



2025:DHC:10722-DB



\$~3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 01st December, 2025

+ **FAO (COMM) 314/2025 & CM APPL. 69363/2025 & 69365/2025**

M/S OMAXE LIMITED
7, LOCAL SHOPPING COMPLEX,
KALKAJI,
NEW DELHI-110019.

.....APPELLANT

Through: Mr. Ramesh Singh, Sr. Adv. with
Ms. Mukti Bodh & Ms. Neha
Chaturvedi, Advs.

Versus

DR. MADHU GUPTA (SINCE DECEASED)
THROUGH HER LEGAL REPRESENTATIVE
MR. NITINIYA CHAUDHARY
4844/24, ANSARI ROAD,
DARYA GANJ,
NEW DELHI-110002.

.....RESPONDENT

Through: Mr. Dinesh Agnani, Sr. Adv. with
Mr. Gaurav Bahl & Mr. Rahul
Mourya, Advs. with Mr. Nitinjya
Chaudhry, AR of the respondent.

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE ANISH DAYAL



JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

1. After the award was suffered by the appellant which was in two phases, i.e. 22nd April 2019 and additional award dated 21st November 2019, proceedings under Section 34 of the Arbitration and Conciliation Act 1996 (hereinafter referred to as '*the Act*') were initiated, which were rejected *vide* impugned judgment and order dated 30th July 2025, as were barred by limitation.

2. Amongst others, a point of contention raised by the counsel for the appellant is that the additional award was dated 21st November 2019, certified copy of which was received on 2nd December 2019. The appellant reckoned the period of limitation from 2nd December 2019 instead of 21st November 2019 i.e. the date on which the additional award was pronounced; as such, there was a minor delay of 11 days which the Court in dealing with the prayer under Section 34 of the Act could have looked into, as the same seems to be covered by the *proviso to Sub-section 3 of Section 34 of the Act*.

3. According to counsel for the appellant, even if the provisions of The Limitation Act 1963 (hereinafter referred to as '*Limitation Act*') are applied or not applied, the spirit of latitude of 30 days given in the proviso to Section 34(3) of the Act is attracted.

4. As against above, the counsel appearing for the respondent has made a two-fold submission. *First*, reading of *Sub-section (3) of Section 34 of the Act* shows that the provisions of *Section 5 of the Limitation Act*



are excluded, even though *Section 43 of the Act* expressly applies the provisions of the Limitation Act to proceedings under the Arbitration Act by necessary implication.

5. *Secondly*, his contentions are that once the award was passed on 22nd April 2019, proceedings under Section 34 were rightly held to be barred by the limitation as the three months period from 22nd April 2019 stood already expired in July, prior to which no proceedings under Section 34 of the Act were initiated.

6. He would further claim that no application for condonation of delay was preferred even if the appellant indented to have the delay condoned by relying on the *proviso to Sub-section 3 of Section 34 of the Act*.

7. Having gone into the aforesaid submissions analytically, it would be inferred that neither an objection was raised by the respondent at the relevant time to have the response of the appellant on the issue of condonation of delay, as is sought to be canvassed before this Court. It appears that even when Section 34 proceedings were initiated, the office also has not raised any objection *qua* the limitation and as such, the appellant, so also the respondent, had no opportunity to place their submissions on this point of law, which was the basis of dismissal of the Section 34 petition.

8. In that view of the matter, we are of the view that the impugned judgment delivered in proceedings under Section 34 of the Act on 30th July 2025 warrants interference and as such same hereby is set aside.



9. Proceedings under Section 34 stand restored to the learned Court before whom the said proceedings were pending. Parties agree to appear before the said court on 22nd December 2025.

10. Fresh notice to the parties is dispensed with. We accept the request made by the parties that it shall be open for them on the said date to place their written submissions on record before the learned court takes up Section 34 proceedings.

11. We record an undertaking given by the counsel appearing for the appellant, on instructions, that the transfer and possession of the property in question shall be handed over to the respondent within a period of two weeks.

12. Counsel for the appellant submits that the expenses to be incurred in the matter of transferring the title for the purpose of registration, stamp duty etc. shall be communicated to the respondent within a period of one week from today; counsel for the respondent undertakes to deposit the said amount within a period of one week thereafter. The appellant, in turn, after receipt of the said amount, undertakes to execute the title deed in favour of the Legal Representatives of the respondent or their nominee(s) within a period of two weeks thereafter.

13. Needless to clarify, the amount which is already deposited by the appellant shall remain as it is (and shall carry interest), which the parties to the proceedings, based upon final determination, shall be entitled to withdraw.

14. The appeal, accordingly, stands disposed of in the above said



2025:DHC:10722-DB



terms.

15. Pending applications, if any, stand disposed of.
16. Judgment be uploaded on the website of this Court.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**ANISH DAYAL
(JUDGE)**

**DECEMBER 01, 2025
ab/ss**