



CRP.NPD.No.810/2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRP.NPD.No.810/2019 & CMP.No.5321/2019

[Video Conferencing]

Margadarsi Chit Private Limited
represented by its Foreman
No.1015, Coimbatore Road
Karur-639 002.

.. Petitioner /
Decree Holder

Vs.

V.Kumar

.. Respondent

Prayer:- Civil Revision Petition filed under Section 115 CPC against the fair and decreetal order dated 09.10.2018 in REP.No.48/2013 on the file of the learned Subordinate Judge, Tiruchengode in ARC.No.02/2009 on the file of the Sub Registrar of Chits, Karur.

For Petitioner : Mr.D.Shivakumaran

For Respondent : Mr.R.Marudhachalamurthy



CRP.NPD.No.810/2019

WEB COPY

ORDER

- (1) The petitioner in the Civil Revision Petition is the decree holder who obtained an Award against the respondent in ARC.No.2/2009 under the Chit Funds Act.
- (2) As per the proceedings in ARC.No.2/2009, the decree holder is entitled to recover a sum of Rs.4,09,911/- along with interest at 24% and cost. To execute the Award, a petition was filed by the petitioner herein in REP.No.48/2013. The said petition was contested by the respondent on the ground that the decree is totally void and cannot be executed before a Court of law. The respondent raised a ground that the petition is not maintainable and the plea of limitation was not raised by the respondent.
- (3) However, in the additional counter filed by the respondent, one of the plead was that the petition is barred by limitation as contemplated under Section 71 of the Chit Funds Act. Accepting the submission of the respondent, the Executing Court dismissed the petition for executing the Award in REP.No.48/2013. As against the same, the present Revision is filed by the decree holder.



CRP.NPD.No.810/2019

WEB COPY

(4) The learned counsel for the petitioner/deGREE holder submitted that the period of limitation was limited to three years only in respect of the second mode to execute the decree by resorting to Revenue Recovery Act. It is further stated that the proviso to Section 71 is not applicable when the Certificate issued by the Registrar under the Chit Funds Act is sought to be executed as a decree of a Civil Court in terms of Section 71[a] of the Act.

(5) Section 71 of the Chit Funds Act, 1982, reads as follows:-

71.Money how recovered:- Every order passed by the Registrar or the nominee under section 68 or section 69 and every order passed by the State Government in appeal under section 70 for payment of any money shall, if not carried out,--

(a) on a certificate issued by the Registrar, be deemed to be a decree of a Civil Court, and shall be executed in the same manner as a decree of such Court, or

(b) be executed in accordance with the provisions of any law for the time being in force for the recovery of amounts as arrears of land revenue:



CRP.NPD.No.810/2019

WEB COPY

Provided that no application for execution under clause (b) shall be made after the expiry of three years from the date fixed in the order, and if no such date is fixed, from the date of the order.

- (6) From the reading of the entire section, it is seen that the decree holder, after getting an order passed by the Registrar for payment of money, can approach the Civil Court to execute the Certificate issued by the Registrar which should be deemed to be a decree of the Civil Court. The decree holder can also resort to Revenue Recovery Act to recover the amount as arrears on land revenue. Only when the decree holder approaches the Revenue Court or any Court which is competent to recover the arrears of amount as land revenue, the proviso is applicable and the period of limitation will be three years from the date fixed in the order or if no date is fixed, from the date of the order.
- (7) In the present case, the petitioner/decreed holder has filed a petition to execute the decree before the Civil Court by treating the Award of the Sub Registrar of Chits in ARC.No.2/2009 as a decree of Civil



CRP.NPD.No.810/2019

WEB COPY

Court. When the petitioner approaches the Civil Court to execute the decree, the limitation will be 12 years and the proviso is not applicable.

- (8) The same issue was considered by this Court earlier in the case of ***Ramesh Babu and Others Vs. Margadarsi Chit Private Limited, Kumaran Buildings, Chennai*** reported in ***2012 [0] Supreme [Mad] 2344***, wherein the judgment debtor has raised similar objection stating that the petition filed beyond the period of three years is not maintainable in view of Section 71 of the Chit Funds Act.
- (9) After referring to the provision, a learned Single Judge of this Court, in the decision cited supra, has held as follows:-

"7. There are two clauses [a] and [b] in it, which are alternative ones. The proviso appended to Section 71 of the Act, would unambiguously and unequivocally highlight, spotlight and shed light on the point that three years' limitation period is contemplated for executing the Award by resorting to procedure contemplated under clause [b] and not under clause [a]."



CRP.NPD.No.810/2019

WEB COPY

- (10) In view of the conclusion of this Court and the decision cited supra to the effect that the period of limitation will be 12 years in case the Civil Court has to execute the Award as a decree of the Civil Court, the order of the Executing Court in REP.No.48/2013 in ARC.No.2/2009 is liable to be set aside.
- (11) Accordingly, the Civil Revision Petition is **allowed** and the order dated 09.10.2018 in REP.No.48/2013 in ARC.No.02/2009 on the file of the learned Subordinate Judge, Tiruchengode, is **set aside**.
- (12) The Executing Court, viz., the learned Subordinate Judge, Tiruchengode, shall restore Rep.No.48/2013 on file and dispose of the same on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

30.11.2021

AP

Internet : Yes



WEB COPY



CRP.NPD.No.810/2019

To

- 1.The Subordinate Judge
Tiruchengode.
- 2.The Sub Registrar of Chits
Karur.



WEB COPY



CRP.NPD.No.810/2019

S.S.SUNDAR, J.,

AP

CRP.NPD.No.810/2019

30.11.2021