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AA-40-2022

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 10th OF AUGUST, 2026ARBITRATION APPEAL No. 40 of 2022*SHRI JANKIRAMAN MAHARAJ**Versus**NATIONAL HIGHWAY AUTHORITY OF INDIA AND OTHERS*

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Appearance:

Shri Jtiendra Kumar Jain - Advocate for the appellant.

Shri Dheerendra Mishra - Advocate for the respondent No.1.
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ORDER

Heard on IA No.6194/2022, an application for condonation of delay in filing the present appeal.

It is submitted by the counsel for the appellant that did not have knowledge about the legal proceeding, therefore, the appellant could not prefer the appeal within the prescribed period of limitation. It is submitted that the reason for not filing the appeal in time is not deliberate and based on bonafide. Hence, the delay in filing the appeal may be condoned.

Counsel for the respondent has opposed the application contending that the appeal is hopelessly barred by time. The appellant has not shown any sufficient cause for such delay and prayed for rejection of the application.

Considered the arguments advanced by the counsel for the parties on IA No.6194/2022.

The Hon'ble Apex Court while dealing issue of delay in filing



arbitration appeal in the case of Government of Maharashtra (Water Resources Department) Represented by Executive Engineer vs. Borse Brothers Engineers and Contractors Private Limited reported in (2021) 6 SCC 460 has held as under:-

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.

66. In the civil appeal arising out of SLP (C) No. 15278 of 2020, the impugned judgment of the High Court of Madhya Pradesh dated 27-1-2020 [*M.P. Poorv Kshetra Vidyut Vitran Co. Ltd. v. Swastik Wires*, 2020 SCC OnLine MP 3003] relies upon *Consolidated Engg. Enterprises v. Irrigation Deptt.*, (2008) 7 SCC 169 and thereby states that the judgment of this Court in *N.V. International v. State of Assam*, (2020) 2 SCC 109 : (2020) 1 SCC (Civ) 275] would not apply. The judgment of the High Court is wholly incorrect inasmuch as *Consolidated Engg. Enterprises v. Irrigation Deptt.*, (2008) 7 SCC 169] was a judgment which applied the provisions of Section 14 of the Limitation Act and had nothing to do with the application of Section 5 of the Limitation Act. *N.V. International v. State of Assam*, (2020) 2 SCC 109 : (2020) 1 SCC (Civ) 275] was a direct judgment which applied the provisions of Section 5 of the Limitation Act and then held that no condonation of delay could take place beyond 120 days. The High Court was bound to follow *N.V. International v. State of Assam*, (2020) 2 SCC 109 : (2020) 1 SCC (Civ) 275], as on the date of the judgment of the High Court, *N.V. International v. State of Assam*, (2020) 2 SCC 109 : (2020) 1 SCC (Civ) 275] was a judgment of the two learned Judges of the Supreme Court binding upon the High Court by virtue of Article 141 of the Constitution. On this score, the impugned judgment of the High Court deserves to be set aside.

Thus, considering the submission made by the learned counsel for the parties and in view of the law laid down by the Hon'ble Apex Court in the



case of **Borse Brothers (supra)**, IA No.6194/2022 is allowed.

The delay in filing the appeal is hereby condoned.

IA No.6194/2022 stands closed.

2. The appellant has filed the present appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (Hereinafter referred to as 'the Act of 1996' for the sake of brevity) being aggrieved by the order dated 22.11.2021 passed in MJCAV No. 06/2020 by District Judge, Jabalpur affirming the award dated 06.11.2019 passed by the Arbitrator.

3. It is submitted by the learned counsel for the appellant that pursuant to the gazette notification for broadening the National Highway No.12, the land of the appellant was acquired and an award of Rs.4,89,188/- was determined and notified on 01.09.2013.

4. It is submitted that the appellant filed an application under Section 3G(5) of the National Highways Act, 1956 (for short 'Act of 1956') for enhancement of award before the Arbitrator. However, the Arbitrator/Commissioner dismissed the application vide order dated 06.11.2019 (Annexure A/3) on the ground of delay and laches. The Arbitrator observed that the competent authority passed the award on 01.09.2013 whereas the appellant filed the application under Section 3G(5) of the Act of 1956 on 24.06.2019 i.e. after about five years and nine months and for such delay the appellant has not filed any application under Section 5 of the Limitation Act, 1963 (For short 'Act of 1963') explaining the reasons for such delay. The Arbitrator further observed that although the Act of 1956 does not prescribe any limitation for filing application before the Arbitrator



against the award passed, but Part I of Schedule I of the Act of 1963 prescribes the time limit on the basis of nature of the suit. It is observed that in money suit, the limitation is prescribed for three years. The Arbitrator finally observed that since the application seeking relief against the award dated 01.09.2013 was filed on 24.06.2019, therefore, the limitation would be calculated from the date of award and consequently, the Arbitrator rejected the application of the appellant holding it to be not maintainable being time-barred.

5. Thereafter, the appellant filed an application under Section 34 of the Act of 1996 before the District Judge, Jabalpur, however, the court below vide order dated 22.11.2021 (Annexure A/7) has rejected the application affirming the order passed by the Arbitrator. While rejecting the application, the learned Civil/Commercial Court has considered the provisions of Section 3G(5) of the Act of 1956 and also the provisions of the Act of 1963, particularly Article 137 of the Act of 1963 in respect of application filed by the appellant for enhancement of compensation. Hence, this appeal has been filed.

6. It is contended by the learned counsel for the appellant that the Arbitrator as well as the learned Civil/Commercial Court has erred in dismissing the appellant's claim on the ground of limitation without examining the substantive claim of the appellant for enhancement of compensation on its merits. It is contended that the proceedings under Section 3G(5) of the Act of 1956 are the proceedings arising out of the determination of compensation for the land acquired for widening of



National Highway and, therefore, the same could not have been simplicitor treated as an application governed by Article 137 of the Limitation Act, 1963.

7. It is contended that Section 3G(5) of the Act of 1956 does not prescribe any specific period of limitation for approaching the Arbitrator against the amount of award determined by the competent authority. It is submitted that in absence of any express period of limitation prescribed under the special statute, the provision of Article 137 of the Act of 1963 is not applicable in the case at hand.

8. It is further submitted that the provision of Section 5 of the Act of 1963 has wrongly been applied in the case of the appellant because Section 5 of the Act of 1963 applies to specified proceedings where a prescribed period of limitation is provided and empowers the Court to condone the delay upon sufficient cause being shown. In the present case, since no specific period of limitation is prescribed under Section 3G(5) of the Act of 1956, the question of applying Section 5 or Article 137 of the Act of 1963 does not arise and prayed for quashing of the impugned award and remanding the matter back to the Arbitrator to decide it on its merit.

9. To bolster his submission, counsel for the appellant has relied upon the orders passed by the Division Bench of this Court in the case of **Smt. Summi Bai vs. The State of Madhya Pradesh and others - WP No. 4639/2021** decided on 03.03.2021 and Madras High Court in the case of **The Project Director vs. K. Periyasamy - WA No. 308/2016** decided on 25.04.2018.



10. Per contra, learned counsel for the respondent has submitted that that there is no error in the order passed by the Arbitrator dismissing the application of the appellant on the ground of delay and laches. It is contended that although Section 3G(5) of the National Highways Act, 1956 does not prescribe a specific period of limitation, but the absence of a prescribed period of limitation does not mean that the claim can be raised at any point of time.

11. It is submitted that in such a case Article 137 of the Act of 1963 is applicable. Article 137 provides a period of three years for an application for which no period of limitation is prescribed elsewhere in the Act of 1963. The application filed by the appellant under Section 3G(5) of the Act of 1956 is an application before the Arbitrator and, therefore, in the absence of any specific period of limitation prescribed under the Act of 1956, the residuary provision contained in Article 137 would apply. Therefore, the appellant has no right to raise his claim after an inordinate delay.

12. It is further submitted that the award determining compensation was passed by the competent authority on 01.09.2013 whereas the appellant approached the Arbitrator after an inordinate delay of five years and nine months. The appellant did not file any application under the provisions of Act of 1963 furnishing satisfactory explanation for not approaching the Arbitrator within the prescribed period. Thus, the Arbitrator was justified in declining to entertain the belated application without entering into the merits of the claim.

13. It is submitted that the Arbitrator has rightly applied the principles



of limitation and rejected the appellant's belated claim. The learned Civil/Commercial Court has also rightly declined to interfere with the order of the Arbitrator. It is submitted that there being no illegality or perversity in the orders passed by the Arbitrator as well as the Civil/Commercial Court, the appeal deserves to be dismissed.

14. To bolster his submission, counsel for the respondent has relied upon an order passed in WP No. 13266/2023-Smt. Sarvesh Rajput vs. State of Madhya Pradesh and others decided on 26.06.2026.

15. Heard learned counsel for the parties and perused the record.

16. While dealing with the issue of delay and laches in filing the application under Section 3G(5) of the Act of 1956, the Division Bench of this Court in **Smt. Summi Bai (supra)** has held as under:-

In Lal Singh's case (supra), the Division Bench of this Court held as under:-

"It is well settled principle of law that when an authority is bestowed with statutory power to take a decision in the matter and when a decision is taken either dismissing the application for want of prosecution 1 WP-4639-2021 or on technical grounds an inherent power is always available with the authority for restoration of the proceedings and deciding the application on merits. We find that in various cases that are coming before us, the statutory authority exercising power under Section 3(g) (5) of the National Highways Act, 1956 are in the habit of dismissing the appeals on technical grounds of limitation or want of prosecution. The National Highways Act, 1956 and the provisions contained therein for award of the compensation and the provisions for an appeal against the award of the Land Acquisition Officer is a benevolent peace (sic) of legislature formulated under the social welfare concept prescribed in the constitution. These legislations have been enacted for the benefit of a land owner who is deprived of the right to use the land and to seek adequate compensation. In such cases, the Appellate Authority should be more sensitive to the requirement of the land oustee and instead of dismissing the appeals on technical grounds of limitation or want of prosecution should adopt a justice oriented approach and try to dispose of the appeals on merit after considering various aspects of the



matter. We do not appreciate the trend of the appellate authority exercising statutory jurisdiction under section 3(g) (5) of the National Highways Act, 1956 dismissing the appeals on the grounds of limitation or on account of want of prosecution. We may take judicial notice of the fact that every day we find 3 or 4 cases coming up for hearing where the authorities have dismissed the application for want of prosecution or on grounds of limitation. That being so, we direct the Chief Secretary of the State Government to take note of this order, circulate it to the appellate authorities, namely, the Commissioners of various Revenue Divisions and to emphasize upon them the requirement of deciding the appeals on merit instead of following the process of dismissing them on technical grounds."

In *Gourishanker's case* (supra) it was held, thus:

"Challenging an order dated 16.01.2016 passed by the appellate authority exercising the powers of an arbitrator under Section 3(g)(5) of National Highways Act and rejecting an appeal on the ground of delay, this writ petition has been filed under Article 226 & 227 of the Constitution of India. Compensation was determined by the Land Acquisition Officer and an award passed on 13th October, 2011 and challenging the award as the appeal under Section 3(g)(5) was filed after a period of more than three years. The same has been dismissed by the learned appellate authority. However, while doing so, the learned appellate authority failed to consider the fact that even though the award was passed in the year 2013, the compensation was awarded to the aggrieved person only in the year 2014. They raised objection and thereafter when their objections were not considered within a period of three years from 2014 i.e. the date on which the amount was tendered to them they had filed the appeal. This aspect of the matter has not at all been adverted to or considered by the learned arbitrator while rejecting the appeal." *Shri Swapnil Ganguly*, learned Deputy Advocate General for the respondents/State though opposed the writ petition but was not in position to dispute that the issues raised in this writ petition are covered by the aforementioned judgments whereunder, in similar circumstances, the writ petitions have been allowed.

In view of the aforesaid, we are persuaded to allow the present writ petition. Accordingly, the impugned order dated 25.02.2020 (Annexure P-9) is set aside and the appeal is restored to its original number to be decided on merit afresh by the learned Commissioner/Arbitrator within a period of three months from the date the petitioner produces the certified copy of this order before it.

In *K. Periyasamy* (supra), the Madras High Court has held as under:-

26. In *Khoday Distilleries Limited* (Now Known as *Khoday India Limited*) Vs. *Scotch Whisky Association and others* [(2008) 10



SCC 723)] the Hon'ble Supreme Court held that Article 137 of the Limitation Act, 1963 is not applicable to a proceeding for rectification under the Trade and Merchandise Marks Act, 1958.

27. Our attention was also drawn to a judgment of the Karnataka High Court in National Highways Authority of India Vs. Udaykumar and others [CDJ 2017 Kar Hc 190], wherein, the Division Bench had taken the view that Section 137 of the Limitation Act will not apply to a statutory arbitration under Section 30G(5) of the National Highways Act, 1956.

28. As rightly pointed out by Mr.K.V.Sanjeev Kumar, learned counsel for the landowners, the provisions of Section 2(4) of the Arbitration and Conciliation Act, 1996 which makes Section 43 of the said Act inapplicable to statutory arbitrations was not brought to the notice of the Division Bench of the Kerala High Court which decided the issue in K.Leela Vs. The District Collector and Arbitrator. In T.Yunis Vs.National Highways Authority of India the question of applicability of the Limitation Act, 1963 was conceded and the dispute was confined only to the question as to whether Article 119 or Article 137 would apply to such proceedings. The Karnataka High Court on consideration of the provisions of the National Highways Act, 1956 as well as the Limitation Act, 1963 concluded that it was only Article 137 that would apply to such proceedings.

29. The Division Bench of the Karnataka High Court in National Highways Authority of India Vs. Udaykumar and others had held that in view of Section 2(4) of Arbitration and Conciliation Act, 1996, the provisions of Limitation Act, 1963 would not be applicable to statutory arbitrations.

30. Adverting to the cases on hand, the facts are not in dispute. The lands belonging to the land owners who are the respondents in the Writ Appeals and petitioners in the Writ Petitions were acquired for the purpose of widening the National Highways under the National Highways Act, 1956. The competent Authority passed orders under Section 3-G(1) of the said Act. The landowners had filed applications though belatedly seeking re-determination of the compensation by referring the matter to an arbitrator appointed by the Central Government in terms of Section 3-G(5) of the Act. The applications were dismissed by the Arbitrator on the ground that they have been filed beyond 3 years.

31. The judgment of the Kerala High Court in K.Leela is the basis for the contention of the National Highways authorities to non-suit the landowners.

32 (a) The Division Bench of the Kerala High Court in K.Leela case cited (supra) by placing reliance on Section 43 of the Arbitration and Conciliation Act, 1996, which made the provisions of Limitation Act, 1963 applicable to arbitrations under Section 3-G(5) of the National Highways Act, 1956, concluded that Limitation Act would apply to a proceeding for arbitration under the Act.

(b) The attention of the Division Bench of the Kerala High Court



was not drawn to the provisions of Section 2(4) of the Arbitration and Conciliation Act, 1996 which exclude the applicability of Section 43 to statutory arbitrations. The judgments of the Hon'ble Supreme Court in PPN Power Generating Company Private Limited and Lanco Kondapalli Power Limited and others would make the position clear that the provisions of the Limitation Act, 1963 cannot be applied to statutory arbitrations in view of Section 2(4) of the Arbitration Act, 1996.

33. The judgment in Savitra Khandu Beradi Vs. Nagar Agricultural Sale and Purchase Co-operative Society Ltd., Ahmednagar and others [AIR 1957 BOMBAY 178], though rendered under the Arbitration Act, 1940, the provisions being substantially same, we see no difficulty in applying the ratio laid down by the Division Bench of the Bombay High Court and the Hon'ble Supreme Court in the above quoted decisions to conclude that the provisions of the Limitation Act will not be applicable to statutory arbitrations under Section 3-G(5) of the National Highways Act, 1946.

34. We therefore make the position clear that the provisions of the Limitation Act and more particularly Article 137 would not apply to an application for reference to arbitration under Section 3G() of the National Highway Act, 1956.

17. In the present case at hand, the core question which arises for consideration, is whether the application filed by the appellant under Section 3G(5) of the Act of 1956 could have been dismissed by the Arbitrator as barred by limitation by applying the provision Article 137 of Act of 1963.

18. The Division Bench of this Court in **Smt. Summi Bai (supra)** has held that the statutory authority exercising powers under Section 3G(5) of the Act of 1956 should adopt a justice-oriented approach and should not ordinarily reject a claim for enhancement of compensation on technical grounds of limitation or want of prosecution. Similar view has been taken in **Gourishanker (supra)**, wherein this Court emphasized that the relevant circumstances leading to the delay are required to be considered before rejecting a claim on the ground of delay.

19. Further, in **K. Periyasamy (supra)**, after considering the provisions of Section 2(4) of the Act of 1996 and the judgments of the Supreme Court



and other High Courts, the Madras High Court has held that the Act of 1963, particularly Article 137, would not apply to the statutory arbitration proceedings under Section 3G(5) of the Act of 1956.

20. The Hon'ble Apex Court while dealing with the question of applicability of Section 137 of the Act of 1963 in the case of **The Kerala State Electricity Board, Trivandrum vs. T.P. Kunhaliumma** reported in (1976) 4 SCC 634 has held as under:

"10. In *Nityananda M. Joshi v. Life Insurance Corporation of India* [(1969) 2 SCC 199 : (1970) 1 SCR 396] the appellants filed applications against the respondent under Section 33-C(2) of the Industrial Disputes Act for computing in terms of money, the benefit of holidays and for recovering the amount. The Labour Court dismissed the applications insofar as the claim was for a period beyond three years on the ground that the applications were barred under Article 137 of the Limitation Act. In *Nityananda Joshi case* [(1969) 2 SCC 199 : (1970) 1 SCR 396] this Court held as follows: Article 137 contemplates applications to ordinary courts. Section 4 of the Limitation Act provides for the contingency when the prescribed period for any application expires on a holiday and the only contingency contemplated is "when the court is closed". Further under Section 5 of the Limitation Act only a court is enabled to admit an application after the prescribed period has expired if the court is satisfied that the applicant had sufficient cause for not preferring the application. The Labour Court is not a court within the meaning of the Limitation Act.

18. The alteration of the division as well as the change in the collocation of words in Article 137 of the Limitation Act, 1963 compared with Article 181 of the 1908 Limitation Act shows that applications contemplated under Article 137 are not applications confined to the Code of Civil Procedure. In the 1908 Limitation Act there was no division between applications in specified cases and other applications as in the 1963 Limitation Act. The words "any other application" under Article 137 cannot be said on the principle of *eiusdem generis* to be applications under the Civil Procedure Code other than those mentioned in Part I of the third division. Any other application under Article 137 would be petition or any application under any Act. But it has to be an application to a court for the reason that Sections 4 and 5 of the 1963 Limitation Act speak of expiry of prescribed period when court is closed and extension of prescribed period if applicant or the appellant satisfies the court that he had sufficient cause for not preferring the appeal or making the application during such



period."

And in **Ganesan Represented by its Power Agent G. Rukmani Ganesan vs. Commissioner, Tamil Nadu Hindu Religious And Charitable Endowments Board and Others** reported in (2019) 7 SCC 108 Para 33 and 34, the Hon'ble Apex Court has held as under:-

"33. In *Kerala SEB v. T.P. Kunhaliumma* [*Kerala SEB v. T.P. Kunhaliumma*, (1976) 4 SCC 634] , this Court had occasion to consider the applicability of Article 137 of the Limitation Act, to an application filed under Section 16 of the Telegraphs Act, 1885. This Court in the above case differing with the view taken by the two-Judge Bench in *Athani case* [*Town Municipal Council, Athani v. Labour Court*, (1969) 1 SCC 873] held that application under Article 137 of the Limitation Act is not confined to application contemplated by or under the CPC. However, the application contemplated under the Telegraphs Act has to be an application to a court. In paras 18 and 22 the following has been held: (*T.P. Kunhaliumma case* [*Kerala SEB v. T.P. Kunhaliumma*, (1976) 4 SCC 634] , SCC pp. 638-39)

"18. The alteration of the division as well as the change in the collocation of words in Article 137 of the Limitation Act, 1963 compared with Article 181 of the 1908 Limitation Act shows that applications contemplated under Article 137 are not applications confined to the Code of Civil Procedure. In the 1908 Limitation Act there was no division between applications in specified cases and other applications as in the 1963 Limitation Act. The words "any other application" under Article 137 cannot be said on the principle of ejusdem generis to be applications under the Civil Procedure Code other than those mentioned in Part I of the third division. Any other application under Article 137 would be petition or any application under any Act. But it has to be an application to a court for the reason that Sections 4 and 5 of the 1963 Limitation Act speak of expiry of prescribed period when court is closed and extension of prescribed period if applicant or the appellant satisfies the court that he had sufficient cause for not preferring the appeal or making the application during such period.

22. The conclusion we reach is that Article 137 of the 1963 Limitation Act will apply to any petition or application filed under any Act to a civil court. With respect we differ from the view taken by the two-Judge Bench of this Court in *Athani Municipal Council case* [*Town Municipal Council, Athani v. Labour Court*, (1969) 1 SCC 873] and hold that Article 137 of the 1963 Limitation Act is not confined to applications contemplated by or under the Code of Civil Procedure. The petition in the present case was to the District



Judge as a court. The petition was one contemplated by the Telegraph Act for judicial decision. The petition is an application falling within the scope of Article 137 of the 1963 Limitation Act.”

34. In the above *T.P. Kunhaliumma case* [*Kerala SEB v. T.P. Kunhaliumma*, (1976) 4 SCC 634] since the application under the Telegraphs Act was filed before the court, this Court held that Article 137 of the Limitation Act was applicable. It is to be noticed that in the abovementioned cases this Court held that applications contemplated under the Limitation Act are applications to a court but in the above cases the Court did not refer to Section 29(2) of the Limitation Act.”

21. In view of the aforesaid legal position, in the considered opinion of this Court, the Arbitrator was not justified in applying Article 137 of the Act of 1963 and dismissing the appellant’s application solely on the ground of delay and laches without examining the claim for enhancement of compensation on its merits. The learned Civil/Commercial Court has also failed to consider the aforesaid legal position while affirming the order of the Arbitrator.

22. Consequently, the impugned orders dated 06.11.2019 (Annexure A/3) passed by the Arbitrator and 22.11.2021 (Annexure A/7) passed by the learned Civil/Commercial Court cannot be sustained and are hereby set aside. The matter is remanded to the Arbitrator to consider and decide the appellant’s claim for enhancement of compensation on its merits, in accordance with law, after affording due opportunity of hearing to the parties.

22. Accordingly, the appeal stands allowed and disposed of in the aforesaid terms.

23. Registrar (Judicial) is directed to circulate copy of this order to all the Principal District Judges, Commissioners of the Divisions and the



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District Collectors for necessary compliance.

(DEEPAK KHOT)
JUDGE

RAGHVENDRA