



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2017

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

WP (MD) No.23882 of 2017

and

WMP (MD) No.20015 of 2017

The Management,
T.C.85, Thoothukudi District Central
Cooperative Bank Limited,
Rep. by its General Manager,
No.109/5, D, Ettayapuram Road,
Thoothukudi.

... Petitioner

Vs.

1. Deputy Registrar of Cooperative Societies,
Office of the Deputy Registrar of Cooperative Societies,
Thoothukudi,
Thoothukudi District.

2. The Managing Director,
The Tirunelveli District Palmyrah
Products Co-operative Federation Limited,
Thoothukudi,
Thoothukudi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari and Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent தாலுா எண் .No.55/2010-2011 dated 20.07.2011 and consequential order vide ஓ/ம4266/2017 dated 06.11.2017 and quash the same and consequently direct the 1st respondent to adjudicate the arbitration claim filed by the petitioner and decide the case on merits and in accordance with law within a time frame.

For Petitioner	: Mr.D.Shanmugaraja Sethupathi
For Respondent - 1	: Mr.T.S.Mohamed Mohideen, Additional Government Pleader
For Respondent - 2	: Mr.D.Muruganantham, Additional Government Pleader

ORDER

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The writ petitioner herein is a financing Bank. They extended loan assistance to the second respondent. The second respondent committed default. Therefore, the matter was referred for



arbitration before the first respondent. An award was passed. The same was questioned before the Co-operative Appellate Tribunal.

2. The appeal filed by the second respondent herein was allowed and the matter was remitted before the Arbitrator/first respondent herein. After such remittance the second respondent filed counter. The writ petitioner had filed reply to the counter filed by the second respondent. It appears that on two dates namely 20.06.2017 and 20.07.2017, there was no representation on the side of the writ petitioner. Taking the view that it amounted to not pressing the very petition itself, the first respondent dismissed the ARC No.50 of 2010-2011 for default. The writ petitioner filed application for restoration of the arbitral claim. The application dated 31.10.2017 is enclosed in the typed set of papers. The first respondent has passed an order dated 06.11.2017, stating that there cannot be rehearing of the matter. I am not formally setting aside the order. The first respondent appears to have been under the impression that the writ petitioner seeks re-hearing of the matter. The writ petitioner only seeks restoration of the arbitral claim, which was dismissed for default.

3. It is seen from a reading of the statutory scheme set out in the Tamil Nadu Co-operative Societies Act, 1983 and the Rules framed thereunder that the provisions of C.P.C would apply in such cases. The first respondent is directed to dispose of the application dated 31.10.2017 by treating it as an application for restoration. The first respondent shall of course, give opportunity to the second respondent to oppose the same. Order disposing the said application shall be passed on or before 28.02.2018. The writ petition is disposed of accordingly. Considering the nature of relief granted to the writ petitioner, notice to the second respondent is dispensed with. No costs. Consequently, WMP(MD)No.20015 of 2017 is closed.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

1. Deputy Registrar of Cooperative Societies,
Office of the Deputy Registrar of Cooperative Societies,
Thoothukudi, Thoothukudi District.

2. The Managing Director,
The Tirunelveli District Palmyrah
Products Co-operative Federation Limited, Thoothukudi,
Thoothukudi District.

+One cc to Mr.D.Shanmugarajasethupathi, Advocate, SR.No.94549

+One cc to The Special Government Pleader, SR.No.95105

dsk