



IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 19<sup>th</sup> OF JUNE, 2026

ARBITRATION APPEAL No. 115 of 2024

*NATIONAL HIGHWAYS AUTHORITY OF INDIA*

*Versus*

*SANTOSH KUMAR JAI AND OTHERS*

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Appearance:

Shri Mohan Sausarkar - Advocate for the petitioner.  
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ORDER

The present appeal has been filed under section 37 of the Arbitration and Conciliation Act assailing the impugned order dated 1.4.2024 passed by the District Judge, Sagar, in Case No.MJC AV No.30/2023.

2. A singular question arose for consideration before this court is that whether the civil court was justified in rejecting the application filed by the appellant under section 34(3) of the Arbitration and Conciliation Act, 1996, (hereinafter referred to as 'the Act of 1996' for brevity) for condonation of delay.

3. It is submitted by learned counsel for the appellant that section 31(5) of the Act of 1996 provides that after the award is passed, the signed copy of the award is to be delivered to the parties. The said signed copy has never been served to the appellant. It is submitted that as the copy was not served to the appellant, the appellant was not aware of the fact that the award has been passed. It is submitted that on 10.8.2023 the appellant came to



know that such award has been passed. Thereafter, certified copy of the award was applied by counsel for the appellant which was received on 20.8.2023. Thereafter, the appellant had submitted an application under section 34 along with an application under section 34(3) of the Act of 1996 on 31.10.2023 within the statutory period as provided under section 34(3) of the Act of 1996 from the date of receipt of certified copy of the order. However, the said application has been dismissed by the civil court on the ground that the appellant did not specify the particular date when they came to know about passing of the award as well as relying on the judgments of the Hon'ble Apex court that period of three months and in addition 30 days is mandatory in nature and no application can be entertained thereafter.

4. Counsel for the appellant has submitted that a coordinate Bench of this court in the case of *Ganpat Vs. Land Acquisition Officer and Sub Division Officer and others decided on 16.7.2024 in A.A.No.57/2024* and other connected cases, relying upon the judgments of the Hon'ble Apex Court has condoned the period of delay and remanded the matter back to the civil court to decide the application under section 34. It is submitted that the Hon'ble Apex Court has held that the period is to be reckoned from the date when the signed copy of the award is delivered to the parties. As the signed copy of the award has never been delivered to the applicant, therefore, when they came to know about the award, they applied for certified copy and within the stipulated period from the date of receipt of certified copy, an application under section 34 has been filed. It is submitted that the learned court below has taken hyper-technical view and has rejected the application



without considering the principle laid down by the Hon'ble Apex Court in cases wherein the signed copy of the award is not delivered to the party.

5. Heard learned counsel for the appellant.

6. It is found from the application submitted under section 34(3) of the Act of 1996 that the applicant came to know about the award on 10.8.02023 and received certified copy on 20.8.2023. No counter affidavit has been filed by the respondents to deny the fact that signed copy has been delivered to the parties by the Arbitrator.

7. So far as the interpretation of the section 31(5) of the Act of 1996 is concerned, the Hon'ble Apex Court in the case of *Union of India Vs. Tecco Trichy Engineers & Contractors, (2005) 4 SCC 238*, has held as under:-

8. The delivery of an arbitral award under sub-Section (5) of Section 31 is not a matter of mere formality. It is a matter of substance. It is only after the stage under Section 31 has passed that the stage of termination of arbitral proceedings within the meaning of Section 32 of the Act arises. The delivery of arbitral award to the party, to be effective, has to be "received" by the party. This delivery by the arbitral tribunal and receipt by the party of the award sets in motion several periods of limitation such as an application for correction and interpretation of an award within 30 days under Section 33(1), an application for making an additional award under Section 33(4) and an application for setting aside an award under Section 34(3) and so on. As this delivery of the copy of award has the effect of conferring certain rights on the party as also bringing to an end the right to exercise those rights on expiry of the prescribed period of limitation which would be calculated from that date, the delivery of the copy of award by the tribunal and the receipt thereof by each party constitutes an important stage in the arbitral proceedings.

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12. The learned Single Judge of the High Court as also the Division Bench have erred in holding the application under Section 34 filed on behalf of the appellant as having been filed beyond a period of 3 months and 30 days within the meaning of sub-Section



(3) of Section 34. There was a delay of 27 days only and not of 34 days as held by the High Court. In the facts and circumstances of the case, the delay in filing the application deserves to be condoned and the application under sub-Section (1) of Section 34 of the Act filed on behalf of the appellant deserves to be heard and decided on merits.

13. The appeal is allowed. The application under Section 34(1) filed on behalf of the appellant shall stand restored in the High Court, to be heard and decided in accordance with law by the learned Single Judge. No order as to costs.”

(Emphasis Supplied)

8. The Hon'ble Apex court in the case of *Benarsi Krishna Committee and others Vs. Karmyogi Shelters Private Limited*, (2012) 9 SCC 496, has held as under:-

“16. The view taken in Pushpa Devi Bhagat's case (supra) is in relation to the authority given to an Advocate to act on behalf of a party to a proceeding in the proceedings itself, which cannot stand satisfied where a provision such as Section 31(5) of the 1996 Act is concerned.

The said provision clearly indicates that a signed copy of the Award has to be delivered to the party. Accordingly, when a copy of the signed Award is not delivered to the party himself, it would not amount to compliance with the provisions of Section 31(5) of the Act. The other decision cited by Mr. Ranjit Kumar in Nilakantha Sidramappa Ningshetty's case (supra) was rendered under the provisions of the Arbitration Act, 1940, which did not have a provision similar to the provisions of Section 31(5) of the 1996 Act. The said decision would, therefore, not be applicable to the facts of this case also.

17. In the instant case, since a signed copy of the Award had not been delivered to the party itself and the party obtained the same on 15th December, 2004, and the Petition under Section 34 of the Act was filed on 3rd February, 2005, it has to be held that the said petition was filed within the stipulated period of three months as contemplated under Section 34(3) of the aforesaid Act. Consequently, the objection taken on behalf of the Petitioner herein cannot be sustained and, in our view, was rightly rejected by the Division Bench of the Delhi High Court.

18. Consequently, the Special Leave Petition must fail and is dismissed.”



(Emphasis supplied)

9. This Court in the case of *Ganpat (supra)* has held as under :-

13. Thus, in the light of the aforesaid provisions of law, and the dictum of the Supreme Court, this court is required to appreciate the facts of the case in hand where the copy of the award was admittedly not delivered to the appellants.

14. On perusal of the record of all the 11 connected appeals, it is found that in all the cases the application to obtain the certified copy of the award passed by the District Collector, Dhar was filed on 26.09.2022, and in all the cases, certified copy of the award was obtained on 07.10.2022 only. Considering the fact that 11 appeals have been filed by 11 different persons, it is difficult to assume that all of them went to the office of the District Collector on the same day to apply for the certified copy of the award, and then went to collect the same on the same day i.e. on 07.10.2022. It clearly indicates that only one person must have applied for and received the certified copies of the awards passed by the District Collector, Dhar and in such circumstances, even if such person has not filed his affidavit, considering the fact that the case has arisen out of land acquisition proceedings in which the high stakes of poor villagers/cultivators are involved, in the absence of the proper compliance of Section 31(5) of the Act of 1996 which provides that, 'After the arbitral award is made, a signed copy shall be delivered to each party ', this Court is of the considered opinion that benefit of doubt ought to have been given to the appellants to hold that they have filed the application under Section 34 within the prescribed period of limitation.

15] This Court is also of the considered opinion that when the collector himself appears to be ignorant of law, and has not complied with the mandatory provisions of Section 31(5) of the Act of 1996, by not delivering the copy of the award to the appellant, it is unreasonable and unjustifiable for the court to shift entire burden of proof on the appellant, who hails from a remote village of district Dhar, to show that the application u/s.34 was filed in time. Thus, under the facts and circumstances of the case, it can be safely presumed that the appellant filed the appeal within the extended period of 30 days over and above the 90 days as provided u/s.34(3) of the Act of 1996.

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18] A perusal of the aforesaid order also reveals that it is also distinguishable, as in the said order, the court has emphasized on the knowledge of the award, whereas, in the case at hand, this court has already held that it is not exactly known as to when the award came to the knowledge of the appellant because the certified copy of the award was obtained by some other person, and it is also not the case that any undue delay was caused in filing the application u/s.34 of the Act of 1996 as the delay was of 73 days only. Thus, in the facts and circumstances of the case, this Court is of the considered opinion that the aforesaid decision of



Allahabad High Court is also of no avail to the respondents.

19] Resultantly, the appeal is allowed, and the impugned order dated 06.04.2024 is hereby set aside, and it is held that the application u/s.34 of the Act of 1996 filed by the appellant was within limitation.

Consequently, the matter is remanded back to the District Court for its decision on the merits of the case".

10. From perusal of the order passed by this Court as well as the law laid down by the Hon'ble Apex court in catena of judgments, it is clear that the period as provided under section 34(3) of the Act of 1996 will reckon from the date when the signed copy of the order is received by the party.

11. As in the present case in hand, the signed copy has never been received, which is not denied by the respondents coupled with the fact that the said fact has also not been examined by the civil court by calling the record of the Arbitrator, in the considered opinion of this court, civil court has committed grave error of law which require interference in the present appeal.

12. Therefore, applying the principles of law laid down by the Hon'ble Apex court, the appeal is allowed. The impugned order dated 1.4.2024 is hereby set aside. The application filed by the appellant under section 34(3) is allowed. The matter is remanded back to the court below to decide it afresh on the merits of the case.

13. Parties are directed to appear before the District Judge on 20.07.2026.

14. With the aforesaid, the appeal stands disposed of.

(DEEPAK KHOT)  
JUDGE



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