2026:CGHC:20947-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ARBA No. 46 of 2025

{Arising out of order dated 2-5-2025 passed by the Commercial Court (District Judge Level), Nava Raipur, Atal Nagar, District Raipur in Arbitration MJC No.10/2025}

1. Vijay Kumar Tejwani, S/o Shri Dilip Kumar Tejwani, aged about 44 years,

2. Ravi Tejwani, S/o Shri Dilip Kumar Tejwani, aged about 42 years,

3. Sharad Tejwani, S/o Shri Dilip Kumar Tejwani, aged about 40 years,

All above R/o House No.8/446, Near Shiv Mandir, Behind Raipur Convent School, Janta Colony, Gudhiyari, District Raipur (C.G.)

... Appellants

versus

1. State of Chhattisgarh, through Secretary, Housing and Environment Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur (C.G.)

2. Raipur Development Authority, through its Chief Executive Officer, 2nd Floor, Bhakta Mata Karma Vyavsayik Parisar, New Rajendra Nagar, Raipur, District Raipur (C.G.)

3. Chief Executive Officer, Raipur Development Authority, 2nd Floor, Bhakta Mata Karma Vyavsayik Parisar, New Rajendra Nagar, Raipur, District Raipur (C.G.)

4. Revenue Officer (Tehsildar), Raipur Development Authority, Raipur, District Raipur (C.G.)

... Respondents

For Appellants	:	Mr. Manoj Paranjpe, Senior Advocate with Mr. Kabeer Kalwani, Advocate.
For Respondent No.1	:	Mr. Rahul Tamaskar, Government Advocate.
For Respondents No.2 to 4	:	Mr. Ashish Shrivastava, Senior Advocate with Mr. Pankaj Agrawal, Advocate.

Division Bench: -
Hon'ble Shri Sanjay K. Agrawal and
Hon'ble Shri Sachin Singh Rajput, JJ.

Judgment On Board
(05/05/2026)

Sanjay K. Agrawal, J

For sake of exposition, this Judgment is divided in following parts:-

The Appeal

1. Invoking the jurisdiction of this Court under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act of 1996'), the appellants herein have preferred this appeal calling in question legality, validity and correctness of order dated 2-5-2025 passed by the Commercial Court (District Judge Level), Nava Raipur, Atal Nagar, District Raipur in Arbitration MJC No.10/2025, by which the appellants' objection application under Section 34 of the Act of 1996 has been rejected finding no merit.

2. The aforesaid challenge has been made on the following factual backdrop: -

Quintessential Facts

3. The respondent Raipur Development Authority (RDA) issued Notice Inviting Tender for allotment of commercial plots on lease for 30 years at Devendra Nagar, Raipur in which the appellants have made their offer for the said allotment and was declared as the highest bidder and in terms of the bid conditions, they deposited ₹ 24,38,000/- as the amount of earnest money/security deposit and the order of allotment of commercial plot was issued in his favour, and the appellants were further directed to deposit the remaining amount in two installments which he could not deposit leading to order of cancellation of allotment dated 20-11-2023 and forfeiture of earnest money by the competent authority of the RDA, which the appellants questioned in writ petition before this Court, however, this Court did not entertain the writ petition and reserved liberty in favour of the appellants to invoke the arbitration clause with an interim order for a limited period of 15 days.

4. The appellants approached the named Arbitrator i.e. the Chairman of the RDA invoking the arbitration clause and common award was passed and claim made by the appellants herein was dismissed holding that it has no substance.

5. The award was passed on 5-9-2024 and it was received by the appellants under Section 31(5) of the Act of 1996 on 18-9-2024 and the objection application under Section 34(1) of the Act of 1996 has to be

filed within three months therefrom and thus, the application ought to have been filed up to 18-12-2024, however, the said application was filed on 6-1-2025 with a delay of 18 days, but within the period of 30 days which is admissible under the proviso to Section 34(3) of the Act of 1996 assigning reason that the filing of arbitration application took time in consulting Advocates from this Court and thereafter Mr. Rakesh Puri, Advocate, took his own time in perusing the documents and preparing the application and as such, the delay of 18 days in filing the objection application under Section 34(1) deserves to be condoned.

Finding of the Commercial Court

6. The Commercial Court by its impugned order, rejected the application holding that though the objection application was filed with a delay of 18 days, but sufficient cause has not been shown for filing the same with delay of 18 days leading to filing of the instant appeal under Section 37 of the Act of 1996.

Submissions on behalf of the Appellants

7. Mr. Manoj Paranjpe, learned Senior Counsel appearing on behalf of the appellants herein, would submit that the Commercial Court is absolutely unjustified in construing the sufficient cause leading to rejection of application, as the appellants have shown sufficient cause for the delay of 18 days in filing the objection application which ought to have been entertained, as rules of limitation are not meant to destroy the rights of the parties and they are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. As such, the

delay of 18 days in filing the objection application be condoned and the matter be remitted to the Commercial Court for deciding the objection afresh and for setting aside the arbitral award on merits.

Submissions on behalf of the Respondent RDA

8. Mr. Ashish Shrivastava, learned Senior Counsel appearing on behalf of respondents No.2 to 4 herein/RDA, would submit that the delay of 18 days has not been properly explained. He would further submit that the delay has to be condoned, if the same is explained properly, however, in the present case, three months had already elapsed after passing and communicating the arbitral award, therefore, there was no reason for taking further 18 days in filing the objection i.e. for consulting Advocates and as such, the appeal deserves to be dismissed.

9. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the record with utmost circumspection.

Provision relating to Condonation of Delay

10. In order to consider the dispute raised at the Bar, it would be appropriate to notice Section 34(3) of the Act of 1996, which states as under: -

> "**34. Application for setting aside arbitral award**.—(1) and (2) xxx xxx xxx
>
> (3) 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.”

11. A careful reading of Section 34(3) of the Act of 1996 would show that application for setting the award has to be made within three months from the date on which the party making that application had received the arbitral award, however, the proviso to Section 34(3) carves out an exception and makes it abundantly clear that while the Court may, upon being satisfied that the applicant was prevented by sufficient cause, entertain an application filed beyond the prescribed period of three months, however, such indulgence is strictly confined to a further period of thirty days. The legislative mandate is unequivocal in that and the delay cannot be condoned beyond the additional period of 30 days (120 days + 30 days), thereby prescribing an absolute outer limit for the exercise of the Court’s discretion in condoning the delay.

12. As such, a party aggrieved by an award may raise objections for setting aside the award within a period 3 months from the date of receipt of a singed copy of the award from the arbitral tribunal subject to a further period of 30 days which may be condoned by the court if sufficient cause is shown, but not thereafter. The words “but not thereafter” in Section 34(3) of the Act of 1996 amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act. Express exclusion can also be inferred from history, scheme and objectives of the Act of

1996, one of whose main objective is to restrict judicial intervention in arbitral matters as much as possible.

13. Their Lordships of the Supreme Court in the matter of **Consolidated Engineering Enterprises v. Principal Secretary, Irrigation Department and others**[1], while dealing with Section 34(3) of the Act of 1996, have clearly held that the proviso to Section 34(3) being a specific legislation excludes applicability of general provisions contained in Section 5 of the Limitation Act and, therefore, the Court has no discretion to extend limitation beyond 30 days prescribed in proviso to Section 34(3) even if sufficient cause is shown for it, and observed as under:-

> "**20.** Section 29(2) of the Limitation Act inter alia provides that where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period of limitation prescribed by the Schedule, the provisions of Section 3 shall apply as if such period was the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 shall apply only insofar as, and to the extent, they are not expressly excluded by such special or local law. When any special statute prescribes certain period of limitation as well as provision for extension up to specified time-limit, on sufficient cause being shown, then the period of limitation prescribed under the special law shall prevail and to that extent the provisions of the Limitation Act shall stand excluded. As the intention of the legislature in enacting sub-section (3) of Section 34 of the Act is that the application for setting aside the award should be made within three months and the period can be further extended on sufficient cause being shown by another period of 30 days but not thereafter, this Court is of the opinion that the provisions of Section 5 of the Limitation Act would not be applicable because the applicability of Section 5 of the Limitation Act stands excluded because of the provisions of

1 (2008) 7 SCC 169

> Section 29(2) of the Limitation Act. However, merely because it is held that Section 5 of the Limitation Act is not applicable to an application filed under Section 34 of the Act for setting aside an award, one need not conclude that provisions of Section 14 of the Limitation Act would also not be applicable to an application submitted under Section 34 of the Act of 1996."

R.V. Raveendran, J. in his concurring judgment held as under: -

> "**53.** Sub-section (3) of Section 34 of the AC Act prescribes the period of limitation for filing an application for setting aside an award as three months from the date on which the applicant has received the arbitral award. The proviso thereto vests in the court discretion to extend the period of limitation by a further period not exceeding thirty days if the court is satisfied that the applicant was prevented by sufficient cause for not making the application within three months. The use of the words "but not thereafter" in the proviso makes it clear that even if a sufficient cause is made out for a longer extension, the extension cannot be beyond thirty days. The purpose of proviso to Section 34(3) of the AC Act is similar to that of Section 5 of the Limitation Act which also relates to extension of the period of limitation prescribed for any application or appeal. It vests a discretion in a court to extend the prescribed period of limitation if the applicant satisfies the court that he had sufficient cause for not making the application within the prescribed period. Section 5 of the Limitation Act does not place any outer limit in regard to the period of extension, whereas the proviso to sub-section (3) of Section 34 of the AC Act places a limit on the period of extension of the period of limitation. Thus the proviso to Section 34(3) of the AC Act is also a provision relating to extension of period of limitation, but differs from Section 5 of the Limitation Act, in regard to period of extension, and has the effect of excluding Section 5 alone of the Limitation Act."

14. Thereafter, the Supreme Court in the matter of **State of Himachal Pradesh and another v. Himachal Techno Engineers and another**[2] has held that if a petition is filed beyond the prescribed period of three months, the court has the discretion to condone the

2 (2010) 12 SCC 210

delay only to an extent of thirty days, provided sufficient cause is shown and where a petition is filed beyond three months plus thirty days, even if sufficient cause is made out, the delay cannot be condoned by the court. Their Lordships of the Supreme Court posed three questions for consideration and answered the same which are as under: -

> "(i) What is the date of commencement of limitation?
>
> (ii) Whether the period of three months can be counted as 90 days?
>
> (iii) Whether only three months plus twenty-eight days had expired when the petition was filed as contended by the appellant, or whether petition was filed beyond three months plus thirty days, as contended by the respondent?
>
> *Re : Question (i)*
>
> **11.** In this case, it is not disputed that though the cover containing the award was delivered to the beldar in the Office of the Executive Engineer on 10-11-2007 which was a holiday, the Executive Engineer received the award on 12-11-2007 (Monday), which was the next working day. Therefore we hold that the date of delivery of the award on a holiday (10-11-2007) could not be construed as "receipt" of the award by the appellant. The date of receipt therefore should be taken as 12-11-2007 and not 10-11-2007.
>
> **12.** Section 12 of the Limitation Act, 1963 provides for exclusion of time in legal proceedings. Sub-section (1) thereof provides that in computing the period of limitation for any application, the day from which such period is to be reckoned, shall be excluded. The applicability of Section 12 of the Limitation Act, 1963 to petitions under Section 34 of the Act is not excluded by the provisions of the Act.
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> **13.** Section 9 of the General Clauses Act, 1897 provides that in any Central Act, when the word "from" is used to refer to commencement of time, the first of the days in the period of time shall be excluded. Therefore the period of "three months from the date on which the party making that application had received the arbitral award" shall be computed from 13-11-2007.

> *Re : Question (ii)*
>
> **15.** Sub-section (3) of Section 34 of the Act and the proviso thereto significantly, do not express the periods of time mentioned therein in the same units. Sub-section (3) uses the words "three months" while prescribing the period of limitation and the proviso uses the words "thirty days" while referring to the outside limit of condonable delay. The legislature had the choice of describing the periods of time in the same units, that is, to describe the periods as "three months" and "one month" respectively or by describing the periods as "ninety days" and "thirty days" respectively. It did not do so. Therefore, the legislature did not intend that the period of three months used in sub-section (3) to be equated to 90 days, nor intended that the period of thirty days to be taken as one month.
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> **18.** Therefore when the period prescribed is three months (as contrasted from 90 days) from a specified date, the said period would expire in the third month on the date corresponding to the date upon which the period starts. As a result, depending upon the months, it may mean 90 days or 91 days or 92 days or 89 days.
>
> ***Re : Question (iii)***
>
> **19.** As the award was received by the Executive Engineer on 12-11-2007, for the purpose of calculating the three months period, the said date shall have to be excluded having regard to Section 12(1) of the Limitation Act, 1963 and Section 9 of the General Clauses Act, 1897. Consequently, the three months should be calculated from 13-11-2007 and would expire on 12-2-2008. Thirty days from 12-2-2008 under the proviso should be calculated from 13-2-2008 and, having regard to the number of days in February, would expire on 13-3-2008. Therefore the petition filed on 11-3-2008 was well in time and was not barred by limitation."

15. Thereafter, in the matter of **Haryana Urban Development Authority, Karnal v. Mehta Construction Company and another**[3], their Lordships of the Supreme Court while dealing with Section 34(3) of the Act of 1996 in an application seeking condonation

3 (2022) 5 SCC 432

of delay held that the Court had the power to condone the delay beyond the period thirty days, in terms of the proviso to sub-section (3) to Section 34 of the Act and proceeded to condone the delay of eight days in filing the objection application under Section 34(1) of the Act of 1996.

16. Similarly, in the matter of **Chintels India Limited v. Bhayana Builders Private Limited**[4], their Lordships of the Supreme Court have held that the application under Section 34(1) of the Act of 1996 itself must be within time, and if not within a period of three months, must be accompanied with an application for condonation of delay, provided it is within a further period of 30 days, this Court having made it clear that Section 5 of the Limitation Act, 1963 does not apply.

17. As such, from the aforesaid principles of law laid down by their Lordships of the Supreme Court, it is abundantly clear that the objection application for setting aside the award under Section 34(1) of the Act of 1996 has to be filed within a period of three months from the date of receiving the award under Section 31(5) of the Act of 1996 and the Court may entertain the application if sufficient cause is shown for further delay of 30 days. The legislative mandate is clear and writ large as the court dealing in Section 34(1) application cannot condone the delay beyond the period of 30 days as the word "thereafter" has been used restricting the power of court to condone the delay beyond the period of 30 days.

4 (2021) 4 SCC 602

Finding and Analysis

18. Admittedly, in this case, the arbitral award was passed on 5-9-2024 and copy of the award was received by the appellants on 18-9-2024 and three months therefrom, the objection application could not have been filed on or before 18-12-2024, but it was filed with a delay of 18 days on 6-1-2025, which the appellants sought to explain that they kept consulting with the Advocates from this Court and thereafter, it was handed-over to Mr. Rakesh Puri, Advocate, who took his own time in perusing the documents and in filing the objection application under Section 34(1) of the Act of 1996, which the Commercial Court did not accept as sufficient cause holding that it would not constitute sufficient cause within the meaning of the proviso to Section 34(3) of the Act of 1996.

19. In this regard, the decision of the Supreme Court rendered in the matter of **N. Balakrishnan v. M. Krishnamurthy**[5] may be noticed herein in which their Lordships have held that rules of limitation are not meant to destroy the right of parties and the object of providing a legal remedy is to repair the damage caused by reason of legal injury, and observed as under: -

> "**11.** Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout

5 (1998) 7 SCC 123

> up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim *interest reipublicae up sit finis litium* (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time."

Their Lordships of the Supreme Court further held that there is no presumption that delay in approaching the court is always deliberate. Their Lordships also held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice, and observed as under: -

> "**12.** A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide *Shakuntala Devi Jain* v. *Kuntal Kumari*[6] and *State of W.B.* v. *Administrator, Howrah Municipality*[7]."

20. Coming to the facts of the case in light of the principles of law laid down by their Lordships of the Supreme Court in **N. Balakrishnan** (supra), it is admittedly clear that there is delay of 18 days in filing the objection application which the appellants sought to explain that it took time in consulting the Advocate at High Court, Bilaspur and thereafter, Mr. Rakesh Puri, Advocate, was handed-over the file to peruse the documents and prepare the objection application which took time

6 AIR 1969 SC 575 : (1969) 1 SCR 1006
7 (1972) 1 SCC 366 : AIR 1972 SC 749

resulting in delay of 18 days in filing the application, which in our considered opinion would constitute sufficient cause within the meaning of Section 34(3) of the Act of 1996, as if the delay is not condoned, the appellants would suffer injustice as they had deposited huge amount for allotment of plots, in this case, ₹ 24,38,000/- and that has been forfeited, and the writ court dismissed the writ petition on the ground to invoke the arbitration clause, and the Arbitrator has also dismissed the claim of the appellants, and further, the objection application preferred under Section 34 of the Act of 1996 has also been dismissed on the ground of limitation. Thus, if delay is not condoned, it would result in substantial injustice to the appellants, as it would further foreclose his remedy. It is not the case of the respondents that the objection application has been filed for setting aside the arbitral award after the period of 120 days + 30 days, rather it has been filed within the period of 30 days and thus, the delay is condonable under the proviso to Section 34(3) of the Act of 1996. The Commercial Court dealing with such matter ought to have taken a pragmatic view of the matter, rather than too technical in rejecting the objection application for short delay of 18 days which is not inordinate and sufficient cause has been shown for the delay of 18 days in filing the objection application. As such, the Commercial Court is absolutely unjustified in rejecting the application for condonation of delay by recording a finding which is totally unacceptable and liable to be set aside.

Conclusion

21. Consequently, the delay of 18 days in filing the objection application is hereby condoned being condonable and within the period of 120 days + 30 days as provided in the proviso to Section 34(3) of the Act of 1996. The impugned order dated 2-5-2025 passed by the Commercial Court (District Judge Level), Nava Raipur, Atal Nagar, District Raipur in Arbitration MJC No.10/2025, is set aside and the matter is remitted to the file of the Commercial Court which shall consider and decide the objection application under Section 34(1) of the Act of 1996 afresh on merits expeditiously keeping in view that the dispute dates back to 22-3-2018.

22. The appeal is allowed to the extent indicated herein-above. There shall be no order as to costs.

Sd/-
(**Sanjay K. Agrawal**)
Judge

Sd/-
(**Sachin Singh Rajput**)
Judge

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