



C.R.P.No.3545 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P.No.3545 of 2024

R.Kumarasamy

... Petitioner

Vs.

1.The Deputy Registrar,
(Dairy Development),
Kancheepuram.

2.Periyavenmani Milk Producers
Co.Operative Society Ltd.,
Rep by its Special Officer,
C/o.The Deputy Registrar,
Dairy Development,
Kancheepuram.

... Respondents

Prayer: Civil Revision Petition filed under Section 227 of the Civil Procedure Code, to set aside the order and decreetal order dated 15.03.2024 made in Co.Operative CMA.No.22 of 2003 on the file of the Court of Principal District Judge, Chengalpattu, confirming the order dated 15.10.2001 passed by the Deputy Registrar (Dairy Development) Kancheepuram in S.C.No.7/2001-2002 and allow the appeal.

For Petitioner : Mr.B.Srinivasan

For Respondents : Mr.V.Ramesh, GA

ORDER



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This Civil Revision Petition is filed to set aside the order and decretal order dated 15.03.2024 made in Co.Operative CMA.No.22 of 2003 on the file of the Court of Principal District Judge, Chengalpattu, confirming the order dated 15.10.2001 passed by the Deputy Registrar (Dairy Development) Kancheepuram in S.C.No.7/2001-2002 and allow the appeal.

2. Heard both sides. With the consent of both sides, this Civil Revision Petition is disposed in the admission stage itself.

3. The petitioner who was working as a Clerk in the second respondent Cooperative Society, has been subjected to surcharge proceedings on the allegation that he has caused loss to a particular value and proceedings in this regard has been passed through the surcharge proceedings in Sc.No.7/2001-2002 dated 15.10.2001. The petitioner has preferred a Civil Miscellaneous Appeal before the Principal District Judge, Chengalpattu in Co.Operative CMA.No.22 of 2003. But the same got dismissed on 15.03.2024, as the appellant has not made any oral arguments or submitted any other materials.



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4. From the impugned order dated 15.03.2024, it is seen that the learned Principal District Judge has observed that the matter has not been pursued by the parties, despite it is pending from the year 2003. It is further observed that when the matter was posted for arguments, there was no representation on both sides and no arguments have been advanced when the matter stood posted for arguments. However, it appears that the Court has proceeded on perusing the written argument of the appellant's counsel and the entire records and had chosen to pass the impugned order.

5. The Court has passed the order on the basis of the records including the written argument and the learned counsel for the appellant did not advance any oral argument. It is surprising to notice that the order has recorded in the presence of the counsel during the hearing. Whatever may be the case, had the counsel advanced the argument, it would have been a better advantage to the appellant. Though technically there is no bar for the Courts to rely on the written argument filed by the parties and consider the matter on merits, there should be a clarity as to whether the



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counsels have been actually present and whether the written arguments have been considered only because of their absence. Since the impugned order is little ambiguous and the counsel for the petitioner is deprived to submit his oral arguments, I feel in the interest of justice, the matter may be remitted back to the file of the learned Principal District Judge, Chengalpattu, in order to give an opportunity for fresh hearing.

6. However, the petitioner who had dragged the matter from the year 2003 cannot take advantage of the fact that the matter is going to be opened again by playing delay making tactics. It is reiterated that the written argument itself is sufficient to pursue the matter and if for any reason, the oral argument is necessary, then the oral argument would be restricted to the points made in the written argument and the learned counsel should not waste the time of the Court.

7. In view of the above discussion, this Civil Revision Petition is allowed and the impugned order dated 15.03.2024 made in Co.Operative CMA.No.22 of 2003 is set aside. The matter is remitted back to the file of the learned Principal District Judge, Chengalpattu, by fixing the hearing



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date as 17.10.2024, on which date, the counsels for both sides should make their appearance in order to make their arguments and co-operate with the Court for the early disposal of the case without seeking any further adjournment. In the event of their failure to make appearance and argue the case on 17.10.2024 before the Principal District Judge, Chengalpattu, the petitioner will loose the benefit of this order and no more further order is required in this regard.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

11.09.2024

NOTE : Issue order copy today (11.09.2024).



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To

1. The Deputy Registrar,
(Dairy Development),
Kancheepuram.
2. Periyavenmani Milk Producers
Co. Operative Society Ltd.,
Rep by its Special Officer,
C/o. The Deputy Registrar,
Dairy Development,
Kancheepuram.

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R.N.MANJULA, J.

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