

THE HON'BLE SRI JUSTICE RAJA ELANGO

Writ Petition No.24293 of 2008

ORDER :

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This Writ Petition is filed seeking to issue a writ of *Mandamus* to declare the order passed in M.P. No.68 of 2007 in O.A. S.R. No.269 of 2007, dated 22-04-2008 on the file of the A.P. Cooperative Tribunal, Vijayawada, as illegal and arbitrary and consequently set aside the surcharge orders dated 03-02-2005 passed by the 1st respondent in Rc.No.1330/2002-B3.

2. The brief facts of the case are as follows :

The petitioner herein filed the M.P.No. 68 of 2007 in O.A. S.R. No.269 of 2007 on the file of the A.P. Cooperative Tribunal, Vijayawada, seeking to condone the delay of 755 days in preferring the appeal against the orders dated 03-02-2005 passed by the 1st respondent in Rc.No.1330/2002-B3. The Tribunal by order dated 22-04-2008 dismissed the said petition on the ground that the petitioner has not explained the abnormal delay of 755 days properly and satisfactorily. Aggrieved by the same, the present Writ Petition is filed.

3. Smt.Bobba Vijaya Lakshmi, learned counsel for the petitioner, *inter alia*, submits that the petitioner has given

brief to an Advocate by name, Vishnu to file the appeal, however, the appeal could not be filed as his wife was ill and subsequently passed away and also as the said Advocate discontinued the profession. Hence, there was delay in filing the appeal by engaging another advocate.

4. Having heard the learned counsel on either side and perused the material available on record, this Court is of the considered view that the petitioner should be given an opportunity to agitate his rights by way of preferring an appeal.

5. Hence, the Writ Petition is disposed of setting aside the order dated 22-04-2008 in M.P. No.68 of 2007 in O.A. S.R. No.269 of 2007 on the file of the A.P. Cooperative Tribunal, Vijayawada and the A.P. Cooperative Tribunal is directed to condone the delay of 755 days in filing the appeal and subsequently dispose of the appeal as expeditiously as possible, more preferably within a period of six months. There shall be no order as to costs.

6. As a sequel, miscellaneous petitions pending, if any, in this Writ Petition are closed.

JUSTICE RAJA ELANGO

25th February, 2015

skmr

