



C.R.P.No.2624 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 01.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.2624 of 2025

Kishorjohn

... Petitioner

Vs.

1.The Project Director,
National Highways Authority of India,
Project Implementation Unit (PIU)
No.26, First Floor, VGP Nagar (West)
Vazhutharetti Post,
Villupuram – 605 602.

2.The Arbitrator and District Collector,
District Collectorate,
Cuddalore.

3.The Competent Authority/
The Special District Revenue Officer,
(Land Acquisition) NH-45A & 227,
Cuddalore.

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the dismissal order made in I.A.No.5887 of 2023 in Unnumbered Application Original Petition dated 21.01.2025 passed by the learned Principal District and Sessions Judge, Cuddalore.



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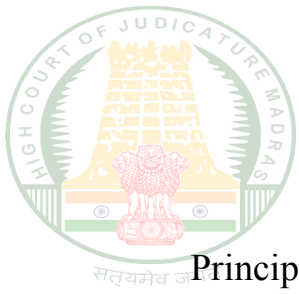
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For Petitioner : Mr.G.Pugazhenth
For Respondents : Mr.Su.Srinivasan
Standing Counsel for R1
(National Highways)
Mrs.R.Anitha
Spl. Government Pleader – R2 & R3

ORDER

Challenge has been made to the order of the trial Court dismissing the application to condone the delay of 438 days in re-presenting the Arbitration Original petition filed as against the Arbitral Award passed under the National Highways Act.

2.Originally, the petitioner's land was acquired by the Government under National Highways Act and the 3rd respondent passed an Award fixing compensation in the year 2018. The petitioner sought for enhancement of compensation and the 2nd respondent/Arbitrator and District Collector enhanced the compensation by Arbitral Award dated 06.04.2022. However, dissatisfied with the compensation awarded by the Arbitrator, the petitioner filed an Arbitration Original Petition before the



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Principal District and Sessions Court at Cuddalore under Section 34 of the Arbitration and Conciliation Act, 1996. However, the said petition was returned. Thereafter, the petition could not be re-presented on time and there was a delay of 438 days. Hence, the petitioner filed the present application to condone the delay in re-presenting the Original Petition. However, the trial Court dismissed the application mainly on the ground that the limitation for filing Original Petition as per Section 34(3) of the Arbitration and Conciliation Act, 1996, is only three months and 30 days. Challenging the order of dismissal, the present revision has been filed.

3.Learned counsel for the petitioner would submit that the period set out under Section 34(3) of the Arbitration and Conciliation Act, 1996, will be applicable only to the filing of the Original Petition and not for re-presentation. In support of his submission, the learned counsel relied upon the judgment of the Division Bench of this Court in ***Dr.R.Krishnamurthy and another v. Dr.R.Venkitapathy [O.S.A.Nos.220, 221, 254 & 255 of 2017, dated 22.03.2018]***.



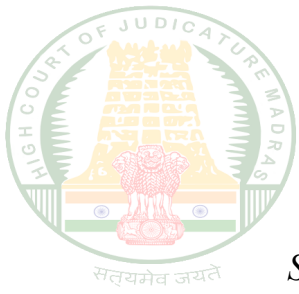
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4. Heard the learned counsel for the petitioner. Mr.Su.Srivasan, learned Standing Counsel, takes notice for the 1st respondent. Mrs.R.Anitha, learned Special Government Pleader, takes notice for the respondents 2 and 3.

5. There is no dispute that, what was sought to be condoned is the delay in re-presentation of the Original Petition, which was originally filed well within the period of limitation. The Division Bench of this Court, in ***Dr.R.Krishnamurthy and another v. Dr.R.Venkitapathy [O.S.A.Nos.220, 221, 254 & 255 of 2017, dated 22.03.2018]***, has clearly held as follows :

“11.It is true that Section 34 (3) puts an upper limit to file an application challenging an award, which is three months and 30 days. An application is required to be filed within three months and if sufficient cause is shown, the Court may allow such an application to file within one month, but not thereafter. The words 'not thereafter' make it amply clear that in no circumstances, can an application for condonation of delay be entertained after expiry of three months plus 30 days. However, as held by the learned Single Bench and as held in all the judgments referred to by the learned Single Bench,

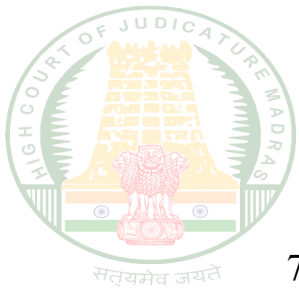


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Section 34 (3) does not apply to re-filing. At the cost of repetition, it is reiterated that there is no limitation for re-filing. The delay in re-filing would be condonable subject to the applicant for condonation of delay being able to satisfy the Court that there was sufficient cause.

*12. While Section 5 of the Limitation Act would not apply to an application under Section 34 (3) of the 1996 Act, the said Section would apply to an application for condonation of delay in re-filing. However, as rightly observed in the judgments of this Court in *Union of India vs. M/s.Cavalier Shipping Company, Madras* and another (AIR 1990 Mad. 312) and *M/s.Indus Bank Ltd. vs. Joseph Rajan Fernandes and Others* (OSA Nos.420-425/2011), and of Delhi High Court in *DDA vs. Durga Construction Company* (ILR (2014) I Delhi 153) and in *Executive Engineer (Irrigation and Flood Control) vs. Shree Ram Construction Company*, in cases under the Arbitration Act, delay cannot liberally be condoned. The principle of expedition, which led to incorporation of Section 28(3) providing for special limitation would have to be kept in mind.”*

6. In view of the above judgment, this Court is of the view that the trial Court ought to have condoned the delay in re-presenting the Original Petition and decided the main case on its own merits.



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7. Therefore, this Civil Revision Petition is allowed and the impugned order, dated 21.01.2025, made in I.A.No.5888 of 2023 in Unnumbered Arbitration Original Petition on the file of the Principal District and Sessions Court, Cuddalore, is set aside, and the delay is condoned. The trial Court shall decide the main Original Petition on its own merits. In the event, the appeal is confirmed, the delay in representation would be taken note of and interest shall not be paid for that period. No costs.

01.07.2025

VRC

Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

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2. The Project Director,
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4. The Competent Authority/
The Special District Revenue Officer,
(Land Acquisition) NH-45A & 227,
Cuddalore.

5. The Section Officer,
VR Section,
High Court, Madras.



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N. SATHISH KUMAR, J.

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