

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.19553 OF 2009

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to issue a writ of Certiorari to call for the records pertaining to the order, dated 24.8.2009, in M.P.No.3 of 2009 in O.A.(SR).No.3067 of 2008 on the file of the A.P. Cooperative Tribunal, Visakhapatnam and consequently, set aside the same.

2. Heard both sides.

3. In view of recalling of the order, dated 20.1.2015, passed in W.P.No.19553 of 2009 today, this Court intends to proceed with the hearing of the writ petition.

4. The point that arises for consideration is:

“Whether the order, dated 24.8.2009, of the A.P.Co-operative Tribunal, Visakhapatnam dismissing M.P.No.3 of 2009 in O.A.(SR).No.3067 of 2008 needs any interference or not?”

5. The Tribunal, while dismissing the delay condonation petition i.e., M.P.No.3 of 2009, observed at para No.5 as follows:

“For considering the delay the petitioner has to establish that he was prevented by sufficient cause and has acted in good faith. For proving this twin mandatory requirements of good faith and sufficient cause the petitioner society failed to forward any valid explanation. Either filing of writ petition by some of the respondents or returning the earlier appeal filed by this Tribunal as it is barred by limitation or having strong case and the society

may suffer great loss cannot be sufficient ground for condonation of delay. In the absence of existence of sufficient cause, which is condition precedent for exercising discretion for condonation of delay, the delay in preferring appeal cannot be condoned. Having failed to place any sort of material the petitioner cannot expect a lenient view and indulgence of this Court.

Hence, it is found that the prayer of the petitioner merit any consideration. In the result this petition is dismissed. No costs.”

After considering the reasoning given by the Tribunal and also the inordinate delay in preferring the appeal to the Tribunal, this Court is of the view that the reasons set out in the writ petition do not necessitate this Court to interfere with the order of the Tribunal and to direct the Tribunal to hear the appeal by condoning the delay. Hence, the writ petition is liable to be dismissed.

6. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

7. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

20.1.2017
AMD

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Date: 20.1.2017

AMD