

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.24279 of 2010
and M.P.No.1 of 2010

B.V.Thelagar

...Petitioner

Vs

1.The Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, St. George, Chennai 9.

2.The Deputy District Registrar of Chits,
Madurai (South).

3.M/s.Markadharisi Chits (P),
No.19AA, Road Gnana Olipuram,
Madurai.

... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records pertaining to order bearing G.O.[D] No.373, dated 23.09.2010 of the 1st respondent and quash the same and consequentially direct the 1st respondent to consider the appeal preferred by the petitioner on appeal and pass appropriate order on merits.

For Petitioner : Mr.R.Ramesh

For Respondents : Mr.P.P.Purushothaman, G.A., for RR1 & 2

Mr.D.Shivakumaran, for R3

ORDER

This Writ Petition has been filed challenging the G.O.[D] No.373, dated 23.09.2010 of the 1st respondent and to direct the first respondent to consider the appeal preferred by the petitioner.

2. The petitioner joined as a subscriber in the third respondent chit Company for the value of Rs.10,00,000/- in the year 2002 with the subscription of Rs.25,000/- per month for a

period of 40 months. In the 6th auction conducted on 15.02.2002, the petitioner was declared as the successful bidder and he received the prize amount of Rs.7,00,000/- after executing promissory note on 11.01.2003 for Rs.8,50,000/-.

3. The case of the third respondent is that the petitioner failed to pay installments from 28th month to 40th month. The third respondent filed a case before the second respondent in ARC No.248 of 2005 for recovery of Rs.4,26,764/- contending that the petitioner and the co-executants of the promissory note failed to pay future installments after termination of the chit. The summons in the proceedings were sent to the petitioner and the co-executants for their appearance on 14.11.2005. Since there was no appearance, substituted service was ordered and publication was effected for the hearing on 30.01.2006. Subsequently, they were set ex-parte and ex-parte award was passed. The Deputy District Registrar of Chits after considering the case of the third respondent passed award on 20th February 2006. Challenging the same, the petitioner filed an appeal before the first respondent and the appeal was dismissed by the impugned G.O.[D] No.373, dated 23.09.2010.

4. The learned counsel for the petitioner would argue that the award came to be passed without providing an opportunity to the petitioner. According to the learned counsel, the entire installments have been paid by the petitioner and he also referred the statement of accounts.

5. Per contra, the learned counsel for the third respondent would urge that the petitioner and his family members joined the third respondent Chit Company for 27 chit groups. Out of the 27 chit groups, in respect of the 11 chits, entire amount was paid and after initiation of proceedings, the petitioner and his family settled the amounts in respect of 10 chits and for the unpaid chit groups, the third respondent initiated proceedings against them.

6. The learned Government Advocate appearing for the respondents 1 and 2 would state that even though the petitioner preferred an appeal before the first respondent with a delay of 750 days, the first respondent after condoning the delay dismissed the appeal on merits and hence no warrant of interference is required in this matter.

7. It is not in dispute that the petitioner and his family members joined the third respondent chit Company as subscribers for 27 chit groups. It is the submission of the learned counsel for the third respondent that the petitioner and his family members have paid and settled 21 chit groups before and after initiation of recovery proceedings and for the unpaid

subscription, arbitration case was filed. No clarity could be found in statement of accounts produced by the petitioner to establish for which chit group the amounts have been paid and further it could not be clarified by the counsel for the petitioner during the hearing also.

8. It is to be noted that the petitioner though received the notice, but failed to appear before the second respondent to contest the proceedings. Hence, I find no merit in this Writ Petition. In fine, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

pvs

To

1.The Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, St. George, Chennai 9.

2.The Deputy District Registrar of Chits,
Madurai (South).

+1 cc to M/s.D.Shivakumaran, Advocate, S.R.No.69960

+1 cc to M/s.G.Rangan, Advocate, S.R.No.69963

+1 cc to the Government Pleader, S.R.No.70225

NMI (CO)
SSM(01/11/2019) .

W.P.No.24279 of 2010

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