

Limitation for applying to set aside an award (Supreme Court)

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National Highways Authority of India & another v. Subhash Bindlish & others

Court: Supreme Court of India | **Case Number:** SLP(C) No. 019554-019554 of 2019 | **Citation:** 2019 (5) RCR (Civil) 762 | **Bench:** Uday Umesh Lalit & Vineet Saran JJ | **Date:** 14 August 2019

You can apply to set aside an award within the period set out under section 34 (3) of the Arbitration and Conciliation Act, 1996 (“ACA”). The limitation is: –

- (a) **“three months”** [either from the date when the award is received by the party applying, or, from the date when the tribunal disposed a request under section 33, if such a request was made, for correction, interpretation or additional award]; **plus**
- (b) an additional **“thirty days, but not thereafter”**. This additional period is at court’s discretion, upon the applicant showing it was prevented by “sufficient cause” from making the application within three months.

In this case, as the Supreme Court noted, the application was filed beyond the period, and the courts below had found it barred by limitation.¹ In a very short order, the Supreme Court also concluded, “[w]hat is provided under Section 34(3) is the “outer limit” within which the application can be preferred for setting aside of an arbitral award”, and “the law laid down on the point by this Court is very clear.”

A somewhat grasping-at-straws argument suggesting that “a relaxation of the regime under Section 36 must have some reflection” on the expression “but not thereafter” under section 34 (3) was rejected concluding “both these provisions stand on different footings.”

¹ Editor’s note: -The court noted the period to be 120 days. This is wrong. The period is “three months” plus “thirty days”. It may or may not be 120 days in a given case.