

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.12.2019
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.14362 of 2005
and
WMP No.15718 of 2005

Palghat Chit Funds Subscribers
Welfare Association,
rep. By its Secretary,
Flat No.3, First Floor,
No.21, Nathans Arcade,
Malaviya Avenue,
L.B.Road,
Thiruvanmiyur,
Chennai - 600 041.

... Petitioner

Vs

1. The State of Tamil Nadu,
rep. By its Secretary to the
Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.

2. The Inspector General of
Registration,
Santhome High Road,
Mylapore,
Chennai - 600 004.

3. The District Registrar,
South Madras,
Ex-Officio
Deputy Registrar of Chit Funds,
O/o. The District Registrar,
Jennis Road,
Saidapet,
Chennai - 600 015.

4. The Official Liquidator,
as Liquidator of M/s. Palghat
Permanent Fund Ltd. (in liquidation)
Kuralagam,

Esplanade,
Chennai - 600 001.

5. Kandasamy
Administrator of
M/s.Palghat Permanent Fund Ltd.,
(in liquidation),
46B, East First Main Road,
Shenoy Nagar,
Chennai - 600 030.

6. Palghat Chits Pvt. Ltd.
No.10, Nana Street,
T.Nagar, Post Box No.1418,
Chennai - 600 017.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to initiate suomoto winding up proceedings in respect of the affairs of the sixth respondent as contemplated under Section 48 of the Chit Funds Act, 1982.

For petitioner : Mr.K.Bijai Sundar

For respondents : Mr.P.P.Purusothaman
Government Advocate for R1 to R3
Mr.S.R.Sundar for R4
No appearance for R5

ORDER

This writ petition has been filed for a Mandamus by M/s.Palghat Chit Fund Subscribers Welfare Association seeking for a direction that the affairs of the sixth respondent / M/s.Palghat Chits Private Limited must be wound up in accordance with Section 48 of the Chits Fund Act, 1982.

2. The case of the petitioner's association is that they are registered under the Tamil Nadu Societies Registration Act, 1975. According to them, the members of the petitioner's association are the subscribers of the various chit groups conducted by the sixth respondent and duly registered with the third respondent in accordance with the provisions of Chits Fund Act, 1982 (hereinafter referred to as "Act, 1982"). It is their case that the sixth respondent is also having another business duly incorporated under the Provisions of the Indian Companies Act, 1956 under the name of "Palghat Permanent Fund

Ltd." According to the petitioner, the said company and the sixth respondent were both having the registered office at No.10, Nana Street, T.Nagar, Chennai - 17.

3. According to them, M/s.Palghat Permanent Fund Limited due to their financial position was wound up pursuant to orders passed by this Court exercising Company jurisdiction on 30.04.2002 made in C.A. No.595 of 2002 in C.P. No.102 of 2002 and the fourth respondent has been appointed as provisional Liquidator for the said company and the fifth respondent has been appointed as an Administrator.

4. It is the case of the petitioner that the members of the petitioner's association are non prized subscribers of the sixth respondent. According to the petitioner to the shock of their members, the sixth respondent which had a turnover of about Rs.40/-lakhs came to a grinding halt without any prior signs of financial distress for reasons unknown to them.

5. Thereafter, it came to the knowledge of the petitioner's association that M/s.Palghat Permanent Fund Limited, a Nidhi Company which had its registered office in the same premises as that of the sixth respondent was closed and sealed by the fifth respondent.

6. According to them, the reasons for halting the chit fund business defies all logic and principles of law. According to them, nothing went wrong with the financial affairs of the Chit Fund company and it is a total mystery as to why the fourth and fifth respondents chose to lock up the Chit Fund company and assume custody thereof. Since the fourth and fifth respondents locked up the sixth respondent Chit Fund company, the Chief Enforcing Authority holding custody of Security deposits of all Registered Chits under Sections 20, 46(1) and (2) and 61(3) of the "Act, 1982" is now vested with the third respondent.

7. According to the petitioner, the third respondent should have protested against the illegal usurpation of the custody of the chit company by the fourth and fifth respondents.

8. According to the petitioner, the third respondent ought to have ensured the continuation of the chits as clearly envisaged under Sections 39 (1) and (2) of the "Act, 1982". Instead, according to them, the third respondent has been a helpless spectator of the illegal Act of the fifth respondent. According to the petitioner, at the time of filing of the writ petition, it was more than 30 months since the sixth respondent ceased to operate the chit company. According to the petitioner's association, to protect the interests of its members the only recourse available to them that will get

maximum relief to them is to wind up the sixth respondent by the third respondent, as per the provisions of Section 48 of the "Act, 1982". According to them any further delay in winding up of the sixth respondent will only worsen the plight of the subscribers. According to them, if there is a delay in winding up of the sixth respondent, the non-prized subscribers may lose the value of even the little they can retrieve or salvage and the prized subscribers will suffer inordinate delay in release of their securities held by the sixth respondent. It is their case that several representations were made but despite those representations, the third respondent, till date has not wound up the sixth respondent as per the provisions of Section 48 of the "Act, 1982". In such circumstances, this writ petition has been filed.

9. A counter affidavit has been filed by the respondents 1 to 3 stating that the prayer sought for in the writ petition is not maintainable for the following reasons :-

- a) The Chit company was locked.
- b) The foreman of the Chit company who is in charge of the chit funds did not reveal the position of the Chit company.
- c) The foreman failed to file Minutes of Proceedings and other records till date.
- d) At present without verifying the records of the Chit company, Registrar cannot take action to wind up the Chit company.
- e) If this Court directs the fourth and fifth respondents to remove the seal of the Chit fund office and hand over the records to the Registrar of chits, only then he can take action according to law. Otherwise this Court may direct the fourth and fifth respondents themselves to take up action for winding up.

10. Today when the matter was taken up for hearing, the learned Government Advocate appearing for respondents 1 to 3 has filed a report dated 03.12.2019 (Letter No.10158/C4/2019). The said report has been filed by the third respondent

addressed to the Special Government Pleader, Registration Department, High Court, Chennai - 600 104.

11. As seen from the report, the respondents 1 to 3 have stated in paragraph 3 that there are 67 Fixed Deposits which is given as Security by the sixth respondent to the Foreman. The relevant paragraph of the said report reads as follows :-

3. It is submitted that the aforesaid 67 fixed deposits were drawn on 5 Banks, as listed in the Table appended hereunder :-

Sl. No.	Name of the Bank	No. of Fixed Deposits	F.D. Amount (in Rs.)	Current Value (F.D. Amount + Interest sofar Accrued) (in Rs.)
1	Punjab National Bank	40	18,40,000/-	32,77,779/-
2	Corporation Bank	14	9,25,000/-	15,17,232/-
3	City Union Bank	3	1,75,000/-	3,24,633/-

Sl. No.	Name of the Bank	No. of Fixed Deposits	F.D. Amount (in Rs.)	Current Value (F.D. Amount + Interest sofar Accrued) (in Rs.)
4	Bank of Maharashtra	7	3,30,000/-	7,41,756/-
5	Lakshmi Vilas Bank	3	30,000/-	46,369/-
		67	33,00,000/-	59,07,769/-

12. As seen from the above Tabular Column, it is clear that the third respondent is holding the Fixed Deposits of the sixth respondent with a current value of Rs.59,07,769/-. Another letter dated 21.11.2019 has been sent by the third respondent to the Special Government Pleader, Registration Department, High Court, Chennai - 600 104. recommending Mr.Dhanaraju, S/o.C. Thiagarajan, District Registrar (in the cadre of Assistant Inspector General of Registration) (Retd.), No.34/B4, Mannar Street, T.Nagar, Chennai - 600 017 for appointment as Receiver to initiate the process of winding up of the sixth respondent as contemplated under Sections 48 to 60 of the "Act, 1982". It is submitted by the learned counsels appearing on both sides that

this recommendation was made pursuant to the oral directions given by this Court on 13.11.2019 to the Additional Government Pleader representing the respondents 1 to 3.

13. It is evidenced from the letter that the sixth respondent is not in operation now and has been closed. The amount lying in Fixed Deposits as referred to above will have to be disbursed to Creditors as well as Subscribers in order of priority. Any further delay in initiating action for winding up of the sixth respondent as per the provisions of Sections 48 to 60 of the "Act, 1982" and Rule 33 of the Chit Fund Rules will not enure to the benefit of anyone.

14. The learned counsel for the petitioner on instructions, has agreed to the nomination of Mr.T.Dhanaraju as Receiver, as suggested by respondents 1 to 3 for initiating winding up of the sixth respondent as contemplated under Sections 48 to 60 of the "Act, 1982".

15. For the foregoing reasons, this Court appoints Mr.T.Dhanaraju, S/o.C. Thiagarajan, District Registrar (in the cadre of Assistant Inspector General of Registration) (Retd.), as Receiver to initiate the process of winding up as per the procedure contemplated under Sections 48 to 60 of the "Act, 1982" read with Rule 33 of the Chit Fund Rules.

16. The Receiver, Mr.T.Dhanaraju shall complete the process of winding up and disbursement of money to the entitled Creditors / Subscribers by proper determination of the amounts payable to them in accordance with law. A further direction is issued that from and out of the amount lying to the credit of the sixth respondent in the way of the Fixed Deposits, the Receiver shall be paid an initial remuneration of Rs.50,000/-. All the expenses incurred by the Receiver for completing the winding up process and disbursement shall be paid out from and out of the encashment of the Fixed Deposit.

17. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Secretary,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai - 600 009.

2. The Inspector General of
Registration,
Santhome High Road,
Mylapore,
Chennai - 600 004.

3. The District Registrar,
South Madras,
Ex-Officio
Deputy Registrar of Chit Funds,
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T.Nagar, Post Box No.1418,
Chennai - 600 017.

+1cc to Mr.K.Bijai Sundar , Advocate SR.No. 104573
+1cc to Mr.S.R.Sundar , Advocate SR.No. 104394
+1 cc to Government Pleader Sr.No. 104879

W.P. No.14362 of 2005

A.SK(04/02/2020)