

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(NPD).No.4159 of 2011

and

M.P.No.1 of 2011

M/s.Provimi Products (P) Ltd.,
Gobichettypalayam,
Erode District, rep. by its Directors,
1.G.V.Viswanathan
2.G.V.Sudharsan.

...Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies
Arbitrator, Gobichettypalayam.

2.K.544, Gobichettypalayam Agricultural Products,
Co-operative Sales Society Ltd.,
Gobichettypalayam,
Rep. by its Special Officer.

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records pertaining to the C.M.A.No.61 of 2008 and set aside the order dated 11.03.2011 passed by the Special Tribunal for

Co-operative cases Principal District Judge, Erode, affirming the order dated 05.04.2007 passed by the first respondents in Dispute No.1 of 2006.

For Petitioner : Mr.K.V.Shanmuganathan

For Respondents : Mr.L.P.Shanmuga Sundaram
Special Government Pleader

ORDER

This Civil Revision Petition has been filed to call for the records pertaining to C.M.A.No.61 of 2008 and set aside the order dated 11.03.2011 passed by the Special Tribunal for Co-operative cases Principal District Judge, Erode, affirming the order dated 05.04.2007 passed by the first respondent in Dispute No.1 of 2006.

2. It is the case of the petitioner that the second respondent herein initiated arbitration proceedings against the petitioner herein. Though the petitioner filed their written objections and they were regularly appearing before the first respondent/Arbitrator on all hearings, the Arbitrator passed the ex-parte award. Thereafter, the petitioner filed an appeal before the

Special Tribunal for Co-operative Cases Principal District Judge, Erode reiterating all the facts, but the same was dismissed. Challenging the same, the present Civil Revision Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that on receipt of notice in the arbitration proceedings, the petitioner appeared before the first respondent, but an ex-parte award was passed. As per Rule 107 sub-Section 6(a) of the Tamil Nadu Co-operative Societies Rules, the Registrar, the Arbitrator or the Chairman, while conducting proceedings shall record the evidence from the witnesses and based on the evidence, they have to pass orders. But in this case, as no evidence was recorded, the order passed by the Arbitrator as well as the Principal District Court may be set aside.

4. The learned counsel appearing for the respondents would submit that an opportunity was given to the petitioner. Notice was served on the petitioner and he has also made a written objection, but he was not present on the date of hearing. Hence, the Arbitrator considering all the

documents placed before him passed the ex-parte award discussing those documents. Therefore, there is no violation in the award.

5. A perusal of the records would show that an opportunity was given to the petitioner. The petitioner purposely evaded to appear before the Arbitrator and proceedings against him. Therefore, the Arbitrator passed the ex-parte award to pay the award amount, but he has not followed Rule 107 of the Tamil Nadu Co-operative Society Rules, especially sub-Section 6(a) of the Co-operative Societies Rules.

6. In view of the above findings of this Court, the orders passed by both the Special Tribunal for Co-operative cases, Principal District Judge, Erode and the Arbitrator / first respondent are set aside and the matter is remitted back to the first respondent/Arbitrator on condition that the petitioner shall deposit the entire award amount within a period of two months from today. Thereafter, the Arbitrator or Registrar shall give a fresh notice to the petitioner within 10 days on the date of deposit of the entire award amount. On receipt of the said notice, the petitioner shall appear

before the Arbitrator within 15 days and co-operate with the enquiry and the Arbitrator is directed to follow Rule 107 of the Tamil Nadu Co-operative Societies Rules. If the petitioner fails to comply with any of the above conditions, this revision petition stands automatically dismissed, without any further reference to this Court.

7. With the above directions, this Civil Revision Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

28.08.2020

Internet : Yes / No
Index : Yes / No
dna

To

- 1.The Special Tribunal for Co-operative cases,
Principal District Judge, Erode.
- 2.The Deputy Registrar of Co-operative Societies
Arbitrator, Gobichettipalayam.
- 3.The Special Officer.
K.544, Gobichettipalayam Agricultural Products,
Co-operative Sales Society Ltd.,
Gobichettipalayam.

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