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W.P.No.13278 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.13278 of 2023

N.Kamalam

... Petitioner

Vs

1. The Joint Registrar of Cooperative Societies,
407, District Collector Office Complex,
Tirupur - 641 604.

2. The Management,
Farmers Service Co-operative Society Limited,
No.17, 18, Trichy Road,
Palladam, Pin - 641 664
Tirupur District.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus against the 1st respondent herein calling for the records, the order of 1st respondent in dismissing the Revision Petition in Na.Ka.No.3816/2019/pa2 dated 11.03.2020 and quash the same and to direct the 1st respondent to entertain the petition to condone the delay and revision petition of the petitioner dated 11.07.2019 and to decide on merits without considering the delay in filing the petition.



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For Petitioner : Mr.V.Raghupathi

For Respondents : Mr.P.Baladhandayutham
Special Government Pleader

ORDER

The petitioner's Review Application filed under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 came to be rejected solely on the ground that the application was filed beyond the period of 90 days and there is no provision under the Act for condoning the delay. This issue came to be dealt by this Court in the case of ***P.Ravi Vs. the Joint Registrar of Co-operatives, Madurai***, whereby, it was held that the provisions of Limitation Act could be read into the provisions of the Co-operative Societies Act and therefore, the principal of Limitation Act would apply to decide the application for condoning the delay. The relevant portion of the order reads as follows:

"12. The only issue to be decided here is as to whether the order impugned passed by the respondent on the ground of limitation in entertaining the Revision Petition filed by the petitioner under section 153 of the Act is in consonance with the law, which is prevailed or is invoked. Insofar as the said claim of the petitioner that the Revision Petition was filed



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in time, there is no proof to show that the petitioner has filed the Revision Petition in time, because the petitioner himself had chosen to file a petition to condone the delay of 265 days, which of his act itself, shows that the revision was not filed in time." "20. In view of the said decisions of this Court, where an uniform stand consistently have been taken, even in the absence of specific provisions for entertaining the Application to condone the delay by invoking Section 5 of the limitation Act, the same can be entertained for the ends of justice."

2. The aforesaid extract is self-explanatory. If this be the legal position as on date, the first respondent may not be correct in rejecting the application only on the ground that there is no provision for condoning the delay in filing an application under Section 153 of the Act.

3. Accordingly, the impugned order dated 11.03.2020 is set aside and the matter is remitted back to the first respondent herein. The petitioner is

M.S.RAMESH,J.,

sr



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granted liberty to file a miscellaneous application seeking for condoning the delay in filing the Revision Application, within a period of one (1) week from the date of receipt of a copy of this order. On receipt of the same, the first respondent herein shall consider such an application on its own merits and pass appropriate orders in accordance with law, within a period of twelve (12) weeks from the date of receipt of such an application.

5. The Writ Petition stands disposed of accordingly. No costs.

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Index: Yes/No

Speaking order/Non-speaking order

sr

To

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