

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WA.No. 252 of 2015 () IN WP(C).8963/2004

AGAINST THE JUDGMENT IN WP(C) 8963/2004 of HIGH COURT OF KERALA DATED
07-10-2014

APPELLANT/PETITIONER:

M.GOPINATHAN NAIR,
MULAMKUNNATHU URUMPIL, KOORALI.P.O,
KOTTAYAM DISTRICT,
REPRESENTED BY HIS POWER OF ATTORNEY, VARKEY GEORGE,
CHERUPURAM, CHENGULAM.P.O, KOTTAYAM DISTRICT

BY ADVS.SRI.P.RAVINDRAN (SR.)
SRI.M.R.SABU
SRI.SREEDHAR RAVINDRAN

RESPONDENTS/RESPONDENTS:

1. THE KERALA CO-OP.TRIBUNAL,
THIRUVANANTHAPURAM 695 001
2. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL)
CHANGANACHERRY 686 101
3. ELANGULAM SERVICE CO-OPERATIVE BANK LTD.NO.3576,
KOORALI.P.O., KOTTAYAM DISTRICT, REP. BY ITS SECRETARY
686 522

R BY SRI.P.GOPAL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
23.02.2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

**THOTTATHIL B. RADHAKRISHNAN &
K. HARILAL, JJ.**

W.A. No. 252 of 2015

Dated this the 23rd day of February, 2015.

JUDGMENT

Thottathil B. Radhakrishnan, J.

We have heard the learned counsel for the appellant quite *in extenso*. Challenging the judgment of the learned single Judge, the learned counsel for the appellant raised three issues. Firstly, she argued that the precedents applied by the learned single Judge are really of no relevance, since many of those principles were laid down in matters under the Kerala Buildings (Lease and Rent Control) Act and those provisions are not in *pari materia* with the provisions of the Kerala Co-operative Societies Act. Secondly, she argued that one of the decisions referred to by the learned single Judge was rendered by the High Court at least four years after the issue arose in relation to the appellant and therefore, that precedent could not have been applied. Lastly, she also argued that the *ratio decidendi* of the different precedents

cited may tend to indicate that many of them are essentially, those which rest *per incuriam*. Reverting to the facts, it was attempted to be pointed out that reasons were shown explaining the delay in initiating proceedings before the Tribunal.

2. There are different provisions in different statutes which provide for appellate and revisional remedies without prescribing any period of limitation. The consistent and settled law governing such situations is that the public policy principles get inbuilt and the judiciary from time to time has laid down reasonable restrictions as to the period of limitations by visualising the scope of the appellate or revisional power and the jurisdiction which is being invoked. This is the prime principle on which the writ petitions are also required to be filed within a reasonable time, i.e., 90 days, though the Constitution of India does not prescribe any time limit as such. It is from that zone of judicial power that regulatory principles relating to reasonableness of time frame came to govern

different revisional provisions and appellate provisions, where Legislature had not prescribed any period of limitation. So much so, the different decisions rendered indicating the period of limitations which would be reasonable as regards appeals under Section 82 and revisions under Section 84 of the Kerala Co-operative Societies Act have to be treated as applicable yardsticks, with the litigant having the opportunity to explain the delay.

3. In the case in hand, the learned Tribunal has found that there was no explanation worth acceptance regarding the delay of more than three months even after receiving the copy of the order that was impeached before the Tribunal. We have looked into the revision filed before the Tribunal. There is one stray sentence in the revision that the revision petitioner was somewhere in Karnataka. The fundamental right to free movement within India is available to citizens. Mere non-availability in station was not approved by the Tribunal as a reason to condone the delay. That is essentially a matter in

discretionary jurisdiction. In so far as appeals under Section 82 are concerned, the statute itself says that the appellate order of the Tribunal will be final. Section 84 dealing with the revisional jurisdiction is more in the nature of one which could be invoked to rectify situations which need interference of that nature. Obviously, that provision, even without any express statutory stipulation, gives it finality. As we do not see any unreasonable, illegal, irrational or perverse reasoning by the Tribunal, which warranted interference at the hands of the learned single Judge, we are of the view that this appeal does not merit acceptance.

In the result, this appeal is dismissed *in limine*, however, appreciating the earnest efforts taken by the learned counsel in preparing and presenting the writ appeal.

Sd/-
THOTTATHIL B. RADHAKRISHNAN
JUDGE

Sd/-
K. HARILAL
JUDGE

Scl.

True Copy

PA to Judge