



A.No.4963 of 2023

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in
A.DR.No.38925 of 2023

C.SARAVANAN, J.

The applicant herein is the award debtor pursuant to an award passed by the Arbitral Tribunal on 23.10.2008.

2. The respondent has filed E.P.No.2965 of 2010. In the aforesaid EP, the applicant herein had filed A.No.3877 of 2021 under Section 47 of CPC raising objections for execution of the award.

3. The learned Master by an order dated 22.06.2022 has dismissed the application filed by the applicant in A.No.3877 of 2021 under Section 47 of of CPC. Under these circumstances, the applicant was required to file an appeal in terms of Order 14 Rule 12 of the Madras High Court Original Side Rules, within a period of eight (8) days from the date of receipt of the order.



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4. As per subparagraph 2 to Rule 12 to Order 14 of the Madras High Court Original Side Rules, the applicant is not required to file a copy of the order or decision appealed against. It further mandates that time for obtaining any such copies shall not be excluded in computing the said period of eight (8) days.

5. Subparagraph 3 to the aforesaid rules further states that unless the Court shall otherwise order, the filing of an appeal shall not operate as a stay of the order or decision appealed against.

6. It is noticed that after the application was dismissed, the applicant had filed Copy Application vide C.A.No.5275 of 2022 on 22.03.2022. There was some delay in remitting the stamp fee, hence the application was filed to condone the delay which was later allowed. After the application was allowed, the Stamp was called for on 15.02.2023. The applicant has also paid for the Stamp duty on 16.02.2023.



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7. It is thereafter the Copy Application was made ready. A certified copy of the learned Master's order dated 22.06.2022 was made ready on 20.02.2023.

8. The applicant has filed the present appeal within a period of thirty (30) days there on against order dated 22.06.2022 passed in A.No.3877 of 2021 vide Appeal.D.No.38925 of 2023.

9. Since the Registry has raised an objection, the applicant has now filed A.No.4963 of 2023 to condone the delay in filing the appeal on 20.03.2023 with the delay of 263 days.

10. The learned counsel for the respondent would submit that there is an inordinate delay of 423 days. The learned counsel for the respondent has placed reliance on the decision of this Court rendered in **Joseph Michael Vs. K.Ramachandran** reported in 1992 1 L.W. Although the applicant was not required to file a Certified Copy of the order dated 22.06.2022 of the learned Master while filing an appeal, the fact remains that applicant was under a bonafide belief that appeal was to be filed along with the Certified



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Copy of the learned Master dated 22.06.2022. Thus, appeal was filed on 20.03.2023. By filing the appeal, the applicant has extended the period of limitation. It cannot be said that the delay cannot be condoned. The delay ought to have been condoned on terms.

11. Therefore, to balance the interest of the parties, Court is inclined to allow this application on terms subject to the payment of cost of Rs.10,000/- to the respondent by 27.11.2023. In case, the respondent fails to receive the amount, the amount may be deposited to the credit of this application. Subject to such compliance, Registry shall number the appeal and list the appeal before this Court on 15.12.2023 for further orders.

06.11.2023

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