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LATEST CASE LAW

National Highway Authority of India v. T. Younis 2026 SCC OnLine SC 1060

The Supreme Court considered whether the limitation period under Section 34(3) of the Arbitration & Conciliation Act, 1996 begins only after the disposal of an application under Section 33, irrespective of its maintainability or outcome.

The Court held that limitation under Section 34(3) commences from the disposal of any Section 33 application, regardless of whether it is allowed, dismissed, or ultimately found maintainable. While cautioning against frivolous Section 33 applications intended to delay proceedings, the Court restored the District Judge's order.

EDITOR'S COLUMN

Unity Small Finance Bank Ltd. v. Meena Kumar Rohra, 2026 SCC OnLine Bom 3833

The Court considered whether the execution of an arbitral award could be obstructed merely because the judgment debtor had filed a challenge under Section 34 of the Arbitration and Conciliation Act, 1996. The dispute arose from the execution of an arbitral award directing the borrower, a close associate of HDIL promoter Rakesh Kumar Wadhawan, to pay approximately Rs. 115 crores.

The Bombay High Court held that the mere pendency of a Section 34 petition does not bar execution of an arbitral award in the absence of a stay.

BITES

Jai Balaji Industries Ltd. v. Garuda Ispat Private Limited, MANU/CG/1310/2026

The Chhattisgarh High Court in *Jai Balaji Industries Ltd. v. Garuda Ispat Pvt. Ltd.* held that an order of the Micro and Small Enterprises Facilitation Council (MSEFC) cannot be treated as a valid arbitral award unless the mandatory procedure under Section 18 of the MSMED Act, 2006 and the Arbitration and Conciliation Act, 1996 is followed. The Court found that the Council had not formally terminated conciliation or commenced arbitration in accordance with law. Relying on *Jharkhand Urja Vikas Nigam Ltd.* and *Electrosteel Steel Ltd.*, it set aside the award and remanded the matter, holding that the absence of arbitral jurisdiction renders the award a nullity.

National Highway Authority of India v. T. Younis 2026 SCC OnLine SC 1060

BACKGROUND

- NHAI invoked arbitration under Section 3G(5) of the National Highways Act. After the Karnataka High Court set aside the initial arbitral award and remanded the matter, the arbitral tribunal passed a fresh award dated 03.02.2022, which became the subject matter of the present dispute.
- The Appellant filed an application under Section 33(1)(a) of the Arbitration and Conciliation Act, 1996 on 08.03.2022 seeking corrections in the award, while Respondent No. 1 filed a cross-application under Section 33(4) on 10.03.2022 seeking an additional award. Both applications were dismissed by the tribunal through a common order dated 04.07.2022, the certified copy of which was received by the Appellant on 15.09.2022.
- The Appellant challenged the award under Section 34 on 29.10.2022 and sought condonation of delay, contending that the limitation period stood extended due to the pendency of the Section 33 applications. Respondent No. 1 opposed the application, arguing that it was barred by the 120-day outer limit prescribed under the proviso to Section 34(3).
- The District Judge, Bellary, condoned the delay and entertained the Section 34 petition. However, the Karnataka High Court reversed this decision, holding that the benefit of Section 34(3) is available only where the Section 33 application is maintainable, and dismissed the Section 34 petition as time-barred. Aggrieved, the Appellant filed an appeal before the Supreme Court.

ISSUES

- The principal issue before the Supreme Court was whether the limitation period under Section 34 of the Arbitration and Conciliation Act, 1996, commences after the disposal of an application filed under Section 33, and whether the maintainability or outcome of such an application affects the benefit of the extended limitation under Section 34(3).

DECISION

- The Supreme Court held that Section 34(3) of the Arbitration and Conciliation Act, 1996, clearly provides that where an application under Section 33 has been filed, the limitation period for filing a Section 34 application begins from the date of disposal of the Section 33 application. The Court relied on *Ved Prakash Mithal and Sons v. Union of India*, *USS Alliance v. State of U.P.*, and *Geojit Financial Services Ltd. v. Sandeep Gurav* to reaffirm this settled position.

- The Court clarified that Section 34(3) makes no distinction between maintainable and non-maintainable Section 33 applications, nor between applications that are allowed or dismissed. Therefore, the benefit of deferred limitation is available irrespective of the outcome or maintainability of the Section 33 application, as the legislature has not provided otherwise.

- The Supreme Court observed that requiring parties to file a Section 34 petition while a Section 33 application is pending would lead to multiplicity of proceedings and procedural uncertainty. Since the arbitral tribunal retains limited jurisdiction over the award during Section 33 proceedings, parties should not be compelled to pursue parallel remedies.

- At the same time, the Court cautioned that sham, frivolous, or mala fide Section 33 applications filed solely to extend limitation would invite exemplary costs. Holding that NHAI's Section 34 petition was filed within the prescribed limitation, the Court set aside the Karnataka High Court's judgment and restored the order of the District Judge.

EDITOR'S COLUMN

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Jai Balaji Industries Ltd. v. Garuda Ispat Private Limited, MANU/CG/1310/2026

EDITOR'S COMMENTS

The judgment underscores that compliance with the statutory process under Section 18 of the MSMED Act for transitioning from conciliation to arbitration is a mandatory jurisdictional requirement, not a procedural formality. If the Facilitation Council fails to conduct arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996, any award passed is rendered void. Such a jurisdictional defect strikes at the very validity of the award and may be challenged even at the stage of execution, irrespective of whether a petition under Section 34 has been filed.

BACKGROUND

- The During 2016, M/s Jai Balaji Industries Ltd. placed purchase orders on Garuda Ispat Pvt. Ltd. for supply of steel materials. A dispute arose regarding the quality of supplied material and the outstanding payments claimed by the supplier.
- The Respondent invoked Section 18 of the MSMED Act before the Micro and Small Enterprises Facilitation Council, claiming Rs. 9,63,968.
- The Petitioner challenged the Council's jurisdiction, relying on an exclusive jurisdiction clause in favour of Kolkata courts. The Council proceeded with conciliation and subsequently directed the Petitioner to pay Rs. 28,05,929 (principal and interest).
- The Respondent initiated execution proceedings under Section 36 of the Arbitration and Conciliation Act, 1996, which the Executing Court upheld.
- The Petitioner challenged the execution order before the High Court under Article 227 of the Constitution.
- It was also noted that the Petitioner had separately filed a Section 34 petition challenging the award but failed to comply with the mandatory pre-deposit under Section 19 of the MSMED Act, and therefore no stay of the award was granted.

ISSUE

- Whether the order dated 27.12.2022 passed by the Facilitation Council constitutes a valid and enforceable arbitral award in the eyes of law?
- Whether the Executing Court committed an error in rejecting the Petitioner's objections without examining the foundational question of jurisdictional nullity?
- Whether an objection founded upon inherent lack of arbitral jurisdiction can be raised in execution proceedings, notwithstanding the pendency of proceedings under Section 34 of the Arbitration and Conciliation Act, 1996?

DECISION

The High Court allowed the writ petition and held as follows:

- The proceedings culminating in the award dated 27.12.2022 suffer from a fundamental jurisdictional infirmity inasmuch as the mandatory statutory requirements governing the transition from conciliation to arbitration under Section 18 of the MSMED Act, 2006, and the procedure prescribed under the Arbitration and Conciliation Act, 1996, have not been shown to have been complied with.
- The award dated 27.12.2022 passed by the Micro and Small Enterprises Facilitation Council was set aside.
- The consequential order dated 07.01.2025 passed by the learned 2nd Additional District Judge, Durg in T.D. No. 82/2024 was also set aside.
- The matter was remitted to the Micro and Small Enterprises Facilitation Council for reconsideration afresh from the stage contemplated under Section 18 of the MSMED Act, 2006, strictly in accordance with the provisions of the MSMED Act and the Arbitration and Conciliation Act, 1996, after affording adequate opportunity of hearing to all parties.
- The Court clarified that it has not expressed any opinion on the merits of the rival claims, and all contentions are left open.

Unity Small Finance Bank Ltd. v. Meena Kumar Rohra, 2026 SCC OnLine Bom 3833

CASE SUMMARY

- The Unity Small Finance Bank Ltd. filed an execution application before the Bombay High Court seeking enforcement of an interim order passed by the Arbitral Tribunal under Section 17 of the Arbitration and Conciliation Act, 1996. The Bank alleged that the respondents had failed to comply with the Tribunal's directions and sought disclosure of their assets along with continuation of the injunction restraining them from dealing with or alienating their properties.
- The respondents opposed the application on the ground that they had already challenged the arbitral award by filing a petition under Section 34 of the Arbitration and Conciliation Act, 1996. However, it was undisputed that no interim stay had been granted on the operation or execution of the award.
- The Bombay High Court held that the mere filing of a challenge under Section 34 does not automatically suspend the enforceability of an arbitral award. In the absence of a specific order staying the award, the successful party is entitled to proceed with execution and seek appropriate enforcement measures.
- Accordingly, the Court directed the respondents to file, within four weeks, an affidavit disclosing all their assets and any encumbrances thereon. The Court further ordered that the injunction granted by the Arbitral Tribunal, restraining Respondent No. 1 from transferring, alienating, or creating third-party rights in respect of her assets, would continue until further orders.

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