



C.R.P(MD).Nos.858 and 859 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).Nos.858 and 859 of 2023

and

CMP(MD)No.3926 of 2023

S.Pushpam Sollalagan

... Petitioner/Petitioner/Appellant
(In C.R.P(MD).No.858 of 2023)

... Petitioner/Petitioner/Petitioner/Appellant
(In C.R.P(MD).No.859 of 2023)

Vs.

1.The Assistant Director,
(Industrial Co-operative)
District Industrial Centre Section-87.
Investigating Officer,
Konam, Nagercoil,
Kanyakumari.

2. The Secretary
1827, The Vallioor Adi Dravidar Chamber Brick Workers
Industrial Co-operative Society Ltd.,
Vallioor.

3. P.Kamachi Raj

... Respondent/Respondents/Respondents
(In C.R.P(MD).No.858 of 2023)

... Respondent/Respondents/Respondents/
Respondents (In C.R.P(MD).No.858 of 2023)



C.R.P(MD).Nos.858 and 859 of 2023

PRAYER in C.R.P(MD).Nos.858 of 2023 :- This Civil Revision Petition has been filed under Section 115 of CPC, to call for the records relating to the fair and decreetal order dated 29.06.2022 passed in I.A.No1 of 2021 in un-registered CMA(CS) No.7943/2020 on the file of the Principal District Judge, Tirunelveli and set aside the same by allowing the Civil Revision Petition.

PRAYER in C.R.P(MD).Nos.859 of 2023 :- This Civil Revision Petition has been filed under Section 115 of CPC, to call for the records relating to the fair and decreetal order dated 29.06.2022 passed in I.A.No5 of 2021 in I.A.No.1 of 2021 in un-registered CMA(CS) No.7943/2020 on the file of the Principal District Judge, Tirunelveli and set aside the same by allowing the Civil Revision Petition.

(In both petitions)

For petitioner : Mr.D.Saravanan

For R1 : Mr.G.Sivaraja,
Government Advocate

COMMON ORDER

The petitioner had filed an appeal against the surcharge order passed by the respondent herein on 12.07.2017, whereby the petitioner and one Special Officer have been made liable to pay the alleged loss caused to the Vallioor Adi Dravidar Chamber Brick Workers Industrial Co-operative Society Ltd.,



2.The petitioner appears to be employee and that during the time of work, her husband Solalagan was the president of the said Society. It is submitted that instead of filing an appeal under Section 152 (1) of Tamilnadu Co-operative Societies Act, 1983, the petitioner's husband sent several representations to the other authorities and thus, the petitioner was unaware of the steps being taken against the surcharge order.

3.The specific case of the petitioner is that the petitioner's husband passed away on 19.06.2020 and that only after the death of her husband, the petitioner realised she had to file an appeal and therefore proceedings were initiated under Section 152 (1) of Tamilnadu Co-operative Societies Act, 1983 since there was delay of 1086 days. She filed an appeal together with the application to condone the aforesaid delay of 1086 days in filing the appeal. It is noticed that order was passed *ex-parte* without notice to the respondents.

4.It appears that the petitioner is a Collie. She was not aware of the steps taken by her husband and that she had no knowledge about the delay, which has resulted in filing the appeal and was not fully aware of the gravity of the law for not filing appeal in time.



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5.Considering the same, the Court is inclined to give one chance to the petitioner to file a better affidavit by properly explaining the delay. Therefore, the impugned order, dated 29.06.2022, is set aside and the case is remitted back to the Principal District Court, Tirunelveli, to pass a fresh order on merits after due notice to the respondents in the above said unnumbered appeal in C.M.A.(CS)No.7943 of 2020.

6.Accordingly, the Civil Revision Petition in CRP(MD)No.858 of 2023 stands allowed. In view of the order passed in CRP(MD)No.858 of 2023, CRP(MD)No.859 of 2023 stands closed. No costs. Consequently, connected miscellaneous petition is closed.

29.03.2023

NCC : Yes/No
Index : Yes/No
Internet:Yes/No
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To
The learned Principal District Judge,
Tirunelveli.



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C.SARAVANAN,J.

dss

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