IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.NO.41117 OF 2015
AND
M.P.NO.1 OF 2015

J.Rithishaa ...Petitioner

Vs.

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

2.Sriram Chits Tamilnadu (P) Ltd,
Branch: Thandaiyarpet,
497/866, Thiruvottriyur High Road,
Old Washermenpet,
Chennai 21. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the 1st respondent order passed in G.O.(D)No.324 Commercial Taxes and Registration (G) Department dated 18.08.2015 and quash the same.

For Petitioner : Mr.K.Sakthivel

For Respondent 1 : Mr.R.P.Murugan Raja
Government Advocate.

For Respondent 2 : No appearance.

O R D E R

The Order passed by the 1st respondent in G.O.(D)No.324 dated 18.08.2015 rejecting the appeal filed by the petitioner under Section 70 of the Chit Funds Act, 1982, is under challenge in the present Writ Petition.

2. The Petitioner admittedly subscribed in Chit No.1083 of 2011 conducted by the 2nd respondent for chit amount of

Rs.5,00,000/- of 50 monthly installments of Rs.10,000/- each in Chit Group No.67001 in Ticket No.42.

3. The petitioner took part in the second auction held on 29.10.2012 and took the Chit for Rs.3,00,000/- with a rebate of Rs.2,00,000/-. Admittedly, the petitioner had repaid a sum of Rs.1,36,500/-. Thereafter, the 2nd respondent initiated an arbitral proceedings against the petitioner and the Arbitrator passed an award in favour of the 2nd respondent. Challenging the said award, the petitioner preferred an appeal under Section 17 of the Chit Funds Act before the 1st respondent, who in turn rejected the appeal as time barred.

4. The learned counsel for the petitioner made a submission that the petitioner had not received any notice from the Arbitrator and she had not participated in the arbitral proceedings. Thus, the 1st respondent ought to consider the case of the Writ Petitioner for the purpose of re-adjudication.

5.The learned counsel for the 1st respondent disputed the contention by stating that the notice was served to the petitioner by following the procedures. However, a perusal of the impugned order reveals that the 1st respondent, Principal Secretary to the Government perused the original records and found that the notice was sent to all the respondents.

6.The 1st, 2nd, 3rd and 4th respondents received notice from the arbitration Court, but did not appear before the Arbitrator. The 5th and 6th respondent in the arbitration proceeding had not received notice from the arbitrator Court. The postal authority had stated that "No Such Person". Thus, in respect of the respondents 5 and 6, paper publication was made in "Malai Sudar" on 19.03.2014. Subsequently, hearing was conducted by the Arbitrator on various dates, i.e., 26.07.2013, 16.08.2013, 10.10.2013, 15.11.2013, 18.11.2013, 27.01.2014, 27.02.2014, 01.04.2014 and 06.05.2014.

7. This Court is of the considered opinion that, in respect of few respondents notice had been served and in respect of respondents 5 and 6 in the arbitration proceedings, though the notice was returned with an endorsement "No Such Person", paper publication was made and therefore, for all the parties it has to be construed that the process of service of notice had been completed. This apart, there is a delay of 274 days in filing the appeal.

8.The facts remains that there was a delay of 274 days in filing an appeal under Section 70 of the Act. Considering the fact that the Chit was conducted in the year 2011 and Arbitration award was passed on 06.05.2014 and the appeal was filed with a delay of 274 days, this Court is of the considered opinion that there is no point in remitting the matter back for re-adjudication. Admittedly, the petitioner was successfully participated in the Chit conducted by the 2nd respondent and has taken a chit amount of Rs.3,00,000/- and had repaid a sum of Rs.1,36,500/-.

9.This being the factum, this Court is not inclined to interfere with the orders and further more the delay is enormous and such an enormous delay cannot be condoned in a routine manner, which may cause prejudice to the other parties.

10.Therefore, the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

shr/kan

To

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

+1cc to the Government Pleader SR.No.65822

W.P.No.41117 of 2015

RSV(CO)
RVM(22/12/2021)