

(2018) 08 CHH CK 0069

Chhattisgarh High Court

Case No: Writ Petition 227 No. 662 Of 2018

Nagrik Sehkari Bank Maryadit
Waghela Complex

APPELLANT

Vs

Rekhram Sinha And Ors

RESPONDENT

Date of Decision: Aug. 2, 2018

Acts Referred:

- Chhattisgarh Co-Operative Societies Act, 1960 - Section 78(2), 78A
- Limitation Act, 1963 - Section 5

Hon'ble Judges: Goutam Bhaduri, J

Bench: Single Bench

Advocate: Prasoon Agrawal

Final Decision: Disposed Of

Judgement

Goutam Bhaduri, J

1. The present petition is against the order dated 11.04.2018 and 06.06.2018 passed by the Chhattisgarh Co-operative Tribunal, Raipur (for short 'the Tribunal')
2. Learned counsel for the petitioner submits that initially the order was passed by the Sub-Registrar, Co-operative Societies, Raipur, in favour of the respondent No.1 on 31.12.2016 in the case No. 55 (2) - 01/2013, whereby the termination order of the service of respondent No.1 dated 21.12.2012 was set aside and the liberty was given to the petitioner to conduct a fresh departmental enquiry. Such order was subject of appeal before the Registrar, Co-operative Societies in Appeal No.78 (1) (d) 109/2017 and the Registrar by order dated 07.07.2017 set aside the order passed by the

Sub- Registrar. Thereafter, the second appeal was preferred by the respondent under Section 78 (2) of the Chhattisgarh Co-operative Societies Act, 1960 (for short 'the Act, 1960') which was delayed by 4 months and 28 days, therefore, the same was filed with the application under Section 5 of the

Limitation Act to condone the delay. The Tribunal without hearing the appellant and notice condoned the delay, so the same is under challenge. It is

submitted that the appellant/petitioner has not consented/or acquiesces the order, which would be evident from the reply of the application filed under

Section 5 of the Limitation Act before the Co-operative Tribunal.

3. Perused the order dated 11.04.2018 and 06.06.2018. It appears that the Registrar in exercise of powers under Section 78 - A of the Act, 1960 has

condoned the delay and admitted the second appeal. The grievance of the petitioner is that the petitioner may be heard on the ground of limitation as

second appeal was barred by time. The perusal of the record and the order- sheet of the Co-operative Tribunal shows that the appeal was admitted

and the delay was condoned without the petitioner being heard. Under the circumstances, it is observed that since the appeal is fixed for final hearing,

the petitioner is given liberty to raise his grievance on the point of limitation apart from the merit even during the arguments on final hearing and the

Co- operative Tribunal shall be obliged to decide the same during the final adjudication.

4. With such observation, the petition stands disposed of.