



**Application No.2155 of 2023
in Arb.O.P.(Com.Div.)DR.No.13695 of 2021**

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KRISHNAN RAMASAMY, J.

This Application has been filed for setting aside the order dated 29.03.2023 passed by the learned Master in Application No.4782 of 2022 filed for condoning the delay of 86 days in representing the petition Arb.O.P(Com.Div.)DR.No.13695 of 2021.

2. The learned counsel for the applicants submitted that the papers of Arb.O.P(Com.Div.)DR.No.13695 of 2021 were returned due to certain defects. In the meantime, the junior counsel who dealt with the matter was affected by COVID-19 and therefore, he placed the said O.P papers in the office and went on leave. The said O.P papers which were placed in the office have been misplaced, but, the counsel on record thought that his junior counsel had represented the said O.P in time. While so, after the leave period, the junior counsel returned and informed the counsel on record that the returned said O.P papers were in the office and the same have not been represented. As soon as the counsel on record came to know that the said O.P has not been represented, immediately, he represented the same.



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Hence, the delay of 86 days has occurred in representing Arb.O.P(Com.Div.)DR.No.13695 of 2021. However, without considering all these reasons, the learned Master has dismissed the Application No.4782 of 2022 by observing as follows:

“This Original Petition was presented on 08.02.2021 returned and represented on 28.02.2023 again represented on 04.04.2022 and again on 21.04.2022 and again on 25.07.2023 and again on 07.09.2022 and again on 17.10.2022.

From 08.02.2021 to 17.10.2022, in between this period, this original petition has been represented for 6 times. After deducting the period of limitation exempted by our Hon'ble Supreme Court in Suo Moto Writ Petition due COVID – 19 pandemic the Registry has come to a calculation that the delay is only 86 days.

But the applicant has averred in the affidavit in support of the application that the returned case papers were misplaced in the office by the Junior Counsel and later traced out and refiled with a delay of 86 days which is an utter false. When the case papers were refiled for 6 times, the averment that the bundle was misplaced and finally traced out and refiled is completely a false one.

This court cannot pass any order on a false affidavit. Therefore, this application is dismissed.”

Therefore, the learned counsel for applicants prayed this Court to set aside the order passed by the learned Master and to condone the delay of 86 days in representing the Arb.O.P(Com.Div.)DR.No.13695 of 2021.

3. Upon perusing the order passed by the learned Master in Application No.4782 of 2022 and hearing the submissions made by the



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learned counsel for the applicants, this Court feels that the reasons adduced for the delay of 86 days in representing the papers of Arb.O.P(Com.Div.)DR.No.13695 of 2021 are reasonable. Therefore, this Court is inclined to allow this Application. Accordingly, this Application is allowed and the order dated 29.03.2023 passed by the learned Master in A.No.4782 of 2022 is set aside, thereby, the delay of 86 days in representing the Arb.O.P(Com.Div.)DR.No.13695 of 2021 is condoned.

08.06.2023

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Note: Registry is directed to number Arb.O.P(Com.Div.)DR.No.13695 of 2021, if it is otherwise in order.



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