IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 01/09/2017

PRONOUNCED ON 08/09/2017

CORAM

THE HONOURABLE MR.JUSTICE P.D. AUDIKESAVALU

W.P.No.17109 of 2004

S.P.Palaniyappan ... Petitioner

-vs-

1.State of Tamil Nadu rep. by its
Secretary to Government,
Commercial Taxes Department,
Fort St.George,
Chennai-9.

2.T.V.R.Chit Funds Pvt. Ltd.,
Rep. by its Managing Director,
Mr.V.Ramasamy,
30, K.S.C.School Street,
Tirupur - 1.

3.The Assistant Chit Registrar and District
Registrar (Administration),
Tirupur. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the first respondent passed in his letter No.7144/G/04-3 dated 18.05.2004 and quash the same.

For Petitioner : Mr.R.Venkatachalapathy
For M/s.S.Kadarkarai

For Respondents: Mr.E.Manoharan
Additional Government Pleader for R1 & R3

Mr.MA.P.Thangavel for R2

O R D E R

Heard Mr.Venkatachalapathy, learned counsel appearing for the Petitioner; Mr.E.Manoharan, learned Additional Government

Pleader appearing for the respondents 1 and 3; and Mr.MA.P.Thangavel, learned counsel for the second respondent.

2. The second respondent, viz., T.V.R.Chit Funds Pvt. Ltd., initiated proceedings bearing A.R.C.No.43 of 2003 under Section 64 of the Chit Funds Act, 1982 against the Petitioner before the third respondent, viz., Assistant Chit Registrar and District Registrar (Administration), Tirupur, pursuant to which the order dated 23.02.2004 came to be passed against the Petitioner. As against that order, the Petitioner preferred an appeal on 05.04.2004 under Section 70 of the Chit Funds Act, 1982, before the first respondent, viz., The Secretary to Government, Commercial Taxes Department, Chennai. The Petitioner had also sought for the stay of the order of the third respondent during the pendency of that appeal. The first respondent by communication bearing letter No.7144/G/04-3, dated 18.05.2004 informed the Petitioner as follows:-

> "I am directed to state that the appeal in the reference cited has been taken on file and orders will be issued on merits of the case in due course. I am also to state that there is no valid reason to comply with your request for stay and accordingly the request for grant of stay is rejected."

Aggrieved by the rejection of the first respondent to grant stay of the order passed by the third respondent, the instant Writ Petition has been preferred.

3. At the time of admission, this Court in W.P.M.P.No.20298 of 2004 on 23.06.2004 granted interim stay in all further proceedings of A.R.C.No.43 of 2003 on the file of the third respondent, while directing notice to be issued to the respondents in the matter. The first and third respondents had filed W.V.M.P.No.204 of 2006 to vacate the aforesaid interim order granted in the Writ Petition, in which this Court by an order dated 12.10.2007 passed the following order:-

> "Learned counsel appearing for the Writ Petitioner is absent. Interim order is operative since 2004. At this stage, there may not be any justification to vacate the interim order. Hence the Petition to vacate the interim order is rejected and the interim order is made final.
>
> 2. However, keeping in view the nature of dispute, it is directed that the Writ Petition may be listed for final hearing on 19.11.2007."

4. The Writ Petition was thereafter listed for final hearing before this Court on 07.07.2017 when it was informed by the learned counsel representing the Petitioner that it has come to his knowledge on that day that the Petitioner had expired and time was requested till 20.07.2017 to bring his legal

representative on record. However when the case was taken up for hearing on 01.09.2017, the learned counsel appearing for the Petitioner was not in a position to inform about the steps taken pursuant to the earlier hearing. Having regard to the fact that the present Writ Petition is directed against an interlocutory order passed by the first respondent before whom the main case is pending, it would suffice for the legal representative to be brought on record in the main case, and this Writ Petition could be proceeded to be disposed without delving into the merits of the controversy involved at this stage.

5. Viewed from that perspective, taking into account the long lapse of time and in order to ensure that the entire litigation reaches finality without brooking any more delay, it is directed that the order dated 23.02.2004 in A.R.C.No.43 of 2003 on the file of the third respondent shall not be executed till decision is taken in the aforesaid appeal dated 05.04.2004 preferred by the Petitioner before the first respondent, who shall, in turn, expeditiously dispose that appeal on merits and in accordance with law after affording full opportunity of hearing to all the parties concerned by a reasoned order and communicate the decision to the parties on or before 31.12.2017.

6. Mr.R.Venkatachalapathy, learned counsel appearing on behalf of Mr.S.Kadarkarai, learned counsel for the Petitioner informs that the legal representatives of the deceased Petitioner shall take steps to bring themselves on record in the appeal before the first respondent on or before 30.09.2017. Recording the said submission, it is made clear that if no steps are taken by the legal representatives of the Petitioner before on that date, it shall be deemed that the appeal before the first respondent automatically stands abated without any further reference in the matter and the second respondent shall be entitled to execute the award of the third respondent as against the legal representatives of the deceased Petitioner in accordance with law from that date.

7. The Writ Petition is disposed of accordingly with the aforesaid observations. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

r n s

To

1. The Secretary to Government,
   Government of Tamil Nadu,
   Commercial Taxes Department,
   Fort St.George,
   Chennai-9.

2. The Assistant Chit Registrar and District
   Registrar (Administration),
   Tirupur.

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NR 11/09/2017