



2026:CGHC:10217

AFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

Judgment reserved on 24/02/2026

Judgment delivered on 27/02/2026

**ARBA No. 4 of 2023**

D.K. Bhuiya S/o S.R. Bhuiya Aged About 54 Years R/o Flat No. 21,  
Kanchanapuram Apartment Ashish Nagar, Risali, Bhilai, Tehsil And District  
Durg. (Chhattisgarh)

**Appellant(s)**

**Versus**

A. K. Sinha S/o M.P. Sinha Aged About 52 Years R/o Quarter No. 210/17,  
Ashish Nagar East, Risali, Bhilai, Tehsil And District Durg. (Chhattisgarh)

**Respondent(s)**

**(Cause-title taken from Case Information System)**

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For Appellant(s) : Ms. Sweksha Sharma, Advocate

For Respondent(s) : Mr. Punit Ruparel, Advocate

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**Hon'ble Shri Bibhu Datta Guru, J**

**CAV Judgment**

1. This Appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (henceforth 'the Act, 1996') is directed against the order dated 05.11.2022 passed by the learned II Additional District Judge, Durg (C.G.) in M.J.C. Civil No. 17/2022, whereby the learned Court has

rejected the application preferred by the appellant under Section 34 of the Act, 1996 on the ground of limitation by declining to condone the delay, and consequently affirmed the arbitral award dated 18.08.2016 passed by the learned Sole Arbitrator.

2. (a) Briefly stated facts of the case are that the appellant purchased Flat No. 21 situated on the second floor of “Kanchanpuram Apartment” from the respondent/developer pursuant to an agreement dated 19.12.2007 for a total sale consideration of ₹16,50,000/-, which amount was admittedly paid through cheques. Subsequently, the said amount reached upto ₹25,00,000/- owing to interior, furniture, putti work, etc. According to the appellant, despite receipt of the entire consideration, the respondent failed to provide the promised amenities and delivered possession of a flat suffering from serious construction defects, including deficient finishing work, non-functional lift facility, etc. thereby compelling the appellant to institute Consumer Complaint No. CC/14/69 before the District Consumer Disputes Redressal Forum, Durg, on 12.03.2014 alleging deficiency in service and unfair trade practice. The District Forum, upon appreciation of the material on record, allowed the complaint vide order dated 22.08.2015 and awarded compensation of ₹4,55,000/- in favour of the appellant. In appeal preferred by the respondent, the State Commission remanded the matter for technical inspection. Thereafter, upon reconsideration and in light of the inspection report, the District Forum once again awarded compensation of the same amount of ₹4,55,000/- by order dated

19.12.2016. The respondent carried the matter in further appeal, whereupon the State Commission, vide order dated 22.04.2017, partly modified the award and reduced to ₹3,23,000/- (Rs.2,23,000/- towards compensation and Rs.1,00,000/- towards mental harassment). The respondent herein thereafter filed Revision Petition No. 1421/2017 (*Arvind Sinha @ A.K. Sinha v Dilip Kumar Bhuiyan*) before the National Commission, New Delhi, wherein the respondent herein personally appeared before the Forum and the appellant herein represented through his counsel and made a submission that the parties arrived at an amicable settlement for a sum of ₹2,23,000/-, and the proceedings were finally disposed of on 06.02.2018 in terms of the compromise, thus bringing the consumer dispute between the parties to a quietus.

(b) It is the appellant/buyer's case that notwithstanding the aforesaid proceedings, disputes purportedly arising out of the same agreement dated 19.12.2007 were referred to arbitration, and the learned Sole Arbitrator proceeded *ex parte* to pass an award dated 18.08.2016 directed the appellant/buyer to pay an amount of Rs.4,03,000/- along with interest at the rate of 18% per annum to the respondent/developer. The appellant asserts that no signed copy of the arbitral award was ever delivered to him in the manner contemplated under Section 31(5) of the Act, 1996, and that he remained unaware of the said award. According to him, knowledge of the award was acquired for the first time on 23.07.2019 during the course of execution proceedings initiated by the respondent under Section 36 of the Act in Execution Case No. 267/2017.

Immediately upon gaining such knowledge, the appellant, acting *bona fide* and within the statutory period computed from the date of knowledge, filed an application under Section 34 of the Act, 1996 on 07.09.2019, however, the said application was inadvertently filed in the pending execution proceedings instead of by way of an independent application. The application was subsequently withdrawn on 21.12.2021, and thereafter a properly constituted application under Section 34, accompanied by an application under Section 5 of the Limitation Act seeking condonation of delay explaining the *bona fide* circumstances, was instituted on 04.01.2022. The said application having been dismissed by the II Additional District Judge, Durg vide the impugned order on the ground of delay and laches. Hence, the present appeal has been preferred.

3. Learned counsel for the appellant submits that limitation under Section 34(3) commences only from the date of receipt of a signed copy of the award. In absence of proper service in terms of Section 31(5), the question of delay does not arise. The appellant had acted with due diligence immediately upon gaining knowledge of the award and had been *bona fide* in prosecuting the remedy. According to the learned counsel, the learned Court has failed to consider that a litigant prosecuting a remedy in good faith ought not to be non-suited on technical grounds. Learned counsel would submit that the learned Court has not at all appreciated the fact that copy of the award was not provided to the appellant by the arbitrator. She would submit that when

in the execution proceedings the copy of the award provided to the appellant, he immediately moved the application under Section 34. Despite the said fact and without appreciating the entire facts and circumstances of the case in its true perspective rejected the said application. The impugned order, therefore, suffers from patent illegality and misapplication of the law relating to limitation and deserves to be set aside.

4. Per contra, learned counsel for the respondent/developer would submit that the appeal is devoid of merit and is liable to be dismissed at the threshold. It is contended that the arbitral award was passed on 18.08.2016 and the statutory period prescribed under Section 34(3) of the Act, 1996 expired long ago. The application under Section 34 having been filed only on 04.01.2022 suffers from gross and inordinate delay which is beyond the period that can be condoned under the scheme of the Act. It is further submitted that Section 34(3) prescribes a strict limitation period of three months with a further grace period of thirty days, and the Court has no jurisdiction to condone delay beyond the said period. The respondent would contend that the plea of non-service of award is an afterthought and that the appellant had sufficient opportunity and knowledge of the proceedings. The earlier application filed in execution proceedings does not save limitation, nor can withdrawal of such application revive a time-barred remedy. Therefore, it is submitted that the learned Court has rightly rejected the application under Section

34 on the ground of limitation and the present appeal under Section 37 does not warrant any interference.

5. I have heard learned counsel for the parties at length and perused the material available on record.
6. The short question which arises for consideration in the present appeal is whether the learned II Additional District Judge, Durg was justified in rejecting the application preferred by the appellant under Section 34 of the Act, 1996 on the ground of limitation by holding that the delay was beyond the condonable period prescribed under Section 34(3) of the Act.
7. Section 34(3) of the Arbitration and Conciliation Act, 1996 provides that an application for setting aside an arbitral award shall not be made after the expiry of three months from the date on which the party making the application had received the arbitral award. The proviso thereto empowers the Court to entertain the application within a further period of thirty days, if sufficient cause is shown for the delay, but not thereafter. The expression “had received the arbitral award” occurring in Section 34(3) must be read in conjunction with Section 31(5) of the Act, which mandates delivery of a signed copy of the award to each party.
8. It is pertinent to mention here that when a copy of the signed award is not delivered to the party itself, it would not amount to compliance with the provisions of sub-section (5) of Section 31 of the Act, 1996. Proper compliance with section would mean delivery of a signed copy of the arbitral award on the party, which gives the right to proceed under sub-section (3) of Section 34 of the Act, 1996.

9. The *Supreme Court in the matter of Benarshi krishna Committee & Others v. Karamyogi Shelters Private Limited, (2012) 9 SCC 496* held that if copy of signed award is not delivered to party itself, it would not amount to compliance with provisions of Section 31 (5) of the Act, 1996. In the case at hand, delivery of arbitration award having not been made delivered on the party and as such in the considered opinion of this Court, the provisions of Section 31 (5) has not been complied with in its true perspective.
10. From the above decision rendered by the Supreme Court, it is crystal clear that if the copy of signed arbitral award is not delivered to party itself, it would not amount to compliance with provisions of Section 31(5) of the Arbitration and Conciliation Act, 1996 and hence limitation of three months under Section 34 (3) has to be reckoned from the date on which, the party itself received a signed copy of the award.
11. In the present case, the categorical stand of the appellant is that no signed copy of the award dated 18.08.2016 was ever delivered to him and that he acquired knowledge of the award for the first time on 23.07.2019 during the execution proceedings initiated by the respondent under Section 36 of the Act, 1996 in Execution Case No. 267/2017. The record indicates that immediately thereafter, on 07.09.2019, the appellant filed an application under Section 34, though in the pending execution proceedings. The said application was later withdrawn on 21.12.2021 and a properly constituted application under Section 34 along with an

application under Section 5 of the Limitation Act seeking condonation of delay was filed on 04.01.2022.

12. The learned II Additional District Judge, Durg, while rejecting the application, proceeded on the premise that the award was passed on 18.08.2016 and that the limitation prescribed under Section 34(3) stood exhausted long prior to the filing of the application on 04.01.2022. However, the crucial aspect which required consideration was the date of receipt of the signed copy of the award and not merely the date of pronouncement of the award. In absence of a finding, based on cogent material, that the signed copy of the award was duly delivered to the appellant in terms of Section 31(5), computation of limitation from the date of the award itself would not be in consonance with the statutory scheme.
13. Further, the conduct of the appellant in filing an application under Section 34 soon after acquiring knowledge of the award cannot be lightly brushed aside. Merely because the said application was filed in the execution proceedings instead of as an independent petition, the same would not *ipso facto* render the prosecution *mala fide*. The question whether the appellant was *bona fide* prosecuting the remedy and whether such prosecution would have any bearing on limitation required a considered determination. The approach adopted while rejecting the application appears to have been hyper-technical, without advertent to the explanation furnished by the appellant regarding non-

service of the award and the circumstances leading to the filing and withdrawal of the earlier application.

14. At the same time, it cannot be lost sight of that Section 34(3) prescribes a strict timeline and the Court has no jurisdiction to condone delay beyond the aggregate period of three months and thirty days from the date of receipt of the award. Therefore, the foundational issue as to when and in what manner the award was served assumes pivotal significance. In absence of a clear finding on service in terms of Section 31(5), rejection of the application solely on the basis of the date of the award would not be legally sustainable.
15. In view of the aforesaid discussion, the impugned order dated 05.11.2022 passed in M.J.C. Civil No. 17/2022 cannot be sustained and accordingly the same is hereby set aside. The matter is remitted to the learned II Additional District Judge, Durg for fresh consideration of the application under Section 34 of the Act, 1996 filed by the appellant/buyer, in accordance with law and on its own merits without insisting on the question of delay.
16. Consequently, the appeal is allowed to the extent indicated above, leaving the parties to bear their own cost(s).

**Sd/-**  
**(Bibhu Datta Guru)**  
**Judge**

**HEAD NOTE**

If the copy of signed arbitral award is not delivered to party itself, it would not amount to compliance with provisions of S. 31(5) of the Arbitration and Conciliation Act, 1996 and hence limitation of three months u/S 34 (3) has to be reckoned from the date on which, the party itself received a signed copy of the award.