the present Petition, along with all pending application(s), stands dismissed.

HARISH VAIDYANATHAN SHANKAR, J.
FEBRUARY 18, 2026/rk/kr

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