

Kirpal Singh
v.
Government of India, New Delhi & Ors.

(Civil Appeal No(s). 12849-12856 of 2024)

21 November 2024

[Pamidighantam Sri Narasimha and Manoj Misra, JJ.]

Issue for Consideration

Whether the period commencing from 20.10.2011 to 20.01.2012 should be condoned u/s.14 of the Limitation Act while reckoning the period of limitation for filing objections under Arbitration and Conciliation Act, 1996 incorporated in the National Highways Act, 1956.

Headnotes[†]

Limitation Act, 1963 – s.14 – Arbitration and Conciliation Act, 1996 – s.34 and s.37 – National Highways Act, 1956 – A land belonging to appellant was acquired under the NH Act leading to passing of an award dated 25.07.2011 – A Regular First Appeal was filed before the High Court on 20.10.2011 on an erroneous understanding – The Registry of the High Court notified certain defects on 09.11.2011 and it is said to have been received by the concerned Advocate only on 20.01.2012 – Appellant filed an application u/s.34 of the Arbitration Act before the District Judge, however, the same was dismissed on the ground that it was barred by limitation – Correctness:

Held: When the substantive remedies u/ss.34 and/or 37 of the Arbitration Act are by their very nature limited in their scope due to statutory prescription, it is necessary to interpret the limitation provisions liberally, or else, even that limited window to challenge an arbitral award will be lost – The remedies u/ss.34 and 37 are precious – Courts of law will keep in mind the need to secure and protect such a remedy while calculating the period of limitation for invoking these jurisdictions – Applying s.14 of the Limitation Act, there is sufficient cause for excluding the period commencing from 20.10.2011 to 23.02.2012 – In view of the fact that this period is excluded, the appellant will be entitled to the statutory remedy u/s.34 of the Act. [Paras 10, 11]

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Case Law Cited

Consolidated Engineering Enterprises v. Principal Secretary, Irrigation Department and Others [\[2008\] 5 SCR 1108](#) : 2008 (7) SCC 169 – relied on.

Union of India v. Popular Construction Co. [\[2001\] Supp. 3 SCR 619](#) : 2002 (1) RCR (Civil) 124 – referred to.

List of Acts

Arbitration and Conciliation Act, 1996; National Highways Act, 1956; Limitation Act, 1963.

List of Keywords

Section 14 of Limitation Act, 1963; Section 34 of Arbitration and Conciliation Act, 1996; Period of limitation; Exclusion of period; Arbitration; Sufficient Cause.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No(s). 12849-12856 of 2024

From the Judgment and Order dated 19.10.2019 of the High Court of Punjab & Haryana at Chandigarh in FAO Nos. 800 of 2013, 1278 of 2015, 1290 of 2015, 7453 of 2014, 7454 of 2014, 2887 of 2015 and 8136 of 2014

Appearances for Parties

Chritarth Palli, Nilanjan Sen, Vijay Kumar Dwivedi, Deepak Samota, Shubham Bhalla, Advs. for the Appellant.

Alok Sangwan, Sumit Kumar Sharma, Rajat Sangwan, Sunny Kadiyan, Advs. for the Respondents.

Judgment / Order of the Supreme Court

Order

1. Leave granted.
2. These appeals arise from the judgment and order passed by the High Court of Punjab & Haryana at Chandigarh dated 19.10.2019

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in FAO Nos. 800/2013, 7453, 7454, 8136/2014, 1278, 1290, 2000 and 2887/2015. The short question that arises for consideration is whether the period commencing from 20.10.2011 to 20.01.2012 should be condoned under Section 14 of the Limitation Act while reckoning the period of limitation for filing objections under Arbitration and Conciliation Act, 1996¹ incorporated in the National Highways Act, 1956.²

3. The facts relevant for our decision are that the land belonging to the appellant was acquired under the NH Act leading to passing of an award dated 25.07.2011. Application for a certified copy of the award was made on 12.08.2011 and the same was received on 08.09.2011. Thereafter, a Regular First Appeal was filed before the High Court on 20.10.2011 on an erroneous understanding.
4. The Registry of the High Court notified certain defects on 09.11.2011 and it is said to have been received by the concerned Advocate only on 20.01.2012. It is only thereafter when the appellant came to know about the appropriate action available to him, being the statutory remedy under Section 34 of the Arbitration Act, and he took steps and instituted proceedings under Section 34 of the said Act on 23.02.2012.
5. The District Judge took up the application under Section 34 of the Act and by his order dated 16.05.2012 dismissed the same on the ground that it is barred by limitation as determined by this Court in the case of *Union of India Vs. Popular Construction Co.*³ The appeal under Section 37 of the Arbitration Act was also dismissed by the order impugned before us.
6. Mr. Gaurav Agarwal, learned Senior Advocate appearing for the appellant has submitted that his client is entitled to the exclusion of period from 20.10.2011 to 20.01.2012 under Section 14 of the Limitation Act. For this purpose, he relied on the judgment of this Court in *Consolidated Engineering Enterprises vs. Principal Secretary, Irrigation Department and Others*.⁴ The relevant portion of the judgment is quoted hereunder:

1 Hereinafter referred to as "the Arbitration Act"

2 Hereinafter referred to as "the NH Act"

3 [2001] Supp. 3 SCR 619 : 2002 (1) RCR (Civil) 124

4 [2008] 5 SCR 1108 : (2008) 7 SCC 169

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“23. At this stage it would be relevant to ascertain whether there is any express provision in the Act of 1996, which excludes the applicability of Section 14 of the Limitation Act. On review of the provisions of the Act of 1996 this Court finds that there is no provision in the said Act which excludes the applicability of the provisions of Section 14 of the said Act.....

Hence, Section 43 incorporating the Limitation Act will apply to the proceedings in the arbitration as it applies to the proceedings of a suit in the court. Sub-section (4) of Section 43, *inter alia*, provides that where the court orders that an arbitral award be set aside, the period between the commencement of the arbitration and the date of the order of the court shall be excluded in computing the time prescribed by the Limitation Act, 1963, for the commencement of the proceedings with respect to the dispute so submitted. If the period between the commencement of the arbitration proceedings till the award is set aside by the court, has to be excluded in computing the period of limitation provided for any proceedings with respect to the dispute, there is no good reason as to why it should not be held that the provisions of Section 14 of the Limitation Act would be applicable to an application submitted under Section 34 of the Act of 1996, more particularly where no provision is to be found in the Act of 1996, which excludes the applicability of Section 14 of the Limitation Act, to an application made under Section 34 of the Act. It is to be noticed that the powers under Section 34 of the Act can be exercised by the court only if the aggrieved party makes an application. The jurisdiction under Section 34 of the Act, cannot be exercised *suo motu*. The total period of four months within which an application, for setting aside an arbitral award, has to be made is not unusually long. Section 34 of the Act of 1996 would be unduly oppressive, if it is held that the provisions of Section 14 of the Limitation Act are not applicable to it, because cases are no doubt conceivable where an aggrieved party, despite exercise of due diligence and good faith, is unable to make an application within a period of

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four months. From the scheme and language of Section 34 of the Act of 1996, the intention of the legislature to exclude the applicability of Section 14 of the Limitation Act is not manifest. It is well to remember that Section 14 of the Limitation Act does not provide for a fresh period of limitation but only provides for the exclusion of a certain period. Having regard to the legislative intent, it will have to be held that the provisions of Section 14 of the Limitation Act, 1963 would be applicable to g an application submitted under Section 34 of the Act of 1996 for setting aside an arbitral award.”

7. On the other hand, Mr. Rajat Sangwan, learned counsel appearing for respondent Nos.1 and 2 (National Highway Authority of India) has vehemently contended that the periods of limitation under the Arbitration Act are sacrosanct and these provisions are strictly interpreted by the Courts. He would further submit that, even assuming that Section 14 of the Limitation Act is applicable, the benefit of the said section cannot be extended beyond 20.10.2011. In other words, his submission is that the period commencing from 09.11.2011 to the filing of Section 34 petition being 23.02.2012, should not be condoned.
8. Further, Mr. Rajat Sangwan, would also submit that the language of Section 14 is mandatory and on the basis of the said provision it cannot be said that the appellant has exercised due diligence in approaching the Court by filing the Section 34 petition. He also argued that strict enforcement of time-lines under the Arbitration Act are recognized and incorporated under the National Highways Act. For this purpose, he referred to sub-section 7 of Section 3(G) of the NH Act.
9. Having considered the matter in detail, we are of the opinion that the issue is covered by the decision of this court in *Consolidated Engg. Enterprises v. Principal Secretary, Irrigation Dept.*⁵ (supra).
10. We may hasten to add that when the substantive remedies under Sections 34 and/or 37 of the Arbitration Act are by their very nature

5 [2008] 5 SCR 1108 : 2008 (7) SCC 169.

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limited in their scope due to statutory prescription,⁶ it is necessary to interpret the limitation provisions liberally, or else, even that limited window to challenge an arbitral award will be lost. The remedies under Sections 34 and 37 are precious. Courts of law will keep in mind the need to secure and protect such a remedy while calculating the period of limitation for invoking these jurisdictions.

11. Applying Section 14 of the Limitation Act, we hold that there is sufficient cause for excluding the period commencing from 20.10.2011 to 23.02.2012. In view of the fact that this period is excluded, the appellant will be entitled to the statutory remedy under Section 34 of the Act.
12. In view of the above, we allow the appeals, set aside the judgment and order passed by the High Court in FAO Nos. 800/2013(O&M), 2000/2015(O&M), 1278/2015(O&M), 1290/2015(O&M), 7453/2014(O&M), 7454/2014(O&M), 2887/2015(O&M) and 8136/2014 (O&M) dated 19.10.2019 and also the order of the District Judge, Jalandhar dated 16.05.2012 and restore the Section 34 petition in Arbitration No.3435/2012 to its original number. We further direct the District Judge, Jalandhar to issue notice to all the parties, hear them and decide the petition as per law.
13. With the above observations, the civil appeals are disposed of.
14. There shall be no order as to costs.

Result of the case: Appeals disposed of.

⁶Headnotes prepared by: Ankit Gyan