IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2026
(Arising out of S.L.P.(Civil) No.5232 of 2026)

JAIPUR METRO RAIL CORPORATION ... APPELLANT(S)

VS.

CONTINENTAL ENGINEERING CORPORATION LIMITED ... RESPONDENT(S)

O R D E R

1. Leave granted.

2. Heard Ms. Aishwarya Bhati, learned Additional Solicitor General appearing for the appellant and Mr. Anil Kher, learned senior counsel appearing for the respondent-Corporation.

3. The present appeal calls in question the correctness of the order dated 21st August, 2025 passed by the High Court of Judicature for Rajasthan, Bench at Jaipur, in D.B.Special Appeal (Civil) No.4 of 2022.

4. The limited grievance raised by learned Additional Solicitor General is that the Division Bench, while relegating the adjudication of the matter, should have left it to the learned Single Judge to decide whether the application filed under Section 34 of the Arbitration and

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Digitally signed by ANITA MALHOTRA
Date: 2026.10.15 18:33:50 IST
Reason:

Conciliation Act, 1996 (for short, "the A & C Act") was entertainable, particularly, in view of the objection of the appellant herein that it was barred time. Learned Additional Solicitor General contends that the Division Bench ought not to have gone into the aspect of exclusion of time. Paragraphs 19 to 22 of the impugned order read as under:

> "19. It is settled law that merely mentioning a wrong heading of provision on the application would not defeat the cause of justice. The contents of the application are required to be seen and not the provision mentioned on it. The court can understand by a bare reading of the application as to under which provision the same has been filed and what the litigant (here, the appellant) means to plead before the court. From a perusal of the application moved by the appellant it is apparent that the application moved by the appellant it is apparent that the application filed by the appellant was of the nature of raising objections against dismissal of the award by the Tribunal. Thus, the Single Judge who had been assigned specially to hear the application on merits by the Division Bench ought to have considered the merits of the case.
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> 20. We also notice that it is a case where the respondent has attempted to delay adjudication of the application under Section 34 of the Act of 1996 by one reason or the

other on technical grounds. Before the Commercial Court, the respondents themselves have raised the question of jurisdiction and their application was accepted by the concerned Commercial Court, the course adopted by the appellant cannot be faulted in filing the same application which was returned to them by the concerned State Commercial Court. The contents of the said application clearly reveal it being objections under Section 34 of the Act of 1996 which were originally filed before the Commercial Court. The learned Single Judge, therefore, ought to have looked into the contents thereof. We are, therefore, unable to accept the findings arrived at by the learned Single Judge that there was no application moved under Section 34 of the Act of 1996 by the appellant and we, therefore, do not confirm the same.

21. As regards delay in filing of the application, we have considered the law as laid down in *M.P.Steel Corporation (supra)*, taking into consideration the fact that while Arbitral Tribunal may not be the court in strict sense, but the principle of law with regard to the appellant prosecuting with due diligence need to be looked into as per Explanation (a) to Section 14 of the Limitation Act. Therefore, it is apparent that the time spent by the appellant in pursuing the wrong forum needs to be condoned. Accordingly, we find that there were sufficient reasons to ignore the delay

which has occurred in filing the application before this court. The forum was wrongly chosen or legally advised and once there were written submissions alongwith the application under Section 14 of the Limitation Act was on record, the course which should have been adopted was to hear on the application instead ignoring the same. We are, therefore, left with no option but to set aside the findings arrived at by the learned Single Judge and allow this appeal and set aside the order dated 02.03.2022 passed by the learned Single Judge.

22. Consequently, the appeal is allowed and the order dated 02.03.2022 passed by the learned Single Judge is set aside. We remand the matter back to the learned Single Judge hearing arbitration cases to decide the application on merits."

5. The response of Mr. Anil Kher, learned senior counsel for the respondent is that this was not a case where the Section 34 application was barred by time, and the only question was the applicability of the principles analogous to Section 14 of the Limitation Act, 1963 and that it was really a matter of exclusion of period spent by the respondent in prosecuting *bona fide* proceedings with due diligence before a Court without jurisdiction.

6. Learned Additional Solicitor General, however, disputes the contention and states that even applying

Section 14 of the Limitation Act, the ingredients are not made out and the Section 34 application is out of time.

7. We are of opinion that those are matters which should have been left to the Single Judge to decide first before hearing the Section 34 on merits. Learned Additional Solicitor General is right that only in the event of the Single Judge excluding time and finding the Section 34 application to be within time, that question of consideration on merits would arise.

8. In this case, the award was passed on 20th December, 2017 by a majority of 2:1. On 16th March, 2018, the respondent filed an application being Arbitration Application No.29 of 2018 before the Rajasthan State Commercial Court (District Level), Jaipur under Section 10(1) of the Commercial Courts Act, 2015 (for short, 'the Commercial Courts Act, 2015') for setting aside the arbitral award.

9. On 22nd October, 2018, the appellant filed an application seeking dismissal of the Section 34 application on the ground that being an international commercial arbitration, the appropriate fora was the High Court of Rajasthan.

10. On 22nd November, 2018, accepting the objections of the respondent, the Commercial Court returned the

application under Order VII Rule 10 of the Code of Civil Procedure, 1908 (for short, "the CPC") after finding that the arbitration being an international commercial arbitration, the appropriate fora was the High Court of Rajasthan.

11. On 10th December, 2018, the respondent filed the application before the registry of the High Court of Judicature for Rajasthan, Bench at Jaipur. On 14th February, 2019, a fresh application under Section 10(1) of the Commercial Courts Act, 2015 was filed before the High Court by the respondent along with the Original Application which was filed before the Commercial Court.

12. Learned senior counsel for the respondent clarifies that what was filed on 14th February, 2019 was another set of the same application, since an objection was taken that the matter should go before the Division Bench.

13. On 2nd February, 2022, written submissions were filed by the respondent along with an application under Section 14 of the Limitation Act before the High Court.

14. Learned Single Judge, on 2nd March, 2022, dismissed the application filed under Section 10 of the Commercial Courts Act, 2015 holding that Commercial Court could not have exercised power under Order VII Rule 10 of the CPC and it should have rejected the application as not

maintainable. Alternatively, in any event, treating the rejection as one passed under Order VII Rule 10 of the CPC, the respondent ought to have filed an application under Section 4(1) of the Rajasthan Arbitration Rules, 2003 and duly verified the same. Learned Single Judge was of the opinion that the application was not maintainable under Section 34 and the annexure which was the application under Section 34 filed before the Commercial Court could not have been treated as an application under Section 34 filed before the High Court.

15. Paragraph Nos. 19 and 20 of the order of the learned Single Judge read as under:

> "19. No application for extension of time was filed by the applicant. This Court is therefore of the considered view that there is no presentation as such of any application under Section 34 of the Act before the High Court. This Court is also of the considered view that no application under Section 10(1) of the Commercial Courts Act is required to be filed as Section 10(1) only deals with the jurisdiction in respect of arbitration matters. Proper course for the applicant was to file a fresh arbitration application or present the arbitration application, which was returned before the proper Officer of the Court. No application under Section 34 of the Act has been filed in accordance with the Rajasthan

Arbitration Rules, thus this Court is of the considered view that applicant is not entitled to any relief.

20. There being no application under Section 34 of the act having been presented before a proper Officer of the Court, there being no application for condonation of delay, there being no relief claimed in the application under Section 10(1) with regard to the arbitration application, the present arbitration application therefore deserves to be and is accordingly dismissed. No orders as to cost."

16. Lastly, it was held that even if the application was treated as one under Section 34 of the A & C Act, it was barred by limitation, as no application for condonation of delay was filed.

17. On appeal against the said order, the Division Bench has passed the impugned order. The Division Bench, having found the application under Section 34 to have been rightly filed, however, went ahead and applied Section 14 to exclude time and remitted the matter to the Single Judge to consider the Section 34 application on merits. This is how the matter presents itself before us.

18. Learned Additional Solicitor General contends that the ingredients of Section 14 ought to have been left by

the Division Bench to the Single Judge; that notice on Section 14 application which was filed with the written submission, even if it was to be taken on record, ought to have been given to the appellant to file its objection, and then an appropriate order excluding or not excluding time could have been made under the principles analogous to Section 14.

19. We find merit in this submission. Hence, while not disturbing the remand of the matter for adjudication to the Single Judge, we direct that the learned Single Judge before taking up the Section 34 application should first hear the Section 14 application after due notice to the appellant, and only in the event of finding that after excluding time, the Section 34 application of the respondent was within time, proceed to hear the matter on merits.

20. The impugned order is modified in the above terms. The appeal is accordingly disposed of in the above terms.

21. Considering that it is an award of 2017, we request the learned Single Judge to make an endeavour to take up the matter early and dispose it of at the earliest possible.

22. All contentions are kept open.

23. There shall be no order as to costs.

.....J.
(K.V.VISWANATHAN)

.....J.
(ARUN PALLI)

NEW DELHI;
October 12, 2026

ITEM NO.29 COURT NO.12 SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 5232/2026

[Arising out of impugned final judgment and order dated 21-08-2025 in DBSAC No. 4/2022 passed by the High Court of Judicature for Rajasthan, Bench at Jaipur]

JAIPUR METRO RAIL CORPORATION Petitioner(s)

VERSUS

CONTINENTAL ENGINEERING CORPORATION LIMITED Respondent(s)

([TO BE TAKEN UP IMMEDIATELY AFTER FRESH MATTERS].....FOR ADMISSION)

Date : 12-10-2026 This petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE K.V. VISWANATHAN
HON'BLE MR. JUSTICE ARUN PALLI

For Petitioner(s) :
Ms. Aishwarya Bhati, A.S.G.
Mr. Sandeep Pathak, Adv.
Ms. Jaya Pathak, Adv.
Mr. Avnish Dave, Adv.
Ms. Ankita Chaudhary- 3029, AOR
Ms. Vartika Mehra, Adv.
Mr. Anirudh Jaitawat, Adv.

For Respondent(s) :
Mr. Anil Kher, Sr. Adv.
Mr. Bhargava V. Desai, AOR
Mr. Kapil Kher, Adv.
Mr. Kunal Kher, Adv.
Mr. Shivam Sharma, Adv.
Ms. Prakriti Rastogi, Adv.
Ms. Surbhi Tuli, Adv.
Mr. Kartik Jasra, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. Leave granted.

2. The appeal is disposed of in terms of the signed order.

3. Pending application, if any, stands disposed of.

(ANITA MALHOTRA) **(NIKITA SINGH)**
DEPUTY REGISTRAR **COURT MASTER**

(Signed order is placed on the file.)