



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.09.2019**

CORAM:

THE HONOURABLE **MR. JUSTICE M.SUNDAR**

W.P(MD)No.19500 of 2019

Ayubkhan

... Petitioner

/Vs./

1.The District Registrar of Chits,
District Registrar cum Registrar of Chits,
Trichy, Trichy District.

2.The Assistant Chit Registrar,
Trichirappalli.

3.M/s.Sangamam chits Pvt. Ltd.,
Represented by its Managing Director,
Puthur,
Trichirappalli - 17.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the 1st respondent to expedite the proceeding pending on his file in Na.Ka.No.14984/E2/2017 dated 08.01.2018.

For Petitioner : Mr.J.Velpradeep
For R-1 & R-2 : Mr.M.Murugan
Government Advocate

ORDER

Mr.J.Velpradeep, counsel on record for writ petitioner and Mr.M.Murugan, learned Government Advocate who accepts notice on behalf of respondents 1 and 2 (official respondents) are before this Court.

2. Considering the narrow compass on which instant writ petition turns, main writ petition is taken up with consent of learned counsel on both sides.

3. To be noted, 3rd respondent is a private respondent, and considering the nature of submissions that are now being made before this Court, it comes to light that an order which is not in any manner adverse to the third respondent can be passed and writ petition can be disposed of vide such an order. It is in this scenario that main writ petition is taken up with consent of learned counsel on both sides.

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4. It is the case of the writ petitioner, who is a subscriber qua third respondent Chit Company that he had made a petition/complaint qua the third respondent vide petition on 19.12.2017, pursuant to which, the first respondent has issued notice dated 08.01.2018 bearing Reference No.Na.Ka.No.14984/E2/2017 to the third respondent calling upon the third respondent to submit its explanation / show cause within a week.

5. To be noted, this Court is informed that such complaint/petition and notice issued by the first respondent are under 'Chit Funds Act, 1982 (Act 40 of 1982)' (hereinafter referred to as 'said Act' for the sake of brevity) and the 'Tamil Nadu Chit Funds Rules, 1984' thereunder (hereinafter referred to as 'said Rules' for the sake of brevity).

6. It is the further case of the writ petitioner that his aforesaid complaint/petition made on 19.12.2017 before the first respondent had not moved further i.e., after aforesaid notice dated 08.01.2018 and this has necessitated the filing of the instant writ petition with a prayer to Mandamus the first respondent to carry the complaint/petition to its logical end on its own merits and in accordance with law.

7. Mr.M.Murugan, learned Government Advocate, who has accepted notice on behalf of respondents 1 and 2 submits that respondent No.1 against whom Mandamus is sought, was visited with a notice from the 'Company Law Tribunal' (hereinafter referred to as 'CLT' for the sake of brevity) (received on 26.07.2019) calling upon the first respondent to be present in person or through authorized representative/advocate on 27.08.2019 at 10.30 a.m., before CLT.

8. Learned State Counsel states that pursuant to the notice which has been issued by CLT, pursuant to a petition under Section 19(2) of the 'Insolvency Bankruptcy Code, 2016' (31 of 2016) (hereinafter referred to as 'IBC' for the sake of brevity), the first respondent appeared in person before CLT and submitted all the records pertaining to the third respondent Chit Company.

9. Saying so, learned State Counsel submits that in such circumstances, the first respondent is unable to proceed further qua petition/complaint of the writ petitioner.

10. Learned State Counsel also produced before this Court a photocopy of the communication/summon dated 18.07.2019 received by the first respondent (received on 26.07.2019).



11. A perusal of the same reveals that one Anil Kumar Kicha has petitioned CLT and an application/petition under Section 19(2) of IBC has been moved and the aforesaid notice dated 18.07.2019 has been issued pursuant to the same.

12. The narrative thus far brings to light that CLT is now in seizin of the matter qua third respondent Chit Company and its affairs. Therefore, considering the claim of IBC, it would be appropriate to leave it open to the writ petitioner to approach CLT qua third respondent Company and make his claims.

13. It is also made clear that date of knowledge of proceedings before CLT qua writ petitioner is today (10.09.2019).

14. In the light of the narrative thus far, this Writ Petition is disposed of, leaving it open to the writ petitioner to approach CLT qua writ petitioner's complaint/petition/claim against third respondent Chit Company and if the writ petitioner chooses to do so, CLT is requested to consider the same on its own merits and in accordance with law.

15. Though obvious, it is made clear that all questions raised in the instant writ petition are left open to be canvassed before CLT or any other appropriate fora. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The District Registrar of Chits,
District Registrar cum Registrar of Chits,
Trichy, Trichy District.

2.The Assistant Chit Registrar,
Trichirappalli.

+1 CC to M/s.I.VELPRADEEP, Advocate (SR-86254[F] dated 12/09/2019)

+1 CC to M/s.GP (SR-86295[F] dated 12/09/2019

Order made in
W.P(MD)No.19500 of 2019
10.09.2019