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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
FAO-175-2020
Date of Decision: 01.05.2025**

CHANDER KALA (SINCE DECEASED) THROUGH L.Rs. AND
ANOTHER

..... APPELLANTS

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Shiv Kumar, Advocate
for the appellants.
Mr. Sumit Gupta, Addl. Advocate General, Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

The appeal has been filed seeking modification of the award, dated 05.02.2016, passed by the Arbitrator-cum-Additional Deputy Commissioner Faridabad, enhancing the amount of compensation awarded to the appellants-claimants, and setting aside the judgment dated 22.07.2019 passed by learned Additional District Judge, Faridabad.

2. As per facts apparent on record, the appellants were co-owners in possession of the land which was acquired by the first respondent for the purpose of Eastern Peripheral Expressway (EPE) Road vide award dated 04.03.2008.

3. Feeling aggrieved, the appellants filed arbitration petition under Section 3-G, 5 and 7 of the National Highways Act, 1956 before the Arbitrator-cum-Additional Deputy Commissioner, Faridabad, for



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enhancement of compensation. The rate of acquired land was re-assessed as ₹68,63,000 per acre as on the date of publication/notification of award dated 05.02.2016. The appellants received the payment in terms thereof on 04.04.2016. Long thereafter, they filed a petition under Section 34 of the Arbitration and Conciliation Act, 1996, (for short, 'the Arbitration Act') seeking enhancement of compensation. An application for condonation of delay was also filed therewith stating that the petition could not be filed within time as they were not aware about the limitation for filing the same, and the delay being unintentional should be condoned. The petition along with the application was, however, dismissed by the Additional District Judge, Faridabad, vide impugned judgment dated 22.07.2019 by observing as under:

Applying the above proposition of law in the present case. Arbitrator-cum-Additional Deputy commissioner, Faridabad had passed the impugned award dated 5.2.2016 and perusal of the said award shows that it was announced in the presence of Ld. Counsel for the petitioners as well as Ld. Counsel for the respondents. Meaning thereby, impugned award was well within the knowledge and notice of the petitioners from the date of passing of the award. It is also not disputed by Ld. Counsel for the petitioners that petitioners had received the payment on 4.4.2016. On all counts, the award was within the knowledge and notice of the petitioners since 4.4.2016. Petitioners have filed the present petition on 8.2.2017. The petitioners could file the present petition within three months at the most from the date of receipt of payment on 4.4.2016 and the court could extend further 30 days to file the award but petitioners filed the



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present award after expiry of prescribed period as mentioned in section 34(3) of the Arbitration & Conciliation Act, 1996. Therefore, the present arbitration petition is hopelessly barred by limitation and delay in filing the award cannot be condoned.

4. Learned counsel for the appellants contended that the petition under Section 34 could not have been held to be beyond limitation as the appellants were never given signed copy of the award which is a mandatory requirement in terms of Section 31(5) of the Arbitration Act. The limitation would run only from the date of receiving the arbitral award. In support of his contention, he has relied upon the judgment rendered by the Supreme Court in *State of Maharashtra and others v. M/s Ark Builders Private Limited*, 2011(4) SCC 616.

5. Heard.

6. As apparent on record, the objection petition under Section 34 was filed by the appellants after delay of 266 days from the date of issuance of award, i.e., 05.02.2016. The only ground taken to seek condonation of delay, as recorded in the impugned order, was that they were not aware about the period of limitation for filing the objections. In view of the law settled, the prescribed period of limitation for filing objections under sub-section 3 of Section 34 of the Act is three months from the date of receiving the arbitral award which can further be extended by another thirty days on sufficient grounds being shown to the satisfaction of the Court. The petition concededly was filed much beyond the period of one hundred and twenty



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days from passing of the award, and getting payment in terms thereof on 04.04.2016. The ground for condonation of delay now canvassed, viz., not receiving a signed copy of the arbitral award, was not raised before the Additional District Judge who dismissed the application along with the petition vide impugned judgment dated 22.07.2019. The application for seeking condonation of delay before him was filed on a different ground, as already mentioned hereinbefore, which could not have been accepted keeping in view the statutory bar under Section 34(3) of the Act. Further, learned counsel for the appellants has not been able to dispute the facts recorded in the impugned judgment on the basis of any documentary evidence, and he cannot be allowed to impute the same on an altogether new ground that too without any factual basis. Also, the judgment in *M/s Ark Builders Private Limited* case (*supra*) cannot come to the petitioner's rescue since the plea of not receiving a signed copy of the award was never taken before learned Additional District Judge at the time of filing the objection petition. In view thereof, there is no error of law in the impugned judgment and the appeal accordingly stands dismissed.

01.05.2025

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**(TRIBHUVAN DAHIYA)
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*