

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9995 OF 2017
(@SLP (C) NO.1671 OF 2014)

NARENDRA KUMAR

APPELLANT

VERSUS

KISHORE KUMAR & ORS.

RESPONDENTS

O R D E R

Delay condoned.

Leave granted.

Learned counsel for the appellant appeared on first call but is absent at present. No one appears for the respondents.

We find that by the ex-parte Arbitration Award dated 06.01.2009, the sole arbitrator granted specific performance of an agreement dated 30.05.2000. Instead of challenging the award, objections were preferred, which were dismissed by an order dated 08.02.2012 in execution of this award. Thereafter, belatedly, a suit was filed in 2012 asking for a declaration that the award dated 06.01.2009 be declared void.

Under Order VII Rule 11 CPC an application was taken out by the appellant/defendant which was dismissed by the District Judge on 07.11.2012, stating that the award was "suspicious". A revision petition filed was also dismissed by the High Court by the impugned judgment dated 22.02.2013.

Learned counsel for the appellant, who has now come back,

has argued before us that the only means of challenging the award is under Section 34 of the Arbitration & Conciliation Act which provides for a stringent limitation period of three months plus one month, beyond which delay cannot be condoned. A suit which is filed long after that period has expired, would obviously not be maintainable on both courts.

We agree with the arguments of learned counsel for the appellant. As a result, the judgment under appeal is set aside and the suit is dismissed under Order VII Rule 11 of the CPC on the ground that no such suit is maintainable in the circumstances just mentioned.

The Appeal is accordingly allowed.

.....J.
[ROHINTON FALI NARIMAN]

.....J.
[SANJAY KISHAN KAUL]

New Delhi
July 28, 2017

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 1671/2014

(Arising out of impugned final judgment and order dated 22-02-2013
in CR No. 63/2013 passed by the High Court Of M.P At Jabalpur)

NARENDRA KUMAR

Petitioner(s)

VERSUS

KISHORE KUMAR & ORS.

Respondent(s)

(FOR CONDONATION OF DELAY IN FILING ON IA 1/2013
FOR CONDONATION OF DELAY IN REFILING ON IA 2/2013
FOR EXEMPTION FROM FILING O.T. ON IA 3/2014)

Date : 28-07-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE SANJAY KISHAN KAULFor Petitioner(s) Mr. Saurabh Jain, Adv.
Mr. Rameshwar Prasad Goyal, AOR

For Respondent(s) Mr. R. C. Gubrele, AOR (Not Present)

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, stands disposed of.

(RASHI GUPTA)
SENIOR PERSONAL ASSISTANT(SAROJ KUMARI GAUR)
BRANCH OFFICER

(Signed order is placed on the file)