

(1999) 07 DEL CK 0120

Delhi High Court

Case No: I.As. 6795/99 and 7907/96 in Suit No. 2086 of 1994

Delhi Lotteries, Govt. of National
Capital Territory of Delhi

APPELLANT

Vs

Nitin Agency and Another

RESPONDENT

Date of Decision: July 30, 1999

Acts Referred:

- Limitation Act, 1963 - Section 5

Citation: (1999) 80 DLT 715

Hon'ble Judges: Vikramajit Sen, J

Bench: Single Bench

Advocate: Arvind Nigam, for the Appellant; Chandra Shekhor, for the Respondent

Final Decision: Dismissed

Judgement

Vikramajit Sen, J.

This is an application being LA. 6795/99 for condoning the delay in filing the objections against the Award dated 12.8.1994. Notice of the filing of the award was ordered to be issued to respondent No. 1 Along with the objections which had been filed by the petitioner. These were served on respondent No. 1 on 7.10.1995. Thereafter Counsel appearing on behalf of respondent No. 1 prayed for, and obtained on various occasions, time for filing reply to the objections filed by the petitioner.

2. Thereafter LA. 7907/96 being objections on behalf of respondent-M/s. Nitin Agency, against the impugned Award were filed; these objections are dated 13.2.1995 and the affidavit in support is dated 27.8.1995. Subsequently, the present application (for condensation of delay in filing objections to the Award i.e. LA. 7907/96) dated 13.7.1999, supported by an affidavit of the same date was filed on 20.7.1999. Arguments were heard thereon.

3. The grounds taken in this application are as follows :

"1. That the above noted suit is pending adjudication before the Hon"ble Court and is fixed for argument and disposal of the objection of the parties on 23.7.1999.

2. That after filing of the award in the Court the petitioner and respondent No. 1 filed their respective objections to the award.

3. That as per law the respondent No. 1 was required to file the objections to the award within a period of 30 days from the date of serve of notice of filing of award in the Court. The respondent No. 1, however, failed to do so and the objections to the award on behalf of the respondent No. 1 could be filed only on 13.2.1995 which is much after the prescribed limitation period.

4. That the delay in filing the objections on behalf of respondent No. 1 was due to the fact that the respondent No. 1 was not able to contact her Counsel due to her illness neither she was informed by the then Counsel of the limitation period being only 30 days.

5. That the delay in filing the objections to the award on behalf of the applicant is neither intentional nor willful but due to the unavoidable circumstances explained above.

It is, Therefore, prayed that delay in filing the objections to the award may kindly be condoned in the interest of justice."

4. Respondent No. 1 ought to have filed a medical certificate, or shown any other proof to substantiate her statement that she was unable to contact her Counsel due to her illness. Her bald statement that her previous Counsel had not informed her that the limitation period is thirty days is not believable and is not sufficient cause for condoning the delay.

5. I had earlier set out the dates of filing of the objections to the award and of the supporting affidavit to show that even though the objections had been prepared on 13.2.1995, the affidavit was sworn six months later. Thereafter, despite the fact that the objections to the Award were so inordinately belated, the application for condensation of delay and the supporting affidavit signed on 13.7.1999, this application was filed seven days later. There has been unexplained delay and negligence by the respondents at almost every stage of the proceedings.

6. Keeping all the facts in perspective I hold that no sufficient cause has been shown for condoning the delay in filing the objections on behalf of respondent No. 1. The application is dismissed.

I.A. 7907/96 :

7. The notice of the filing of the Award was served on the objector on 7.10.1995. The objections have not been filed within 30 days of the receipt of the notice. The application for condensation of delay has not been allowed in terms of the foregoing order. Hence these objections, having been filed beyond the prescribed

period of limitation, are also dismissed.