

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

WRIT PETITION No.32028 OF 2015

ORDER:

Heard learned counsel for the petitioner and learned counsel for the 3rd respondent.

Under the Chit Funds Act, 1982 (for short, 'the Act') a dispute raised by M/s. Mahija Chit Fund Private Limited, Nizamabad, the 3rd respondent, against the petitioner and others was adjudicated by the Deputy Registrar of Chits at Nizamabad, under order dated 04.03.2014, in Dispute No.159 of 2013. Aggrieved thereby, the petitioner is stated to have preferred appeal on 15.07.2015 before the 1st respondent along with an application seeking condonation of delay in filing such appeal. The petitioner's grievance in this Writ Petition is that the 1st respondent under his impugned Memo dated 21.08.2015 rejected the application for condonation of delay and consequently rejected the appeal. But, the petitioner was neither heard nor served with any notice before passing the said order.

Learned counsel for the petitioner states that the petitioner has adequately explained the reasons for the delay and as such if he is being given any such opportunity, he would have satisfied the appellate authority that the delay deserves to be condoned.

Learned Government Pleader for Revenue was required to get instructions as to whether any notice was issued by the 1st respondent to the petitioner before issuing the impugned Memo. Learned Government Pleader now confirms that notice does not appear to have been issued to the petitioner and on the ground that the appeal was barred by time the impugned Memo was issued.

The question posed in the present Writ Petition has to be appreciated in the light of Section 70 of the Chit Funds Act, 1982, which is extracted hereunder:

“Section 70 of the Chit Funds Act, 1982

Appeal against decision of Registrar of nominee:-
Any party aggrieved by any order passed by the Registrar or the nominee or the award of the Registrar or the nominee under section 69, may, within two months from the date of the order or award, appeal to the State Government.”

It would be noticed immediately that the aforesaid Section provides that an appeal can be filed within two months from the date of order or award. However, no provision for condonation of delay is found in the statute.

The questions, which fall for consideration, therefore, are:

- (1) Whether the appellate authority under Section 70 of the Chit Funds Act has power to condone the delay?
- (2) Whether the petitioner has made out any good and sufficient cause so as to warrant condonation of delay and examination of the appeal on merits?

So far as the first question is concerned, the issue is no more *res integra* inasmuch as similar questions arising out of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and Section 17 of the Debts Recovery Tribunals Act was considered by a Division Bench of this Court, (to which I am a party) reported in **Sajida Begum v. State Bank of India** ^[1] and which was also affirmed by the Supreme Court in recent decision in **Baleshwar Dayal Jaiswal v. Bank of India and others** ^[2]. The said ratio, therefore, squarely applies even in the present case and it has to

be held that Sections 4 to 29 of the Limitation Act apply to an appeal under Section 70 of the Chit Funds Act. Consequently, Section 5 of the Limitation Act would also be applicable and the appeal cannot be rejected merely on the ground that it is beyond the time prescribed, if such an appeal is accompanied by an application disclosing sufficient cause as well as an application seeking condonation of delay under Section 5 of the Limitation Act.

To the extent of second question, however, the petitioner states that he has filed an application and has explained the reasons as to why he could not prefer the appeal within the time prescribed. However, that question was not examined by the appellate authority under the impugned order as apparently it was under the impression that Section 5 of the Limitation Act is not available. That question, therefore, needs to be examined by the appellate authority now in view of this order.

Therefore, the impugned order is set aside. The matter shall stand remitted back to the 1st respondent to act in terms of the directions given above. The 1st respondent shall hear the parties and then pass appropriate orders in accordance with law with regard to condonation of delay and if satisfied, entertain the appeal and then consider the same on its merits.

The Writ Petition is accordingly allowed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

VILAS V.AFZULPURKAR, J

03.12.2015

KH

[\[1\]](#) AIR 2013 AP 24

[\[2\]](#) AIR 2015 SC 2881