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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 24.09.2026**# **CNR No. DLHC010827972025**+ **FAO (COMM) 300/2025, CM APPL. 67104/2025 & CM APPL. 19367/2026****RAVINDER KUMAR TYAGI** AppellantThrough: **Mr. Sunil Dutt Dixit & Mr. Amit Mishra, Advs.**

versus

POONAM MATHARU & ORS. RespondentsThrough: **Mr. Manoj Kumar, Adv. for R-1, 2 & 4 (through VC).****CORAM:****HON'BLE MR. JUSTICE AVNEESH JHINGAN****HON'BLE MS. JUSTICE SHAIL JAIN****AVNEESH JHINGAN, J. (ORAL)**

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') is filed against the order dated 28.08.2025 (for short 'impugned order') passed by the learned District Judge (Commercial Court) Tis Hazari Courts, Delhi (hereinafter 'the commercial court') dismissing the objections under Section 34 of the Act (hereinafter referred to as 'objections') as time-barred.

BRIEF FACTS

2. The brief facts are that a dispute relating to sale and purchase of



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a plot was referred to arbitration at the instance of Sh. Om Prakash, respondent no.4. The appellant was impleaded in the arbitration proceedings. The grievance that impleadment of the appellant was a misjoinder was rejected on 31.10.2014. The arbitration proceedings culminated in award dated 15.01.2015. The copy of the award was served to the appellant on 29.01.2015. The objections were filed before this court on 26.05.2015 and the registry on 27.05.2015 pointed out defects but neither the defects were removed nor the objections were re-filed.

2.1 On 17.05.2024, the appellant received summons from the executing court. On 06.07.2024, the appellant filed objections before the commercial court along with an application for condonation of delay. On 24.07.2024, another objection petition was filed before this court but the registry on 25.07.2024 prepared a scrutiny report and raised an issue of maintainability.

2.2 The commercial court after calling for the record from this court passed the impugned order dismissing the objections being time-barred.

SUBMISSIONS OF THE PARTIES

3. Learned counsel for the appellant contends that the commercial court erred in dismissing the application for condonation of delay. The contention is that it was not considered that the counsel through whom the objections were filed before this court on 26.05.2015 had neither communicated the status of the proceedings nor rectified the defects pointed out by the registry. The argument is that on receipt of the



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summons from the executing court on 17.05.2024 the appellant approached the earlier counsel to check the status of the objections. On return of the original case file by learned counsel on 10.06.2024, within reasonable time the objections along with an application for condonation of delay were filed before the commercial court on 06.07.2024.

3.1 It is emphasised that enhancement of the pecuniary jurisdiction of this court to rupees two crores on 26.10.2015 added to the confusion as to whether the objections were to be filed before this court or before the commercial court. The submission is that the initial filing on 26.05.2015 was not non-est and should be considered for condoning the delay.

3.2 It is canvassed that there was no arbitration agreement between the appellant and respondent no.4, it is a case of fraud and in the absence of an arbitration agreement the award cannot be enforced. The submission is that there is no limitation in a case of fraud. Reliance is placed upon the decision of the Supreme Court in *State of Uttar Pradesh & Anr. v. R.K. Pandey & Anr.* 2025 INSC 48.

3.3 The decision of the Supreme Court in *Rafiq & Anr. Vs. Munshilal & Anr.* (1981) 2 SCC 788 is pressed into service to fortify the contention that the appellant should not be made to suffer due to the conduct of the counsel.

4. *Per contra*, this court has the power to condone the delay only up to thirty days beyond the period of three months prescribed under Section 34(3) of the Act. The delay is of more than nine years and



there is no just explanation for it. The submission is that the appellant was negligent in pursuing the remedy and adopted delaying tactics to harass the other party and to keep the property in dispute in litigation.

ANALYSIS

5. Before proceedings further, it would be relevant to reproduce Section 34(3) of the Act:

“34. Application for setting aside arbitral award.

(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.”

6. Section 34(3) of the Act is unambiguous that an application under Section 34 of the Act is to be filed within three months from the date of receipt of the award. The court may upon sufficient cause being shown, entertain the application within a further period of thirty days but not thereafter. Reference in this regard be made to the following decisions of the Supreme Court:

6.1 In *P. Radha Bai & Ors. Vs. P. Ashok Kumar & Anr*, (2019) 13 SCC 445 held as under:

“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 days, "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. The phrase "but not thereafter" would be rendered redundant and otiose. 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.

6.2 In *Simplex Infrastructure Ltd. V. Union of India*, (2019) 2 SCC 455 held as under:

“18. 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. The use of the words “but not thereafter” in the proviso makes it clear that the extension cannot be beyond thirty days. Even if the benefit of Section 14 of the Limitation Act is given to the respondent, there will still be a delay of 131 days in filing the application. That is beyond the strict timelines prescribed in sub-section (3) read along with the proviso to Section 34 of the 1996 Act. The delay of 131 days cannot be condoned. To do so, as the High Court did, is to breach a clear statutory mandate.

(emphasis supplied)

7. The award was received by the appellant on 29.01.2015. The objections were filed before this court on 26.05.2015. The defects



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pointed out in scrutiny by the registry on 27.05.2015 were neither removed nor the objections were re-filed. The appellant took no steps in the matter for about nine years. On receipt of summons from the executing court in 2024, earlier objections filed were not pursued but fresh objections were filed before the commercial court along with an application for condonation of delay. Even thereafter, another fresh objection petition was filed before this court on 24.07.2024. The objection regarding maintainability raised by the registry on 25.07.2024 was not rectified and the petition was not re-filed. This court cannot condone the delay beyond thirty days. The appellant after remaining inactive for about nine years and not bringing the objections filed in 2015 to logical end cannot take advantage of the earlier filing to overcome the period of limitation for the fresh filing of objections before the commercial court in 2024.

8. The contention of the appellant that there is no limitation in a case of fraud cannot be gone into as there are no requisite pleadings of fraud in the objections. The contention that there was no arbitration agreement between the parties is an issue on merit to be considered if the objections are entertained after condoning the delay. Once the award was received by the appellant the period prescribed under Section 34(3) of the Act commenced.

9. The reliance on the decision of the Supreme Court in **R.K. Pandey & Anr.** (supra) does not advance the case of the appellant. In that case, the Supreme Court considered the validity and enforceability of arbitral awards in the context of execution



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proceedings under Section 47 of the Code of Civil Procedure, 1908. The decision does not deal with condonation of delay beyond the period prescribed under Section 34(3) of the Act.

10. Another aspect is that the original case file was returned by the earlier counsel on 10.06.2024 but the objections filed in 2015 were not even thereafter re-filed instead, fresh objections were filed before the commercial court in July 2024. Even the fresh objections filed before this court on 24.07.2024 were not pursued.

11. The contention of the learned counsel for the appellant that the initial filing dated 26.05.2015 was not a non-est filing is of no avail. It is not a case of condoning delay in re-filing but a case where the objections filed were left unattended and after more than nine years the appellant chose to file fresh objections.

12. The submission regarding enhancement of the pecuniary jurisdiction of this court on 26.10.2015 does not explain the failure of the appellant to re-file the objections after removing the defects pointed out by the registry on 27.05.2015. The change in pecuniary jurisdiction took place after the objections had already been returned for removal of defects and for nine years the appellant remained in slumber.

13. The commercial court rightly held that it had no jurisdiction to condone the delay beyond thirty days. Even otherwise, there is no reasonable explanation for condoning the delay of nine years. The Supreme Court in ***Oriental Aroma Chemical Industries Limited v. Gujarat Industrial Development Corporation & Anr.***, (2010) 5 SCC



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459 held that though a liberal approach may be adopted in considering short delays but a stricter approach is to be taken where the delay is inordinate. The relevant para of the judgement is reproduced below:

“15. The expression "sufficient cause" employed in Section 5 of the Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which subserves the ends of justice. Although, no hard-and-fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate-Collector (L.A.) v. Katiji, N. Balakrishnan v. M. Krishnamurthy and Vedabai v. Shantaram Baburao Patil.”

(emphasis supplied)

14. The reliance on the decision of the Supreme Court in ***Rafiq*** (supra) is not applicable to the facts of the present case. The appellant remained inactive for nine years after the defects were pointed out by the registry. The Supreme Court in ***Rajneesh Kumar & Anr. V. Ved Prakash***, 2024 SCC OnLine SC 3380 after considering the case of ***Rafiq*** (supra) held that negligence of the counsel by itself cannot be a ground to condone long and inordinate delay. The litigant is also required to remain vigilant about the rights and proceedings. The relevant paragraph of the judgment is reproduced below:

“10. It appears that the entire blame has been thrown on the head of the advocate who was appearing for the petitioners in the trial court. We have noticed over a period of time a tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the court. Even if we



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assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief.”

(emphasis supplied)

DECISION

15. In view of the above, no case is made out for interference under Section 37 of the Act. The appeal is dismissed.

16. Pending applications also stand dismissed.

AVNEESH JHINGAN, J

SHAIL JAIN, J

SEPTEMBER 24, 2026

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Reportable: Yes