



A.No.4810 of 2025
in
OP DR. No.32598 of 2025

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16.10.2025

Order

1.This application has been filed to condone the delay of 357 days in representing the original petition.

2. The applicant has filed the above original petition to probate the will of the applicant's grandfather and the same was returned to be filed along with original will. The original will was misplaced and after thorough search made the applicant traced the original will only on 15.09.2024 and immediately she handed over it to her counsel who in turn took immediate steps to represent the original petition with a delay 357 days.

3. No proof filed to substantiate the same and hence this court is unable to accept the explanation given by the applicant for the delay in representation.

4. This court has come across an order of our Hon'ble Division Bench in OSA.No. 66 of 2023 to condone the delay of 267 days in representation in an application in which the Hon'ble Division Bench condoned the delay by deleting the cost imposed. The extracted portion is hereunder.

“It is seen that the delay has occurred only in respect of re-presenting the original petition filed against the award passed by the first respondent Arbitrator and not in filing the same. Admittedly, this Court has dealt with umpteen number of cases, extending some leniency for condoning the delay. Applying the same analogy and also considering the explanation offered by the appellant for the delay in re-presenting the



petition papers, this court is inclined to modify the order of the learned Judge, by deleting the costs of Rs.25,000/- imposed on the appellant, while condoning the delay in re-presenting the petition.”

5. Though the reason stated by the applicant in the present case is not satisfactory and justifiable, this court does not want to dismiss this application for these technical reasons. This court is of the opinion that every litigation must be disposed on merits rather dismissing on mere technicalities. Therefore, following the analogy in the order passed by our Hon'ble Division Bench in OSA.No. 66 of 2023, this court is inclined to allow this application on terms.

6. In fine, this application is allowed in the interest of justice. No cost.

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ORDER PRONOUNCED

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