

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2016

C O R A M

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.41086/2015 & MP.No.1/2015

R.Krishnaraj

.. Petitioner

Versus

The Deputy Registrar of Cooperative Societies
[Housing], Cuddalore.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified mandamus calling for the records of the Principal District Judge, Cuddalore, relating to Fair and Decretal Order dated 28.07.2015, in IA.No.49/2014 in unnumbered CMA [CS], to quash the same and to issue directions to the Principal District Judge, Cuddalore, to take on file the appeal dated 10.12.2014 filed by the petitioner under section 152 of the Tamilnadu Cooperative Societies Act, 1983 against the Award in Na.Ka.No.3752/06/Sa.Pa. dated 31.08.2007 passed by the respondent and dispose of the same on merits and in accordance with law.

For petitioner ... Mr.K.Govindaraj

For Respondent ... Mr.D.Venkatachalam, GA

ORDER

Heard the learned counsel for the petitioner and Mr.D.Venkatachalam, learned Government Advocate appearing for the respondent and with their consent, the writ petition is taken up for final disposal.

2 The petitioner has filed the present writ petition challenging the order passed in IA.No.49/2014 in unnumbered CMA [CS] dated 28.07.2015 by the Principal District Judge, Cuddalore.

3 The said appeal was preferred as against the Surcharge order passed by the respondent. The petitioner had earlier filed a writ petition before this Court in WP.No.12813/2013, challenging the Surcharge Order dated 31.08.2007. This Court pointed out that the petitioner has filed the said writ petition after six years without

availing the alternate remedy. Therefore, the petitioner submitted that he would prefer an appeal. Placing on record the said submission, the writ petition was dismissed. Thus, it is clear that this Court did not make any observation regarding the aspect relating to limitation for filing the appeal. The petitioner has preferred an appeal before the Principal District Judge, Cuddalore along with an application in IA.No.49/2014 to condone the delay of 2253 days. In the affidavit filed in support of the condone delay petition, the only averment made by the petitioner is that the Award dated 31.08.2007 was not served on the petitioner, in spite of his demand. It may be true that in the counter filed by the respondent before the Principal District Judge, Cuddalore, though there is a denial of the said allegation, a statement has been made that the Award was served on the petitioner ; but no date was given. The Principal District Judge, Cuddalore, considered the matter at length and after taking note of the factual position, held that the delay has not been properly explained and dismissed the petition. Challenging the said order passed by the Principal District Judge, Cuddalore, refusing to condone the delay, the petitioner is before this Court.

4 At the time when the writ petition was entertained, this Court framed a question which is the only question to be considered in the instant case, as to on what date, the order of Surcharge dated 31.08.2007 was served on the petitioner. This question was framed since the petitioner took a specific stand before the Principal District Judge, Cuddalore as well as before this Court that the Award was not served on him.

5 Learned Government Advocate has now produce the office copy of the Award dated 31.08.2007, from which it is seen that the petitioner has received the copy of the Award on 23.11.2007 and has also affixed his signature. Therefore, the petitioner having made a false statement before the Principal District Judge, Cuddalore, stating that the copy of the Award was not served on him, does not deserve any indulgence and it is not a case where discretion should be exercised, that too, when the delay is 2253 days, which is inordinate and unexplained.

6 For the above reasons, this Court is of the view that the petitioner has not made out a case for interference in the impugned proceedings. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

AP

Sd/-

Assistant Registrar (CS III)

/TRUE COPY/

Sub-Assistant Registrar

To

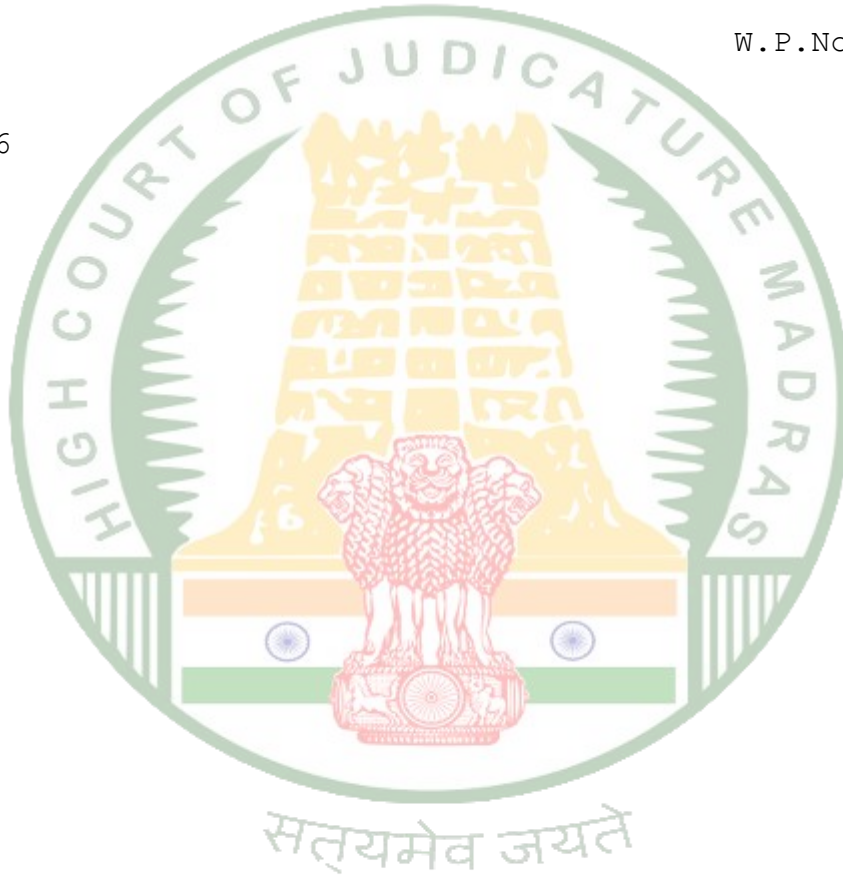
The Deputy Registrar of Cooperative Societies
[Housing], Cuddalore.

+ 1 CC to Govt.Pleader SR.NO.5484/2016

+ 1 cc to Mr.K.Govindaraj, Advocate Sr 5101 (9/3/16)

W.P.No.41086/2015

VGJ [CO]
MK : 04/02/2016



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