

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 20604 of 2012

K.Manimaran

...Petitioner

-vs-

1. The Joint Registrar of Co-operative Societies,
Cuddalore Region,
Cuddalore,
Cuddalore District.

2. The Special Officer,
Sivayam Primary Agricultural Co-operative Society,
Sivayam Village,
Nanjalur Psot, Chidambaram Taluk,
Cuddalore District.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the first respondent in his proceedings A.Thi.Mu.2718/2011 Thu.Va.Tha.1 dated 06.06.2011 and quash the same and consequently direct the first respondent to dispose the Revision filed by the petitioner on 28.04.2011 on merits.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader

O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the first respondent in his proceedings A.Thi.Mu.2718/2011 Thu.Va.Tha.1 dated 06.06.2011 and quash the same and consequently, direct the first respondent to dispose the Revision filed by the petitioner on 28.04.2011 on merits.

2. The petitioner as against the order passed by the second respondent Society preferred a Revision under Section 153 of Tamil Nadu Co-operative Societies Act.

3. However, the said Revision has been rejected or returned by order dated 27.05.2010 of the first respondent, on the sole ground that, Revision under Section 153 of the Act should have been filed within 90 days from the date of the order or the receipt of the order of the Original Authority. Since this Revision has been filed beyond 90 days, the said Revision cannot be entertained and accordingly, it was rejected.

4. In this regard, Mr.C.Prakasam, learned counsel appearing for the petitioner would submit that, even though, there is provision under Section 5 of the Limitation Act to be applied to the Revision, to be filed before the Revisional Authority under Section 153 of the Act and the Court has taken the view that, it is only discretionary and it is not mandatory and the Revision can be entertained, if reasonable cause is given for such delay and in this regard, the application to be filed by the Revision Petitioner under Section 5 of the Limitation Act can be entertained.

5. However, Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the respondents would submit that, even though, the legal proposition is not disputed, since there is no such application under Section 5 of the said Act in this regard, the question of considering such application under Section 5 of the said Act to condone the delay beyond 90 days does not arise in this regard, he contended.

6. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

7. Since it is a technical rejection only for want of limitation, this Court feels that, the plea of the petitioner can be decided on merits by the Revisional Authority under Section 153 of the Act and in this regard, the petitioner can be directed to file application under Section 5 of the said Act explaining the reasons for the delay as to why the same has not been filed within the prescribed time.

8. In that view of the matter, this Court feels that, the impugned order can be set aside and the matter can be remitted back to the respondents of course with a direction to the petitioner to file application under Section 5 of the Limitation Act and once such application is filed, the same can be dealt with and decided on merits and accordingly, the Revision can be entertained, if acceptable reasons are given by the petitioner in the application under Section 5 of the said Act.

9. Resultantly, the following orders are passed in this Writ

Petition:

"The impugned order is set aside and the matter is remitted back to the first respondent for reconsideration. However, while reconsidering the same, it is open to the petitioner to make an application under Section 5 of the Limitation Act explaining the reasons for such delay for belated Revision before the first respondent and once the application is filed within two weeks from the date of receipt of a copy of this order, the same can be entertained and on merits that can be decided and once the delay is condoned, the merits of the Revision can be gone into by the first respondent in accordance with law."

10. With these directions, this Writ Petition is ordered to the extent indicated above. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vji

To

1. The Joint Registrar of Co-operative Societies,
Cuddalore Region,
Cuddalore,
Cuddalore District.
2. The Special Officer,
Sivayam Primary Agricultural Co-operative Society,
Sivayam Village,
Nanjalur Psot, Chidambaram Taluk,
Cuddalore District.

+1cc to M/s. C.Prakasam, Advocate, S.R.No.15034

+1cc to the Government Pleader, S.R.No.14883

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PL(CO)
RN(11/05/2021)