



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14411 of 2011

and

M.P.No.1 of 2011

K.P.Akbar

... Petitioner

Vs

1. The Secretary to the Government,
(Commercial Taxes and Registration)
Secretariat, Chennai - 9.

2. Registrar of Chits,
Central Madras,
Chennai - 1.

3. Sree Gokulam Chit and
Finance Company (P) Ltd.,
No.49, Arcot Road,
Kodambakkam, Chennai - 600 024.

4. K.P.Rasheed Ali

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Letter No.1869/G/2011-1 dated 19.04.2011 on the file of the first respondent herein and to quash the same and to direct the first respondent to take on file the appeal filed by the petitioner and received by him on 07.02.2011 and to dispose of the same on merits, within the time frame as may be fixed by this Court.

For Petitioner : Mr.P.Raja

For Respondents

R1 & R2 : Mr.R.P.Murugan Raja
Government Advocate

R3 : Mr.G.Ramachandran

R4 : Mrs.Elizabeth Ravi



O R D E R

The writ of hand has been instituted challenging the validity of the rejection order passed by the first respondent Government in respect of the appeal filed by the petitioner under Section 70 of the Chit Funds Act [hereinafter referred to as "the Act"]. The appeal was rejected on the ground of inordinate delay in preferring the appeal under Section 70 of the Act.

2. Challenging the said proceedings, the learned counsel for the petitioner made a submission that the petitioner submitted certain medical records to establish his case. Thus, an opportunity must be provided to the petitioner to adjudicate the issues on merits before the appellate authority.

3. It is an admitted fact that the petitioner was a subscriber to the chit conducted by the third respondent. He became the highest bidder and the allegation of the petitioner was that the cheque amount was not paid to him. However, ARC proceedings were initiated in A.R.C.No.1492/2004 on the file of the Arbitrator of Central Madras Chit Fund Cases, Chennai. Adjudication was conducted and the petitioner was also a party to the proceedings. The petitioner himself participated in the ARC proceedings and the Arbitral Award was passed on 02.06.2008, admittedly, the appeal under Section 70 of the Act was preferred before the Government on 02.02.2011 after a lapse of about two years and seven months. Thus, the first respondent rejected the appeal on the ground of delay.

4. This Court is of the considered opinion that the delay condonation cannot be made in a routine manner. For preferring an appeal before the Government, the presence of the petitioner cannot be required, even such an appeal may be filed through authorized representatives. This being the procedures, the medical certificate produced by the petitioner is of no avail for condoning such a huge delay in filing the appeal.

5. The Courts are expected to be cautious and judicious while considering the condone delay petition. Condoning such a long delay would cause prejudice to the opposite parties. Take a case on hand where the chit was conducted in the year 2002, arbitration proceedings were initiated in the year 2004 and Arbitral Award was passed on 02.06.2008 and the appeal was filed on 02.02.2011 and the issues are being prolonged already for about 19 years. Even after 19 years from the date of chit, the chit fund is unable to recover the dues from the subscribers.



This exactly the reason why the Courts are expected to be cautious while condoning the enormous delay in filing the appeal. It cause prejudice to the other party and the reasons furnished for condoning the delay is insufficient, then long delay in preferring an appeal shall not be condoned at all.

6. In the present case, the petitioner knowing the fact that an Arbitral Award was passed in the year 2008, preferred an appeal in the year 2011. The reasons furnished are insufficient as the appeal would have been filed even by any authorized representative before the Government under Section 70 of the Act. This being the factum, this Court is not inclined to consider the grounds raised in the writ petition as they are neither candid nor convincing.

7. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

cse

To

1. The Secretary to the Government,
(Commercial Taxes and Registration)
Secretariat, Chennai - 9.
2. Registrar of Chits,
Central Madras,
Chennai - 1.

+2ccs to Mr.G.Ramachandran, Advocate, S.R.Nos.64286, 64019

+1cc to the Government Pleader, S.R.No.63776

W.P.No.14411 of 2011

KG(CO)
SU(17/12/2021)