



CNR: KAHC010046572023

NC: 2026:KHC:36615-DB
COMAP No. 31 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

COMMERCIAL APPEAL NO. 31 OF 2023

BETWEEN:

THE GOVERNMENT OF KARNATAKA
REPRESENTED BY THE COMMISSIONER,
HEALTH AND FAMILY WELFARE SERVICES
ANANDA RAO CIRCLE, NOW AROGYA SOUDHA,
MAGADI MAIN ROAD,
BENGALURU-560 023.

...APPELLANT

(BY SRI. ADITHYA VIKRAM BHAT, AGA)

AND:

1. M/S APOLLO HOSPITALS ENTERPRISE LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
PREVIOUSLY HAVING ITS REGISTERED OFFICE,
AT ALI TOWERS, 3RD FLOOR,
NO.22, GREAMS ROAD,
CHENNAI-600 026
AND PRESENTLY HAVING ITS REGISTERED OFFICE
AT NO.19, BISHOP GARDENS,
RAJA ANNAMALAI PURAM,
CHENNAI-600 026
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER





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(KARNATAK REGION)
DR.(LT GEN.)NARESH K.PARMAR

2. SHRI JUSTRICE A.V.SRINIVASA REDDY
FORMER JUDGE,
HIGH COURT OF KARNATAKA-SOLE ARBITRATOR,
ARBITRATION CENTRE KARNATAKA
(DOMESTIC AND INTERNATIONAL)
BENGALURU.

...RESPONDENTS

(BY SRI. APPAIAH P B.,ADV. FOR R1)

THIS COMMERCIAL APPEAL IS FIELD UNDER SECTION 13(1A) OF THE COMMERCIAL COURTS ACT, 2015 READ WITH SECTION 37 OF ARBITRATION AND CONCILIATION ACT, 1996 (ACT OF 1996), PRAYING TO A) ADMIT THE PRESENT COMMERCIAL APPEAL AND CALL FOR THE RECORDS OF THE LOWER COURT - COURT OF THE LXXXV ADDL. CITY CIVIL AND SESSIONS JUDGE AT BENGALURU (CCH-86) MADE IN COM. A.P NO.31/2021 AND ARBITRATION IN THE MATTER OF M/S APOLLO HOSPITALS ENTERPRISE LTD., Vs THE COMMISSIONER, HEALTH AND FAMILY WELFARE SERVICES, BENGALURU ON THE FILE OF THE SOLE ARBITRATOR, SHRI JUSTICE A.V. SRINIVASA REDDY AND ETC.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T



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ORAL JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

This Commercial Appeal is preferred against the judgment dated 22.04.2022 passed in Com.A.P.No.31/2021 by the LXXXV Additional City Civil and Sessions Judge, at Bengaluru (CCH-86) ('Commercial Court' for short).

2. Heard Sri. Adithya Vikram Bhat, learned Additional Government Advocate appearing for the appellant as well as Sri. Appaiah P.B, learned counsel appearing for respondent No.1.

3. It is submitted by the learned AGA appearing for the appellant that a commercial application was filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short " Arbitration Act"), challenging the Arbitral Award dated 16.11.2015. It is further submitted that a certified copy of the Arbitral Award was received only on 06.03.2020 and that the application under Section 34 of the Arbitration Act was filed before the Commercial Court on 17.03.2021. However, the application was rejected on the ground that it had been filed



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beyond the period of three months from the date of communication of the Arbitral Award, as prescribed under Section 34(3) of the Arbitration Act.

4. I.A.No.01/2023 is filed seeking to condone the delay of 202 days in filing the instant appeal. The affidavit filed in support of the application states that the certified copy of the Judgment was received on 04.05.2022 and that the same was forwarded to the Head of the Legal Cell, Department of Health and Family Welfare on 09.05.2022. It is further stated that the Head of the Legal Cell had issued a Government Order dated 20.07.2022 authorising the Government Advocate, High Court of Karnataka to prefer Commercial Appeal against the judgment dated 22.04.2022 and the same was forwarded to the Commissioner Health and Family Welfare vide letter dated 02.08.2022. It is submitted that in the order, there was an error which had to be corrected and the corrections was carried out on 22.09.2022. It is further stated that because of the Covid-19 Pandemic that was ongoing, the Officials in the Health Department were extremely busy in Covid-19 immunisation and assembly question related work and therefore, the appeal



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came to be filed on 20.01.2023. It is submitted that the matter involves huge financial implications as far as the State is concerned and that the delay is liable to be condoned and the appeal has to be considered on merits.

5. Learned counsel appearing for respondent No.1, on the other hand, contends that the application preferred under Section 34 of the of the Arbitration Act had been rejected by the Commercial Court specifically on the ground of delay and that the appeal preferred does not even refer to any grounds as against the said finding of the Commercial Court. Further, it is submitted that the delay of 202 days in filing the appeal is not properly explained and no sufficient cause has been shown for condoning the said delay.

6. Relying on the decision of the Apex Court in the case of ***State of Maharashtra v. Borse Brothers Engineers & Contractors (P) Ltd***, reported in ***(2021) 6 SCC 460***, the learned counsel would contend that in the absence of a proper and sufficient cause being shown for condonation of delay in filing the appeal, the appeal which is filed under the provisions of Section 37 of the Arbitration and Conciliation Act, 1996 read



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with Section 13 of the Commercial Court Act, 2015 cannot be condoned and the appeal cannot be entertained under any circumstances. Reliance is also placed on the decision of the Apex Court in the case of **Post Master General and Others v. Living Media India Limited and Another** reported in **(2012) 3 SCC 563** to contend that in a commercial dispute, the Government who is in the possession of a adversary litigant has absolutely no special status and the delay cannot be condoned *dehors* the sufficient cause can be shown.

7. Having considered the contentions advanced, we notice that apart from pleading the fact of the Covid-19 pandemic being in force in the State, there is absolutely no reason whatsoever stated in the affidavit filed in support of the IA for condonation of delay to explain the delay of 202 days which has occurred in filing the present appeal. The Apex Court in **Borse Brothers's** case (*supra*) has clearly held as follows:-

"55. Reading the Arbitration Act and the Commercial Courts Act as a whole, it is clear that when Section 37 of the Arbitration Act is read with either Article 116 or 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, the object and context provided by the aforesaid statutes, read as a whole, is the speedy disposal of appeals filed under Section 37 of the Arbitration Act. To read Section 5 of the Limitation Act consistently with the aforesaid object, it is necessary to discover as to what the



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expression "sufficient cause" means in the context of condoning delay in filing appeals under Section 37 of the Arbitration Act.

x x x x x

58. *Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression "sufficient cause" is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims. This Court, in Basawaraj v. LAO, has held: (SCC pp. 85-88, paras 9-15)*

"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. [See Manindra Land & Building Corpn. v. Bhutnath Banerjee, Mata Din v. A. Narayanan, Parimal v. Veena, and Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai.



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10. In *Arjun Singh v. Mohindra Kumar*, this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only *so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned *, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide *Madanlal v. Shyamlal and Ram Nath Sao v. Gobardhan Sao*).

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. 'A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.' The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to *Halsbury's Laws of England*, Vol. 28, Para 605 p. 266:

'605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons supporting the existence of statutes of limitation, namely, (1) that long dormant claims have more of



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cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.'

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (See Popat & Kotecha Property v. SBI Staff Assn., Rajender Singh v. Santa and Pundlik Jalam Patil v. Jalgaon Medium Project.)

14. In P. Ramachandra Rao v. State of this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in Abdul Rehman Antulay v. R.S. Nayak .

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

(emphasis supplied)

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63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches."

8. The Apex Court in **Borse Brothers's** case (supra) has also considered the earlier decision in the **Post Master General's** case (supra) and it is clearly held that the Government cannot seek any special consideration in the matter of condonation of delay.

9. Having considered the contentions advanced and in the light of the reasons stated in the affidavit filed in support of the application for condonation of delay, we are of the opinion that no sufficient cause having been shown to condone the delay, we are unable to condone the delay.



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10. Therefore, IA.No.01/2023 filed for condonation of delay is accordingly ***dismissed***. Consequently, the appeal also stands ***dismissed***.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE

RAK
List No.: 1 Sl No.: 1