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C.R.P.No.4206 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.08.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.No.4206 of 2023

Tamilselvam

... Petitioner

Vs.

1.The Secretary Incharge
C.L.SPL.156, Nolambur Primary Agricultural
Co-operative Society
Nolambur.

2.The Deputy Registrar
Co-operative Societies
Tindivanam.

... Respondents

Prayer: Civil Revision Petition filed under Article 115 of CPC praying to set aside the decree and judgment passed in I.A.No.2 of 2022 in Co.Op.C.M.A.No...../2022, dated 07.02.2023 on the file of the Principal District Judge, Villupuram.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.A.Anandan
Government Advocate [R1&R2]



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ORDER

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Challenging the dismissal of his petition filed to condone the delay of 992 days in filing Co.Op.CMA, the petitioner is before this Court.

2. The short facts are herein below set out :

a) The petitioner herein was working as Secretary Incharge in the first respondent-Society, to which he had been deputed by his parent Society. Though the petitioner was holding the Incharge post of a Secretary in the first respondent-Society, his salary has to be paid by the parent Society. However, without obtaining any prior approval from the authority concerned, the elected Board of Directors passed a Resolution No.3 dated 07.08.2024 fixing the revised pay scale for the petitioner and had also disbursed the revised pay scale salary for the period 07.8.2014 till 30.11.2017 to the tune of R.11,23,354/- and thereby caused loss to the Society. Hence, enquiry was ordered under Section 81 of the Tamil Nadu Societies Act against the President, Board of Directors and Secretary, the petitioner herein.



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- b) The petitioner would state that he had served in the first respondent Society between the period 07.8.2014 till 30.11.2017, and had superannuated on 30.11.2017. Two years after his retirement, the petitioner received a surcharge order in Na.Ka.No.2122/2018 Sa.Pa, dated 13.05.2019, on 11.06.2019, directing him and 9 others to pay a sum of Rs.11,23,354/- jointly and severally, together with interest at 12% per annum.
- c) Challenging the said order, the petitioner had preferred an appeal before the Principal District Judge, Villupuram, the Cooperative Appellate Tribunal. However, there was a delay of 992 days in filing the said appeal. Therefore, the petitioner had filed I.A.No.2 of 2022, seeking to condone the delay of 992 days in filing the said appeal.
- d) In the affidavit filed in support of the petition to condone the delay, the petitioner had clearly stated that though he had retired on 30.11.2017, he had not been given his retirement benefits, and therefore, he was in dire financial state.
- e) Compounding to the above financial crisis, the COVID Pandemic also brought the entire country to a standstill. Hence, the



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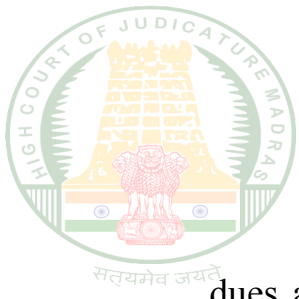
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petitioner and his family members were severely handicapped both in terms of movement as well as financially, and could not file the appeal within the limitation period. Once the threat of COVID pandemic subsided, the appeal has been filed, however, with a delay of 992 days. The petitioner, therefore sought to have the delay condoned.

- f) The learned Principal District Judge, Villupuram, observed that the reason given by the petitioner was not acceptable and that no documents have been filed to prove the same. Further the learned Judge had held that since the delay was not on account of sufficient cause, the same could not be entertained and accordingly she dismissed the petition in I.A.No.2/2022 by order dated 07.02.2023.

Challenging the said order, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for respondents 1 and 2.



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4. The allegation against the petitioner is that he had drawn his salary dues as Secretary Incharge from the first respondent-society and not from his parent Society. Therefore, the petitioner and 9 others had been implicated in the alleged misconduct and surcharge order came to be passed, *inter alia* alleging that the petitioner had misused his powers as a Secretary. It is not the contention of the respondents that the petitioner had drawn his salary from both the first respondent-Society as well as parent-Society.

5. Considering the fact that the petitioner has a valid defence against the surcharge order and also taking note of the fact that the petitioner even after his superannuation had not been paid the retirement benefits on account of the surcharge order which had been initiated two years after his retirement and also on account of the COVID pandemic, the Hon'ble Supreme Court had also extended the period of limitation vide its *suo moto* proceedings, and that the respondent had also made a endorsement in I.A.No.2/2022 that 'the petition may be allowed on terms', the order passed by the learned Principal District Judge stating that sufficient reasons have not been given, has to be necessarily rejected. That apart, the respondents did not have any objection to the delay being condoned, except for praying



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that the delay be condoned on terms and this fact has been totally ignored by the learned Judge.

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6. Therefore, taking into account the COVID pandemic and the endorsement made by the respondent in I.A.No.2 of 2022, the impugned order is set aside, delay is condoned. Taking note of the fact that the petitioner has not been paid his terminal benefits, the condone delay petition is being allowed without costs. The learned District Judge is directed to number the appeal and dispose of the same within a period of three months from the date of receipt of a copy of this order.

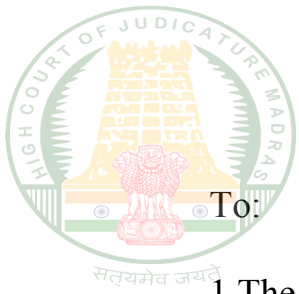
7. The civil revision petition is accordingly allowed. No costs.

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Index : Yes / No

Neutral Citation : Yes / No

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To:

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C.L.SPL.156, Nolambur Primary Agricultural
Co-operative Society
Nolambur.

2.The Deputy Registrar
Co-operative Societies
Tindivanam.

3.The Principal District Judge
Villupuram.

4.The Section Officer
VR Section, High Court, Madras.



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P.T. ASHA, J.

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