

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.04.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.29478 of 2016

The Kumbakonam Central Co-operative Bank Limited,  
represented by its Managing Director,  
Kumbakonam, Thanjavur District.

.. Petitioner

Versus

1.The Co-operative Tribunal  
Principal District Judge  
Tiruvarur District.

2.E.Annamalai

..Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the Judgment and Decree dated 16.03.2016 made in Co-operative Civil Miscellaneous Appeal (CMA) No.1 of 2013 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.D.Venkatachalam

For R1 : Mr.V.Selvaraj, AGP

For R2 : Mr.V.K.Vijayaraghavan

ORDER

The petitioner, in this writ petition, seeks for issuance of a Writ of Certiorari, calling for the records pertaining to the Judgment and Decree dated 16.03.2016 made in Co-operative Civil Miscellaneous Appeal (CMA) No.1 of 2013 on the file of the 1st respondent and quash the same.

2. According to the learned counsel for the petitioner, without impleading the petitioner as a party, the impugned order passed by the tribunal is liable to be set aside. The learned

counsel for the petitioner relied upon the decision of this Court in W.P (MD)Nos.7338 and 7339 of 2012, dated 21.07.2014 wherein, this Court has allowed the Writ Petitions and remanded back to the tribunal to decide the issue after affording sufficient opportunity to all the parties concerned and prayed to allow the Writ Petition.

3. Per contra, the learned counsel for the respondents would submit that the tribunal has gone into the merits of the case and allowed the appeal. The learned counsel for the respondent would also submit that in the light of the aforesaid decision passed by this Court, the matter may be remanded back to the tribunal and the respondent may also be given liberty for furnishing any additional document and the same shall be considered by the tribunal.

4. Heard the learned counsel for the respondent and perused the materials.

5. Admittedly, the petitioner has not impleaded as a party in the appeal filed by the second respondent. In the decision relied on by the learned counsel for the petitioner in W.P.(MD)Nos.7338 and 7339 of 2016, dated 21.07.2014, this Court in paragraphs 8 and 9 of the order has held as follows:-

8. This is not the first case, wherein this Court has noticed such a flaw committed by Co-operative Tribunals. In a number of cases, within a short of span of one month, I have noticed that many of the Co-operative Tribunals in the State do not follow the said settled procedure, inasmuch as they, in a causal manner, entertain the appeals and dispose of the same without insisting for impleadment of the parties in whose favour the award has been passed under Section 87 of the Act. I am hopeful that atleast hereafter the Co-operative Tribunals in the State shall avoid the shortcomings indicated hereinabove.

9. In view of the foregoing discussion, the Writ Petitions are allowed; the impugned order of the Co-operative Tribunal, Dindigul, in CMA CS Nos.14 and 16 of 2004, dated 09.12.2010, is set aside and the matter is remanded back to the Tribunal, which shall suo-motu implead the petitioner Society as a party respondent in the appeals, afford

sufficient opportunity to all the parties concerned and then pass appropriate orders, in accordance with law, within a period of six months from the date of receipt of a copy of this order. No costs.

6. In the light of the above said order, the same is also squarely applied to the facts of the present case. Therefore, this Court has no hesitation to set aside the order passed in the appeal and remanded back to the appellate tribunal which shall suo-motu implead the petitioner as a party in the appeal and consider the appeal and pass orders in accordance with law, after affording opportunities to the parties concerned, as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order.

7. In the result, this Writ Petition is allowed with the above direction. No costs.

Sd/-  
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

nvi

To  
The Co-operative Tribunal  
Principal District Judge  
Tiruvarur District.

Copy to:  
The Section Officer,  
VR Section, High Court ,Madras.

+1CC TO Mr.D.Venkatachalam,Advocate sr.25535

+1cc to Mr.V.K.Vijayaraghavan,Advocate sr.25769

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ev(co)  
ss(5/6/2017)