
(1986) 06 KAR CK 0028
In the Karnataka High Court
Case No : W.P. No. 19675 of 1980

Siddagangaiah G.S.

APPELLANT

Vs

The Karnataka Appellate Tribunal and Others

RESPONDENT

Date of Decision : 03-06-1986

Acts Referred:

Karnataka Co-operative Societies Rules, 1960 — Rule 31(4)

Citation : (1987) 1 KarLJ 150

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

Chandrakantharaj Urs, J.-Petitioner is aggrieved by the order of the Karnataka Appellate Tribunal, Bangalore, made on I.A.I. in Appeal No. 749/76 on its file. I.A.I. was an application for condonation of delay in presenting the appeal on the ground that the petitioner/appellant was entitled to exclude from the period of limitation the time taken to obtain the certified copy of the order passed by the Arbitrator under Section 70 of the Karnataka Co-operative Societies Act, 1959.

2. The Tribunal rejected the application on the ground that the petitioner was present before the Arbitrator when the award was pronounced openly as required under Clause (1) of sub-rule (4) of Rule 31 of the Karnataka Co-operative Societies Rules and therefore the period of limitation commenced to run against the petitioner/appellant from the date of pronouncement of the award by the arbitrator. Therefore the present writ petition.

3. In W.P. No. 9156/86 I have considered a number of decided cases on the point now urged by the learned counsel for the petitioner. The Supreme Court in the case of Raja Harischandra Raj Singh v The Deputy Land Acquisition officer & another (AIR 1961 S.C. 1500) has taken the view that the element of fair-play contemplated in computing the period of limitation, in a case like this, could be satisfied if the person suffering an award had constructive knowledge of the contents of the award and such constructive knowledge of the award are attributable to him if he or his representative was present when the award was pronounced in open Court or in a Tribunal etc.,

4. As there is no dispute on the facts of this case that the petitioner was indeed present when the award was pronounced by the Arbitrator, he cannot plead that the period occupied in obtaining the certified copy should be excluded in computing the period of limitation. In the view I have taken in the aforementioned writ petition and the view expressed by another learned single Judge of this Court in an earlier writ petition, to which I have made a reference in the aforementioned writ petition, this petition must necessarily fail as the view taken by the Tribunal is correct.

5. The petition is therefore rejected. No costs.

6. Sri B.J. Somayaji, learned High Court Government Pleader is permitted to file his memo of appearance in two weeks.

Writ Petition is rejected.