



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2017

CORAM:

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.[MD].No.839 & 840 of 2014
and
M.P.[MD]No.2 & 3 of 2014

The Management,
Dindigul Central Cooperative Bank,
Rep.by its Managing Director / Joint Registrar,
Kootturavu Nagar, Trichy Road,
Dindigul.

... Appellant in
both writ appeals.

Vs.

1.A.Sanjeevi
2.Deputy Registrar of Cooperative Societies,
O/o.Deputy Registrar of Cooperative Societies,
Mengils Road, Dindigul.

... Respondents in
both writ appeals.

PRAYER in both writ appeals: Writ Appeals are filed under Clause 15 of the Letters Patent to set aside the order passed by the learned Judge in W.P.(MD)No.14983 of 2013 and W.P(MD).No.14984 of 2013 respectively, dated 11 September, 2013.

Prayer in WP(MD). 14983/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the learned District Cooperative Tribunal, Principal District Court, Dindigul, in C.M.A(CS).No. 32/1997 dated 24/11/2008 and quash the same and consequently direct the first respondent to pay the decree amount to the petitioner Bank with the interest at the rate of 18% till the realization .

Prayer in WP(MD). 14984/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus or any other writ or order or direction in writ, to call for the records pertaining to the impugned order passed by the leaned District Co operative Tribunal



Principal District Court, Dindigul, in C.M.A.(C.S) No. 33/1997 dated 26.11.2008 and quash the same and consequently direct the first respondent to pay the decree amount to the petitioner Bank with the interest at the rate of 18% till the realization.

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For Appellant : Mr.D.Shanmugaraja Sethupathi
in both writ appeals.

For Respondent : Mr.S.C.Herald Singh for R1
in both writ appeals. Mr.T.S.Mohamed Mohideen, AGP for R2

JUDGMENT

[Judgment of the Court was delivered by G.R.SWAMINATHAN, J.]

The Management, Dindigul Central Co-operative Bank, Dindigul has filed these two intra court appeals, questioning the common order dated 11 September, 2013, dismissing W.P.(MD).Nos.14893 and 14894 of 2013.

2.The first respondent in these writ appeals was working as a Branch Manager in the appellant Bank. He is said to have caused loss to the tune of Rs.45,600/- (Rs.35,000/- + Rs.10600/-) leading to initiation of two surcharge proceedings in the year 1996. Attachment orders were made. Aggrieved by the same, the first respondent herein filed C.M.A.(CS) Nos.32 and 33/1997 before the Principal District Judge / Co-operative Tribunal, Dindigul. The Tribunal allowed the appeals by order dated 24 November, 2008. Aggrieved by the allowing of the appeals filed by the first respondent herein, the appellant herein filed the aforesaid W.P.(MD).Nos.14893 and 14894 of 2013. The learned single Judge dismissed the same on the ground of laches. Challenging the said dismissal of the writ petitions, the present appeals have been filed.

3.Heard the learned counsel for the appellant / bank as well as the respondents.

4.The learned counsel appearing for the appellant pointed out that the Co-operative Tribunal allowed the appeals on the ground that the enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 was not completed within the stipulated period. Since, the surcharge proceedings were based on the enquiry report, which was not submitted within the statutorily stipulated period, the consequential proceedings were liable to be set aside. Reliance was placed by the Co-operative Societies Tribunal on the decisions reported in (2000 (II) C.T.C 659) *T.V.Ekambaram vs. The Co-operative Tribunal -cum-District Judge, Madurai* and in 2005(2) L.L.N.503 - *Subramanian vs. Assistant Director of Sugar Project Surcharge Officer*. In the said decisions, it was held that the surcharge proceedings



initiated under section 87 of the Act, would not be sustained inasmuch as they were based on the enquiry, which was not completed within the statutorily stipulated period under section 81 of the Act.

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5.The learned counsel for the appellant rightly pointed out that both the decisions were overruled by a Division Bench of this Court in the decision reported in 2008 (8) MLJ 231 *S.V.K.Sahasram Vs. The Deputy Registrar of Co-operative Societies*.

6.It is true that the Co-operative Tribunal erroneously allowed the appeals by placing reliance on the overruled judgments of this Court. Even while agreeing with the submission made by the learned counsel for the appellant, we are not inclined to interfere with the order passed by the learned single Judge. Our reasons are two fold. The quantum concerned in this case is just Rs.45,600/-. Admittedly, the appeals were allowed by the Tribunal as early as on 24 November, 2008. The writ petitions were filed five years later ie., only in the year 2013. No explanation has been offered by the appellant Bank for this enormous delay.

7.It is true that there is no limitation period prescribed for filing writ petition. However, the doctrine of laches cannot be ignored. The learned Judge declined to exercise the jurisdiction, in view of the laches on the part of the appellant Bank. We see no reason to interfere with the order passed by the learned single Judge. Accordingly, these writ appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

The Deputy Registrar of Cooperative Societies,
O/o.Deputy Registrar of Cooperative Societies,
Mengils Road, Dindigul.

+2ccs to Mr.S.C.Herold Singh, Advocate, SR.No.63770

+2ccs to Mr.D.ShanmugaRajaSethupathi, Advocate, SR.Nos.63792
and 63793

+2ccs to The Special Government Pleader, SR.Nos.63949 and 64021
arul/skm

RL/8C/3P/SKN/RSK/SAR2/20/7/2017

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