



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 28.08.2018
DELIVERED ON : 26.09.2018

WEB COPY

CORAM

THE HONOURABLE MRS. JUSTICE R.THARANI

C.R.P. (PD) (MD) No.1717 of 2015
and
M.P. (MD) No.1 of 2015

A.Noorulla Nawaz

.. Petitioner

Vs.

1. Industrial and Commerce Joint Director
(Co-operative) Special Officer,
Tamil Nadu Industrial Co-operative Bank Ltd.,
No.1, Gandhi Irwin Road,
Egmore, Chennai-8.

2. M.Pandian

3. A.Murugesan

.. Respondents

Prayer : This Civil revision petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.268 of 2014 in C.M.A.(CS)No.24 of 2007 dated 09.02.2015 on the file of the learned District Judge, Tirunelveli.

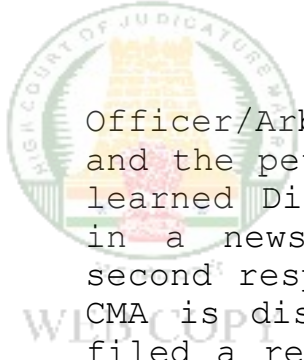
For Petitioner : Mr.K.R.Laxman
For Respondent No.1 : Mr.T.A.Ebenezer
For Respondent Nos.2 & 3 : Dismissed vide order dated 15.12.2017

ORDER

Heard Mr.K.R.Laxman, learned counsel appearing for the petitioner and Mr.T.A.Ebenezer, learned counsel appearing for the first respondent.

2.This petition has been filed to set aside the fair and decreetal order passed in I.A.No.268 of 2014 in C.M.A.(CS)No.24 of 2007 dated 09.02.2015 on the file of the learned District Judge, Tirunelveli.

<https://hcservices.ecourts.gov.in/hcservices/>
3.The petitioner herein preferred a Civil Miscellaneous Appeal against the order of Industrial and Cooperative



Officer/Arbitrator dated 08.09.2006 made in Tha.Va.No.1/2006-2007 and the petition was taken on file as C.M.A.(CS)No.24 of 2007. The learned District Judge, Tirunelveli has ordered paper publication in a newspaper 'Tamil Daily' for substitute service for the second respondent as the counsel for the appellant is absent. The CMA is dismissed for non-prosecution. Thereafter, the petitioner filed a restoration petition in I.A.No.268 of 2014 to condone the delay of 2465 days and the same was dismissed by the learned District Judge, Tirunelveli. Against the dismissal order, the petitioner has filed the present petition.

4.On the side of the petitioner, it is stated that the learned counsel for the petitioner failed to inform the stage of the case and when the petitioner tried to contact his Advocate namely Mr.R.S.Venkatachalam, he came to know that his Advocate was dead and that the office members failed to inform him about dismissal of C.M.A. It is further stated that the petitioner is only a guarantor in the main case. One Pandian is the borrower. Without taking steps against other guarantor, the respondent has taken steps only against the petitioner herein and the fault is only on the Advocate Counsel and prayed the petition to be allowed.

5.On the side of the respondent, it is stated that the delay is 6 ½ years and the petitioner is aware of the proceedings and the date of attachment is not specifically stated and that it is the duty of the petitioner to contact his counsel.

6.A perusal of the records reveals that C.M.A.(CS)No.24 of 2007 filed by the petitioner was dismissed for non prosecution as steps was not taken for paper publication for service to second respondent. Moreover, the learned counsel for the petitioner reported no instructions. Each day delay is to be explained. It is the duty of the petitioner to approach his counsel. The contention of the petitioner is that he was waiting for information from the counsel is unbelievable. Date in which the salary was attached is not stated in the petition. Each day delay is not properly explained. The reasons stated in the petition are not satisfactory. There is nothing sufficient enough to interfere in the order passed by the lower Court. This Civil Revision Petition is dismissed. No Costs.

Sd/-

Assistant Registrar (AD-I)

/True Copy/



To

The District Judge, Tirunelveli.

+1 CC TO Mr.T.A.EBENEZER, ADVOCATE IN SR No. 86803

MRN

TE/PM/SAR-3 : 25/10/2018 : 3P/3C

C.R.P.(PD)(MD)No.1717 of 2015 and
M.P.(MD)No.1 of 2015
26.09.2018