

**A.No.4971 of 2019  
in  
O.P.SR.No.1527 of 2018**

**SENTHILKUMAR RAMAMOORTHY, J.**

This application has been filed to condone the delay of 30 days in filing the Arbitration Original Petition against the arbitral award dated 10.09.2017.

2. The admitted position is that the arbitral award was pronounced on 10.09.2017 and that the present O.P. was filed on 08.01.2018, which is after the period of three months prescribed under Section 34(3) of Arbitration and Conciliation Act, 1996, but within the period of 30 days, within which, an application for condonation of delay is maintainable.

3. The learned counsel for the applicant submitted that after the award was pronounced, an Execution Petition was filed by the respondent herein and the parties endeavoured to settle the matter through a compromise and that in view of the failure of such compromise, there was a delay in filing the arbitration O.P.

**SENTHILKUMAR RAMAMOORTHY, J.**

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4. On the contrary, the learned counsel for the respondent submitted that the petitioner has not approached this Court with clean hands. The petitioner contested the execution proceedings and also the proceedings under the Insolvency and Bankruptcy Code and that the present petition was presented only after it became clear that the above mentioned proceedings were not progressing in favour of the petitioner. Therefore, he submitted that this application is liable to be dismissed.

5. On perusal of the affidavit filed in support of the application and the submissions made by the learned counsel for the petitioner, I am satisfied that sufficient cause is made out for the delay in filing the petition in as much as the petitioner endeavoured to settle the matter and also paid the principal amount due as per the arbitral award. Accordingly, the delay of 30 days is condoned and this application is allowed.

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**05.09.2019**

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**Section 34(3) in THE ARBITRATION AND CONCILIATION ACT, 1996**

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal: Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.



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