RESERVED ON 29TH JULY 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 05TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

MISCELLANEOUS FIRST APPEAL NO. 3756 OF 2026 (AA)

BETWEEN:

1. NATIONAL HIGHWAYS AUTHORITY OF INDIA
PROJECT IMPLEMENTATION
UNIT (PIU) - MYSURU
NO.609, SRI CHAMUNDESHWARI
RAILWAY LAYOUT
SHYADANAHALLI VILLAGE
MYSURU TALUK
AND DISTRICT -570 003

REPRESENTED BY ITS
GENERAL MANAGER (TECH.) AND
PROJECT DIRECTOR
EARLIER KNOWN AS
PROJECT IMPLEMENTATION UNIT
- RAMANAGARA
EARLIER HAVING OFFICE AT:
BASAVANAPURA
(RAMADEVARAPADA)
RAMANAGARA - 562 128
REPRESENTED BEFORE
THE DISTRICT COURT BY ITS:
DEPUTY GENERAL MANAGER
(TECH.) AND PROJECT DIRECTOR

2. THE SPECIAL LAND ACQUISITION OFFICER
AND COMPETENT AUTHORITY
NH-275 (BANGALORE-MYSORE DIVISION)

NATIONAL HIGHWAYS
AUTHORITY OF INDIA
HAVING OFFICE AT NO.106
GROUND FLOOR
KANDAYA BHAVAN
RAMANAGARA - 562 159
EARLIER HAVING OFFICE AT:
OLD MUNICIPAL OFFICE
1ST FLOOR, MAHAVEERA CIRCLE
MANDYA - 571 401

...APPELLANTS

(BY SMT. SRUTI CHAGANTI, ADVOCATE)

AND:

1. THE SPECIAL DEPUTY COMMISSIONER - 3
AND ARBITRATOR
BANGABRE URBAN DISTRICT
BANGALORE - 560 009

2. C. PRAMOD
S/O C. GOPALAN
AGED ABOUT 50 YEARS
RESIDING AT NO. 153
5TH CROSS, SIDDAPURA
JAYANAGARA 1ST BLOCK
BANGALORE - 560 011

...RESPONDENTS

(SRI K.N. PHANINDRA, SENIOR COUNSEL FOR
SMT. KRUTIKA RAGHAVAN, ADVOCATE FOR C/R-2)

THIS MFA IS FILED UNDER SECTION 37(1)(C) OF THE ARBITRATION AND CONCILIATION ACT, 1996 PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 13.02.2026 PASSED BY THE LEARNED PRINCIPAL DISTRICT AND SESSIONS JUDGE, BENGALURU RURAL, AT BENGALURU, IN A.P.NO.42/2024, PRODUCED HEREWITH AS ANNEXURE - A & ETC.

THIS APPEAL, HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

C.A.V. JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellants have filed the present appeal under Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 [**A&C Act**] impugning an order dated 13.02.2026 [**impugned order**] passed by the Principal District and Sessions Judge, Bengaluru Rural District, Bengaluru [**District Court**] in A.P.No.42/2024. The appellants had filed the said petition under Section 34 of the A&C Act seeking setting aside of the arbitral award dated 01.12.2023 [**impugned award**] passed by respondent No.1 [**Arbitral Tribunal**] pursuant to an application filed under Section 3G(5) of the National Highways Act, 1956 [**NH Act**].

2. The dispute relates to the compensation payable for the land measuring 1398 sq. mtrs. comprising in Survey Nos.42/2 and 179/1 of Kumbalagodu Village, Kengeri Hobli, Bengaluru South Taluk, Bengaluru Urban District [**subject land**], which was acquired for upgradation/widening of NH-275 (Bengaluru-Mysuru Division).

3. The subject land belonged to respondent No.2 (the land owner). The preliminary notification dated 02.02.2016 under Section 3-A(1) of the NH Act was issued for acquisition of, *inter alia,* the subject land and was published in the requisite newspapers on 23.02.2016. The final notification under Section 3-D(1) of the NH Act was issued on 04.10.2016. Appellant No.2 [**SLAO**] passed the award on 05.01.2017 in respect of the subject land. The SLAO determined the market value of dry agricultural land abutting the Bengaluru-Mysuru Road, other than the land falling in Survey No.30, at ₹3,50,00,000/- (Rupees Three Crore and Fifty Lakh only) per acre (₹8,646/- per sq. mtr.). The compensation of the subject land was determined at ₹4,07,92,483/-, which included ₹29,66,386/- as compensation for structures; compensation of ₹1,36,400/- for *malkis* in Survey No.42/2; and compensation of ₹71,240/- for *malkis* in Survey No.179/1.

4. Respondent No.2, being dissatisfied with the compensation, filed an application under Section 3G(5) of the NH Act before the Arbitral Tribunal. The said proceedings culminated in the arbitral award dated 08.07.2021. The same was successfully challenged before the learned District Court in A.P No.10/2022 filed by the

appellants under Section 34 of the A&C Act. By order dated 22.11.2022, the learned District Court set aside the arbitral award dated 08.07.2021 rendered by the Arbitral Tribunal and remanded the matter for consideration afresh.

5. Thereafter, the Arbitral Tribunal delivered the impugned award on 01.12.2023 determining the compensation for the subject land on the basis of the Guideline Value Notification dated 28.03.2016. Under the said notification, the value of ₹19,380/- per sq. mtr. was indicated for Kumbalagodu Industrial Area. The Arbitral Tribunal noted that the subject land was converted for industrial use prior to the issuance of preliminary notification under Section 3-A(1) of the NH Act. The impugned award was received by the appellants on 08.12.2023. Thereafter, on 09.05.2024, the appellants filed an application under Section 33 of the A&C Act contending that the impugned award was erroneous inasmuch as it proceeded on the basis that the subject land was fully developed land. The appellants contended that the subject land was undeveloped and, therefore, the compensation was required to be determined on the basis of guideline value of agricultural land, as enhanced by 55%.

6. The Arbitral Tribunal rejected the application filed under Section 33 of the A&C Act by a communication dated 13.06.2024. The Arbitral Tribunal held that the enhanced compensation was rightly awarded after hearing the contentions of the parties on the basis of the available records. After observing the above, the Arbitral Tribunal dismissed the application under Section 33 of the A&C Act as it was not filed within the prescribed period of limitation.

7. Aggrieved by the same, the appellants filed a petition under Section 34 of the A&C Act (A.P.No.42/2024) seeking setting aside of the impugned award. The appellants also impugned the order dated 13.06.2024 passed by the Arbitral Tribunal rejecting the appellants' application under Section 33 of the A&C Act.

8. Before the learned District Court, the appellants contended that the impugned award and the order rejecting the application under Section 33 of the A&C Act are vitiated by patent illegality. It was contended that the Arbitral Tribunal had erred in adopting the Guideline Value Notification dated 28.03.2016 as the same was issued after the issuance of the preliminary notification on 02.02.2016. It was also contended that the subject land was not fully developed.

9. The learned District Court held that the matter had already once being remanded to the Arbitral Tribunal and could not be re-referred, and observed that the impugned award was properly passed by giving the benefits as required and on the basis of valuation based on the documents on record. It found that the impugned award was not vitiated by patent illegality and was not opposed to public policy within the meaning of Section 34(2)(b)(ii) of the A&C Act. Accordingly, by the impugned order, the learned District Court dismissed A.P.No.42/2024 and confirmed the impugned award.

10. Ms. Shruti Chaganti, learned counsel appearing for the appellants contended that the Arbitral Tribunal erred in rejecting the application under Section 33 of the A&C Act on the ground of limitation. She submitted that although the application was beyond the stipulated period of 30 days provided for making the said application, the appellants had also filed an application seeking condonation of delay under Section 5 of the Limitation Act, 1963 [**Limitation Act**] which was not considered by the Arbitral Tribunal.

11. She referred to Section 2(4) of the A&C Act and contended that the provisions of Part I of the A&C Act were not applicable to statutory arbitrations in the event there was any inconsistency

between the provisions of Part I of the A&C Act and the statutory enactment (in this case NH Act). She contended that Section 43 of the A&C Act was not applicable to statutory arbitrations. She contended that in the circumstances, a question would arise whether the provisions of Section 29(2) of the Limitation Act are applicable to the arbitration proceedings under the NH Act. She submitted that the Arbitral Tribunal constituted under the NH Act performed judicial functions and, therefore, the provisions of Limitation Act and Section 29(2) of the Limitation Act would apply. She argued that since there was no provision which expressly excluded the applicability of Sections 4 to 24 of the Limitation Act, the same would be applicable as well.

12. She referred to the decision of the Supreme Court in **Union of India vs. Popular Construction Co.**[1] and, on the strength of the observations made in the said decision submitted that merely providing the period of limitation under Section 34 of the A&C Act would not be sufficient to exclude Sections 4 to 24 of the Limitation Act. However, since there was an express bar for condoning the delay beyond the period of 30 days under the proviso to Section

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[1] (2001) 8 SCC 470

34(3) of the A&C Act, the applicability of Section 5 of the Limitation Act was excluded.

13. Next, she referred to the decision of the Supreme Court in **Government of Maharashtra (Water Resources Department) Represented by Executive Engineer vs. Borse Brothers Engineers and Contractors Private Limited**[2] and submitted that the Supreme Court had overruled an earlier decision in **N.V. International vs. State of Assam**[3]. In the said decision, it was held that any delay in filing an appeal under Section 37 of the A&C Act could not be condoned beyond the period of 30 days as stipulated under the proviso to Section 34(3) of the A&C Act. The said view was overruled, as the Supreme Court found that application of Section 5 of the Limitation Act was not excluded by the scheme of the Commercial Courts Act, 2015. Accordingly, the court could condone the delay in filing an appeal under Section 37 of the A&C Act if sufficient cause was established.

14. She referred to the decision of the Supreme Court in **North Delhi Municipal Corporation vs. S.A. Builders Limited**[4] wherein

[2] (2021) 6 SCC 460
[3] (2020) 2 SCC 109
[4] (2025) 7 SCC 132

the Supreme Court had held that a period of 30 days as provided under Section 33(1) of the A&C Act is not inflexible as the same can be extended if the parties agree. She contended that the scope of any agreement between the parties for extending the period of limitation was excluded as arbitration under the NH Act was a statutory arbitration. Thus, parties did not have the flexibility of entering into any agreement to vary the period within which an application under Section 33 of the A&C Act could be filed or decided. She submitted that thus, instead of extension of time by an agreement between the parties, the provisions of Limitation Act could be invoked seeking condonation of delay in filing an application under Section 33 of the A&C Act.

15. She further argued that under Section 3G(5) of the NH Act, the Arbitral Tribunal functioned as a reference court. She submitted that since the issue revolved around the compensation for land losers, the period of limitation could not be considered as sacrosanct. She referred to the recent decision of the Supreme Court in **Deputy Commissioner and Special Land Acquisition Officer vs. S.V.Global Mill Limited**[5], wherein the Supreme Court had held that Section 74 of the Right to Fair Compensation and

[5] 2026 SCC OnLine SC 171

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 did not exclude Sections 4 to 24 of the Limitation Act. Thus, any delay in filing the application under Section 33 of the A&C Act could also be condoned.

16. Mr. K.N.Phanindra, learned Senior Counsel appearing for respondent No.2 countered the aforesaid submissions. He referred to the decision of the Delhi High Court in **Tantia Construction Limited vs. Ircon International Ltd.**[6], **Vidhur Bhardwaj vs. Horizon Crest India Real Estate and Others**[7] and **Schokhi Industrials Pvt. Ltd. vs. Maharashtra State Power Generation Co. Ltd.**[8] and contended that the delay in filing an application under Section 33 of the A&C Act cannot be condoned. He also submitted that if the same is accepted, an application under Section 33 of the A&C Act would be filed as a tactical move to extend the period of limitation as provided under Section 34(3) of the A&C Act. He also referred to the decision of the Delhi High Court in **CMI Limited vs. Bharat Sanchar Nigam Ltd. and Another**[9] and a decision of the Supreme Court in **National**

[6] 2021 SCC OnLine Del 2640
[7] 2022 SCC OnLine Del 3829
[8] 2019 SCC OnLine Bom 1513
[9] 2010:DHC:3342

Highway Authority of India vs. T.Younis and Another[10] in support of the said contention.

REASONS AND CONCLUSIONS

17. At the outset, we may note that although the appellants have based their case entirely on the question whether Section 5 of the Limitation Act would be applicable to an application under Section 33 of the A&C Act, the said decision on the said issue is not dispositive of the appeal in the given facts.

18. The learned Arbitral Tribunal had rejected the appellants' application under Section 33 of the A&C Act on merits as well as on the ground that it was filed beyond the period stipulated for filing the said application. This is evident from the following observations made by the learned Arbitral Tribunal in the communication dated 13.06.2024 rejecting the appellants application under Section 33 of the A&C Act:

> "On examination of the case records, it is found that the enhanced compensation was rightly awarded through Arbitration after hearing the contentions of the claimant and the respondents and on the basis of the records available."

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[10] 2026 SCC OnLine SC 1060

19. The learned District Court had also found that the impugned award was neither opposed to public policy nor vitiated by patent illegality.

20. Having stated the above, we also find no merit in the appellants' contention that the petition A.P.No.42/2024 to set aside the impugned award was filed within the period of limitation as provided under Section 34(3) of the A&C Act. The application filed by the appellants under Section 33 of the A&C Act was filed on 09.05.2024, which was beyond the period of three months from the receipt of the impugned award and thus, the time for filing the petition under Section 34 of the A&C Act to set aside an award had already expired. Further, the period of 30 days that could be condoned under the proviso to Section 34(3) of the A&C Act had expired as well.

21. At this stage, it would be relevant to refer to Section 33 of the A&C Act which reads as under:

> "**33. Correction and interpretation of award; additional award. -** (1) Within thirty days from the receipt of the arbitral award, unless another period of time has been agreed upon by the parties-
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> (a) a party, with notice to the other party, may request the arbitral tribunal to correct any computation errors, any clerical or

typographical errors or any other errors of a similar nature occurring in the award;

(b) if so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

(2) If the arbitral tribunal considers the request made under sub-section (1) to be justified, it shall make the correction or give the interpretation within thirty days from the receipt of the request and the interpretation shall form part of the arbitral award.

(3) The arbitral tribunal may correct any error of the type referred to in clause (a) of sub-section (1), on its own initiative, within thirty days from the date of the arbitral award.

(4) Unless otherwise agreed by the parties, a party with notice to the other party, may request, within thirty days from the receipt of the arbitral award, the arbitral tribunal to make an additional arbitral award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

(5) If the arbitral tribunal considers the request made under sub-section (4) to be justified, it shall make the additional arbitral award within sixty days from the receipt of such request.

(6) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, give an interpretation or make an additional arbitral award under sub-section (2) or sub-section (5).

(7) Section 31 shall apply to a correction or interpretation of the arbitral award or to an additional arbitral award made under this section."

22. As is apparent from plain reading of Section 33(1) of the A&C Act, an application under Section 33 of the A&C Act can be made

within a period of 30 days from the receipt of the arbitral award unless the parties have agreed for another period of time. It is also important to note that an application under Section 33(1)(a) of the A&C Act is confined to seeking correction of any computation errors, clerical or typographical errors or any other errors of a similar nature.

23. It is apparent that the application filed by the appellants did not fall within the confines of Section 33(1)(a) of the A&C Act. According to the appellants, the subject land is not developed land. Therefore, the same could not be valued on the said basis. According to the appellants, the subject land was to be valued on the basis that they were undeveloped industrial land by enhancing the rate for dry agricultural land by 55%. Admittedly, this was the subject matter of dispute before the learned Arbitral Tribunal. In the aforesaid backdrop, the net effect of the appellants' contention is that although the time for filing an application to set aside an arbitral award is over and the delay in doing so cannot be condoned, it would be open for a party to file a belated and an incompetent application under Section 33 of the A&C Act and revive the period of limitation for challenging the award which had since expired. In our view, the said contention is flawed.

24. We may briefly examine the time periods stipulated under Section 33 of the A&C Act. An application under Sub-section(1) of Section 33 of the A&C Act can be made within a period of 30 (thirty) days from the date of receipt of the arbitral award unless another period of time has been agreed between the parties. The said condition makes it explicit that the time period of 30 days within which an application can be made under Section 33 of the A&C Act cannot be extended unless the parties have agreed for another period of time.

25. Under Sub-section (2) of Section 33 of the A&C Act, if the arbitral tribunal finds the request made under Sub-section (1) to be justified, it shall make the correction or give the interpretation within thirty days from the receipt of the request.

26. Under Sub-section (3), the Arbitral Tribunal may, on its own initiative, correct any computational, clerical or typographical error, or any other error of a similar nature, within a period of thirty days from the date of the arbitral award.

27. Under Sub-section (4) of Section 33 of the A&C Act, a party can within thirty days of the receipt of the arbitral award make a request for an additional award as to any claim that may have been

omitted. This period of thirty days is also subject to the parties not agreeing otherwise. In other words, the parties can by agreement vary the period within which an application for an additional award can be made under Sub-section (4) of Section 33 of the A&C Act. If the arbitral tribunal finds the request for an additional award under Sub-section (4) to be justified, it has to make the additional arbitral award within 60 (sixty) days from the receipt of such request.

28. It is important to note that in terms of Sub-section (6) of Section 33 of the A&C Act, the arbitral tribunal can extend the time within which to make a correction or give an interpretation under Section 33(2) or to make an additional award under Section 33(5) of the A&C Act.

29. The legislative scheme is quite clear, it expressly provides that the time as stipulated for certain acts as specified under Section 33 of the A&C Act could be extended. But there is no provision for extending the period in certain other events. Thus, wherever the legislative intent was to permit extension of time under Section 33 of the A&C Act, the same has been specifically provided. It follows that where there is no provision for extension of time, the period cannot be extended.

30. There is no provision, whereby the Arbitral Tribunal could *suo motu* correct the award under Section 33(3) of the A&C Act beyond the period of thirty days from the date of the award. It is also relevant to note that the period specified runs from the date of the award and not from the date of delivery or receipt of the award by the parties.

31. We may also refer to Section 29(2) of the Limitation Act, which is set out below:

> "(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law."

32. Section 29(2) of the Limitation Act expressly provides that Sections 4 to 24 of the Limitation Act would apply only in so far as, and to the extent to which, they are not expressly excluded by the special or local law.

33. In **Hukumdev Narain Yadav v. Lalit Narain Mishra**[11], the Supreme Court had explained that, if on an examination of the relevant provisions, it is clear that the provisions of Limitation Act are necessarily excluded then, the said provisions would not apply. The court had further explained that the court could examine the nature of the subject matter in the scheme of the Special Law to ascertain whether the provisions of Sections 4 to 24 of the Limitation Act were excluded. The observations made by the Supreme Court are set out below:

> "17. Though Section 29(2) of the Limitation Act has been made applicable to appeals both under the Act as well as under the Code of Criminal Procedure, no case has been brought to our notice where Section 29(2) has been made applicable to an election petition filed under Section 81 of the Act by virtue of which either Sections 4, 5 or 12 of the Limitation Act has been attracted. Even assuming that where a period of limitation has not been fixed for election petitions in the Schedule to the Limitation Act which is different from that fixed under Section 81 of the Act, Section 29(2) would be attracted, and what we have to determine is whether the provisions of this Section are expressly excluded in the case of an election petition. It is contended before us that the words "expressly excluded" would mean that there must be an express reference made in the special or local law to the specific provisions of the Limitation Act of which the operation is to be excluded. As usual the meaning given in the Dictionary has been relied upon, **but what we have to see is whether the scheme of the special law, that is in this case the Act, and the**

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[11] (1974) 2 SCC 133

nature of the remedy provided therein are such that the Legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If on an examination of the relevant provisions it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act. In our view, even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the Court to examine whether and to what extent the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation. The provisions of Section 3 of the Limitation Act that a suit instituted, appeal preferred and application made after the prescribed period shall be dismissed are provided for in Section 86 of the Act which gives a peremptory command that the High Court shall dismiss an election petition which does not comply with the provisions of Sections 81, 82 or 117. It will be seen that Section 81 is not the only Section mentioned in Section 86, and if the Limitation Act were to apply to an election petition under Section 81 it should equally apply to Sections 82 and 117 because under Section 86 the High Court cannot say that by an application of Section 5 of the Limitation Act, Section 81 is complied with while no such benefit is available in dismissing an application for non-compliance with the provisions of Sections 82 and 117 of the Act, or alternatively if the provisions of the Limitation Act do not apply to Section 82 and Section 117 of the Act, it cannot be said that they apply to Section 81. Again Section 6 of the Limitation Act which provides for the extension of the period of limitation till after the disability in the case of a person who is either a minor or insane or an idiot is inapplicable to an election petition. Similarly, Sections 7 to 24 are in terms inapplicable to the proceedings under the Act, particularly in respect of the filing of election petitions and their trial.

[emphasis added]

34. If we examine the scheme of Section 33 of the A&C Act in the context of Section 34 of the A&C Act, it is at once clear that the provisions of Section 5 of the Limitation Act are wholly inapplicable to Section 33 of the A&C Act. The period within which an application to set aside an arbitral award can be made is inflexible. The application may be made within a period of three months from the date of the receipt of the arbitral award. In terms of the proviso to Section 34(3) of the A&C Act, this period can be extended but not beyond a period of 30 (thirty) days. The period within which an application to set aside an award can be made begins from the date the copy of the arbitral award is received.

35. Section 33 of the A&C Act provides the extent and manner in which the award can be corrected or interpreted and the time frame within which such correction can be made. The application for correction under clause (a) of Section 33(1) or for an interpretation under clause (b) of Section 33(1) of the A&C Act can be made within a period of thirty days from the receipt of the award and such correction or further interpretation, if made or given, would form a part of the arbitral award. Under Section 33(4) of the A&C Act, an additional award may be made.

36. In conformity with the above, Section 34(3) of the A&C Act also provides that, where a request has been made under Section 33 of the A&C Act, an application for setting aside the award may be made within a period of three months from the date on which the said request has been disposed of by the Arbitral Tribunal. It is material to note that the time for filing an application to set aside an arbitral award is not extended on account of the arbitral tribunal *suo motu* correcting the arbitral award under Section 33(3) of the A&C Act.

37. The context in which an inflexible time period for preferring an application for setting aside an arbitral award, is provided, was noted by the Supreme Court in **Popular Construction Co**. (*supra*) We consider it apposite to refer to the following extract from the said decision:

> "14. Here the history and scheme of the 1996 Act support the conclusion that the time limit prescribed under Section 34 to challenge an Award is absolute and unextendible by Court under Section 5 of the Limitation Act. The Arbitration and Conciliation Bill, 1995 which preceded the 1996 Act stated as one of its main objectives the need "to minimise the supervisory role of courts in the arbitral process". This objective has found expression in Section 5 of the Act which prescribes the extent of judicial intervention in no uncertain terms :
>
> > "5. Extent of judicial intervention. - Notwithstanding anything contained in

> any other law for the time being in force, in matter governed by this Part, no judicial authority shall intervene except where so provided in this Part."

15. The 'Part' referred to in Section 5 is Part I of the 1996 Act which deals with domestic arbitrations. Section 34 is contained in Part I and is therefore subject to the sweep of the prohibition contained in Section 5 of the 1996 Act.

16. Furthermore, section 34(1) itself provides that recourse to a court against an arbitral award may be made only by an application for setting aside such award "in accordance with" sub Section (2) and sub Section (3). Sub Section (2) relates to grounds for setting aside an award and is not relevant for our purposes. But an application filed beyond the period mentioned in Section 34, sub section (3) would not be an application "in accordance with" that sub section. Consequently by virtue of Section 34 (1), recourse to the court against an arbitral award cannot be made beyond the period prescribed. The importance of the period fixed under Section 34 is emphasised by the provisions of Section 36 which provide that

> "where the time for making an application to set aside the arbitral award under Section 34 has expired.......the award shall be enforced and the Code of Civil Procedure, 1908 in the same manner as if it were a decree of a court".

This is a significant departure from the provisions of the Arbitration Act, 1940. Under the 1940 Act, after the time to set aside the award expired, the court was required to "proceed to pronounce judgment according to the award and upon the judgment so pronounced a decree shall follow" (Section 17). Now the consequence of the time expiring under Section 34 of the 1996 Act is that the award becomes immediately enforceable without any further act of the Court. If there were any residual doubt on the interpretation of the

> language used in Section 34, the scheme of the 1996 Act would resolve the issue in favour of curtailment of the Court's powers by the exclusion of the operation of Section 5 of the Limitation Act."

38. The scheme of the time period as provided under Section 33 of the A&C Act has to be read in conjunction with the provisions of Section 34(3) of the A&C Act.

39. It is also relevant to refer to Section 32 of the A&C Act. Sub-section (1) of Section 32 of the A&C Act provides that the arbitral proceedings shall be terminated by the final award or by an order of the Arbitral Tribunal under Sub-section (2) of Section 32. Sub-section (3) of Section 32 the A&C Act provides that:

> "(3) Subject to section 33 and sub-section (4) of section 34, the mandate of the arbitral tribunal shall terminate with the termination of the arbitral proceedings."

40. Thus, on rendering the final award, the mandate of the arbitral tribunal ends, and it ceases to have any jurisdiction except to the extent of Section 33 or Sub-section (4) of Section 34 of the A&C Act, where the court adjourns the proceedings to enable the arbitral tribunal to resume proceedings.

41. Thus, the very jurisdiction of the Arbitral Tribunal to correct the award, give interpretation, or make an additional award after

the final award has been delivered is derived from the provisions of Section 33 of the A&C Act. The filing of an application under Section 33(1) of A&C Act or 33(4) of the A&C Act, is a jurisdictional condition for the Arbitral Tribunal to assume jurisdiction to pass an order under Sub-section (2) or Sub-section (5) of Section 33 of the A&C Act. It necessarily follows that an application must be in accordance with the provisions of the A&C Act and that would necessarily require that an application be made within the period which is stipulated under Section 33 for making such an application.

42. We consider it apposite to refer to the observations of the Supreme Court in **Geojit Financial Services Ltd. v. Sandeep Gurav**[12], in the context of the interplay between Section 33 and Section 34(3) of the A&C Act:

> "26. Thus, what is material for the purpose of computation of limitation under Section 34 sub-section (3) of the 1996 Act, where a request was made in terms of Section 33, is not whether such request fell within the purview of the said provision or not, but only the factum that such request was made in the manner delineated under Section 33 i.e., it was made "*within thirty days from the receipt of the arbitral award*" and "*with notice to the other party*".

[12] 2025 SCC OnLine SC 1811

> 27. The aforesaid flows from the reason that once the arbitral award is amended/corrected, it is, for all purposes, in the form of an award itself under Section 31 of the 1996 Act, distinct from the award that was originally passed, prior to the making of such request. It would be this award alone, and not the original award passed prior to the request under Section 33 of the 1996 Act, which has to be challenged."

43. It is clear from the above that the Supreme Court had emphasised that an application under Section 33 of the A&C Act was required to be made within the prescribed period of thirty days (or such other time as the parties may have agreed) for the limitation period under Section 34(3) of the A&C Act to run from its disposal.

44. According to the learned counsel for the appellants insofar as non-statutory arbitrations are concerned, the timelines provided under Section 33 of the A&C Act would be sacrosanct. However, for arbitrations under the NH Act or any other statutory arbitrations, the timelines as prescribed under Section 33 of the A&C Act would be flexible and the delay in filing an application could be condoned.

45. We do not find any basis for the said contention. Section 3G(6) of the NH Act expressly provides that the provisions of the A&C Act would apply to arbitration under the NH Act, subject to the provisions of the NH Act. There is no provision under the NH Act,

which would exclude the time period stipulated under Section 33 of the A&C Act.

46. We may refer to Section 2(4) of the A&C Act which reads as under:

> "(4) This Part except sub-section (1) of section 40, sections 41 and 43 shall apply to every arbitration under any other enactment for the time being in force, as if the arbitration were pursuant to an arbitration agreement and as if that other enactment were an arbitration agreement, except in so far as the provisions of this Part are inconsistent with that other enactment or with any rules made thereunder."

47. Thus, by virtue of Section 2(4) of the A&C Act, Sub-section(1) of Section 40, and Sections 41 and 43 of the A&C Act, are inapplicable to a statutory arbitration. Section 43(1) of the A&C Act expressly provides that the Limitation Act would apply to arbitration as it applies to proceedings in court. Under Section 43(2) of the A&C Act, the arbitration is deemed to have commenced on the date referred to in Section 21 of the A&C Act for the purpose of limitation. If the provisions of the Limitation Act are excluded by virtue of Section 2(4) of the A&C Act for proceedings under Section 3G(5) of the NH Act, it would also follow that recourse to Section 5 of the Limitation Act would not be available. However, it is not necessary to examine the general

proposition as to whether the Limitation Act would be applicable to arbitrations under the NH Act in these proceedings. We say so since there is no dispute that Section 33 of the A&C Act is applicable.

48. The appellants' application was moved under Section 33 of the A&C Act. The time period stipulated therein is not flexible. Given the scheme of Section 33 of the A&C Act, there is no scope for permitting any condonation of delay in filing an application under Section 33 of the A&C Act. The contention that since there cannot be an agreement to alter the period within which an application under Section 33(1) of the A&C Act is to be made in a statutory arbitration, Section 5 of the Limitation Act is applicable in case of such arbitrations, is unmerited. Section 33(1) of the A&C Act provides that parties can make an application "within thirty days from the receipt of the arbitral award, unless another period of time has been agreed upon by the parties".

49. As discussed hereinbefore, the language of Section 33(1) of the A&C Act clearly indicates that the time period of thirty days to make the application is inflexible, as the only exception mentioned is "if the parties have agreed to a different time period". The reference to the exception cements the rule; it informs our

understanding that the period of thirty days is inflexible. It cannot be understood that if the exception is unavailable in given cases, the interpretation of the main provision would change in those cases. It would only mean that thirty days period remains fixed as the exception (of the parties agreeing otherwise) does not apply. The interpretation of Section 33 of the A&C Act is not contingent on whether the arbitration is a statutory arbitration or under an arbitration agreement between parties.

50. In view of the above, the petition filed by the appellants under Section 34 of the A&C Act was liable to be rejected, *inter alia,* on the ground that it was filed beyond the period stipulated under Section 34(3) of the A&C Act.

51. The present appeal is, accordingly, dismissed.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

AHB/KPS