

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2019

C O R A M

THE HON'BLE Mr.JUSTICE ABDUL QUDDHOSE

C.R.P.(NPD) No.3283 of 2014

M.Subramaniyan

... Petitioner

Vs.

1.The Deputy Registrar of Cooperative Societies,
Omalur Circle,
Omalur.

2.The Special Officer,
SM43, Edapadi Municipal Employees &
Teachers Co-operative Thrift and Credit Society,
Edappadi

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decreetal order dated 26.02.2014 dismissing the application in I.A.No.9 of 2011 in unnumbered CMA (CS) of 2011 on the file of the learned Principal District Judge, Salem.

For Petitioner

...

Mr.P.Jagadeesan

For Respondents

...

Mrs.T.Girija,
Government Advocate

ORDER

The instant civil revision petition has been filed challenging the order dated 26.02.2014 passed by the learned Principal District Judge, Salem in I.A.No.9 of 2011 in unnumbered CMA (CS) ... of 2011.

Brief facts leading to the filing of the instant revision under Section 115 of the Code of Civil Procedure:

2. The petitioner is the appellant in the unnumbered appeal before the learned Principal District Judge, Salem as against the award dated 19.09.2008 passed by the Deputy Registrar, Omalur Circle. The petitioner has suffered the award dated 19.09.2008 along with others by which he was jointly or severally liable along with others to pay the award amount to the respondents. The petitioner did not prefer the appeal on time. But instead preferred an appeal along with a condone delay application viz., I.A.No.9 of 2011 to condone the delay of 1003 days in filing the appeal before the learned Principal District Judge, Salem, Special Appellate Court for Co-operative cases. The reasons given

in the affidavit filed in support of I.A.No.9 of 2011 are as follows: (a) He has not been served with proper notice for his appearance in the proceedings before the Deputy Registrar, Cooperative Societies in order to enable him to defend the case properly; (b) He received the award dated 19.09.2008 only on 17.05.2011. Therefore according to him, the appeal has been filed within the prescribed period; and (c) he is not liable to pay the award amount.

3. A counter affidavit was also filed by the respondents in I.A.No.9 of 2011 in unnumbered CMA (CS) of 2011 denying the averments contained in the affidavit filed in support of I.A.No.9 of 2011. By order dated 26.02.2014, the learned Principal District Judge, Salem (Special Court for Co-operative cases) dismissed I.A.No.9 of 2011 in unnumbered CMA (CS) of 2011 on the ground that no sufficient reasons have been given by the petitioner for condoning the inordinate delay of 1003 days. Aggrieved by the same, the instant civil revision petition has been filed under Section 115 of the code of Civil Procedure.

4. Heard, Mr. P.Jagadeesan, learned counsel for the petitioner and Mrs.T.Girija, learned Government Advocate appearing for the respondents.

Discussion:

5. As directed by this Court, the learned Government Advocate appearing for the respondents produced the postal receipt for having sent the award copy to the petitioner. As seen from the postal receipt, the date of sending of the award is 06.01.2009. Even in the counter filed in I.A.No.9 of 2011 in unnumbered CMA (CS) of 2011, the respondents have stated that a copy of the award has been sent to the petitioner on 06.01.2009. Admittedly, it was a contested award and it was passed on merits.

6. Sufficient opportunity was granted to the petitioner to defend the claim made by the respondents and only thereafter, an award has been passed. If really the petitioner was aggrieved by the award as a prudent and vigilant litigant, he ought to have filed the appeal within the

prescribed period. However, in the instant case, there is a delay of 1003 days in filing an appeal as against the award dated 19.09.2008. It is not a normal delay, but it is an inordinate delay. Since there is an inordinate delay of 1003 days in filing an appeal, the petitioner ought to have given sufficient reasons supported by documentary evidence in support of his contention.

7. The reasons given by the petitioner for the delay is that (a) he has not been served with proper notice in the proceedings before the Deputy Registrar, Cooperative Societies in order to enable him to defend the case properly; (b) he received the award dated 19.09.2008 only on 17.05.2011. The respondents have produced the postal receipt before this Court to show that they had sent a copy of the award on 06.01.2009 itself. It is also not known as to what steps the petitioner had taken between 19.09.2008 when the award was passed against him and the date on which I.A.No.9 of 2011 was filed by him seeking to condone the delay of 1003 days in filing the appeal. All these factors will clearly go to show that no sufficient reasons have been given by the petitioner

for condonation of the inordinate delay of 1003 days. The lower Appellate Court has considered all these aspects and only thereafter, has dismissed I.A.No.9 of 2011.

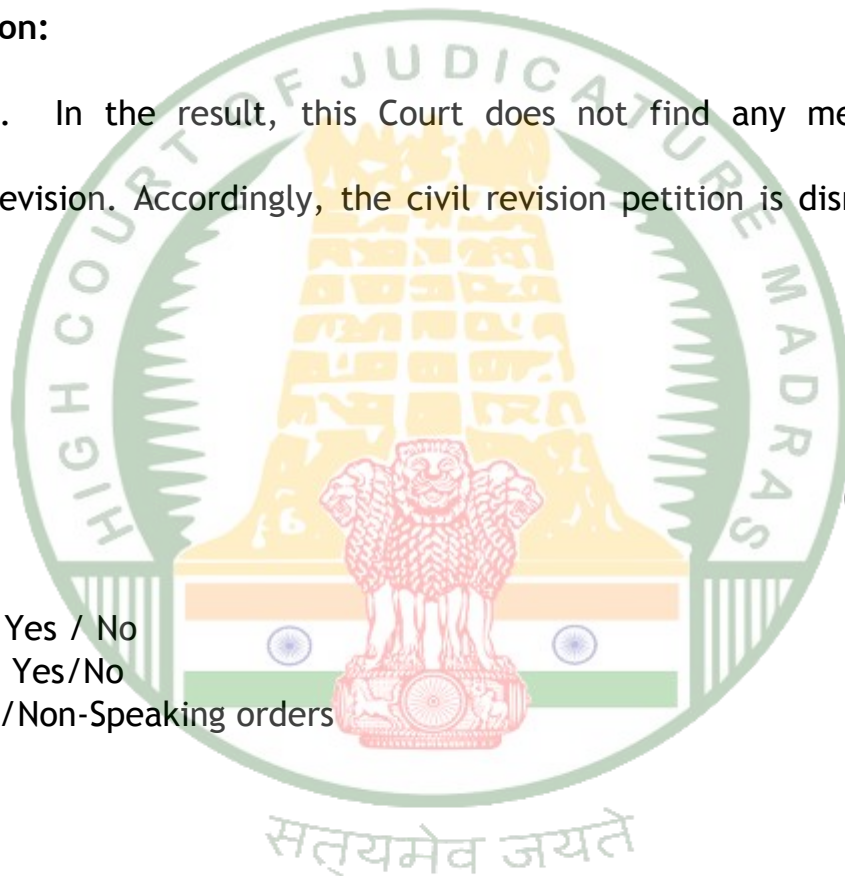
Conclusion:

8. In the result, this Court does not find any merit in the instant revision. Accordingly, the civil revision petition is dismissed. No costs.

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Index : Yes / No
Internet: Yes/No
Speaking/Non-Speaking orders

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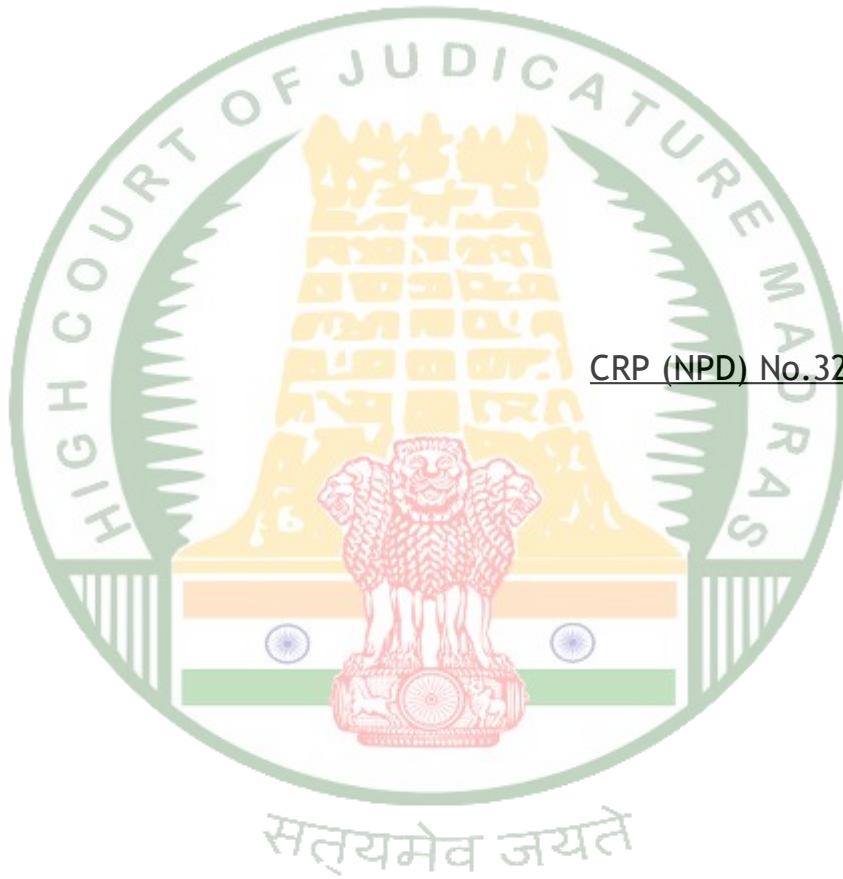
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ABDUL QUDDHOSE. J,

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