

THE HONOURABLE SRI JUSTICE

A.GOPAL REDDY

W.P.No.9293 of 2006

Dt.28-04-2006

Between:

D.Achuta Rama Rao

..Petitioner

and

1.The Deputy Registrar/Divl.Coop.Officer,

Nagar Kurnool, Mahabubnagar district

and others.

..Respondents.

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Oral Order:

Petitioner who filed an appeal questioning the surcharge order dated 31-10-1996 passed against him under Section 60 of the A.P. Cooperative Societies Act, 1964 (for short "the Act") with an application to condone the delay of 361 days vide I.A.No.686 of 1997 in CTA (SR) No.2654 of 1997 on 19-11-1997 further filed I.A.No.687 of 1997 to stay the surcharge order. The Tribunal stayed the surcharge order subject to petitioner furnishing third party immovable property as security for a sum of Rs.48,000/- and the said order has not been complied with by the petitioner nor prosecuted I.A.No.686 of 1997 filed to condone the delay which was ultimately

dismissed for default on 22-07-1998. On dismissal of the said appeal execution proceedings were initiated in E.P.No.816/95-D for due recovery of the amount and sale notice was issued in Form No.VIII and IX on 13-01-2000. Challenging the sale notice petitioner filed CTA 45/2000 which was ultimately dismissed on 18-01-2000 observing that no appeal lies against the sale notice and accordingly it appears that he filed revision before the Registrar of Cooperative Societies against the said notice, but the same has not been entertained. Meanwhile, on petitioner acquitting in the criminal case for misappropriation of the amount in C.C.No.9 of 1998 which was affirmed in CrI.A.No.246 of 2000 he filed I.A.No.1539 of 2004 to condone the delay of 2299 days in filing the petition to set aside the dismissal order in I.A.No.686 of 1997 dated 22-07-1998 stating that the depositions given by the witnesses in C.C.No.9 of 1998 on the file of Special Court for Trial of Offences under Cooperative Societies Act, Hyderabad on which the petitioner was acquitted do not disclose his involvement in the alleged misappropriation, he was advised to file the application to restore the present appeal as he will have good chances of succeeding in the appeal. Hence there is a delay of 2299 days in filing the petition. Except the reason that the petitioner was acquitted in C.C.No.9 of 1998 for misappropriation no other reasons were mentioned for his not filing the petition in time to set aside the dismissal order passed in I.A.No.686 of 1997.

In view of the same, the discretion exercised by the Tribunal in refusing to condone the delay of 2299 days in filing the petition to set aside the dismissal order do not suffer from any infirmities nor it is the case of the petitioner that in spite of his showing sufficient cause for condoning the delay Tribunal has not taken the same into consideration which resulted in miscarriage of justice, warranting interference in exercise of Certiorari jurisdiction of this Court.

Writ Petition is accordingly dismissed. No costs.

_____ A.GOPAL REDDY, J.

28-04-2006

Murthy