



WEB COPY



A. No.6127 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2025

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

A. No.6127 of 2024

in

O.P. Dr. No.7665 of 2018

T.S.K. Venkata Subba Rao

... Petitioner

vs.

Phoenix Asset Reconstruction Company Private Ltd.,
acting in its capacity as the
trustee of PHOENIX TRUST

... Respondent

For applicant

: Mr. V. Venkatasamy

ORDER

This application has been filed aggrieved by the order of the learned Master, dated 18.12.2023. Under the impugned order, the application filed by the respondent seeking to set aside the ex-parte order passed in A. No.3097 of 2022 was allowed. The applicant has challenged the Arbitral Award passed against him under Section 34 of the Arbitration and Conciliation Act, 1996, through O.P. DR. No.7665 of 2018. Though the said petition was filed within time, there was a delay of 542 days in re-presenting the said petition. To condone the delay of



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542 days in re-presenting OP DR No.7665 of 2018, the applicant filed A.

No.3097 of 2022 before the learned Master. Since the respondent did

not file the counter in the said application, the respondent was set ex-

parte by the learned Master. To set aside the said ex-parte order, the

respondent filed A. No.6021 of 2022 before the learned Master. Under

the impugned order, the said application came to be allowed by rejecting

the objections raised by the applicant. The applicant had raised the

objections under Order 3 Rule 2 of CPC and Order 2, Rule 7 and 8 of the

Madras High Court O.S. Rules. According to the applicant leave ought

to have been obtained from the Court before the respondent files an

application seeks to set aside the ex-parte order passed against the

respondent in A. No.3097 of 2022. The said objection was over ruled by

the learned Master correctly through the impugned order, dated

18.12.2023. An arbitral award has been passed against the applicant and

in favour of the respondent. Though, the Section 34 petition filed by the

applicant was filed within time, there was an inordinate delay of 542

days in re-presenting the said petition. However, the learned Master had

earlier set the respondent ex-parte since they did not file the counter in

the condone delay application. The contentions of the applicant as raised

in this application can very well be raised once again by the applicant



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since the counter has already been filed by the respondent in A. No.3097 of 2022 on 24.01.2023.

2. Admittedly the condone delay application filed by the applicant seeking to condone the delay of 542 days in re-presenting the said application has not been decided on merits after giving due consideration to the counter filed by the respondent. Without allowing the learned Master to decide the condone delay application on merits, the applicant has chosen to file this application, which does not deserve any merit.

3. Accordingly, A. No.6127 of 2024 is dismissed. However, liberty is granted to the applicant to raise all the grounds that have been raised in this application once again before the learned Master and the learned Master after giving due consideration to the counter filed by the respondent shall decide the said application on merits and in accordance with law.

03.02.2025

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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ABDUL QUDDHOSE, J.

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