

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 31627 of 2015 (C)

PETITIONER : -

AVARAHAJI, AGED 67 YEARS,
KATTUKANDAN HOUSE, KULIKKILIYAD.P.O.,
KOTTAPURAM, PALAKKAD DISTRICT.

BY ADV.SRI.C.K.RAMAKRISHNAN

RESPONDENTS : -

1. THE GENERAL MANAGER,
DISTRICT CO-OPERATIVE BANK LTD.,
H.O. PALAKKAD, PIN-670 001.
2. THE KERALA CO-OPERATIVE TRIBUNAL,
THIRUVANANTHAPURAM - 695 001,
REPRESENTED BY ITS SECRETARY.

BY GOVERNMENT PLEADER SRI. A.J. JOSE AEDAIODI
BY SRI.M.SASINDRAN, SC, PALAKKAD DIST.CO.OP.BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE EXTRACT COPY OF THE WRIT PETITION NO.15799/2015.

EXHIBIT P2 : TRUE COPY OF THE JUDGMENT DATED 29.05.2015 OF THE WRIT
PETITION NO.15799/15.

EXHIBIT P3 : TRUE EXTRACT COPY OF THE REVISION PETITION FILED BEFORE
THE TRIBUNAL DATED 06.08.15.

EXHIBIT P4 : TRUE COPY OF THE DELAY PETITION WHILE FILING THE
REVISION PETITION FOR THE DELAY OF 109 DAYS..

EXHIBIT P4(a) : ENGLISH TRANSLATION OF EXT.P4 DELAY CONDONATION
PETITION.

EXHIBIT P5 : TRUE COPY OF THE ORDER OF TRIBUNAL DATED 15.09.2015.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 31627 of 2015

Dated this the 16th day of October, 2015

JUDGMENT

As has been rightly pointed out by the second respondent Tribunal, this Court, while rendering Exhibit P2 judgment, has not given any direction concerning the limitation. It has specifically observed that the revision to be filed by the petitioner shall be considered by the learned Tribunal if it is sustainable.

2. At any rate, it is the singular grievance of the petitioner that the learned Tribunal has not at all considered Exhibit P4 application for delay condonation on merits. According to the learned counsel for the petitioner, it has been summarily rejected on the premise that this Court in Exhibit P2 judgment has not given any direction to exclude the period of time for the purpose of limitation.

3. The learned counsel has further urged this Court to dispose of the writ petition to the specific direction to the learned Tribunal to consider the petitioner's Exhibit P4 application on merits, taking into account all facts that have

been pleaded by the petitioner.

4. A perusal of Exhibit P4 affidavit filed by the petitioner in support of the application for delay condonation has not contained any pleading to the effect that this Court in Exhibit P2 judgment has given any direction to exclude any delay that has occurred. Rightly so.

5. It is, however, evident from the impugned order that the learned Tribunal has not considered Exhibit P4 on merits, whatever be the worth of the pleas taken.

6. The learned Standing Counsel for the first respondent Bank has submitted that the respondent Bank has no objection if the learned Tribunal consider petitioner's Exhibit P4 application on merits.

7. The learned Government Pleader has also submitted that the writ petition may be disposed of observing that Exhibit P4 is required to be considered on merits.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner, the learned Government Pleader and the learned Standing Counsel for the respondent Bank, this Court, without expressing any opinion on the merits of the matter, disposes of

the present writ petition, hereby setting aside Exhibit P5 and, further, remanding the matter to the learned Tribunal to consider petitioner's Exhibit P4 application for condonation of delay, afresh on merits.

DAMA SESHADRI NAIDU
JUDGE

DMR/-