

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2016

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP(NPD)No.335 of 2011

S.Natarajan

..Petitioner/appellant

Vs.

1.The Special Officer

S 1284, Thathaiyangarpettai
Primary Agricultural Co-operative Bank Ltd.,
Karaikurichipudur Post,
Namakkal District.

2.The Deputy Registrar of Co-operative Societies

Namakkal.

..Respondents/Respondents

Prayer:- Civil Revision Petition is filed under Section 115 of Code of Civil Procedure against the Judgment and Decree dated 30.07.2010 made in I.A.No.62 of 2009 in CMA(CS) No.29 of 2003, on the file of the learned Principal District Judge cum Co-operative Tribunal, Namakkal.

For Petitioner : Mr.T.S.Vijayaraghavan

For Respondent No.1 : Mr.K.Selvaraj

For Respondent No.2 : Mr.T.Jeyarama Raj
Special Government Pleader (CS)

ORDER

This Civil Revision Petition arises against the fair and final order dated 30.07.2010 made in I.A.No.62 of 2009 in CMA(CS) No.29 of 2003, on the file of the learned Principal District Judge cum Co-operative Tribunal, Namakkal.

2. **The brief facts of the case:** The petitioner herein filed a

writ petition in W.P.No.19234 of 2001 before this Court praying for a direction to the first respondent to settle his leave salary from 04.01.1993 to 27.03.1994, salary for six days i.e., from 28.03.1994 to 02.04.1994 and all other attendant retirement benefits with 18% interest from 1994 itself, etc. As per the direction of this court, the matter is taken up for hearing before the second respondent in Dispute No.413 of 2001-2002 and the second respondent, by an order dated 03.01.2002, has partly allowed the case stating that the petitioner is eligible only for Medical leave of 18 days and 6 days of salary and whereas, he is not eligible in respect of retirement benefits,.

3. Learned counsel for the petitioner would submit that the second respondent/Co-operative Tribunal, Namakkal, failed to note that the petitioner herein is aged about 73 years and is ailing from various health problems and the revision petitioner could not attend the Court regularly because of his old age and his counsel was also not aware of the order of the second respondent. So, he could not comply with the conditional order passed on 22.07.2010 by the second respondent. The Tribunal, without taking into consideration of the old age of the petitioner, dismissed the condone delay petition in I.A.No.62 of 2009, instead of extending the time.

4. The learned counsel for the petitioner would further submit that the second respondent herein passed an order on 03.01.2002 in dispute No.413/2001 - 2002 filed under section 90 of the Tamil Nadu Co-

operative Societies Act, 1983 and it was partly allowed and another relief sought for pension benefit was dismissed. Aggrieved against the rejection portion of the said order, he preferred an appeal before the Co-operative Tribunal, under Section 152 (1) (a) of the Tamil Nadu Co-operative Societies Act, 1983 and the said appeal was dismissed for default on 30.03.2009 and the petitioner had preferred an application in I.A.No.62 of 2009 to condone the delay of 188 days in filing the petition to set aside the dismissal of appeal and the same was also dismissed for non-payment of cost. Aggrieved by the said order, the revision petitioner preferred the Civil Revision Petition before this court.

5. The learned counsel for the first respondent would submit that the Tribunal has rightly dismissed the application, because of the fault on the part of the revision petitioner. Hence, he prays for dismissal of the civil revision petition.

6. The learned counsel for the second respondent would submit that the dispute is between the first petitioner and the first respondent herein, therefore, this court may be pleased to pass appropriate order in the above Civil Revision Petition.

7. Heard Mr.T.S.Vijaya Raghavan, learned counsel for petitioner, Mr.K.Selvaraj, learned counsel for first respondent and Mr.K.Jayaraman Raj, Special Government Pleader (CS) for second respondent.

8. It has been stated in the affidavit filed in support of the petition that on 22.07.2010 the Lower court directed the petitioner to pay a sum of Rs.500/- as costs, on or before 30.07.2010 in the Interlocutory Application, for condoning the delay. But the same was not paid by the petitioner and hence the Principal District Court, Namakkal dismissed the I.A.No.62/2009 on 30.07.2010. Considering the facts of the case and in the interest of justice, this Court is of the view that the Civil Revision Petition may be allowed, by enhancing the cost of Rs.500/- imposed by the Lower Court to Rs.2000/-, for which learned counsel for the petitioner agreed and also paid Rs.2000/-, immediately to the learned counsel for the respondent before this Court.

9. Therefore, as the enhanced costs of Rs.2000/- imposed on the petitioner, has also been received by the learned counsel for the respondent before this Court, the impugned order passed in I.A. No.62/2009 dated 30.07.2010 on the file of Principal District Court, Namakkal, is set aside and I.A.No.62 of 2009 in CMA CS.No.29 of 2003 is allowed.

10. In the result, the civil revision petition is allowed as indicated above. No order as to costs.

22.04.2016

Index :Yes/No
Internet:Yes/No
Gv/asvm

To

- 1.The Special Officer
S 1284, Thathaiyangarpettai
Primary Agricultural Co-operative Bank Ltd.,
Karaikurichipudur Post,
Namakkal District.
- 2.The Deputy Registrar of Co-operative Societies
Namakkal.
- 3.The learned Principal District Judge
cum Co-operative Tribunal,
Namakkal.

D.KRISHNAKUMAR,J.

CRP(NPD)No.335 of 2011

22.04.2016