

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.1725 of 2016 and
WMP.No.1505/2016

R.Chinna Gounder

.. Petitioner

V.

1.The President

KK 252, Veeramalai Primary Agri Coop Bank
Veeramalai, Krishnagiri.

2.The Deputy Registrar of Coop Societies
Krishnagiri [Circle], Krishnagiri.

3.The Tribunal for Coop Societies cum Principal
District Judge, Krishnagiri. .. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus forbearing the 1st and 2nd respondents from Precipitating any action in pursuance of the Memo dated 21.12.2015 of the 1st respondent pending disposal of the IA No.1/2016 and IA.No.2/2016 pending on the file of the 3rd respondent for condoning the delay and restoration of CMA [CS] No.5/2009 which came to be dismissed by the 3rd respondent on 25.09.2014 for default.

For Petitioner .. Mr.S.Venkataraman

For Respondents .. Mr.D.Venkatachalam for R2

.. Mr.M.S.Palanisamy for R1

ORDER

Heard the learned counsel for the petitioner ; Mr.M.S.Palanisamy, learned counsel accepting notice on behalf of the 1st respondent and Mr.D.Venkatachalam, learned Counsel accepting notice for the 2nd respondent and with their consent, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner has filed this writ petition to forbear the respondents 1 and 2 not to take any precipitative action by

implementing the order of surcharge, since the petitioner has filed an appeal before the Tribunal for Co-operative Cases (Principal District Court, Krishnagiri in C.M.A.(C.S).No.5 of 2009. Though the appeal was filed by the petitioner in 2009, it appears that the petitioner was not diligent in prosecuting the matter and the appeal was dismissed for default. To restore the appeal, the petitioner has filed an application to set aside the order. The petitioner has filed an application and since it is barred by limitation, he has filed a petition to condone the delay of 365 days in filing the appeal. The said interlocutory application is still pending. In the interregnum, now the petitioner seeks for a direction stating that the respondents should not enforce the surcharge order. It is not known as to whether the Tribunal for Co-operative Cases before which the appeal was pending since 2009 had granted an interim order. Therefore, at this stage of the matter, no writ of mandamus as sought for can be issued.

3. Therefore, the Writ Petition, being devoid of merits, is dismissed. However, the Tribunal for Co-operative Cases is directed to dispose of I.A.No.1 of 2016 on merits and in accordance with law as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

सत्यमेव जयते

To

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1.The President

KK 252, Veeramalai Primary Agri Coop Bank
Veeramalai, Krishnagiri.

2.The Deputy Registrar of Coop Societies

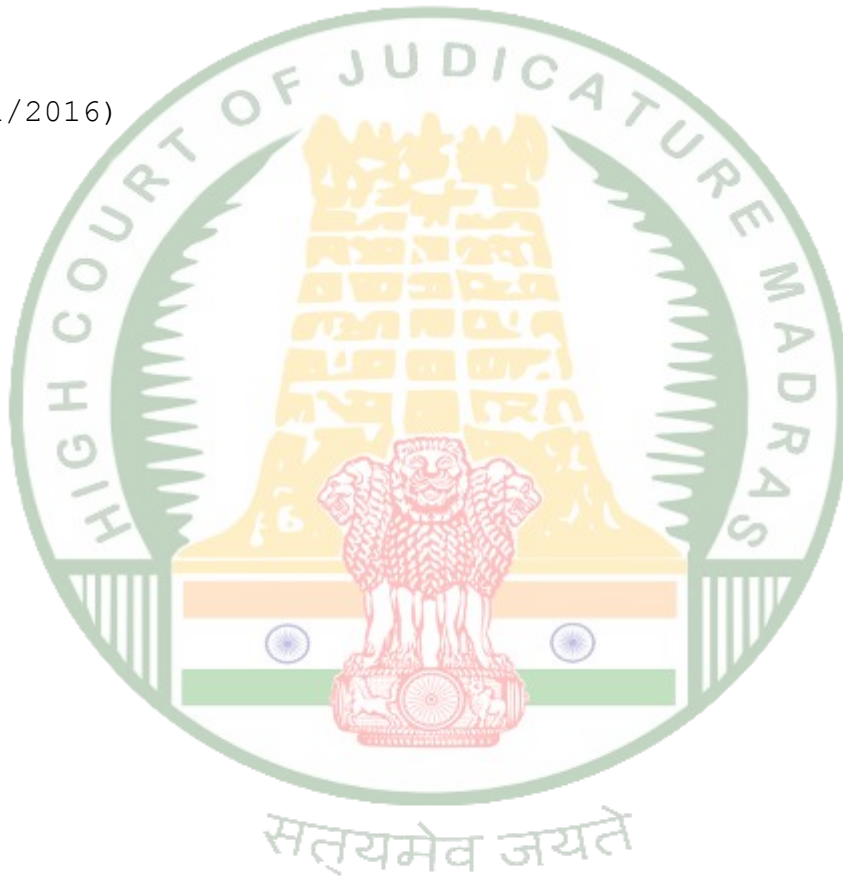
Krishnagiri [Circle], Krishnagiri.

3.The Principal District Judge,
Krishnagiri.

+1cc to M/S.M.S.Palaniswamy, Advocate, S.R.No.3508
+1cc to M/S.S.Venkataraman, Advocate, S.R.No.3687
+1cc to the Government Pleader, S.R.No.3341

W.P.No.1725 of 2016

rsk(CO)
srg(29//01/2016)



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