

**(1957) 01 PAT CK 0002**  
**In the Patna High Court**  
**Case No : Civil Rev. No. 929 of 1954**

Abdul Samad and Sons

APPELLANT

Vs

Union of India(UOI)

RESPONDENT

**Date of Decision :** 22-01-1957

**Acts Referred:**

Arbitration Act, 1940 — Section 15, 30  
Limitation Act, 1908 — Article 158

**Citation :** AIR 1957 Patna 447

**Hon'ble Judges :** Sinha, J;Dayal, J

**Bench :** Division Bench

**Advocate :** Lal Narayan Sinha and Ramanugrah Prasad, for the Appellant; A.G. and Govt. Pleader, for the Respondent

**Final Decision :** Dismissed

## Judgement

Dayal, J.—This is an application by the plaintiff. The plaintiff had taken certain contract work from the Union of India. It appears that under the terms of agreement between the parties any dispute relating to the contract was to be referred to an arbitrator. Such a dispute arose and it was referred to Mr. T.H. Dixon, Superintending Engineer, Calcutta Circle, Central Public Works Department, for a decision. The arbitrator delivered the award on 18-2-1954 and signed the same on the same date. The award was filed in the Court of the Second Subordinate Judge, Chapra, on 10-5-1954 and the case was numbered as Title Suit No. 22 of 1954. On 14-5-1954, the petitioner applied for pronouncing a judgment in accordance with the award u/s 14(2), Arbitration Act, 1940. The notice of the filing of the award was ordered to be issued to the parties. The Union of India appeared in the case on 28-6-1954 and, on 27-8-1954, the Union of India filed their written statement objecting to the award.

2. It was argued in the Court below on behalf of the petitioner that the application of objection filed by the Union of India was barred by Article 158,

Limitation Act, as it was filed more than thirty days after the date of service of the notice u/s 14(2), Arbitration Act. The Court below held that the objection of the Union of India was not for setting aside the award. It was merely an application for modifying the award u/s 15, Arbitration Act and was well within time and, in such a case, Article 158, Limitation Act, was not applicable.

3. Mr. Lal Narayan Sinha, appearing for the contractor, has conceded that, if the objection of the Union of India is held to be one u/s 15, Arbitration Act, then the objection is not barred under Article 158, Limitation Act. He, however, contended that the objection of the Union of India was an objection for setting aside the award and comes well within Section 30, Clause (c) of the Arbitration Act.

4. Therefore, the only point for consideration that arises in this case is as to whether the objection comes within Section 15 or Section 30, Arbitration Act.

5. Mr. Lal Narayan Sinha has placed the objection filed on behalf of the Union of India. From a perusal of the objection, it is manifestly clear that it was not for setting aside the award or for getting the award remitted for reconsideration and, therefore, there is no question of the application of Article 158, Limitation Act, to this case. Paragraphs 2, 4, 5, 6, 7, 8, 9 and 10 of the objection refer to specific matters in respect of which the allegation is that the arbitrator has gone beyond the reference. Paragraph 3 refers to mistakes and errors.

The allegations, therefore, fall within Clauses (a) and (c) of Section 15, Arbitration Act. There was no allegation of misconduct or supersession of the arbitration pr that the arbitration proceeding had become invalid. Nor was there any allegation that the award was improperly procured. The objection, therefore, was clearly an objection which comes well within Section 15, Arbitration Act. It cannot be held that the objection comes within the purview of Section 30 of the Arbitration Act. Therefore, I would hold that the objection is not barred by time and Article 158 of the Limitation Act has no application to the facts of the present case.

6. Besides, it appears from the order in revision that the Court below, after deciding the preliminary objection of the contractor on the question of limitation, directed for fixing a date for settlement of issues for the purpose of deciding as to whether one part of the award could be separated from the remaining part of the award to enable the Court to give relief. It appears to me that the present application of the petitioner is premature and no question of jurisdiction arises.

7. Mr. Lal Narayan Sinha has not raised any other point.

8. For the reasons given above, I would hold that there is no merit in this application, which must be dismissed with costs: hearing fee Rs. 32/-.

Sinha, J.

9. I agree.