

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

WP(C).No. 6769 of 2015 (U)

PETITIONERS :

- 1. XAVIER KUTTY, AGED 46 YEARS,
XAVIER KUTTY, PUTHETHU, BALAKRISHNA MENON ROAD,
EDAPPALLY, ERNAKULAM DISTRICT, KOCHI-24**
- 2. ALICE XAVIER KUTTY, PUTHETHU,
BALAKRISHNA MENON ROAD, EDAPPALLY,
ERNAKULAM DISTRICT, KOCHI - 24**

**BY ADVS.SRI.NIDHI BALACHANDRAN
SRI.SABU GEORGE**

RESPONDENTS :

- 1. THE STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
DEPARTMENT OF REGISTRATION, SECRETARIAT
THIRUVANANTHAPURAM 695001**
- 2. THE REGISTRAR OF CHITS INSPECTOR GENERAL OF REGISTRATION,
DEPARTMENT OF REGISTRATION, VANCHIYUR (PO)
THIRUVANANTHAPURAM 35**
- 3. DEPUTY INSPECTOR GENERAL OF REGISTRATION,
NROTH CENTRAL ZONE, ERNAKULAM 682016**
- 4. THE DEPUTY REGISTRAR OF CHITS (DISTRICT REGISTRAR(GENERAL)
DEPARTMENT OF REGISTRATION, EERNKAULAM 682016**
- 5. THE JOINT REGISTRAR OF CHITS PUNE &
DEPUTY COMMISSIONER OF SALES TAX (LTUE-001)
CIKRIKAR BHAVAN, JAIL ROAD, PUNE -411 006**
- 6. SHEEBA KURIES LTD.,
REPRESENTED BY ITS AUTHORISED OFFICER
SHEEBA CORPORATE HOUSE, 41-A, BHANU PATIL ROAD, PUNE-411020**
- 7. THE CHIEF MANAGER, SHEEBA KURIES LTD., ARACKAL BUILDING,
EDAPPALLY, ERNAKULAM - 682024**

**R1 TO R 5 BY GOVERNMENT PLEADER SRI. MANOJ KUNJACHAN
R6 & R7 BY ADV. SRI.K.M.SATHYANATHA MENON
BY ADV. SMT.KAVERY S THAMPI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07-10-2015, ALONG WITH WPC. 19064/2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE COMMUNICATION DATED 18.10.2013 ISSUED BY THE 7TH RESPONDENT.
- EXHIBIT P2: TRUE COPY OF THE RECEIPTS EVIDENCING THE PAYMENT MADE BY THE PETITIONER TO THE 7TH RESPONDENT.
- EXHIBIT P3: TRUE COPY OF THE LEGAL NOTICE DATED 24.7.14 ISSUED BY THE 6TH RESPONDENT.
- EXHIBIT P4: TRUE COPY OF REPLY NOTICE ISSUED BY THE PETITIONERS TO EXHIBITS P3 NOTICE
- EXHIBIT P5: TRUE COPY OF SUMMONS ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER

RESPONDENT(S)' EXHIBITS :

- EXT. R6(A): COPY OF THE APPLICATION NO. 817/2015 FILED BEFORE THE JOINT REGISTRAR OF CHITS PUNE.
- EXT. R6(B): COPY OF LIST OF DOCUMENTS SUBMITTED ALONG WITH EXT R6(A).
- EXT. R6(C): COPY OF THE CHIT AGREEMENT EXECUTED BETWEEN THE PETITIONERS AND THE R6.
- EXT. R6(D): COPY OF THE JUDGMENT DT 3/9/2014 IN WPC NO. 13649 OF 2014.

//TRUE COPY//

P.S. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P.(C).Nos.6769/2015 & 19064/2015

Dated this the 7th Day of October, 2015

J U D G M E N T

These writ petitions are filed by the petitioners challenging notices issued by an Arbitrator under the Central Chit Funds Act, 1982 (for short, the “Act”).

2. Exhibit P5 in W.P.(C).No.6769/2015 is a summons issued by the Joint Registrar of Chits, Pune under Section 67 of the Act. This summons is issued at the instance of the 6th respondent, a company engaged in chitty business and having registered office at Pune.

3. Exhibit P5 in W.P.(C).No.19064/2015 is also a summons issued by the Joint Registrar under Section 67 of the Act at the instance of the 6th respondent, the same company which is the 6th respondent in W.P.(C).No.6769/2015.

4. The common issue in both these writ petitions is that the Joint Registrar invoking power under Section 67 of the Act has no jurisdiction to entertain proceedings initiated by the Chitty company for the transaction of Chitty from Kerala. According to the petitioners, they have entered into Chitty business with the branch of chity company in Kerala and therefore, only an Authority constituted under Section 67 of the Act in Kerala alone has jurisdiction.

5. The petitioners question the action of the Joint Registrar in Pune. The cause of action of the petitioners is based on the summons issued by the Joint Registrar.

6. It is apposite to refer Section 67 of the Act in this context. Section 67 reads as follows:

“67. Procedure for settlement of disputes and power of Registrar or nominee.-

1. The Registrar or the nominee hearing a dispute under section 66, shall, in addition to powers conferred on him under that section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:-

- a) summoning and enforcing the attendance of persons and examining them on oath;
- b) requiring the discovery and inspection of documents;
- c) receiving evidence on affidavits;
- d) requisitioning any public record or copies thereof from any court or office;
- e) issuing commissions for the examination of witnesses or documents; and
- f) any other matter which may be prescribed.

2. Except with the permission of the Registrar or the nominee, no party shall be represented at the hearing of a dispute by a legal practitioner.

3(a). If the Registrar or the nominee is satisfied that any person, whether he is a subscriber or not has acquired any interest in the property of a person who is a party to a dispute, he may order that the person who has acquired the interest in the property may be joined as a party to the dispute and any decision that may

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be given by the Registrar or the nominee on the dispute shall be binding on the party so joined, in the same manner as if were an original party to the dispute.

3(b) Where a dispute has been referred in the name of a wrong person, or where all the necessary parties have not been included, the Registrar or the nominee may, if he is satisfied that it was due to a genuine mistake, order any other person to be substituted or added as parties to the dispute at any stage of hearing of the dispute on such terms as he thinks just.

3(c) The Registrar or the nominee may, at any stage of the proceedings, either upon or without the application of either party and on such terms as may appear to the Registrar or the nominee to be just, order that the name of any party improperly joined be struck off.

3(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any such reliefs, but if he omits to claim any such relief, he shall not be entitled to claim that relief, except with the leave of the Registrar or the nominee.”

7. The 6th respondent is based in Pune. They approached the fifth respondent-Joint Registrar in Pune who invoking the powers in terms of the Act issued Exhibit.P5. Therefore, all facts emanates from the cause of action have arisen from Pune. Merely because the petitioners are residents of Kerala, those actions cannot be brought within the territorial jurisdiction of this Court. The Joint Registrar is exercising a quasi judicial power. That power is

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being questioned by the petitioners. Therefore, exercise of power by the Joint Registrar is the subject matter of the writ petition. The question whether the Joint Registrar has jurisdiction or not is a matter which requires a probe. But this Court cannot entertain the writ petitions as this Court has no territorial jurisdiction based on the residence of the petitioners. The petitioners have either to approach the Joint Registrar questioning his jurisdiction or appropriate Court having territorial jurisdiction to question jurisdiction of the Joint Registrar. Therefore, leaving open all issues, this Court declines exercise of power under Article 226 of the Constitution to interfere with the summons issued by a competent Authority in another state. The writ petition is dismissed with the above observations.

Sd/-

(A.MUHAMED MUSTAQUE, JUDGE)

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