National Highway Authority Of India vs T. Younis on 2 June, 2026

Author: Pamidighantam Sri Narasimha

Bench: Pamidighantam Sri Narasimha

REPORTABL

2026 INSC 616

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2026
(@ SLP (C) NO. 7570 OF 2024)

NATIONAL HIGHWAY AUTHORITY OF INDIA ... APPELL

VERSUS

T. YOUNIS & ANR. … RESPONDENTS

JUDGMENT

1. Leave granted.

2. The present appeal arises from the judgment and order dated 22.01.2024, passed by the High Court of Karnataka, Dharwad Bench, ("High Court") by which the writ petition 1 preferred by the Respondents was allowed. By the said order, the High Court, set aside the order dated 05.08.2023 passed by the Principal District and Sessions Judge, Bellary, whereby delay in filing the applications under Section 34 of the Arbitration and Conciliation Act, 1996 ("the Act") was condoned.

3. Facts leading to filing of this appeal are that on 15.12.2009, the Ministry of Shipping, Road Transport and Highways issued a preliminary notification under Section 3A(1) of the National Highways Act, 1956, ('1956 Act') for acquisition of land in Bellary District. The said notification included Jayant Kumar Arora Date: 2026.06.02 16:49:05 IST Reason:

> the land belonging to Respondent No.1 as well. By a declaration dated 14.12.2010 issued under Section 3D(2), the land vested in the Central Government free from all encumbrances. The competent authority by an Award dated 05.12.2011, determined the compensation under Section 3G(1) of the 1956 Act.

4. The Appellant invoked the remedy of Arbitration under Section 3G(5) of the 1956 Act. The Deputy Commissioner-Cum-Arbitrator, Bellary (Arbitrator) vide Award dated 16.02.2013, redetermined the

market value of agricultural land at the rate of Rs.362/- per sq. metre, whereas the market value of the non-agricultural land was assessed at Rs.741/- per sq. metre. The High Court by an order dated 16.03.2019 set aside the Arbitral Award dated 16.02.2013 and remitted the matter to the Arbitrator for de novo consideration.

5. Pursuant to the remand, the Arbitrator conducted fresh proceedings and passed an Award on 03.2.2022 by granting the benefit of Section 23(1- A), 23(2), 28 and Section 34 of the Land Acquisition Act, 1894 (1894 Act). On 08.03.2022, the Appellant filed application under Section 33(1)(a) of the Act before Arbitrator seeking correction of Arbitral Award, inter alia on the ground that grant of additional market value under Section 23 and interest under Section 34 of the 1894 Act is not legally sustainable. On 10.03.2022, the Respondent No.1 filed an application under Section 33(4) of the Act seeking an additional award of 50% over and above the market value on the ground that such a claim had been raised during the Arbitral Proceeding, but the same was omitted in the final Award. The Arbitrator by a common order dated 04.07.2022, dismissed the applications filed under Section 33 of the Act by the Appellant as well as Respondent No.1. The certified copy of the said order was received by the Appellant on 15.09.2022.

6. On 29.10.2022, the Appellant filed applications under Section 34 of the Act along with applications seeking condonation of delay 2. The Respondent No. 1 raised an objection contending that the applications under Section 34 of the Act were filed with delay which was beyond the condonable period of delay of 120 days, as provided, in proviso to Section 34(3) of the Act. The Principal District & Sessions Judge, Bellary by an order dated 05.08.2023 condoned the delay in filing the applications under Section 34 of the Act and allowed the same. The Respondent No.1 challenged the aforesaid order dated 05.08.2023 in a Writ Petition 3.

7. The High Court by a judgment and order dated 22.01.2024, held that Section 33(1) (a) of the Act permits correction of computation, clerical or typographical errors or errors of similar nature. It was further held that the prayer made in the application filed by the Appellant seeking modification of the Arbitral Award did not fall within the purview of Section 33(1)(a) of the Act and hence the same was not maintainable. The High Court concluded that the benefit of limitation under Section 34(3) of the Act was not available and, therefore, the limitation could not be computed from the date of disposal of such applications. Consequently, the arbitration 2 Arbitration Application Nos. 3/2022 and 4/2022.

applications 4 were dismissed. Aggrieved by the judgment of the High Court, the Appellant has filed the present appeal.

8. We have heard Ms. Pinky Anand, learned senior counsel appearing for the Appellant and Mr. Sushil Kumar Jain, learned senior counsel appearing for the Respondent.

9. The learned senior counsel appearing for the Appellant submitted that both the parties had filed applications under Section 33 of the Act, therefore, the Appellant could not have filed the application under Section 34 of the Act, before disposal of the said applications. It is contended that High Court erred in refusing to exclude the period spent in disposal of the application under Section

33 while computing the limitation under Section 34(3) of the Act and erred in placing reliance on the decision in State of Arunachal Pradesh v. Damani Construction Co. 5 It is urged that the application under Section 33(1)(a) merely sought correction of clerical and typographical errors in the Arbitral Award and did not amount to review of the Award. It is submitted that the issue involved in the appeal is no longer res integra and has been dealt with by this Court in Geojit Financial Services Ltd. v. Sandeep Gurav6.

10. Per contra, learned senior counsel for Respondent No.1 submitted that the application filed by the Appellant under Section 33(1)(a) of the Act, in substance was an attempt to review the Arbitral Award and not merely 4 Arbitration Application Nos. 3/2022 and 4/2022.

5 (2007) 10 SCC 742 6 2025 INSC 1021.

an application for correction of clerical or typographical errors. It was contended that Appellant had sought modification of substantive findings in the Award which fell outside the limited scope of Section 33(1)(a). It was urged that only an application which is maintainable under Section 33 could extend the limitation under Section 34(3) of the Act. Relying on State of Arunachal Pradesh (supra), it was contended that since the Appellant's application under Section 33 of the Act was itself not maintainable, it could not claim exclusion of time spent in disposal of the said application for the purposes of limitation. It was argued that Arbitral Tribunal had become functus officio after passing of the Award and therefore the merits of the dispute could not be reopened in the guise of an application under Section 33 of the Act. It was further argued that Appellant's applications under Section 34 were barred by limitation as the same were filed beyond the statutory outer limit prescribed under Section 34(3) of the Act, even assuming that the Appellant is entitled to exclusion of time for the period spent in disposal of application under Section 33 of the Act.

11. Having heard the rival contentions and perusing the material on record, the issue that arises is whether the limitation under Section 34(3) would commence from the date of the original award or from the date on which the application under Section 33 came to be disposed of.

12. For the sake of convenience, the relevant part of Sections 33 and 34 of the Act, are extracted below:

> Section 33 "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—
>
> (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…" Section 34 "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."

13. Section 33 of the Act deals with the request made to the Arbitral Tribunal for correction and interpretation of the award as well as for rendering additional award. An application under Section 33 of the Act is required to be made within a period of 30 days from the date of the receipt of the award. From careful scrutiny of Section 34(3) of the Act, it is evident that where a request under Section 33 of the Act has been made, the limitation for filing an application under Section 34 of the Act shall be reckoned from the date on which such request is disposed of by the Arbitral Tribunal. The said provision does not distinguish between the applications which are ultimately allowed or dismissed. The said provision also does not indicate that only an application which is maintainable under Section 33 of the Act would defer the commencement of litigation under Section 34(3) of the Act. Had the legislature intended to restrict the benefit only to the applications which were ultimately allowed or which were held to be maintainable, it would have expressly provided so. The Court cannot read into the provision a restriction which the legislature itself has not consciously incorporated.

14. Once proceedings under Section 33 are initiated and entertained by the Arbitral Tribunal, the award remains subject to the limited jurisdiction of the tribunal for correction, interpretation, or supplementation as contemplated under the provision. So long as such proceedings remain pending, the parties cannot be compelled to institute proceedings under Section 34 merely as a matter of abundant caution. The parties can effectively pursue their remedy under Section 34 only upon conclusion of the proceedings under Section 33. Consequently, the limitation prescribed under Section 34(3) can start only from the date on which the proceedings under Section 33 are disposed of.

15. In our view, the contention of the Respondent that only an application which is "maintainable" under Section 33 can defer the commencement of limitation under Section 34(3), cannot be accepted. Whether the application under Section 33 ultimately succeeds or fails, or whether the Arbitral Tribunal eventually finds that no correction or modification of the award is warranted, is not determinative for the purpose of Section 34(3). What is relevant is that whether the jurisdiction of the Arbitral Tribunal under Section 33 had been formally invoked and that such proceedings

remained pending consideration before the tribunal.

16. The reliance placed by the Respondent on State of Arunachal Pradesh (supra) is misplaced. That case arose in an entirely different factual context where there was no formal application under Section 33 invoking the jurisdiction of the Arbitral Tribunal. The party had merely addressed a letter, in substance seeking review of the award and certain ancillary clarifications beyond the contours of section 33. It was in that context, that this Court held such communication could not entitle a fresh starting point of limitation under Section 34(3). The facts of the present case stand on an entirely different footing. Here, formal applications under Section 33 were admittedly filed by both parties within the statutory period, and the same were entertained and disposed of by the Arbitral Tribunal by a common order dated 04.07.2022.

17. We are also of the view that the interpretation adopted by the High Court would defeat the scheme and object of the Act. If parties are compelled to institute proceedings under Section 34 during the pendency of proceedings, under Section 33 merely as a matter of abundant caution, it would result in multiplicity of proceedings and procedural uncertainty. At the same time, it is clarified that where applications under Section 33 are found to be sham, frivolous, or mala fide or solely filed for the purpose of defeating limitation under Section 34(3) of the Act, the courts would be justified in imposing exemplary and punitive costs, as maintaining the balance between preserving legitimate remedies and preventing abuse of process is fundamental to effective administration of justice.

18. Even otherwise, the issue involved in the instant appeal is no longer res integra. This Court 7 after examining Sections 33 and 34(3) of the Act has held that for the purposes of computation of limitation under Section 34(3) of the Act, it is the date of disposal of the application under Section 33 of the Act that would earmark the starting point of limitation for filing an application under Section 34 of the Act. We are in agreement with the view taken by this Court in aforesaid decisions. A plain reading of Section 34(3), read in the light of the law laid down in Geojit (supra), makes it clear that once jurisdiction under Section 33 is formally invoked and such proceedings are entertained by the Arbitral Tribunal, the limitation for filing an application under Section 34 would commence only from the date on which such request is disposed of by the Arbitral Tribunal. 7 Ved Prakash Mithal and Sons v. Union of India, 2018 SCC OnLine SC 3181; USS Alliance v. State of U.P., 2023 SCC OnLine SC 778, Geojit (supra).

19. In the facts of the present case, it is not in dispute that the certified copy of the common order dated 04.07.2022 disposing of the applications under Section 33 was received by the Appellant on 15.09.2022 and that the applications under Section 34 were thereafter filed on 07.11.2022. Thus, even reckoning limitation from the date of receipt of the order disposing of the applications under Section 33, the applications under Section 34 of the Act were instituted within the period contemplated under Section 34(3) of the Act. Therefore, the contention of the Respondent that the applications under Section 34 of the Act were barred by limitation does not merit acceptance.

20. Accordingly, the impugned judgment and order dated 22.01.2024 passed by the High Court is set aside. The orders dated 05.08.2023 passed by the Principal District and Sessions Judge, Ballari,

condoning the delay in filing the applications under Section 34 of the Act, are restored. The applications under Section 34 of the Act, shall now be decided on their own merits, in accordance with the law.

21. The appeal is accordingly allowed. Pending application(s), if any, shall stand disposed of.

… … … … … … … … … … … … … … … … … … ….....J. [PAMIDIGHANTAM SRI NARASIMHA] ....J. [ALOK ARADHE] NEW DELHI;

JUNE 02, 2026.