

M/S. Rish Prabhat Vs. Delhi Development Authority

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Court : Delhi

Decided On : Feb-02-1994

Reported in : AIR1995Delhi9

Judge : J.K. Mehra, J.

Acts : [Limitation Act, 1963](#) - Sections 5; [Arbitration Act, 1940](#) - Sections 30

Appeal No. : I.A. No. 7687 of 1993 and Suit No. 3914 of 1992

Appellant : M/S. Rish Prabhat

Respondent : Delhi Development Authority

Advocate for Def. : V.K. Sharma, Adv.

Advocate for Pet/Ap. : C. Somasekharan with; S.K. Chandwani, Advs

Judgement :

ORDER

1. This is an application under S. 5 of the Limitation Act whereby the respondents have sought condensation of delay in filing objections to the award of the sole arbitrator, Shri R. C. Malhotra dated 29-9-1992. The objection petition is registered as I.A. No. 7764/93.

2. I have heard both the parties and have also been taken through the record of this case by both the counsel. In application, it is alleged that the respondents were

served with the notice of the filing of the award on 27th March, 1993. The objections to the award were filed on 25th August, 1993 i.e. about four months of the service of notice. The applicant-objector has set out in para 2 of the application various dates when the file of this case was traveling from one desk to the other. Such consideration of file appears to have been taken up soon after the award even before the service of notice, which means that respondents has had four months time to consider their stand on the award. Finally the file was brought on 19th July, 1993 by the J. F.. to counsel who wanted the Executive Engineer concerned to discuss the matter. Accordingly the file was brought back to the counsel only on 16th August, 1993 where after the objections were prepared and filed on 25th August, 1993. Even assuming the dates mentioned in para 2 to be correct, I am not satisfied that the respondent has acted with dispatch and has been able to explain the delay from 26th April, 1993 when according to the applicants the time ran out. No Explanationn even of movement of file is available on record between 19th July, 1993 and 16th August, 1993. But the statements contained in the application are believed by the facts on record.

3. On checking up the records, I find that the respondent had been served with notice of filing the award on 3rd March, 1993 and not on 27th March, 1993 as is alleged. Even inspection of the record was taken by the Law Officer of the respondent on 9th March, 1993. thereforee, 30 days time has to be computed from 3rd March, 1993 and not from 27th March, 1993. thereforee, the last date for filing the objections was 2nd April, 1993 and not 26th April, 1993 as has been alleged in the application under consideration. Thus the applicant must explain the delay after 2nd April and not 26th April, 1993. No Explanationn whatsoever is available for the delay between 2nd April and 26th April, 1993. No Explanationn is required about the time taken up to 2nd April, 1993 when the time for filing the objections ran out. I find from the application that on 30th March, 1993, the file was forwarded to the Legal Assistant, whocannot be said to be unaware of the limitation for filing the objections. Thereafter the file went to Deputy Chief Legal Adviser-and the Chief Legal Adviser on 3rd May, 1993 and 4th May, 1993 respectively who also cannot be said to be unaware of the limitation for filing the objections. Still no immediate action was taken.

4. To obtain extension of time by invoking the provisions of S.5 of the Limitation Act, the party seeking extension has to satisfy the Court that he had Sufficient cause for not filing the objections within the prescribed time. From the facts stated above Lam not satisfied that the respondent/applicant has established that it has sufficient cause for not filing the objections within time. In fact, a reading of the allegations in the application tells a tale of neglect, lethargy and scant regard for complying with the provisions of law.

5. Before concluding, I must express displeasure and disapproval in strongest terms the incorrect statement of facts in the application regarding the date of service of notice. The possibility of Court falling into error if the record had not been checked regarding the date of service of notice of filing the award, could not be ruled out. No Explanationn has been offered for such misstatement of facts. Such wrong statement of facts for which no Explanationn is offered or forthcoming on the record by itself also inter alias disentitles the applicant-respondent to the relief sought in the facts and circumstances of the present case.

6. In the light of the above discussion this application is dismissed with no order as to costs.

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7. The objections of the respondents are dismissed as being time-barred.

Suit No. 3914/92

8. Objections to the award have alreadybeen dismissed as time-barred. In the circumstances, the award dated 29-9-1992 made by Shri R. C. Malhotra, the Arbitrator, is made a rule of the Court. Let a decree be drawn up. The award shall form a part of the decree.The decree-holder shall also be entitled to future interest from the date of the decree till realisation at the same rate which has been awarded by the arbitrator.

9. Order accordingly.