

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2019

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.Nos.5429 and 5434 of 2019

P.Shanmugavel

.. Petitioner
in both the Writ Petitions

Vs.

1. The Deputy Registrar,
Co-operative Societies (Credit),
Kuralagam Complex,
Chennai-600 108.

2. The Managing Director,
Chennai Central Co-operative Bank Ltd.,
No.215, Prakasam Salai,
Chennai-600 108.

3. The Special Tribunal for
Co-operative Cases,
In the Court of Small Causes,
Chennai-600 104.

.. Respondents
in both the Writ Petitions

COMMON PRAYER: These Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in C.M.P.No.573 of 2015 in C.M.A.SR.No.27476 of 2015 and C.M.P.No.575 of 2015 in C.M.A.SR.No.27480 of 2015, consequently quash the order dated 16.02.2018 in C.M.P.No.573 of 2015 in C.M.A.SR.No.27476 of 2015 and C.M.P.No.575 of 2015 in C.M.A.SR.No.27480 of 2015, passed by the 3rd respondent.

For Petitioner
in both writ petitions : Mr.B.Manimaran

For Respondents
in both writ petitions : Ms.T.Girija,
Government Advocate [R1]

Mr.P.Anbarasan [R2]
Tribunal [R3]

C O M M O N O R D E R

These writ petitions are filed by the petitioner challenging the orders, dated 16.02.2018, passed by the 3rd respondent.

2. The petitioner has preferred the petition to condone the delay of 2383 days in filing the Appeal against the Surcharge proceedings in Na.Ka.No.8018/2007/SP-1 dated 07.10.2008, passed by the 1st respondent viz., the Deputy Registrar of Co-operative Societies (Credit) in C.M.P.No.573 of 2015 in C.M.A.SR.No.27476 of 2015 and another petition to condone the delay of 1755 days in filing the Appeal against the Surcharge proceedings in Na.Ka.No.2535/2009/SP-1 dated 28.06.2010, passed by the 1st respondent viz., the Deputy Registrar of Co-operative Societies (Credit) in C.M.P.No.575 of 2015 in C.M.A.SR.No.27480 of 2015. The petitioner has stated that he has given valid reasons for not timely filing the Applications to condone the delay in filing the said appeals.

3. The learned counsel for the petitioner submitted that the appellants had preferred an Appeal before the Special Tribunal, Co-operative Cases against the same surcharge proceedings passed by the Deputy Registrar of Co-operative Societies (Credit), and that was allowed on 28.08.2014. Challenging the aforesaid order, the Respondent/Department had filed W.P.Nos.7535 and 7536 of 2015. By order, dated 31.07.2017, this Court, by referring to the decision in the case of S.V.K. Sahasramam Vs. The Deputy Registrar of Co-operative Societies, Tiruvannamalai District and others, reported in 2008 (8) MLJ 231, allowed the writ petitions and remanded back the matters to the Tribunal, for passing orders.

4. In the light of the aforesaid decision and also the order passed by this Court, the petitioner, who stated to be one of the co-employees in the surcharge proceedings passed by the Respondent/Department, has filed the applications to condone the delay and the said Applications were erroneously dismissed. Hence, the petitioner has filed the present writ petitions before this Court.

5. The learned counsel for the petitioner submits that, without prejudice to the rights of the parties, the petitioner undertakes to pay 15% of the award amount to the 2nd respondent/Bank within a time frame to be fixed by this Court, in the event of allowing the condone delay applications filed by the petitioner.

6. The learned counsel for the 2nd respondent/Bank would submit that the delay in filing the appeal is inordinate and no proper explanation has been given by the petitioner before the

Tribunal. In the event of considering the application, the petitioner has to deposit a reasonable amount to the Society in order to protect the interest of the Society.

7. But, by taking note of the fact that similar matters are still pending before the Tribunal, this Court deems it fit that as per the undertaking given by the petitioner, the petitioner be permitted to pay the aforesaid sum to the Society, whereupon, the said applications may be considered.

8. Accordingly, by accepting the request of the petitioner who undertakes to pay 15% of the award amount on the ground that the appeal is pending and by taking note of the fact that the co-employees have also filed appeals before the Tribunal in C.M.A.Nos.22 and 23 of 2010 and the same are pending, the following order is passed:

(i) The petitioner is directed to deposit 15% of the award amount to the 2nd respondent Bank, within a period of four weeks from the date of receipt of a copy of this order. In default, writ petitions stands dismissed.

(ii) On such deposit being made by the petitioner within the aforesaid period, the Special Co-operative Tribunal shall number the appeal and decide the matter on merits and in accordance with law.

Subject to the aforesaid conditions, the Writ Petitions are allowed and on compliance of the conditions, the impugned orders, dated 16.02.2018 made in C.M.P.No.573 of 2015 in C.M.A.SR.No.27476 of 2015 and C.M.P.No.575 of 2015 in C.M.A.SR.No.27480 of 2015, passed by the 3rd respondent, shall stand quashed. No costs.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

ssn
To

1. The Deputy Registrar,
Co-operative Societies (Credit),
Kuralagam Complex,
Chennai-600 108.

2. The Managing Director,
Chennai Central Co-operative Bank Ltd.,
No.215, Prakasam Salai,
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3. The Special Tribunal for
Co-operative Cases,
In the Court of Small Causes,
Chennai-600 104.

+1 CC to Mr.B.Manimaran, Advocate sr 42472.
+2 CC to Mr.P.Anbarasan, Advocate sr 31796, 31797
+1 CC to Spl. Govt. Pleader sr 31972.

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VGII(CO)
SP(02/05/2019)



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