

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.29864 OF 2018

ORDER:

Heard Sri Agasthya Sharma, learned counsel for the petitioners and the learned Government Pleader for Cooperative Societies.

This writ petition is filed seeking the following relief :-

“.....Writ of Mandamus, declaring orders dt.11-0-2018 passed in I.A.No.33 of 2018 in CTA 6/2015, thus confirming the orders of dismissal for default dated 24-01-2018 passed in CTA No.46 of 2015 by the learned Telangana Co-operative Tribunal at Hyderabad as arbitrary, illegal and contrary to the Rules in vogue, governing disposal of the Appeals by the First Appellate Authority and consequently be pleased to restore the said CTA.No.46 of 2015 to the file of Co-operative Tribunal, Hyderabad for hearing and disposal on merits.....”

It has been contended by the petitioners that they have filed CTA.No.46 of 2015 before the Cooperative Tribunal, Hyderabad and the Cooperative Tribunal dismissed the same for default vide order dated 21.01.2018. Thereafter, petitioners have filed an application seeking restoration of CTA.No.46 of 2015, but the said application was dismissed vide order dated 11.04.2018. Challenging the said order, the present writ petition is filed.

Learned counsel for the petitioners contends that the Advocate, who was looking after the case before the Tribunal, while going out of station, entrusted the case to one of his colleagues and his colleague has not represented the case properly. All these facts were disclosed in the application filed by the petitioners seeking restoration of CTA.No.46 of 2015, but the

Cooperative Tribunal without appreciating any of the contentions raised by the petitioners mechanically dismissed CTA.No.46 of 2015. Therefore, learned counsel contends that appropriate orders be passed in the writ petition directing the Cooperative Tribunal to adjudicate CTA.No.46 of 2015 on merits by duly setting aside the default order dated 21.01.2018 and consequential order dated 11.04.2018 in I.A.No.33 of 2018 in CTA.No.46 of 2015.

Learned Government Pleader appearing for the respondents had contended that the Cooperative Tribunal would decide CTA.No.46 of 2015 on merits.

This Court, having considered the rival submissions of the learned counsel appearing for the respective parties, is of the considered view that both the order dated 11.04.2018 passed by the Cooperative Tribunal dismissing the application filed by the petitioners for restoration of CTA.No.46 of 2015 and the order dated 21.01.2018, dismissing CTA.No.46 of 2015 for default can be set aside, as sufficient cause has been shown by the petitioners for absence before the Cooperative Tribunal and further the Cooperative Tribunal can be directed to adjudicate CTA.No.46 of 2015 on merits.

Accordingly, this writ petition is allowed setting aside the order dated 11.04.2018 passed by the Cooperative Tribunal in I.A.No.33 of 2018 in CTA.No.46 of 2015 and the said application is allowed, consequently, the order dated 21.01.2018 dismissing CTA.No.46 of 2015 for default is set aside and is restored to the file of the Tribunal. The Cooperative Tribunal is directed to

adjudicate the matter on merits after hearing both sides in accordance with law, within a period of one (01) year from the date of receipt of a copy of this order. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 29-01-2020
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