

**IN THE COURT OF PARAS DOGER, DISTRICT JUDGE MANDI,
DISTRICT MANDI, H.P.**

CIS Registration No. : 133 of 2025
CIS CNR No. : HPMA-01000547-2025
CMA Filing No. : 420 of 2025
Date of Filing : 18.01.2025
Date of decision : 27.04.2026

1. Sh. Dorje Angrup,
 2. Sh. Tashi Dawa,
 3. Sh. Tashi Nukhu,
- All sons of late Sh. Sonam, all R/o Village Nangabag, Tehsil
Manali, District Kullu, H.P.

...Applicants.

Versus

1. The Collector, Land Acquisition, National Highway
Authority of India, Pandoh, District Mandi, H.P.
2. The Project Director, National Highway Authority of India,
Project Implementation Unit, Mandi, Bagla, Muhalla
Chakkar, P.O. Nagchala, District Mandi, H.P.
3. The Collector Kullu, District Kullu, H.P.

...Respondents.

**APPLICATION UNDER SECTION 5 OF THE LIMITATION
ACT, 1963 FOR CONDONATION OF DELAY.**

For the Applicants : Sh. Lal Singh, Adv.
For the Respondent No.1 & 3 : Sh. Vinod Bhardwaj, Ld. DA.
For the Respondent No.2 : Ms. Sunita Verma, Ld. Adv.

ORDER

This order shall dispose of an application filed by the applicants under Section 5 of the Limitation Act (**hereinafter to be referred in short as “the Act”**) for condoning the delay in filing the objection petition under section 34 of the Arbitration and Conciliation Act, 1996.

2. It is pertinent to mention here that the present application was earlier filed before the District Judge, Kullu on 05.06.2024.

3. In brief, the facts of the present application are that the applicant has filed the accompanying application under section 34 of the Arbitration and Conciliation Act, 1996 seeking setting aside of the arbitral award dated 17.11.2023. It is submitted that after hearing the arguments, the order in the petition was reserved by the Ld. Arbitrator and the same was announced in the absence of the applicant. It is submitted that the applicant came to know about the impugned award on 12.03.2024, when he received the copy of the award. It is submitted that thereafter, the applicant consulted his counsel and some time was taken, as such, period from 12.03.2024 till date was spent by the applicant to consult his counsel, preparation and drafting the accompanying petition, hence, from the date of the receipt of the copy of award and thereafter the period spent for preparation and drafting the petition, the present application is within time and the aforesaid days are liable to be excluded and delay, if any, is liable to be condoned. The application is supported with an affidavit.

4. The application has been resisted and contested by the respondent No.2 by filing reply. In preliminary objections, it is submitted that the present application has been filed under section 5 of the Limitation Act seeking condonation of delay in filing the Arbitration Application under section 34 of the Act of 1996, which is not maintainable as it is well settled that section 5 of the Limitation Act is not applicable to condone the delay beyond the period prescribed under section 34(3) of the Act of 1996. It is submitted that the aforesaid petition filed before the District Judge, Kullu for assailing the award dated 17.11.2023 was required to be filed within the mandate period of three months in

view of the provisions contained in section 34(3) of the Act of 1996 i.e. on or before 17.02.2024, whereas, the same was filed before the District Judge, Kullu on 05.06.2024 i.e. after an inordinate delay of 110 days. It is submitted that neither the applicants have given any sufficient reason for justifying the delay caused in filing the objection so that the same could be condoned, nor the provisions of section 5 of the Act of 1963 are applicable to the proceedings under section 34 of the Act of 1996.

5. On merits, it is denied that the applicant has given sufficient reasons for seeking condonation of delay. It is submitted that no documentary evidence in the shape of postal receipt, etc. has been produced by the applicant to show that the arbitral award was received on a date other than the date on which the same had been passed. It is submitted that the applicant has neither produced any evidence in support of the contentions raised nor the delay caused by the applicant can be condoned in view of the provisions of section 34(3) of the Act of 1996 and the laws settled in the various judgments passed by the Hon'ble Supreme Court. Hence, it is prayed that the present application be dismissed.

6. I have heard Ld. Counsels for the parties and have gone through the record carefully.

7. Ld. Counsel for the respondent No.2 contended that the provisions of section 5 of Limitation Act, 1963 are not applicable to the provisions under section 34 of the Act of 1996, therefore, the present application is liable to be dismissed.

8. It is well settled that only because wrong provision was mentioned by the applicant, the same, by itself would not be a ground to hold that the application is not maintainable or that the order passed thereon would be a nullity.

9. It has been laid down by our own Hon'ble High Court in *Ishwar Singh Versus Project Director NHAI OMP(M) No. 18 of 2020 decided on 13-08-2021* that period of limitation will start running from the date of the receipt of the signed copy of the award. Section 34 (3) of the Act of 1996 provides a total period of three months for challenging the arbitral award and the Court has discretion to extend it by additional 30 days. However, the extension is only granted if the Court finds sufficient cause for such delay.

10. In the present case, the award was pronounced by the learned arbitrator on 17.11.2023 in presence of the learned counsel for the parties. The applicants have placed on record copy of covering letter qua issuance of the signed award passed by the Arbitrator -cum- Divisional Commissioner, Mandi and as per the endorsement made in the said letter, the signed copy of the award was sent to the parties on 12.03.2024. As per the averments made in the application, which are supported with an affidavit, the applicant has received the signed copy of the award on 12.03.2024 itself. Therefore, the limitation to file the application is to be reckoned from 12.03.2024 and the objection petition was to be filed on or before 12.06.2024, however, the objection petition along with application under section 5 of Limitation Act was filed before the Court of District Judge Kullu on 05.06.2024, which is within the stipulated period of limitation of three months.

11. As discussed above, the perusal of the record shows that initially the objection petition along with present application under section 5 of Limitation Act was filed before the Court of Ld. District Judge Kullu on 05.06.2024. After return of the case file to the applicant, the applicant filed the present objection petition before this Court on 18.01.2025. Though, the application filed

before the Court of Ld. District Judge, Kullu was well within stipulated period of 120 days, however, the applicant has neither filed any application before this Court for computing the period of limitation for filing objection petition under section 34 of the Act by excluding the time during which the applicant had been prosecuting with due diligence in the Court of Ld. District Judge Kullu, H.P. nor produced the copy of order passed by the Ld. District Judge Kullu, vide which, the objection petition under section 34 of the Act of 1996 was returned to the applicant for refiling the same in appropriate/before this Court, so as to enable this Court to calculate the limitation period. Perusal of the record shows, that several opportunities were granted by this Court to file the copy of the order of Ld. District Judge Kullu, but the applicant failed to take effective steps.

12. The Hon'ble Supreme Court in **Simplex Infrastructure Limited Versus Union of India (2019) 2 SCC 455** has observed that a plain reading of sub-section (3) along with the proviso to Section 34 of the 1996 Act, shows that the application for setting aside the award on the grounds mentioned in sub-section (2) of Section 34 could be made within three months and the period can only be extended for a further period of thirty days on showing sufficient cause and not thereafter. Further, the use of the words "but not thereafter" in the proviso makes it clear that the extension cannot be beyond thirty days. It has been further observed that Section 14 of the Limitation Act does not provide for a fresh period of limitation but only provides for exclusion of a certain period. Having regard to legislative intent, S.14 of the Limitation Act, 1963 would be applicable to an application submitted under section 34 of the 1996 Act for setting aside an arbitral award. Therefore, in view of the law cited supra, the present application deserves to be

dismissed as the same is not supported with any documentary evidence i.e. the order of the Ld. District Judge, Kullu so as to ascertain the period of limitation. Hence, the application is dismissed. The application due completion be consigned to Record Room.

Announced and signed in the open Court today on this 27th day of April, 2026.

(Paras Doger)
District Judge
Mandi District Mandi H.P.

'Sanjeev'