

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2017

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The Hon'ble Mr.Justice K.K.Sasidharan

C.R.P.(NPD)No.725 of 2013

and

M.P.Nos.1 & 2 of 2013

S. Loganathan (aged about 62 years)

...Petitioner

Vs

1. The Special Officer
Senthapatti Primary
Agricultural Co-operative Bank Ltd.,
Senthapatti & P.O.,
Gengavalli Taluk
Salem District Pin 636 110.

2. The Deputy Registrar of
Co-operative Societies, (Attur Circle)
Gandhi Nagar, Attur & P.O.,
Salem District.

... Respondents

Prayer : Civil Revision Petition, filed under section 115 of Civil Procedure Code, praying to set aside the Order of the learned Principal District Judge, Salem, made in I.A. No.66 of 2010 in un-numbered C.M.A. (C.S.) No. of 2010 dated 7.9.2012 and allow the said I.A. No. 66/2010 for condonation of

delay in filing the Civil Miscellaneous Appeal against the order of the 2nd Respondent bearing Na.Ka. No.3809 of 2000, dated 06.12.2000 served on the petitioner on 09.03.2001 fixing financial liability on the petitioner.

For Petitioner : M/s.S.Ayyathurai
For Respondent-1 : Mrs.T.P.Savitha
For Respondent-2 : No Appearance

ORDER

The petitioner filed an Appeal before the Co-operative Tribunal, challenging the surcharge proceedings. The Appeal was filed along with an Application, in I.A.No.66 of 2010, to condone the delay of 3402 days. Since sufficient reasons were not given, the learned Principal District Judge, Salem, functioning as Co-operative Tribunal, dismissed the Application. The said order is under challenge in this Civil Revision Petition.

2. I have heard the learned counsel appearing on behalf of the petitioner and the learned counsel for the first respondent.

3. The petitioner filed a Statutory Appeal, under Section 152 (1)

of the Tamil Nadu Co-operative Societies Act before the learned Principal District Judge, Salem. The Appeal was not filed within the statutory period. The petitioner filed an application, in I.A.No.66 of 2010 to condone the delay of 3402 days in filing the Appeal.

4. The affidavit filed by the petitioner is bereft of particulars. The petitioner ought to have explained the actual reasons for the delay. There is no point in saying that on account of the dismissal from service and pending criminal prosecution, the petitioner was unable to file the Appeal immediately. Even the details of those proceedings were not indicated in the affidavit filed in I.A.No.66 of 2010.

5. After hearing the learned counsel for the petitioner and the learned counsel for the first respondent, I am of the view that the petitioner should be given an opportunity to file a better affidavit, indicating the reasons for the delay.

6. In the result, the order, dated 7.9.2012 is set aside. The application in I.A. No. 66 of 2010 is restored to file.

7. The learned Principal District Judge, Salem, is directed to give reasonable opportunity to the petitioner for filing a better affidavit. Thereafter, the first respondent should be given time to file a reply. The learned Principal District Judge, Salem is further directed to consider the reasons given by the petitioner in the better affidavit and take note of the background facts and decide the matter on merits and as per law. It is made clear that, fresh orders shall be passed without in any way being influenced by any of the observations contained in the Order, dated 07.09.2012, in I.A.No.66 of 2010, which is the subject matter in this Civil Revision Petition. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

8. The Civil Revision Petition is allowed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

25.04.2017

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Index : Yes/No

To
The Principal District Judge, Salem.

K.K.Sasidharan,J.,

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