



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2018

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A (MD) Nos.113 & 114 of 2016

and

C.M.P (MD) Nos.1874 & 1875 of 2016

C.M.A (MD) No.113 of 2016

T.Saiveeraaswaamy,
S/o.Thandayuthapani,
Grade-I Former Development Officer,
The New India Assurance Company Ltd.,
KVR Complex III Floor,
80 Feet Road,
Karur-639 002
and now at Sai Shri Ram Impex,
No.114, Kamarajapuram North,
Sengunthapuram Post,
Karur-639 002.

... Appellant/Appellant/
4th Opposite Party

Vs .

1. M/s.Margadarsi Chits Pvt. Limited,
rep. by its foreman,
K.Bhaskar (35/11),
S/o.Kuppusamy,
1015, Covai Road,
Karur-639 002.

... Respondents/Respondents/
Disputant

2. The Arbitrator/Deputy Chit Registrar,
having office at office of the District Registrar,
Collector Officer Complex,
Thanthonimalai,
Karur Taluk.

... Respondent/Respondent/
Arbitrator

3. M/s.K.P.M.Senthil Pattu & Readymades
represented by its proprietor M.S.Senthil,
S/o.M.Sampath,
D.No.4/77, Line Street,
Nammakkal-637 001.



4.M.Sampath
5.D.Sumathi

... Respondents/Respondents/
Opponents 1 to 3

PRAYER: Appeal filed under Section 37 of Arbitration and Conciliation Act 26 of 1996, to set aside the award dated 23.01.2009 in Arbitration Chit Case 37/2008 by setting aside fair and decretal order dated 14.09.2015 in Arbitration O.P.No.31/2011 on the file of District Judge, Karur.

For Appellant : Mr.S.Jayavel
For R1 : Mr.P.Rajagopalan
for Mr.R.Devaraj
For R2 : Mr.M.Murugan
Government Advocate

C.M.A(MD)No.114 of 2016

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3.D.Sumathi
4.M.Murugaiyan
5.M.Sampath
6.Baby Saraswathi

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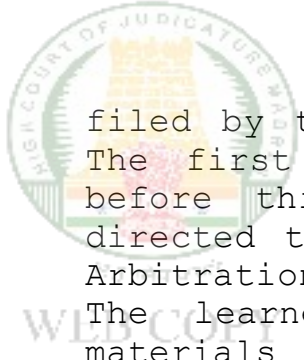
For Appellant : Mr.S.Jayavel
For R1 : Mr.P.Rajagopalan
for Mr.R.Devaraj
For R2 : Mr.M.Murugan, Government Advocate

COMMON JUDGMENT

As the submissions and pleadings are common and both the appeals are heard together and disposed of by this common judgment.

2.The appellant joined Chit No.FT 002ZKR conducted by the first respondent. He was 30th and 39th member. He was the successfull bidder for two times and bid amount for Rs.7,00,000/- on 27.08.2005 as 30th member and on 21.05.2006 as 39th member. He executed the promissory notes. He did not pay the installments properly. He committed defaults from 22nd to 40th installments. The first respondent initiated Arbitration Proceedings in Nos.37 and 38 of 2008 before the second respondent, the Deputy Registrar of Chits, Karur, against the appellant and other respondents. Except the appellant, others were remained ex-parte. The appellant entered appearance through counsel, but did not participate in the enquiry before the Deputy Registrar of Chits, Karur, except filing the written statement. The second respondent Arbitrator/Deputy Registrar of Chits, Karur, considering all the materials on record and written statement of the appellant, passed two awards in Arbitration Chit Case Nos.37 & 38 of 2008, dated 23.01.2009, directing the appellant and other respondents to pay a sum of Rs.6,35,443/- and Rs.6,35,376/- respectively, in one installment together with interest at 24% per annum from the date of petition.

3.The appellant filed Arbitration O.P.Nos.31 & 32 of 2011, on the file of the Principal District Court, Karur, challenging the award Nos.37 & 38 of 2008. The Principal District Judge, Karur, initially granted stay of E.P.No.17 & 19 of 2011



filed by the first respondent to execute the Arbitration Award. The first respondent filed C.R.P(PD)(MD)Nos.639 & 640 of 2015 before this Court. This Court, by order dated 07.04.2015, directed the learned Principal District Judge, Karur, to dispose Arbitration O.P.Nos.31 & 32 of 2011 with regard to jurisdiction. The learned Principal District Judge, Karur considering the materials on record held that the Arbitration O.Ps., are not maintainable, as an appeal remedy is provided under Section 74(1) of the Chit Funds Act, dismissed both the Arbitration O.Ps.,

4. Aggrieved by the said orders, the appellant has filed the present two appeals.

5. Heard the learned counsel appearing for the appellant and the respondents and perused the materials available on record.

6. The contention of the learned counsel appearing for the appellant is that the Arbitration and Conciliation Act came into force subsequent to the Chit Funds Act and therefore, the provisions of the Arbitration and Conciliation Act will override the provision of Chit Funds Act, is without merits. The contention that appellant has already filed W.P.(MD)No.13004 of 2015 challenging the validity of Sections 64, 67 & 69 of the Chit Funds Act, will not advance the case of the appellant. The Chit Funds Act is a self contained Act. The Arbitration proceedings provided under the Chit Funds Act is different from the Arbitration as per the Arbitration and Conciliation Act, 1996. The second respondent Deputy Registrar of Chits has specifically mentioned that appeal against the arbitration award lies to the Government. Sections 64, 67 and 69 of the Chit Funds Act, so far are not declared as violative of Constitution of India. In such circumstances, there is no error in the orders of the learned Principal District Judge, dismissing the Arbitration Original Petitions filed by the appellant.

7. In the result, both the appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are dismissed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar (CS-)

To



2. The Deputy Chit Registrar,
Collector Officer Complex,
Thanthonimalai,
Karur Taluk.

WEB COPY

- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 84362
- + 1 CC TO Mr.S.JAYAVEL, ADVOCATE IN SR No. 85013
- + 2 CC TO Mr.R.DEVARAJ, ADVOCATE IN SR No. 84260 & 84261

AM

TE/SV/SAR-4 : 10/10/2018 : 5P/7C

C.M.A(MD) Nos.113 & 114 of 2016
14.09.2018