



233+228

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision: 16.09.2025

(I) FAO-1763-2024 (O&M)

AYYUB KHAN

...Appellant(s)

VERSUS

UNION OF INDIA AND OTHERS

...Respondent(s)

(II) FAO-2984-2024 (O&M)

AYYUB KHAN

...Appellant(s)

VERSUS

UNION OF INDIA AND OTHERS

...Respondent(s)

(III) FAO-3320-2024 (O&M)

AYYUB KHAN

...Appellant(s)

VERSUS

UNION OF INDIA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Ms. Gurneet Kaur, Advocate for
Mr. Khalid Tauru, Advocate for the appellant.

Mr. Chirag Wadhwa, DAG, Haryana.

Mr. Vivek Singla, Advocate for respondent No.4.



JASGURPREET SINGH PURI, J. (Oral)

1. All the three appeals are taken up together for final disposal being similar.
2. These appeals have been filed under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as ‘the Act’) challenging the impugned order dated 31.01.2024 passed by the learned District Judge, Nuh, whereby the objections filed under Section 34 of the Act for setting aside the arbitral award have been dismissed.
3. Ms. Gurneet Kaur, Advocate has caused appearance on behalf of Mr. Khalid Tauru, Advocate for the appellant and has submitted that the arguing counsel is not available today and has prayed for an adjournment.
4. Mr. Vivek Singla, learned counsel for respondent No.4 has referred to the last order dated 25.04.2025 passed by a Coordinate Bench of this Court in FAO-1763-2024 and FAO-2984-2024, which is reproduced as under:-

“There is a written request for adjournment on behalf of learned counsel appearing for the appellant.

This Court notices that several adjournments have been sought for on behalf of the appellant.

Learned counsel appearing on behalf of respondent No.4-contesting respondent submits that since Section 34 application was barred by limitation, the learned counsel for the appellant is not addressing the arguments in the present appeal.

It is made clear that no further adjournment will be granted in the present appeal.

List on 16.09.2025.

Photocopy of this order be placed on the file of connected case.”



5. In view of the above, this Court will therefore proceed with the aforesaid cases even in the absence of the learned arguing counsel for the appellant.

6. Learned counsel for respondent No.4 submitted that in all the three appeals, similar orders have been passed as the appellant is the same person in each case and different parcels of his land were acquired for which separate awards were passed on the same date i.e. 06.01.2018. He further submitted that thereafter, the appellant filed an application under Section 34 of the Act, which was time barred and therefore, in all the three appeals, three different orders have been passed but they are exactly identical in nature and even the date on the aforesaid orders is same.

7. While adverting to the aforesaid orders, learned counsel for respondent No.4 submitted that the award was passed on 06.01.2018 and the objections under Section 34 of the Act were filed on 14.05.2018 along with an application under Section 5 of the Limitation Act seeking condonation of delay, which has also been attached with the present appeal by taking up a ground that the appellant first approached the High Court and engaged a Counsel but the said Counsel returned the documents by stating that an appeal against the award of the learned Arbitrator would not lie before the High Court and the same has to be filed before the District Court for raising objections under Section 34 of the Act. He submitted that however, no such appeal or petition etc. was filed by the appellant in the High Court at all and it was only routed through Counsel and the learned District Judge, Nuh, in all the three orders, dismissed the objections under Section 34 of the Act being time barred and also by



observing that Section 5 of the Limitation Act does not apply to Section 34 of the Act.

8. I have perused the aforesaid impugned orders dated 31.01.2024 passed by the learned District Judge, Nuh in all the three appeals.

9. The award was passed on 06.01.2018 and the objections under Section 34 of the Act were filed on 14.05.2018 in all the three cases. Along with the aforesaid objections, an application under Section 5 of the Limitation Act seeking condonation of delay was also filed by taking up a ground that a counsel at High Court was engaged but he returned the documents. Clearly the objections under Section 34 of the Act were filed beyond the period of three months plus thirty days. So far as the applicability of Section 5 of the Limitation Act is concerned, it is a settled law that Section 5 of the Limitation Act would not apply to Section 34 of the Act seeking condonation of delay.

10. Reference in this regard may be made to the law settled by Hon'ble Supreme Court in **Mahindra and Mahindra Financial Services Limited versus Maheshbhai Tinabhai Rathod and others, (2022) 4 SCC 162**. The relevant portion of the aforesaid judgment passed by Hon'ble Supreme Court is reproduced as under:-

“9. The scope available for condonation of delay being self-contained in the proviso to Section 34(3) and Section 5 of Limitation Act not being applicable has been taken note by this Court in its earlier decisions, which we may note. In Union of India vs. Popular Construction Co. it has been held as hereunder: (SCC pp.474-76, paras 12, 14 & 16)

“12. As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are “but not thereafter” used in the proviso to sub-section (3). In



our opinion, this phrase would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of Section 5 of that Act. Parliament did not need to go further. To hold that the court could entertain an application to set aside the award beyond the extended period under the proviso, would render the phrase “but not thereafter” wholly otiose. No principle of interpretation would justify such a result.

*

*

*

14. Here the history and scheme of the 1996 Act support the conclusion that the time-limit prescribed under Section 34 to challenge an award is absolute and unextendible by court under Section 5 of the Limitation Act. The Arbitration and Conciliation Bill, 1995 which preceded the 1996 Act stated as one of its main objectives the need “to minimise the supervisory role of courts in the arbitral process”. This objective has found expression in Section 5 of the Act which prescribes the extent of judicial intervention in no uncertain terms:

xxx-xxx-xxx-xxx

16. Furthermore, Section 34(1) itself provides that recourse to a court against an arbitral award may be made only by an application for setting aside such award “in accordance with” sub-section (2) and sub-section (3). Sub-section (2) relates to grounds for setting aside an award and is not relevant for our purposes. But an application filed beyond the period mentioned in Section 34, sub-section (3) would not be an application “in accordance with” that subsection. Consequently by virtue of Section 34(1), recourse to the court against an arbitral award cannot be made beyond the period prescribed. The importance of the period fixed under Section 34 is emphasised by the provisions of Section 36 which provide that

xxx-xxx-xxx-xxx



9.1 Further, in State of H.P. v. Himachal Techno Engineers, it was noted and held as hereunder: (SCC pp.211-12, paras 2 & 5)

xxx-xxx-xxx-xxx

5. Having regard to the proviso to Section 34(3) of the Act, the provisions of Section 5 of the Limitation Act, 1963 will not apply in regard to petitions under Section 34 of the Act. While Section 5 of the Limitation Act does not place any outer limit in regard to the period of delay that could be condoned, the proviso to sub-section (3) of Section 34 of the Act places a limit on the period of condonable delay by using the words “may entertain the application within a further period of thirty days, but not thereafter”. Therefore, if a petition is filed beyond the prescribed period of three months, the court has the discretion to condone the delay only to an extent of thirty days, provided sufficient cause is shown. Where a petition is filed beyond three months plus thirty days, even if sufficient cause is made out, the delay cannot be condoned.”

9.2 The same view was taken by this Court in P. Radha Bai v. P. Ashok Kumar, wherein this Court held as follows: (SCC pp.457-58, para 33)

“33.2. The proviso to Section 34 (3) enables a court to entertain an application to challenge an award after the three months’ period is expired, but only within an additional period of thirty dates, “but not thereafter”. The use of the phrase “but not thereafter” shows that the 120 days’ period is the outer boundary for challenging an award. If Section 17 were to be applied, the outer boundary for challenging an award could go beyond 120 days. This Court has consistently taken this view that the words “but not thereafter” in the proviso of Section 34(3) of the Arbitration Act are of a mandatory nature, and couched in negative terms, which leaves no room for doubt.

9.3 The observations of this Court in different decisions relating to nonapplicability of Section 5 of the Limitation Act



in condoning the delay and extending the limitation prescribed under Section 34(3) of Act 1996 was taken note of by a bench of three Hon'ble Judges of this Court with approval, in Chintels (India) Limited v. Bhayana Builders Ltd.”

xxx-xxx-xxx-xxx

11. It is not the case of the appellant that there was any issue with regard to the date on which the award was received by him and rather by filing an application under Section 5 of the Limitation Act seeking condonation of delay, the appellant admitted that he was in possession of the award. However, since the provisions of Section 5 of the Limitation Act are inapplicable to the objections under Section 34 of the Act, the learned District Judge, Nuh could not have condoned the delay for any reason.

12. Considering the aforesaid facts and circumstances, where the objections under Section 34 of the Act were clearly barred by limitation, no illegality or perversity can be found in the aforesaid impugned orders dated 31.01.2024 passed by the learned District Judge, Nuh, in all the three cases.

13. Consequently, finding no merit in the present appeals, the same are hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

16.09.2025
Chetan Thakur

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No