

THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.9039 of 2015

Oral Order:

The issue arises under the Chit Funds Act, 1982. The petitioner assails the order dated 27.11.2014 in I.A.No.72 of 2014 in Dispute No.193 of 2014 pending before the 3rd respondent as illegal and contrary to the mandate of Section 68 read with Rules 51 and 53 of the A.P. Chit Funds Rules, 2008.

Heard the learned counsel for the petitioner and Sri P. Durga Prasad, learned Standing Counsel appearing for the 4th respondent.

Primarily the grievance of the petitioner against the impugned order is that attachment of schedule property covered by I.A.No.72 of 2014 is contrary to the requirement of Section 68 of the Chit Funds Act, 1982 viz., without issuing notice to the petitioner to furnish security to the claim pending before the 3rd respondent and in default of such furnishing security to proceed further in the matter. In other words, ex-parte order of attachment is passed without affording any opportunity in terms of Section 68 and the violation vitiates the impugned order.

Sri P. Durga Prasad, learned Standing Counsel for the 4th respondent submits that the petitioner can file objections under Rule 51 of A.P. Chit Fund Rules, 2008 and this Court can relegate the petitioner to file objections and the same will be considered by the 3rd respondent and appropriate final orders will be passed. It is further brought to the notice of this Court that enquiry in these applications / Dispute No.193 of 2014 is posted on 16.4.2015.

Perused the material available on record and taken note of the submissions of the learned counsel appearing for the parties.

The impugned order, prima facie, suffers from illegality in attaching the property without giving notice to the petitioner to furnish

security to the claim pending in Dispute no.193 of 2014. On this short ground, the impugned order dated 27.11.2014 passed in I.A.No.72 of 2014 in Dispute No.193 of 2014 is set aside and the 3rd respondent is directed to hear the petitioner as well as the 4th respondent on the scheduled date of hearing, and pass appropriate orders in accordance with Section 68 read with Rule 51 of the A.P. Chit Fund Rules, 2008. The petitioner till the disposal of I.A.No.72 of 2014 is directed not to create any 3rd party interest of petition schedule property. The 3rd respondent shall pass orders in I.A.No.72 of 2014 on or before 22.4.2015.

With the above directions, the writ petition is accordingly allowed and remanded to the 3rd respondent. Miscellaneous Petitions if any pending shall stand closed. No costs.

JUSTICE S. V. BHATT

Dated 15-4--015

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Note : Issue CC by today evening

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