

A.No.4736 to 4738 of 2025
in
CS DR.No.84051 of 2024

MASTER
24.09.2025

Common Order

1. There are three applications in this suit which have been filed before this Court. A.No.4736 of 2025 is filed to condone the delay of 162 days in representing the above suit. A.No.4737 of 2025 is filed to condone the delay of 26 days in paying the deficit court fee. A.No.4738 of 2025 is filed to refund of court fee paid at the time of filing the suit.

2. The reason stated for the delay in paying the deficit court fees and delay in representation is that the plaintiff went out of station to attend a family function and therefore delay occurred. The applicant in A.No.4738 of 2025 has sought for refund of court fees for the reason that he don't want to proceed with the suit and had to decided to withdraw the same.

3. Now the point to be decided is that whether the delay of 162 days in representation and in paying the deficit court fee is to be condoned or not and whether A.No.4738 of 2025 is to be allowed or not?

4. Heard the learned counsel for the petitioner. The learned counsel argued that a liberal approach has to be taken in condoning the delay in representation. This is not the delay in filing but only the delay in refiling. The original petition was filed

within time. Further, the applicant is not inclined to proceed with the suit and has decided to withdraw the suit. Therefore, the delay should be condoned and court fees already paid may be refunded.

5. 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.”

This order of Hon'ble Division Bench was followed by the Hon'ble Single Judge in A.No. 1219 of 2023 in Arb.OP.DR.NO. 9142 of 2022 and the same was allowed without cost. The portion extracted is hereunder:

"In view of the earlier order passed by the learned single Judge in Application No. 1232 of 2023 dated 03.03.2023 which had been modified by the Division Bench of this Court in O.S.A.No. 66 of 2023 by judgment dated 29.03.2023, I

am inclined to set aside the impugned order passed by the Learned master.

Accordingly, this application is allowed. However, there shall be no order as to costs".

Following the orders passed by our Hon'ble Division Bench in OSA.No. 66 of 2023 which was followed by the Hon'ble Single Judge in A.NO. 1219 of 2023 in Arb.OP.DR.No. 9142 of 2022 and considering the fact that the applicant has paid substantial court fees at the time of filing this suit, this court has no hesitation to take lenient view in these applications and is inclined to allow A.No.4736 of 2025 and A.No.4737 of 2025.

Considering the reason stated by the applicant in the affidavit filed in support of the application in A.No.4738 of 2025 that he is not intended to proceed with the suit and have decided to withdraw the same. This application is also allowed with a direction to the Registry to refund the court fee as per the provisions of TamilNadu Court Fees Suit and Valuation Act.

Accordingly, all the three applications are allowed. No order as to costs.

MASTER