

Krishna Devi @ Sabitri Devi (Rani) M/S ... vs Union Of India on 3 January, 2025

Author: Pamidighantam Sri Narasimha

Bench: Pamidighantam Sri Narasimha

2025 INSC 24

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 47 OF 2025
Arising out of SLP (C) No. 10621/2024

KRISHNA DEVI @ SABITRI DEVI (RANI)
M/S S.R. ENGINEERING CONSTRUCTION

...APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT(S)

JUDGMENT

PAMIDIGHANTAM SRI NARASIMHA, J.

1. Leave granted.

2. The appellant's husband secured an award in his favour on 31.05.2022 under the Arbitration Act, 1940, hereinafter referred to as the 'Act'. Application under Section 17 of the Act was filed by the appellant on 10.11.2022 to pronounce the judgment according to the award, was dismissed by the Trial and the High Courts on the ground that the said application is premature as it was made before the expiry of the 30 days period, reckoned from 18.11.2022, when formal notice of the Award is said to have been received by the respondent. The question for consideration is whether the time for filing a Section 17 application commences when the party seeking to challenge the award receives a formal notice (18.11.2022) of the making of the award, or from the date such party is aware of the existence of the award. In fact, this issue is no more res-integra. Following certain precedents of this Court, we have allowed the appeal having found that the respondent was fully aware of the making of the Award (by 21.09.2022), for the law does not require a formal notice of the making of the Award, as against knowledge/notice of the Award. Before considering the relevant provisions of the Act, precedents, submissions for drawing our conclusions, the short facts of the case are necessary:

3. Facts: The appellant's husband was the sole proprietor of a firm M/S S.R. Engineering Construction, which had secured a work order bearing CA No. CWE/TEZ/8 in 1987-1988 from the respondents. The work order was governed by the general conditions of contract, of which Cl. 70 contained an arbitration clause. The agreement involved the firm constructing a permanent 'armament section' at Tezpur. The firm completed the work and raised a bill for the same on 18.01.1993. However, as the respondents did not make the payment, the appellant was compelled to request for arbitration to resolve the dispute. The respondents declined and thus the appellant filed an application before the Delhi High Court seeking the appointment of an arbitrator which was dismissed due to lack of jurisdiction.

Another application by the appellant before the Addl. District Judge, Delhi met the same fate, and it was only on 26.08.2019 that the appellant's application under Section 20 was allowed and an arbitrator was appointed by the District Judge, Sonitpur by an order in T.S. (Arb.) Case No. 19/2003. The appellant's husband passed away during the course of the arbitral proceedings and she came to represent him as his legal heir.

4. Finally, the arbitrator heard the parties and made an award dated 31.05.2022 in favour of the appellant and directing the respondents to pay a sum of Rs. 1,33,47,268.92/- with an interest of 9% p.a. till realization.

5. Despite proceedings culminating in an award, it could not be published as the respondents had not cleared its dues towards the arbitrator's fees. The appellant felt compelled to file an application before the District Judge, Sonitpur under Section 381 of the 1940 Act. Disputes as to arbitrator's remuneration or costs.- (1) If in any case an arbitrator or umpire refuses to deliver his award except on payment of the fees demanded by him, the Court may, on an application in this behalf, order that the arbitrator or umpire shall deliver the award to the applicant on payment into Court by the applicant of the fees demanded, and shall after such inquiry, if any, as it thinks fit, further order that out of the money so paid Act, seeking a direction to the respondents to clear its part of the arbitrator's fees.

6. The District Judge, Sonitpur passed an order on 21.09.2022 directing the respondents to clear the said dues of Rs. 47,212.33/-. The order further stated that upon the clearance of the dues, a copy of the award shall be furnished to both the parties.

7. It is an admitted fact that the appellant received the copy of the award on 22.09.2022. Notably, the respondents had neither cleared the balance share of the arbitrator's fees nor did they collect the award by the above-mentioned date. In fact, they deposited a cheque towards the balance payment for the fees only on 18.11.2022, after which it received the notice of filing the award on the same date.

8. On 10.11.2022, the appellant filed an application under Section 17 of the 1940 Act bearing no. Misc.(J) No. 61/2022 before the District Judge, Sonitpur, seeking pronouncement of judgment according to the arbitral award.

9. The District Court dismissed the appellant's application filed under Section 17 vide order dated 23.11.2022, holding it to be into Court there shall be paid to the arbitrator or umpire by way of fees such sum as the Court may consider reasonable and that the balance of the money, if any, shall be refunded to the applicant.

premature filed even before the limitation for filing objections to the award could expire. According to the court, the limitation began only on 18.11.2022 when the formal notice of the award was received by the respondent and the application to pronounce judgment according to the award was filed only on 10.11.2022 when the limitation period of 30 days was still running at the said point of time.

10. Questioning the above referred order, the appellant filed a Civil Revision Petition No. 138/2022 under Section 115, Code of Civil Procedure, 1908 before the High Court. By way of the impugned order impugned before us, the High Court dismissed the revision and upheld the District Court's order. The High Court also held that the application for pronouncing the judgment according to the Award was filed during the subsistence of the period for objections by treating 18.11.2022 as the date as 'notice of filing the award'. It referred to the text of Sections 14 and 17 of the 1940 Act as well as Article 119 of the Schedule to the Limitation Act, 1963 to hold that only a formal notice issued by a court will satisfy the requirement of Section 14(2).

11. Submissions: We have heard the submissions of the counsels for both the parties. Ms. Madhusmita Bora, counsel for the appellant submitted that when the District Judge decided the application under Section 38 on 21.09.2022 and directed the respondents to pay the balance fees of the arbitrator, the said date becomes the date of 'notice of filing the award.' That is the date when the limitation of 30 days for filing objections to an award as per Article 119(b) began to run and it expired on 20.10.2022. It is only after the limitation expired that the appellant filed the application under Section 17 on 10.11.2022, since no objections were filed by the respondents during the said period. It was further argued that the respondents never raised the plea that they had not received 'notice of award', their only plea was that they did not receive the 'copy of the award'.

11.1 The Ld. Counsel further submitted that the essential requirement of Section 14(2) of the 1940 Act is that the award- debtor merely has to have information that the award has been filed. She relies on Nilkantha Sidramappa Ningashetti v. Kashinath Somanna Ningashetti, 2 where this court held that for Section 14(2), communication of information may not necessarily take the form of a formal notice, and that intimation by some means is sufficient compliance. This communication may be oral and not necessarily 2 1961 SCC OnLine SC 75.

in writing, and to support this contention she places reliance on Deo Narain Choudhury v. Shree Narain Choudhury. 3 She further relied on Ch. Ramalinga Reddy v. Superintending Engineer, 4 wherein this court had noticed that while sub-section (1) of Section 14 required a written notice, the text of sub-section (2) did not. Hence, the order dated 21.09.2022 was valid 'notice of award' as it sufficiently conveyed to the respondents about the award's existence.

12. On the other hand, Mr. Debojit Borkakati, counsel for the respondents submitted that both the High Court and the District Court were correct in taking the starting point of limitation to be on 18.11.2022. It is on this date that the respondents received a notice of the award from the District Court, and therefore filed an objection to the award under Section 30 on 22.11.2022. It was argued that what the law requires is to be done in that manner, and Section 14(2) was only satisfied when the respondents received a formal notice of the award. The mere direction to pay the balance fees of the arbitrator cannot be taken to be a formal notice that the award is filed. The text of Section 14(2) is very specific in its requirements, and if any other legal event is taken to 3 (2000) 8 SCC 626.

4 (1999) 9 SCC 610.

be sufficient compliance with the provision, its text will be rendered otiose.

12.1 It was further submitted that the intention of Section 14(2) is to enable the award-debtor to apprise himself of the award's contents, so as to file any objections effectively. Hence, the intent of the provision cannot be ignored and mere communication about the existence of the award cannot be a compliance with the provision. In any case, even if the order dated 21.09.2022 is to be considered, it merely states that the respondents are required to clear the balance fees of the arbitrator, following which the award may be published. That is, the order itself envisages that the payment of fees per se shall not satisfy the requirements of Section 14(2), and the court has to take the legal step of notifying the parties of its filing. Accordingly, a formal notice was issued by the court on 18.11.2022, confirming the argument advanced. Further, he argued that if the appellant's interpretation is allowed, the legal event which constitutes as 'notice of the filing of award' will vary from case to case, which does not seem to the intention behind Section 14(2).

13. We have given our thoughts to the facts of the case and have carefully considered the submissions of the parties.

14. Analysis: In our view, the respondents had notice of filing of the award due to the order dated 21.09.2022, wherein the District Court had directed the respondents to hand over the balance fee to the arbitrators, following which the award shall be furnished. The respondents were completely aware of this direction, which sufficiently states that clearing the fees will result in the court notifying the filing of award. The limitation for filing objections to the award is 30 days, and is governed by Article 119(b) of the First Schedule to the Limitation Act, 1963. The trigger for the limitation to start running specified therein is the date of service of notice of the filing of the award. Section 14(2) of the 1940 Act requires that the court of relevant jurisdiction should give notice to the concerned parties when an award is filed. The texts of both these provisions along with Section 17 are reproduced here for convenience:

14.1 Article 119(b), Schedule I of the Limitation Act, 1963 is as under:

	Description application	of Period limitation	of Time from which period begins to run
[...]	[...]	[...]	[...]
119.	Under the Arbitration		

Act, 1940 (10 of
1940), –

(a) for the filing in court Thirty Days. The date of service of an award; of the notice of the making of the award;

(b) for setting aside an Thirty Days. The date of service award or getting an of the notice of the award remitted for filing of the award reconsideration.

[...]

[...]

[...]

[...]

14.2 Sections 14 and 17 of the Arbitration Act, 1940 are
extracted herein below:

“14. Award to be signed and filed –

(1) When the arbitrators or umpire have made their award, they shall sign it and shall give notice in writing to the parties of the making and signing thereof and of the amount of fees and charges payable in respect of the arbitration and award.

(2) The arbitrators or umpire shall, at the request of any party to the arbitration agreement or any person claiming under such party or if so directed by the Court and upon payment of the fees and charges due in respect of the arbitration and award and of the costs and charges of filing the award, cause the award or a signed copy of it, together with any depositions and documents which may have been, taken and proved before them, to be filed in Court, and the Court shall thereupon give notice to the parties of the filing of the award.

(3) Where the arbitrators or umpire state a special case under clause (b) of section 13, the Court, after giving notice to the parties and hearing them, shall pronounce its opinion thereon and such opinion shall be added to, and shall form part of, the award.

17. Judgment in terms of award.- Where the Court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration or to set aside the award, the Court shall, after the time for making an application to set aside the award has expired, or such application having been made, after refusing it, proceed to pronounce judgment according to the award, and upon the judgment so pronounced a decree shall follow, and no appeal shall lie from such decree except on the ground that it is in excess of, or not otherwise in accordance with the award. ” (emphasis supplied)

15. From a plain reading of the provisions, it appears that the parties need to be notified of the filing of award. While Art. 119(b) of the Limitation Act requires that there be a ‘service of notice’ for the limitation to start running, Section 14(2) of the 1940 Act merely states that court ‘give notice’ to the

parties. The precise form of what constitutes as a 'notice' of filing the award is unspecified. However, interpreted reasonably, what must be required is that the parties come to know about the existence of the award so that any objections to it may be filed. What appears from the usage of the word 'notice' is that the parties merely reach a state of awareness about the award and plan their next steps accordingly, and not the imposition of another procedural step.

16. In our view, the appellant's submissions are correct insofar as they rely on this court's decision in Nilkantha Sidramappa Ningashetti (supra). Therein, while a partition suit was underway between the parties, an arbitral award came to decide the disputes partly. The suit was adjourned asking the parties to apprise themselves of the award, and this was taken as a sufficient compliance of Section 14(2) of the 1940 Act. It was held that the term 'notice' in this provision nowhere excluded its informal expressions. Furthermore, if the literal interpretation is taken and limitation is paused until a formal notice is issued, the Court held, would allow a party otherwise aware of the award to sit over it and delay filing objections. This would undercut the speedy intent governing arbitration. Similarly, the decision in Ramalinga Reddy (supra) allowed the mere receipt of information by the award- debtor's pleader as valid compliance with the text of Section 14(2). As is discernible from the texts of sub-sections (1) and (2) of Section 14, the notice is under sub-section (2) need not be a written one.

17. Apart from the authorities cited by the appellant, this Court has otherwise clarified that Section 14(2) merely functions to apprise the parties about the existence of the award. In Food Corporation of India v. E. Kuttappan,⁵ the communication of the filing of an award to the parties' pleaders was taken to be sufficient notice for Section 14(2). It was reasoned that what is required is that the party comes to know about the decision for/against it, and there was no insistence of a specific form in the 1940 Act. The pleader acts as an agent of the party and his awareness is 5 (1993) 3 SCC 445.

sufficient for the parties to access and scrutinise the contents of the award. Even if a formal notice is issued thereafter, it is at best an act of court which cannot disturb rights accrued in law. This is squarely applicable to the case before us, wherein the order dated 21.09.2022 precisely laid out that the award is available, and the only formality withholding the respondent's access to it is clearance of the arbitrator's fees. While a formal notice of filing of the award was only issued on 18.11.2022, applying this decision to the facts this case, it does not take away from the fact that the respondents were well aware of the award's filing on 21.09.2022 itself. Similarly, the decision in Indian Rayon Corporation Ltd. v. Raunaq and Co. (P) Ltd. 6 clarifies that the only objective of Section 14(2) is that the parties are aware of the award's existence and suggests that this a substantive compliance. If this were to be a procedural stipulation, the party intending to file objections can insist of technicalities like the mode of notice, and use those unfairly to gain time.

18. 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 6 (1988) 4 SCC 31.

Bharat Coking Coal Ltd. v C.K. Ahuja 7 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.

19. Applying these principles to the fact of this case, it is seen that both the District Court and the High Court fell into error that 7 1995 Supp (1) SCC 744.

the limitation for filing objections was still running when the appellant filed an application under Section 17 of the Act on 10.11.2022. The formal date of notice of filing of the award on the respondents, that is, 18.11.2022 holds no significance as they were made sufficiently aware of the award's filing on 21.09.2022 itself. The court directing the respondents to clear the fees was a clear intimation about its filing. Holding otherwise would not only be departing from precedents of this Court, but also allowing the respondents to take advantage of their own inaction. Hence, the limitation is to be treated as expired on 20.10.2022, and the appellant's application seeking pronouncement of judgment in terms of the award was valid and well beyond the period for filing objections to the award.

20. Conclusion: In light of the above, we allow the present appeal and set aside the order dated 27.03.2024 passed by the High Court in Civil Revision Petition No. 138/2022.

21. In facts and circumstances there shall be a direction that the District Judge, Sonitpur, Tezpur, to take up and dispose of the Misc. (J) 61 of 2022 as expeditiously as possible, preferably within a period of five months from the date of receipt of this judgment.

22. There shall be no order as to costs.

... .. J . [P A M I D I G H A N T A M S R I N A R A S I M H A]
.....J. [SANDEEP MEHTA] NEW DELHI;

JANUARY 03, 2025