2026:AHC:214190

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPEAL UNDER SECTION 37 OF ARBITRATION AND CONCILIATION ACT 1996 DEFECTIVE No. - 147 of 2026

Rami (Since Deceased) and 4 others

.....Appellant(s)

Versus

Union Of India And Another

.....Respondent(s)

Counsel for Appellant(s)	:	Pankaj Sharma, Rajendra Pratap Singh, Surendra Singh Bhati
Counsel for Respondent(s)	:	Pranjal Mehrotra

Court No. - 53

HON'BLE VIKAS BUDHWAR, J.

In Re: Delay Condonation Application No. 2 of 2026

1. Present appeal purported to be under Section 37 of the Arbitration and Conciliation Act, 1996, (in short A.C. Act of 1996), has been preferred along with a delay condonation application supported by affidavit for condoning the delay in preferring the appeal, questioning the judgment and order dated 08.01.2024 passed by the District Judge, Gautam Buddh Nagar in Arbitration Case No. 85 of 2023, *Narendra and others Vs. Union of India and others*, under Section 34 of the A.C. Act, 1996, whereby the challenge raised by the appellants / claimants to the award dated 16.05.2016 passed by the Arbitrator / District Magistrate / Collector, Gautam Buddha Nagar came to be rejected.

2. For the clarity, the facts of the case, sans unnecessary details, are that the claimants claim to be the residents of village Aurangpur, Pargana Dankaur, District Gautam Buddha Nagar, who are stated to be the co-owners of Khasra No. 954/1 area 1092.50 square meters and Khasra No. 514 area 3479.8 square meters situate in the said village. Notifications came to be issued under the National Highways Act. Thereafter, under Section 3A of the National Highways Act on 14.08.2006, 14.08.2007, 14.12.2007, 27.05.2009, 28.12.2009 and under Section 3D of the National Highways Act, 1956 on 19.12.2007, 12.03.2008, 01.12.2008, 14.05.2010 and 30.05.2012. An award came to be passed on 22.06.2009 with respect to certain piece of land. However, in the present case, an award came to

be passed by the Arbitrator / District Magistrate, Gautam Buddha Nagar on 16.05.2016.

3. Aggrieved against the same, the claimants / appellants preferred objections under Section 34 of the Arbitration and Conciliation Act, 1996 before the Court of District Judge/ Court under Arbitration and Conciliation Act, 1996, Gautam Buddha Nagar, which was registered as Arbitration Case No. 85 of 2013. Thereafter, on 08.01.2024, an order came to be passed by the District Judge/ Court under Arbitration and Conciliation Act, Gautam Buddha Nagar dismissing the objections under Section 34 of the A.C. Act, 1996.

4. Assailing the same, the present appeal along with an affidavit in support of the delay condonation application was presented before the Registry of this Court on 19.08.2026. The appeal is stated to be beyond time by 831 days. A delay condonation application has been preferred which reads as under:-

"*1. That the deponent is the Appellant no.2 and is doing pairavi on behalf of the other appellants in the aforesaid Appeal and as such he is fully acquainted with the facts of the case deposed to below.*

2. That the aforesaid appeal is being filed under section 37 of Arbitration and Conciliation Act, 1996 challenging the impugned judgment and order dated 8.1.2024 passed by District Judge, Gautam Buddha Nagar.

3. That after judgment and order dated 8.1.2024 the appellants approached to Sri Manoj Kumar Advocate, High Court, Allahabad alongwith some other persons who were also aggrieved with the same cause of action in connected matter and handed over the documents to him but some of appeals have been filed by Mr. Manoj Kumar Advocate, but after some time he fallen ill Seriously and ultimately died, the appellants were not aware about death of Mr. Manoj Kumar and the appellants were in apprehension that their appeal is pending before this Hon'ble Court alongwith other person and when they enquired the matter then they found that their appeal against the judgment dated 8.1.2024 is not pending before this Hon'ble court, hence after knowing this fact they at once engaged Sri Pankaj Sharma and thereafter without any further delay the present appeal is being filed.

4. That the delay in filing the present Appeal is not deliberate rather same is bonafide and the delay was occurred due to aforementioned circumstances, and as such it is

just and expedient in the interest of justice that this Hon'ble court may be pleased to allow this application and condone the delay, in filing the present Appeal and same may be treated filed as within time, otherwise the appellants shall suffer irreparable loss and injury."

5. Learned counsel for the appellants have sought to argue that the delay in filing the appeal be condoned and the appeal be heard on merits, as the delay so occurred was beyond control and comprehension, bonafide. It is contended that post passing of the judgment and order by the court below rejecting the objection under Section 34 of the A.C. Act, 1996, the appellants along with some other persons, who were also aggrieved with the said orders in connected matters and handed over the file to one of the lawyers namely Sri Manoj Kumar, but after some time, he fell seriously ill and ultimately died and the appellants were not aware about the death of their counsel and in apprehension that their appeal is pending before the Hon'ble Court along with other persons, when they enquired, then they found that the appeal has not been filed and thereafter, they engaged the present counsel and thus, the delay be condoned.

6. Sri Pranjal Mehrotra, learned counsel for the NHAI on the other hand submits that the ground set forth in the appeal for condonation of the delay is wholly misconceived besides being out of context and only a lame excuse. It does not in any manner, whatsoever, make out a case for condoning the delay.

7. I have heard the submissions made across the Bar and perused the records.

8. Apparently, the present appeal under Section 37 of the A.C. Act, 1996 has been preferred assailing the order dated 08.01.2024 rejecting the objection under Section 34 of the A.C. Act, 1996 and against the award dated 16.05.2016 of the Arbitrator. The award came to be passed on 16.05.2016. However, the objection came to be preferred in the year 2023. Sub-Section (3) of Section 34 of the A.C. Act, 1996 reads as under:-

"*An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:*
Provided that if the Court is satisfied that the applicant was prevented by sufficient

cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter."

9. A bare look of Sub-Section (3) of Section 34 read with the proviso appended thereto would reveal that an application for setting aside the award may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award and as per the proviso, if sufficient cause prevented the objection to be filed within three months, then 30 days grace period is there.

10. Here in the present case, the delay is approximately of more than four months, thus the delay cannot be condoned. In para 14 of ***Bhimashankar Sahakari Sakkare Karkhane Niyamita Vs. Walchandnagar Industries Ltd. (Wil)*** **2023 (8) SCC 453**, the Hon'ble Apex Court has observed as under:-

"*14. Here, as already noticed in the appeals in question, the application preferred under Section 34 of the 1996 Act was after an approximate period of four years, nine months, thus, in view of the judgment in the case of Bhimashankar Sahakari Sakkare Karkhane Niyamita Vs. Walchandnagar Industries Ltd. (Wil) 2023 (8) SCC 453 the delay cannot be condoned. The Hon'ble Apex Court observed as under:- -*

"54. Now, so far as the submission on behalf of the appellant that the appellant that the Limitation Act shall not be applicable to the proceedings under the Arbitration Act is concerned, the aforesaid has no substance. Section 43(1) of the Arbitration Act specifically provides that the Limitation Act, 1963 shall apply to arbitrations as it applies to proceeding in Court. However, as observed and held by this Court in Assam UrbanÂ², the Limitation Act, 1963 shall be applicable to the matters of arbitration covered by the 1996 Act save and except to the extent its applicability has been excluded by virtue of express provision contained in Section 34(3) of the Arbitration Act.

55. In Popular Construction Co., when Section 5 of the Limitation Act was pressed into service to proceedings under Section 34 of the Arbitration Act for setting aside the arbitral award, this Court has observed that the Arbitration Act being a special law and provides a period of limitation different from that prescribed under the Limitation Act, the period of limitation prescribed under the Arbitration Act shall prevail and shall be applicable and to that d extent the Limitation Act shall be excluded. That, thereafter, it is observed and held that application challenging an award filed beyond period mentioned in Section 34(3) of the Arbitration Act would not be an application "in accordance withâ€ sub-section (3) as required under Section

34(1) of the Arbitration Act.

56. In Hindustan Construction Co., in fact this Court has emphasised the mandatory nature of limit to the extension of period provided in the proviso to Section 34(3) and has held that an application for setting aside an arbitral award under Section 34 of the Arbitration Act has to be made within time prescribed under sub-section (3) of Section 34 i.e. within three months and a further period of 30 days on sufficient cause being shown and not thereafter."

11. Further, apart from the same, the present appeal has been preferred after a period of 831 days, and the reason set forth does not inspire confidence of the Court, particularly when it cannot be said that a litigant is to be in deep slumber as he has to take the whereabouts of the status and the stage of the proceedings.

12. The Hon'ble Apex Court in ***Government of Maharashtra v. M/s Borse Brothers Engineers & Contractors Pvt. Ltd.*, AIR Online 2021 SC 152** had observed as under:-

"*61. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial 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(1A) 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.*"

13. The grounds taken for condonation of the delay do not inspire the confidence of the Court and particularly they are thoroughly insufficient so as to condone the inordinate and unexplained delay of 831 days in the background of the fact that delay is to be explained on a day-to-day basis.

14. Accordingly, the Court does not find any good ground to interfere while entertaining the present appeal while condoning the delay. Thus, the delay condonation application being misconceived is liable to be rejected and the same is **rejected**.

Order on Appeal

Since the delay condonation application has been rejected, the appeal is **dismissed**.

(Vikas Budhwar,J.)

October 12, 2026
N.S.Rathour