



**A.Nos.425 & 426 of 2026
in
CS.DR.No.55550 of 2024**

**MASTER
16.02.2026**

COMMON ORDER

1. There are two applications in this suit which have been filed before this Court. A.No.425 of 2026 is filed to condone the delay of 544 days in representing the above suit. A.No.426 of 2026 is filed to refund of court fee paid at the time of filing the suit.

2. The reason stated for the delay in representation is that the plaintiff initially filed suit only to declare the sale deed dated 31.03.2008 as null and void and for permanent injunction. Later, on return of the case bundle by Registry, the plaintiff was advised to file substantial suit for declaration of his title to the property for which the court fee is more than that of Rs.16,00,000/- and it took some time for him to organise the funds and the applicant was also waiting for the culmination of proceedings before the Revenue authorities. Now, the applicant has decided to withdraw the present suit and file a fresh suit.

3. 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.



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 a similar application in which the Hon'ble Division Bench condoned the delay. 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. 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".



6. 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 that an innocent litigant should not be put at sufferance for the fault of his advocate, this court has no hesitation to take lenient view in these applications and is inclined to allow both these applications.

7. Considering the reason stated by the applicant in the affidavit filed in support of the applications that he is not intended to proceed with the suit and have decided to withdraw the same and file a fresh suit for longer relief. These applications are allowed with a direction to the Registry to refund the court fee as per the provisions of Tamil Nadu Court Fees Suit and Valuation Act.

Accordingly, both these applications are allowed. No orders as to costs.

MASTER