



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.06.2019**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) Nos.3996 of 2019 and 21923 of 2018
and
W.M.P. (MD) No.3091 of 2019 and 19850 of 2018

R.Babu ...Petitioner in both W.Ps

-Vs-

1.The Principal Secretary to Government,
Commercial Taxes and
Registration (G) Department,
Secretariat, Chennai 9.

2.The Arbitrator Cum Deputy
Registrar of Chits,
Marthandam,
Kanyakumari District.

3.M.Reghu Rajan,
Managing Partner,
Sreemars Chit Funds

... Respondents 1 to 3 in both W.Ps

4.P.Ganathangam ... 4th Respondent in W.P. (MD) No.3996/2019
& 5th Respondent in W.P. (MD) No.21923/2018

5.N.Mageswari ... 5th Respondent in W.P. (MD) No.3996/2019
& 4th Respondent in W.P. (MD) No.21923/2018

Common Prayer: Writ Petitions - filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned orders G.O(D) Nos. 321 and 320 respectively dated 01.10.2018 and quash the same on the ground that the same are arbitrary, illegal and without any legal basis and consequently directing the first Respondent to pass orders on merits in the appeal of the petitioner, dated 19.07.2018.

(In both W.Ps)

For Petitioner : Mr.G.Ramanathan
For Respondents : Mr.S.Murugan, G.A. For R1 and R2
: Mr.C.Godwin, For R3
: No appearance For R4 and R5

**COMMON ORDER**

The prayer in these writ petitions is for a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned orders in G.O(D) Nos. 321 and 320 respectively dated 01.10.2018 and quash the same on the ground that the same are arbitrary, illegal and without any legal basis and consequently directing the first Respondent to pass orders on merits in the appeal of the petitioner, dated 19.07.2018.

2.Heard Mr.G.Ramanathan, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate appearing for the respondents 1 and 2 and Mr.C.Godwin, learned counsel appearing for the 3rd respondent.

3.In both the writ petitions, the orders passed by the Government as an appellate authority in G.O.(D) Nos.320 and 321 dated 01.10.2018 respectively are under challenge.

4.The petitioner stood as guarantor for the chit subscriber. Since there has been a default, the matter has been placed before the Deputy Registrar of Chits, Marthandam, where there was an exparte order passed, pursuant to which, execution proceedings was also initiated. Only after a delay of 6 years 3 months and 6 days, appeal had been filed and therefore, the said appeal has been rejected by the Government, who is the appellate authority under Section 70 of the Chit Fund Act in these impugned Government Orders.

5.I have heard the learned counsel appearing for both sides and perused the materials placed before this Court.

6.The delay is huge and enormous for which no plausible reasons have been given by the petitioner and this has been specifically pointed out by the appellate authority in the impugned order, which reads thus:

"5.The Government examined the appeal petitions with connected records. It was established that Thiru B.Gnanathankam and Tmt.N.Maheswari respectively being the subscribers to the chits, received the prize amount from the chit company after executing a promissory note along with two sureties. Tmt.N.Maheswari and Thiru.R.Babu (the appellant herein) and Thiru.B.Gnanathankam and Thiru.R.Babu (the appellant herein) respectively for future instalments. As the subscribers, Thiru.B.Gnanathankam and Tmt.N.Maheswari respectively has defaulted in payment, the Chit company has filed cases before the Deputy Registrar of Chits, Marthandam and thereafter, execution proceedings before District Munsif Court, Padmanabapuram as E.P.Nos.103 of 2012 and 6 of 2013 respectively. In the instant cases, the award were



passed on 14.02.2012 and the execution proceedings were filed in the year 2012 and 2013 respectively, but the appellants, instead of filing appeals within the period of two months from the date of award as prescribed under Section 70 of the Chit Funds Act, 1982, have reached this forum only after a delay of 6 years, 3 months and 6 days over and above the two months time limit prescribed in the said Act. Moreover, the appellants had not adduced any cogent and convincing reasons for the belated filing of the appeals."

7. In view of the same, this Court finds no infirmity in the said reason given by the appellate authority for rejecting the appeals filed by the petitioner. Accordingly, the impugned orders through the respective Government Orders are to be sustained. Accordingly, these writ petitions deserve to be dismissed and the same are hereby dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(AE)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Principal Secretary to Government,
Commercial Taxes and
Registration (G) Department,
Secretariat, Chennai 9.

2. The Arbitrator Cum Deputy
Registrar of Chits, Marthandam,
Kanyakumari District.

+2CC TO MR.C.GODWIN, Advocate Sr. No.66811 & 66810
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 67047

Order made in
W.P.(MD)Nos.3996 of 2019 and 21923 of 2018
and
W.M.P.(MD)No.3091 of 2019 and 19850 of 2018
Dated: **04.06.2019**

NS (CO)

TR (14.06.2019) 3P 6C

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