

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.04.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(N.P.D.) No. 4313 of 2014 and
M.P.No.1 of 2014

N.Chenniappan

...Petitioner

Vs

1. The General Manager,
District Industries Centre,
Chennimalai Road,
Near Good Shed, Erode – 1.
Erode Taluk and District

2. The Arbitrator/Industries Co-operative
Officer of the District Industries Office,
Chennimalai Road, Near Good Shed,
Erode Taluk and District.

3. The Special Officer,
Tamil Nadu Industrial Co-operative Bank Ltd.,
Prisha Complex, Door No.41-B,
Perundurai Road,
Erode Taluk and District.

...Respondents

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India, against the order dated 13.11.2007 made in I.A.No.125/2006 in C.M.A.SR.No.2075 of 2006 on the file of the I Additional District Judge, Erode.

For Petitioner	: Mr.B.Kumarasamy
For R1 and R2	: No appearance
For R3	: Mr.N.Diwan Kattuva

ORDER

The petitioner filed Civil Miscellaneous Appeal before the I Additional District Judge, Erode, challenging the Award passed by the first respondent on 24 March 2000. The appeal was accompanied by an application in I.A.No.125 of 2006 to condone the delay of 1541 days. The application was dismissed by the learned I Additional District Judge, Erode. The order is under challenge in this Civil Revision Petition.

2. I have heard the learned counsel for the petitioner. I have also heard the learned counsel for the third respondent.

3. The petitioner appears to have availed financial assistance from the Tamil Nadu Industrial Co-operative Bank Limited, Erode. Since the petitioner defaulted in making payment, the Bank initiated Arbitration proceedings. The first respondent passed an Award on 24 March, 2000 determining the amount payable by the petitioner. The petitioner failed to file appeal within the statutory period. The petitioner, therefore, filed an application in I.A.No.125 of 2006 to condone the delay of 1541 days in filing the civil miscellaneous appeal.

4. The petitioner in the affidavit filed in the support of application in I.A.No.125 of 2006 contended that he was not in a position to move

on account of the giddinesses and related illness. It was his further case that on account of poverty, he was not in a position to come out of his residence. The learned District Judge appears to have taken a strict view of the matter and dismissed the application.

5. The appeal in question is a statutory appeal available to the petitioner. The Award was passed by an officer of the Tamil Nadu Industrial Co-operative Bank Limited. There was no occasion for a judicial forum to consider the merits or otherwise of the Award passed by the first respondent. It is true that there was carelessness on the part of the petitioner also by not filing the appeal within the statutory period. The petitioner in the affidavit indicated that he was suffering from high blood pressure, giddinesses and other ailments. The fact that the petitioner failed to prove that he was suffering from various illness alone could not be a reason to reject his application for condoning the delay.

K.K.SASIDHARAN,J.

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6. In view of the background facts and taking into account the Award dated 24 March, 2000, the impugned order dated 13 November, 2007 is set aside. The application in I.A.No.125 of 2006 is allowed. The learned I Additional District Judge, Erode, is directed to number the appeal and dispose of the same on merits and as per law.

7. The Civil Revision Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

27.04.2017

asi/svki

To

I Additional District Judge, Erode.

C.R.P.(NPD) No. 4313 of 2014

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