

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.02.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.9156 of 2016

and

WMP.No.8158 of 2016

R.Yuvarajan
S/o.K.Ramalingam
No.14, Y Block,
Turn Bulls Road,
Nandanam, Chennai- 600 035. Petitioner

(Petitioner's address in the cause
title amended as per Court order
dated 09.12.2019 in WMP.10969/2016)

Vs

- 1.The Principal Secretary to Govt.,
Commercial & Registration Dept.,
Fort St.George, Chennai - 600 009.
- 2.The Arbitrator of Chits,
North and South Chennai,
Chennai - 600 001.
- 3.Sriram Chit Tamilnadu (P) Ltd.,
No.9, North Masi Street,
First Floor, Mylapore,
Chennai - 600 004. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for an issuance of a writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 1st respondent in G.O(D).No.507 Commercial Taxes and Registration (G) Department dated 18.12.2015, quash the same and direct the first respondent to dispose of the appeal on merits.

For Petitioner : Mr.R.N.Amarnath

For Respondent : Mr.B.Kannan
No.1 Government Advocate

For Respondent : Mr.K.V.Ananthakrishnan
No.3

ORDER

This writ petition has been filed challenging the order dated 18.12.2015 passed by the first respondent rejecting the application filed by the petitioner to condone the delay of one year four months and twenty one days in preferring the appeal as against the award passed against him on 17.03.2014 by the second respondent ARC.No.151 of 2013.

2.It is the case of the petitioner that in the aforesaid Arbitration proceedings in ARC No.151/2013, no notice was received by him and the copy of the award dated 17.03.2014 passed in ARC No.151/2013 was also not sent to him by the second respondent. According to the petitioner, only on receipt of notice in E.P.No.3124 of 2015 filed by the third respondent to execute the award dated 17.03.2014 passed in ARC No.151 of 2013, he came to know about the Arbitration award dated 17.03.2014 passed in ARC No.151 of 2013. According to the petitioner, immediately on receipt of the notice in E.P.No.3124 of 2015, he filed the appeal before the first respondent as against the award dated 17.03.2014 passed in ARC No.151 of 2013 and there was a delay of one year four months and twenty one days in preferring the said appeal.

3.It is the case of the petitioner that the first respondent by the impugned order dated 18.12.2015 arbitrarily rejected the condone delay application even though sufficient reasons were given by the petitioner for condoning the delay. Aggrieved by the impugned order dated 18.12.2015 passed by the first respondent, this writ petition has been filed.

4.Heard Mr.R.N.Amarnath, learned counsel appearing for the petitioner, Mr.B.Kannan, learned Government Advocate appearing for the first respondent and Mr.K.V.Ananthakrishnan, learned counsel appearing for the third respondent.

5.The only contention raised by the petitioner is that no notice was received by him in the Arbitration proceedings in ARC No.151 of 2013 and he had not also received the award dated 17.03.2014 passed in ARC No.151/2013 by the second respondent.

Before this Court, the respondents have also not produced any acknowledgment received from the petitioner to show that the petitioner had received the notice in ARC No.151 of 2013 nor they have produced any acknowledgment from the petitioner with regard to the service of Arbitration Award dated 17.03.2014 passed in ARC No.151 of 2013 on the petitioner. Further, it is the contention of the learned counsel for the petitioner that the correct address of the petitioner is No.14, Y Block, Turn Bulls Road, Nandanam, Chennai - 600 035, as seen from the intimation sent by the third respondent to the petitioner with regard to the demand of monthly installment payable by the petitioner and which is found in the typed set of papers filed along with the writ petition. However, it is contended by the learned counsel for the petitioner that the award discloses the address of the petitioner as No.1/14, Turn Bulls Road, Nandanam, Chennai - 35, which has left out "Y" Block, which is necessary for serving the notice on the petitioner.

6.This Court has also perused the records and has also considered the submissions of the learned counsel for the petitioner with regard to the service of notice on the petitioner. The first respondent, under the impugned order without applying his mind and without taking into consideration the records available before it, has come to the erroneous conclusion that sufficient reasons have not been given by the petitioner for condoning the delay. It is evident from the available records that no notice has been served on the petitioner in the Arbitration Proceedings in ARC No.151 of 2013 as well as the copy of the award has also not been sent to him as the address of the petitioner is insufficient to serve the same on him, as "Y" Block, is left out from the address of the petitioner. Even before this Court, no proof has been produced by the respondents to show that notice in the arbitration proceedings was received by the petitioner and the arbitration award was also received by the petitioner. Hence, it is clear that the principles of natural justice have been violated by the first respondent before passing of the impugned order.

7.For the foregoing reasons, the impugned order passed by the first respondent is hereby quashed and the delay of one year four months and twenty one days in preferring the appeal is condoned and the matter is remitted back to the first respondent and the first respondent shall entertain the appeal filed by the petitioner and pass final orders in the said appeal in accordance with law within a period of two months from the date of receipt of a copy of this order. However, it is made clear that the third respondent is at liberty to proceed against the remaining debtors under the award passed by the second respondent in Arbitration proceedings ARC No.151 of 2013.

8.With the aforesaid directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

sms

To

1.The Principal Secretary to Govt.,
Commercial & Registration Dept.,
Fort St.George, Chennai - 600 009.

2.The Arbitrator of Chits,
North and South Chennai,
Chennai - 600 001.

+1cc to Mr.R.N.Amarnath, Advocate SR.No.13799

+1cc to Mr.K.V.Ananthakrishnan, Advocate SR.No.14043

+1cc to Government Pleader SR.No.14665

W.P.No.9156 of 2016
and
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LN (CO)
GMY (21/05/2020)

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