

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2018

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.35657 of 2002

1.R.Saraswathi
2.D.Rajalingam
3.K.Ekambaram ...Petitioners

Vs.

1.The Government of Tamil Nadu
Rep by its Secretary to Government
Commercial Taxes and Religious Endowments
Fort St. George, Chennai 9.
2.The Arbitrator
Central Madras Chit Fund Cases
26, Rajaji Salai
Chennai - 600 001.
3.The Chit Corporation
Rep by its Managing Director
120, Santhome High Road
Chennai - 600 028. ...Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, quash the order of the first respondent in Letter No.990/G/2000-1 dated 9.5.2000 rejecting the appeal filed by the petitioners confirming the order of the second respondent made in ARC No.1823/1991 dated 25.9.1998.

For Petitioners : Mr.D.Kanagasundaram

For Respondents : Mr.T.M.Pappiah
Special Government Pleader (R1-R2)
MR.P.G.PADMANABHAN for R3

O R D E R

The Petitioners had preferred an appeal under Section 70 of the Chit Funds Act, 1982, before the First Respondent /Secretary to Government, Commercial Taxes and Religious Endowment Department, aggrieved by the award dated 25.09.1998 passed in ARC No.1823 of 1991 by the Second Respondent /Arbitrator under

the Chit Fund Cases Court, Central Chennai along with an application to excuse the delay of 474 days in filing that appeal. In the affidavit filed in support of the application to condone the delay in filing of the said appeal, it has been contended that though the Petitioners had initially appeared before the Second Respondent on service of summons, they were not informed of subsequent dates of hearing and that it was only when they received a notice dated 15.11.1999 from the Third Respondent that they came to know that an award had already been passed by the Second Respondent and they had applied for a certified copy of that award on 09.12.1999 and after receiving the same on 13.12.1999, the appeal has been filed within two months from the date of receipt of copy of that award.

2. In the order impugned in this Writ Petition, the appeal has been rejected by the First Respondent on the ground that it was belated as it had not been filed within two months from the date of award, i.e., 25.02.1998. On a perusal of the impugned order, it is evident that the explanation of the Petitioner in his affidavit filed in support of the application to condone the delay in filing of the appeal has not at all been considered and as such, it vitiates the same on the ground of non-application of mind. Hence, it has to be held that the impugned order rejecting the appeal as time barred cannot be sustained and the same is resultantly set aside. The matter is remitted for fresh determination to the First Respondent to initially decide the question of limitation taking into consideration of the averments made by the Petitioner in the affidavit filed in support of the application to condone the delay, and after affording opportunity of hearing to all parties concerned, pass reasoned order on merits in accordance with law and depending upon its outcome, further proceedings in the appeal shall take place accordingly. It is made clear that no view has been expressed by this court on the correctness or otherwise of the rival contentions of the parties. The First Respondent shall endeavour to expeditiously complete the aforesaid exercise and file a report of such compliance before the Registrar (Judicial) of this Court by 31.10.2018.

3. The writ petition is disposed of on the aforesaid terms. No costs.

may a

Sd/-Sd/-
Assistant Registrar(cs II)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government
Commercial Taxes and Religious Endowments
Fort St. George, Chennai 9.

2.The Arbitrator
Central Madras Chit Fund Cases
26, Rajaji Salai
Chennai - 600 001.

3.The Chit Corporation
Rep by its Managing Director
120, Santhome High Road
Chennai - 600 028.

4.The registrar (Judicial),
High court ,madras

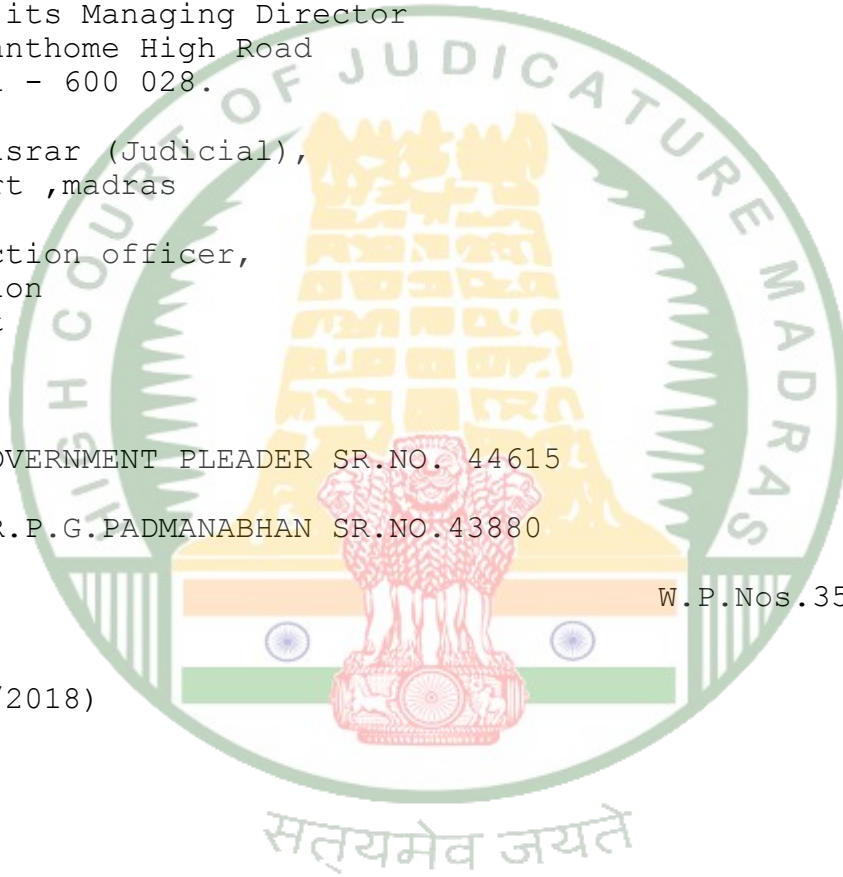
5. The section officer,
writ section
High court
madras.

+1CC TO GOVERNMENT PLEADER SR.NO. 44615

+1CC TO MR.P.G.PADMANABHAN SR.NO.43880

W.P.Nos.35657 of 2002

AR (cs II)
ASK(30/07/2018)



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