



2026:AHC:49006-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
APPEAL UNDER SECTION 37 OF ARBITRATION AND CONCILIATION
ACT 1996 DEFECTIVE No. - 6 of 2026

The State of Uttar Pradesh and another

.....Appellant(s)

Versus

Ajay Chaudhery

.....Respondent(s)

Counsel for Appellant(s) : Rajiv Singh (S.C.)

Counsel for Respondent(s) : Deepak Singh, Jitendra Singh, Sumit Goyal

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

1. The appeal is barred by 24 days. An application under Section 5 of the Limitation Act has been filed seeking condonation of delay. Though the reply contesting the application and rejoinder thereof have been filed, the application has not been seriously opposed and the matter has been argued on merits.

2. Looking to the cause indicated in the application seeking condonation of delay, the same is found to be sufficient and, therefore, the application is allowed. The delay in filing the appeal is condoned.

3. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 ('the Act') is directed against judgement dated 20.09.2025 passed by the Commercial Court No. 1, Meerut, whereby the application filed by the appellants under Section 34 of the Act against arbitral award dated 30.11.2019 has been dismissed.

4. Tenders were invited by the appellants for restoration strengthening internal section of Anoopshahar branch canal from Km. 38.910 to Km. 43.905 and repair of its pucca structures. The respondent submitted his tender alongwith the required earnest money. The tenders were opened on 22.10.2012. The offer of the respondent was found to be most acceptable and work was awarded. The requisite security amount for performance of

contract was deposited and agreement was executed for value of Rs. 86,73,703/-. The date of commencement of the work was 15.12.2012 which was required to be completed by 29.01.2013.

5. Certain differences and disputes arose between the parties and the Chief Engineer (Ganga) Irrigation and Water Resources Department, Uttar Pradesh, Meerut appointed Sole Arbitrator for adjudication of the disputes. The Arbitrator passed the award on 30.11.2019. The Arbitrator awarded a sum of Rs. 75,25,400/- towards payment of work done, cost of arbitration, interest for pre award and post award.

6. Feeling aggrieved, the appellants filed application under Section 34 of the Act. The Commercial Court framed four issues and after hearing the parties, recorded its findings on the said issues and in the end, came to the conclusion that not only reasoning of the Sole Arbitrator is logical but all the material and evidences were taken note of by the Arbitrator. Cogent grounds, sufficient reasons were assigned in reaching the just conclusion and no error of law or misconduct was apparent on the face of record. The award was supported by sound reasons and was based on due appreciation of evidence, the same is not against any public policy or against terms of contract. Consequently, the application under Section 34 of the Act was dismissed.

7. Learned counsel for the appellants made vehement submissions that the Arbitrator and the Commercial Court fell in error in passing the award and dismissing the application, respectively. Submissions were made that the crucial aspect pertaining to the fact that the 2nd running bill was prepared in Measurement Book by the Junior Engineer and the same was not approved by the concerned Assistant Engineer, was not taken into consideration and, therefore, no question arose for making payment to the claimant, as directed by the Sole Arbitrator.

8. Further submissions were made that the claim was *ex-facie* barred by limitation, which aspect has not been appropriately dealt with by the Arbitrator and the Commercial Court and on that count also, the award suffered from patent illegality and the same was liable to be set aside.

9. Counsel for the respondent supported the award as well as the judgement passed by the Commercial Court. Submissions were made that

the Arbitrator as well as the Commercial Court have exhaustively dealt with the factual and legal aspects involved in the matter and have come to a conclusion based on the material. The allegations about the bill having been prepared by incompetent authority was neither raised before the Arbitrator nor in the application under Section 34 of the Act and the plea now sought to be raised besides being baseless, has no substance. The Commercial Court has exhaustively dealt with the limitation aspect and has come to the conclusion that the respondents have clearly acknowledged their liability and based on the said acknowledgement, the claim was within time and as such, the appeal deserves dismissal.

10. We have considered the submissions made by counsel for the parties and have perused the material available on record.

11. The Commercial Court, based on the plea raised in the application under Section 34 of the Act, framed following issues for consideration:-

"1. Whether the Arbitral Award dated 30-11-2019 passed by Ld. Sole Arbitrator in Contract Agreement No. 25/S.E. I/2012-13 between Ajay Chaudhary versus State of U.P. (Ministry of Irrigation and Water Resources Department U.P.) through Superintending Engineer, Ist Circle Irrigation Works, Meerut (U.P.) and One Other, liable to be set aside on the grounds as stated by the Applicants in their application under Section 34 of the Arbitration Act?

2. Whether the claim of the Opposite Party is time barred?

3. Whether the Ld. Arbitrator has not passed the award within the prescribed period?

4. Whether regarding claim No. 5 related to interest, the conclusion drawn by the Ld. Arbitrator is incorrect, excessive and contrary to the principles of law?"

12. All the four issues were separately dealt with and categorical findings have been recorded upholding the award with reference to the law laid down by Hon'ble Supreme Court. Various pleas sought to be raised pertaining to the alleged deficiency in the award were exhaustively dealt with.

13. Notice under Section 80 CPC and its pointwise reply dated 27.01.2017 given by Executive Engineer, which was placed on record of the arbitration proceedings, was noticed, which *inter alia*, reads as under:-

Sl. No.	Relevant paras of notice under Section 80 CPC	Reply of Executive Engineer
1.	"3. यह कि उक्त अनुबन्ध के अनुरूप मेरे व्यवहारी द्वारा विभागीय निर्देशानुसार अनुबन्धित कार्य दिनांक 15.12.2012 को प्रारम्भ किया जाकर दिनांक 24.01.2013 तक पूर्ण कर लिया गया था।"	" <u>बिन्दु संख्या-3</u> ठेकेदार द्वारा अनुबन्धित कार्य दिनांक 24-01-2013 तक पूर्ण कर दिया गया है।"
2.	"4. यह कि उक्त अनुबन्धित कार्य की मापें माप-पुस्तिका में अंकित है। उक्त कार्य विभागीय संतुष्टि के अनुसार पूर्ण किये गये हैं तथा विभाग द्वारा उक्त अनुबन्धित कार्य के अधीन रनिंग बीजक अंकन 15,00,000/-रुपये का भुगतान तत्समय ही कर दिया गया था, परन्तु उक्त कार्य का अवशेष भुगतान विभाग की तरफ लम्बित है, जिसका भुगतान किये जाने हेतु मेरा व्यवहारी लगातार आपसे अनुरोध करता रहा है, परन्तु अभी तक विभाग द्वारा पूर्ण भुगतान नहीं किया गया है तथा अधिशासी अभियन्ता द्वारा निरन्तर यही बताया जाता रहा है कि उक्त कार्य के मद में धनराशि शासन से उपलब्ध न होने के कारण भुगतान किये जाने में देरी हो रही है और अधिशासी अभियन्ता के स्तर से भुगतान के सम्बन्ध में निरन्तर आश्वासन प्राप्त होता रहा है, परन्तु लम्बित धनराशि का भुगतान नहीं किया गया है।"	" <u>बिन्दु संख्या-4</u> उक्त अनुबन्ध के अन्तर्गत ठेकेदार को धनराशि रुपये 15,00,000.00 का भुगतान वित्तीय वर्ष 2012-13 में किया जा चुका है। शेष भुगतान ठेकेदार को अभी किया जाना है। उल्लेखनीय है कि उपरोक्त कार्य 13 वें वित्त आयोग द्वारा संस्तुत अनुदान के क्रियान्वयन लेखा शार्षक 2700 के अन्तर्गत कराया गया था। चूंकि उक्त परियोजना रुपये 902.72 लाख की स्वीकृत हुई थी जिसके सापेक्ष खण्ड को वित्तीय वर्ष 2012-13 में मात्र रुपये 325.00 लाख आवंटन हुआ था। आवंटित धनराशि के अनुरूप ही इनके साथ-साथ परियोजना में गठित अन्य ठेकेदारों के द्वारा कराये गये कार्य का भी आंशिक भुगतान ही किया गया है।"
3.	"9. यह कि उपरोक्तानुसार आपको इस नोटिस द्वारा अवगत कराया जाता है कि उपरोक्त वर्णित अनुबन्ध के अधीन निष्पादित अनुबन्धित कार्य हेतु देय धनराशि अंकन 46,00,000/- रुपये का भुगतान नोटिस प्राप्ति के एक माह के अन्दर कर दें.....।"	" <u>बिन्दु संख्या-6</u> उक्त परियोजना में वर्तमान में धन उपलब्ध नहीं है। धन की माँग हेतु कार्य योजना अनुमोदित हो चुकी है। धनावंटन प्राप्त होने पर ठेकेदार का भुगतान कर दिया जायेगा। <u>बिन्दु संख्या- 7, 8 व 9</u> बिन्दु संख्या 6 के अनुसार।"

14. A perusal of the above reply would reveal that the Executive Engineer has clearly indicated that the work was completed within the sanctioned time period. From the perusal of reply to Point No. 4, it is evident that though it has been replied that a sum of Rs. 15,00,000/- was paid in the financial year 2012-13, the liability of payment of balance amount has been admitted and in reply to Point No. 9, it has been stated that as at present no funds under the project in question are available and as and when the funds are made available, payment of the balance amount would be made.

15. The fact that the work was completed within time and only for lack of funds under the Scheme, the amount could not be paid to the contractor and acknowledging the liability for payment of balance amount concludes the entire dispute inasmuch as the plea raised for the first time regarding the Measurement Book having been signed by the Junior Engineer loses its significance once the Executive Engineer has acknowledged the liability in question.

16. Further, the fact that vide reply to the notice under Section 80 CPC, the liability was clearly acknowledged by the Executive Engineer and within three years of the said acknowledgement i.e. in the year 2018, the notice for appointment of Arbitrator was issued, which under Section 21 of the Act amounts to commencement of the arbitration proceedings, the claim has rightly been held to be within limitation, as such, the plea sought to be raised in the present appeal with regard to limitation, apparently, also has no substance.

17. It is settled law that for questioning the validity of an award, the appellants are required to make out a case within the parameters of Section 34 of the Act, which the appellants have miserably failed. The Commercial Court has minutely and exhaustively dealt with each and every aspect of the award and the pleas raised under four issues framed by it and has come to a just conclusion. The appellants have failed to point out any perversity, worth the name, in any of the findings recorded.

18. Consequently, we do not find any reason to interfere with the judgement impugned. The appeal has no substance, the same is, therefore, **dismissed.**

(Kshitij Shailendra,J.) (Arun Bhansali,CJ.)

March 10, 2026

SL/