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A No.5629 of 2025 in Arb OP DR No.105740 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2026

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

A No.5629 of 2025 in Arb OP DR No.105740 of 2022

S.Elumalai

.... Applicant

Vs.

Mr.K.Manoharan
S/o.R.Kandasamy
Respondent

....

Application filed under Order XIV Rule 8 and Rule 12 of OS Rules and r/w. 151 of CPC praying to set aside an order dated 17.09.2025 in A.No.1940 of 2025 in Arb OP (com.Div) SR No.105740 of 2022 against Arb case No.03 of 2019 passed by the learned Master of this Court.

For Applicant : Mr.K.Ashok Kumar
For Respondent : Mr.R.Lakshmi Narasimhan
for Mr.E.C.Ramesh



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ORDER

This application has been filed challenging the order passed by the learned Master in Application No.1940 of 2025 dated 17.09.2025 wherein the learned Master had condoned the delay of 838 days in re-presentation.

2. Heard Mr.K.Ashok Kumar, learned counsel for applicant and Mr.R.Lakshmi Narasimhan, learned counsel for respondent.

3. The learned counsel for the Applicant submitted that the award was passed in favour of the applicant on 25.05.2022 and it was served on both sides on 27.05.2022. This award was put to challenge by the respondent and the papers were returned by pointing out to certain defects and one such defect that was pointed out was non-compliance of Section 34(5) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act) since no notice was served on the applicant. The papers were re-



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presented with a delay of 838 days and while dealing with the application, the learned master did not issue notice to the applicant and in the meantime, the applicant was taking steps to execute the award and the exorbitant delay was condoned by the master by imposing a flee-bite condition of payment of cost of a sum of Rs.2,000/- to the Chief Justice Relief Fund. The learned counsel submitted that the order passed by the learned Master without assigning any reasons on the face of it is illegal and the same is liable to be interfered by this Court.

4. Per contra, the learned counsel for respondent submitted that sufficient reasons were given in the affidavit filed in support of the application in A No.1940 of 2025 and that the papers which were returned were taken by the Junior counsel and unfortunately, he died in a road accident during October 2022. These papers were not able to be traced and after a long effort, the papers were traced only in July 2024 after ascertaining the address of the junior counsel and thereafter, the papers were re-presented with a delay of 838 days. The learned counsel submitted



that the learned Master had applied its mind on the reasons assigned in the affidavit and therefore, there is no ground to interfere with the order passed by the learned Master. The learned counsel further submitted that the respondent has a very good case in the main petition and therefore, requested this Court to reject this application and to take up the main petition for hearing.

5. This Court has carefully considered the submissions made on either side and the materials available on record.

6. In the case in hand, this Court is dealing with a delay of 838 days in re-presentation. It is true that the delay in re-presentation does not come within the ambit of Section 34(3) of the Act. However, delay is an anathema insofar as the arbitration proceedings are concerned and both cannot go together. Therefore, while dealing with the issue of delay, the Courts must be more stringent and such delay cannot be considered leniently as is done in regular civil proceedings. This position of law has been reiterated in many judgements.



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7. In the case in hand, the reason that has been assigned in the affidavit filed in support of application No.1940 of 2025 is that after the papers were returned, the junior counsel had taken back the bundle and unfortunately, he passed away in a road accident during October 2022. Thereafter, the affidavit only states that the address of the Junior counsel was unable to be traced till July 2024. This reason is far from satisfactory. Apart from that after having ascertained the address of the Junior counsel during July 2024, the papers were able to be traced only in the 3rd week of December 2024. This reason assigned from July 2024 to December 2024 is also not satisfactory.

8. The learned Master while dealing with this application should have taken note of the fact that there was an exorbitant delay in re-presentation for more than two years. Therefore, the learned Master ought not to have dealt with this application in a casual manner and at least should have ordered notice to the applicant herein, who was the respondent in that application so that while dealing with the application, both sides



could have been heard and orders passed on merits.

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9. The learned Master has not assigned any reasons as to why such an exorbitant delay is being condoned. The learned Master did not order notice to the applicant herein. The petition was allowed by imposing cost of Rs.2,000/- payable to the Chief Justice Relief Fund within four weeks.

10. This Court is not convinced with the manner in which the learned Master had dealt with the application in A No.1940 of 2025. However, considering the submissions made by the learned counsel for respondent herein that the respondent has a very good case on merits, this Court does not want to defeat the right to agitate the main petition and this Court is inclined to put the respondent on terms.

11. Pursuant to the directions issued by this Court, the applicant herein filed a memo of calculation. From the memo of calculation, it is seen that a sum of Rs.28,16,500/- was awarded towards principal under various heads and one of the head was



under the head of Salary to the tune of Rs.25,75,000/-. According to the applicant, the interest component alone works out to a sum of Rs.51,29,127.78/- and in total, the applicant is claiming for a sum of Rs.79,45,627.78/-.

12. For the present, this Court wants the respondent to show some bona fides. Therefore, this Court takes into consideration the principal amount awarded insofar as the salary is concerned to the tune of Rs.25,75,000/-.

13. There shall be a direction to the respondent to deposit a sum of Rs.10,00,000/- to the credit of Application No.5629 of 2025 on or before 03.03.2026. If this condition is complied with by the respondent, this Court is inclined to deal with the main petition on merits. In the absence of the same, the order passed by the learned Master will be interfered and it will be set-aside and in which case, the respondent will not be in a position to prosecute the main petition. This direction will balance the rights between the parties since the applicant herein in whose favour the award was passed has not seen the colour of the coin for more than 3 ½



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years.

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14. In the light of the above discussion, this application is disposed of with a direction to the respondent to deposit a sum of Rs.10,00,000/- to the credit of A No.5629 of 2025 on or before 03.03.2026. If this condition is complied with, the order passed by the learned Master dated 25.06.2025 in A No.1940 of 2025 will stand confirmed. If this condition is not complied with within the time stipulated by this Court, the order passed by the learned Master in A No.1940 of 2025 dated 25.06.2025 will stand set-aside and this application will stand allowed.

15. This application is disposed of in the above terms. No costs.

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N.ANAND VENKATESH, J.

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