

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.26526 of 2015 &
M.P.No.1 of 2015

R.Saravanan

...Petitioner

v.

1.The Regional Joint Registrar.
Office of the Joint Registrar,
Central Cooperative Bank,
Behind District Collectorate,
Dharmapuri

2.The Managing Director
Central Cooperative Bank,
Dharmapuri

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records on the file of the 1st respondent in proceedings Na.Ka. 3460/2015 Sa.Pa dated 13.07.2015 and quash the same as illegal, incompetent and without jurisdiction.

For Petitioner : Mr.T.Panchatsaram

For Respondents: Mr.D.Venkadachalam,
Govt. Advocate - for R1

No appearance - for R2

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner, while working as the Assistant Manager of Central Co-operative Bank Limited in the second respondent-Bank, issued three cheques to his brother-in-law on behalf of one Dharman, in connection with the purchase of the property. There was a dispute with regard to the measurement of the property and since the dispute has not been settled within a reasonable time, the petitioner did not deposit the required amount for honouring the said cheques and the cheques on presentation was dishonoured.

3. The said Dharman, in whose favour cheques were issued, filed a private complaint in C.C.No.170 of 2009 on the file of Judicial Magistrate, Krishnagiri and the same was dismissed as settled out of court. Thereafter, the disciplinary authority issued disciplinary proceedings and the petitioner was imposed with the punishment of Rs.10,000/- as costs and also a warning by the second respondent by proceedings dated 11.02.2010. Challenging the legality of the order, the petitioner filed revision under section 153 of the Tamil Nadu Co-operative Societies Act, 1983 to the respondents along with an application for condonation of delay.

4. In the interregnum, the petitioner appeared for the post of Manager. Since his name was not included in the Penal, he filed W.P.No.20678 of 2015 praying for issuance of writ of mandamus directing the respondent to re-fix him in the original place in S.No..28 in the Penal list for the post of Manager and promote him to the said post. This court, disposed of the writ petition on 13.7.2015 granting liberty to the petitioner to file necessary application for condonation of delay in approaching the Revisional Authority and on receipt of the same, the authority was directed to consider the said application and pass orders in accordance with law. Accordingly, the petitioner filed an application for condonation of delay, however, with a delay of nearly 5 years in preferring the revision stating that he may be subjected to harassment in the form of departmental action and further proceeding and hence, he was not in a position to file the revision in time. However, the 1st respondent-Revisional Authority, vide impugned order dated 13.07.2015, rejected the application on the ground that the petitioner has not properly explained the reasons for the delay. Challenging the legality of he said order, the petitioner has filed this writ petition.

5. Mr.J.Panchatsaram, learned counsel appearing for the petitioner would submit that though the delay is on the higher side on account of the fact that the petitioner may be subjected to harassment in the form of departmental action and further proceeding, he kept quiet for some time and after obtaining proper legal opinion, he filed revision with a delay. The first respondent, in any event, ought to have condoned the delay by permitting the petitioner to file the revision and hence, prays for setting aside the order dated 13.07.2015.

6. Per contra, Mr.R.Venadachalam, learned Government Advocate, who accepts notice for the respondents, submitted that the delay is very much on the higher side and the petitioner has not shown adequate reasons for condoning the delay and therefore, the application was rightly dismissed and hence, prays for dismissal of the writ petition.

7. This court has considered the rival submissions made by the learned counsel on either side and also perused the materials available on record.

8. The petitioner, in paragraph No.2 of the affidavit filed in support of the application, has given the reasons that the second respondent was functioning as Special Officer of the Society and also the Executive Authority and therefore, he did not want to antagonize him by filing revision petition and that is why the delay has happened.

8. The petitioner was imposed with the costs of Rs.10,000/- and also administrative orders and it may be put against him in the event of consideration of his name for promotion.

9. In the light of the facts and circumstances of the case, this court is of the considered view, that opportunity is to be given to the petitioner to canvass the merits of the revision subject to certain conditions to the petitioner.

10. In the result, the writ petition is partly allowed and the impugned order dated 13.07.2015 is set aside subject to the condition that the petitioner pays a sum of Rs.5,000/- (Rupees five thousand only) to the second respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the second respondent is directed to entertain the revision, if the papers are otherwise in order and dispose of the revision on merits and in accordance with law, within a period of eight weeks thereafter and communicate the decision to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Rj

To

1.The Regional Joint Registrar.
Office of the Joint Registrar,
Central Cooperative Bank,
Behind District Collectorate,
Dharmapuri

2.The Managing Director
Central Cooperative Bank,
Dharmapuri

+1cc to Mr.T. Panchatsaram, Advocate, S.R.No.45575

+1cc to the Government Pleader, S.R.No.45380

GGK(CO)
EU(30/09/2015)

W.P.No.26526 of 2015 &
M.P.No.1 of 2009



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