IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.343 of 2015 against W.P.No.31153/14
and
M.P.Nos.1 and 2 of 2015

1.M/s.Arathee Exports,
rep by its Partner,
Mr.Murugan,
No.A/4, Bharathi Street,
Swarnapuri,
Salem-636 004.
2.Kannan
3.Krishnan .. Appellants/Petitioners

Vs.

1.The Principal Secretary to Government,
Commercial Taxes and Registration (G) Department,
Secretariat,
Chennai-600 009.
2.The Arbitrator of Chits,
Central Chennai Chit Fund Cases Court,
Chennai-600 001.
3.Sree Gokulam Chit & Finance Company (P) Ltd.,
No.49, Arcot Road,
Kodambakkam,
Chennai-600 024. .. Respondents/Respondents

This writ appeal is preferred under Clause15 of the Letters Patent against the order dated 21.1.2015 passed in W.P.No.31153 of 2014.

This Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the impugned order passed by the first respondent in G.O.(D)No.390, dated 17.10.2014, and quash the same and further direct the first respondent to allow the condone delay and dispose the appeal on merits.

For Appellant : Mr.G.Krishnakumar
for Mr.S.Ashok Kumar

For Respondents : Mr.P.S.Sivashanmugasundaram, Spl.G.P.
For R-1

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal arises from the order dated 21.01.2015 passed in W.P.No.31153 of 2014, wherein and whereunder, the learned Single Judge rejected the case of the writ petitioners/ appellants herein.

2. The dispute arose between the appellants / writ petitioners (hereinafter referred to as "appellants") and the third respondent herein in respect of the chit fund business, which was taken up on the file of the Chief Fund Cases Arbitration Court in Arbitration Case No.1581 of 2010. The appellants filed counter statement in the proceedings. Thereafter, it appears they abandoned the proceedings and an award was passed by the Presiding Officer on 19.9.2011. Being aggrieved, the appellants herein preferred an appeal under Section 70 of the Chit Funds Act, 1982 before the appellant authority, i.e., the Principal Secretary to government, Commercial Taxes and Registration Department-first respondent on 27.6.2014 belatedly with a delay of 2 years, 7 months and 9 days when the statutory limit of limitation prescribed is two months. The appellate authority considered the case on merit as well as on delay and dismissed the appeal being time barred on 17.10.2014. Thereagainst, the appellants have come up with the instant writ petition.

3. The learned Single Judge examined the case on merit and also the entire records of the proceedings. It was recorded that the appellants have filed counter statement in the arbitration proceedings. It is the case of the appellants that they came to know of the passing of the award only when the order of arrest was issued by the First Additional Sub Judge, Salem in REP No.249 of 2012. The learned Single Judge further found that the appellate authority has considered the case on merits, after affording proper opportunity of hearing. But the appellants have failed to show sufficient cause to condone the delay. Accordingly, the appeal was rightly dismissed.

4. We have examined all the facts and also heard the learned counsel appearing for the appellants. No material has been placed before us in addition to what has been produced before the writ court to establish that the appellants were completely ignorant of the arbitration proceedings and that the appellants have come to know

about the award when the order of arrest was issued. When the appellants have participated in the arbitration proceedings, it is for them to continue participating and be vigilant and conscious about passing of the award. The appellants have failed to establish that there was anything which prevented them from participating further and as such there is no probability that the award was passed without their knowledge. The matter is pending before the First Additional Sub Judge, Salem for execution. The learned Single Judge considered the contention of the appellants of financial hardship to pay the entire chit amount in one go and had granted liberty to make an appropriate application in the pending REP No.249 of 2012 to grant sufficient time. We do not find any reason to take a contrary view to that of the learned Single Judge. There is no infirmity, illegality and irregularity in the order sought to be impugned in the writ appeal, warranting interference. Accordingly, the writ appeal is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vvk

To

1.The Principal Secretary to Government,
Commercial Taxes and Registration (G) Department,
Secretariat,
Chennai-600 009.

2.The Arbitrator of Chits,
Central Chennai Chit Fund Cases Court,
Chennai-600 001.

1 cc to Mr.S.Ashok Kumar ,Advocate, SR.No.14925

W.A.No.343 of 2015

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