

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 01ST DAY OF OCTOBER 2019

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A.NO.7416 OF 2019

IN

O.P.Diary No.146291 of 2018

In the matter of Arbitration
and Conciliation Act, 1996
and

In the matter of Arbitration
under Section 34 of the
Arbitration and Conciliation
Act, 1996
and

In the matter of award dated
12.09.2018 passed Arbitral
Tribunal presided over by
Hon'ble Mr.Justice Gopal
Gowda.

M/S.INDARYA GREEN POWER PVT LTD
132, II Floor, Thirumala Complex,
Royapettah High Road, Royapettah,
Chennai 600 014

..Applicant/Petitioner/1st respondent
-vs-

1. M/S. LARSEN AND TOUBRO LTD
PB NO.979, MOUNT POONAMALLEE ROAD,
MANAPAKKAM, CHENNAI 600 089

REP.BY MR.T.S.HARISH, HEAD LEGAL
(MIDDLE EAST) AND POWER AGENT

..1st Respondent/Claimant/Respondent

2. Mr.ABOOBUCKER,
S/o.R.Ariff,
No.25, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004

..2nd Respondent/2nd Respondent/2nd Respondent

Application praying that this Hon'ble Court be pleased
to the Applicant filed Appeal Application against an order
dated 12.09.2019 dismissal of Application No.5595/2019 in
O.P.S.R.No.146291 of 2018 filed for condonation of delay of

26 days in representing the O.P.SR.No.146291 of 2018 passed by the Learned Master and allow the Appeal Application for the following among other.

This Application coming on this day before this court for hearing and the Court made the following order:

This application is filed to challenge the order dated 12.09.2019 of the learned Master in Application No.5595 of 2019 in O.P. Diary No.146291 of 2018.

2. I heard the learned counsel for the applicant.

3. The learned counsel for the applicant submitted that the award was pronounced by the learned Arbitrator on 12.09.2018 and that it was received by the second respondent on 30.09.2018. Pursuant to that he submitted that the second respondent filed O.P.No.642 of 2019 on 19.12.2018 and the applicant herein filed O.P.SR No.146291 of 2018 on 19.12.2018. Therefore, the O.P.SR.No.146291 of 2018 was filed within about 81 days from the date of receipt of the award. Thereafter, he submitted that the application No.5595 of 2019 was filed to condone the delay of 26 days in representation. But the said application was misconstrued by the learned Master as an application to condone the delay in filing the petition under Section 34 of the Arbitration and Conciliation Act, 1996. The learned counsel further submitted that the application was dismissed by misconstruing in the manner aforesaid.

4. Upon considering the said submissions of the learned counsel for the applicant and perusing the order of the learned Master, it is evident that the application No.5595 of 2019 is an application to condone the delay of 26 days in representation. Although Section 5 of the Limitation Act, 1963 does not apply with regard to the condonation of delay in filing a petition beyond the time prescribed under Section 34(3) of the Arbitration and Conciliation Act, the said principles do not apply with regard to the condonation

of delay in representation. More over, the delay in representation is only 26 days and in the affidavit filed in support of the said application, the applicant has stated that the delay occurred on account of the fact that the junior counsel was suffering from viral fever at the relevant point of time and therefore, the delay has occurred.

5. Hence, I am of the view that the said reason constitutes sufficient cause to condone the delay in representation. Therefore, the application is allowed and the order dated 12.09.2019 of the learned Master in A.No.5595 of 2019 is set aside and the Registry is directed to number the O.P.SR.No.146291 of 2018 if it is otherwise in order.

Sd/- S.K.R.J

01.10.2019

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

Su.16/10/2019

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