



WEB COPY



A.No.1232 of 2023

A.No.1232 of 2023  
in  
O.P.SR.No.9146 of 2022

**SENTHILKUMAR RAMAMOORTHY, J**

By this application, the applicant assails an order of learned Master by which the application to condone the delay in re-presentation was rejected.

2. An arbitral award was pronounced on 20.10.2021 and a copy of the same was received by the applicant on 29.10.2021. The award was assailed by presenting the petition under Section 34 of the Arbitration and Conciliation Act 1996 on 28.01.2022. The petition was returned by the Registry on 28.01.2022 and, once again, on 10.02.2022. The applicant re-presented the petition on 04.03.2022. The Registry returned on 14.03.2022 to rectify the defects. The time limit for re-presentation was expired and eventually the petition was re-presented with the delay of 230 days. This application was rejected by the impugned order.

3. Learned counsel for the applicant submits that the learned Master has erred in rejecting the application by relying on Section 34(3) of the Arbitration Act. In support of this contention, he relies on the judgement



A.No.1232 of 2023

of the Hon'ble Supreme Court in *Northern Railway v. Pioneer Publicity Corporation Private Limited* (2017) 11 SCC 234, particularly in paragraph 4 thereof, wherein the Hon'ble Supreme Court concluded that Section 34(3) does not apply in the context of re-presentation.

4. He relies upon the additional affidavit dated 01.03.2023 to contend that there are reasonable grounds to condone the delay in re-presentation. He also points out that the arbitral claim is hopelessly barred by limitation since such claim was made after 13 years. Therefore, he says grave prejudice would be caused unless the delay in re-presentation is condoned.

5. Although the learned counsel is correct in contending that Section 34(3) of the Arbitration Act does not apply to the condonation of delay in re-presentation, learned Master is correct in concluding a delay in re-presentation should not be mechanically condoned in the context of the time lines fixed under the Arbitration act. In the case at hand, the applicant has explained the delay by pointing out a large number of petitions (160) were filed under Section 34 of the Arbitration Act and that it is another reason relied in the delay in re-presentation. The applicant has also referred



A.No.1232 of 2023

to the fact that the original claim petition is barred by limitation. When all these aspects cumulatively, the delay is liable to be condoned albeit on terms. Accordingly, the order dated 24.01.2023 of the learned Master is set aside and the delay is condoned subject to the payment of a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in favour of the Tamil Nadu State Legal Service Authority. The cost shall be paid within a period of two weeks from the date of receipt of a copy of this order. Subject to receipt of costs, the Registry is directed to number the original petition, if otherwise in order.

**03.03.2023**

kal

**SENTHILKUMAR RAMAMOORTHY, J**



WEB COPY



A.No.1232 of 2023

kal

A.No.1232 of 2023  
in  
O.P.SR.No.9146 of 2022

**03.03.2023**