



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24478 of 2021

and

W.M.P.Nos.25800 & 25823 of 2021

Hameed Kidanhi

.. Petitioner

Vs.

1. Government of Tamil Nadu,
Rep by its Home Secretary,
Tamil Nadu, Chennai-600009.
 2. Sree Gokulam Chit & Finance Company (P) Ltd.,
No.49, Arcot Road,
Kodambakkam, Chennai-600024.
 3. The Arbitrator of Chits, Central Chennai.
Electronic Complex,
Guindy Industrial Estate,
2nd Floor, Chennai-32.
- .. Respondents

Prayer: Petitioner has filed this petition under 226 of the Indian Constitution to issue a Writ of Certiorari to call for the records in ARC No.82 of 2011 on the file of the third Respondent and quash the impugned recovery certificate dated 10.01.2017 issued by the third Respondent in ARC No.82 of 2011.

For Petitioner : Mr. P. Sidharthan

For Respondents : Mr. U. Baranihdharan
Additional Government Pleader

ORDER

The Petitioner has filed this Petition seeking issuance of the Writ of a Writ of Certiorarified Mandamus a Writ of Certiorari to call for the records in ARC No.82 of 2011 on the file of the third Respondent and quash the impugned recovery certificate dated 10.01.2017 issued by the third Respondent in ARC No.82 of 2011.



2. Since no adverse order is being passed against R2, notice on the 2nd Respondent is dispensed with.

3. The Case of the petitioner is that he is a business man at Kerala who subscribed to a Chit for Rs.3,00,000/- in the year 2008 with the 2nd respondent Company. Having paid Rs.2,82,385/-, the petitioner sought for the closure of the chit from the 2nd respondent who having perused all the relevant documents produced by the petitioner, demanded Rs.55,000/- from the petitioner to be paid towards balance chit amount. Therefore, the petitioner issued a legal notice to the 2nd respondent demanding closure of the chit account and return of documents produced by the petitioner. Aggrieved by the same, the proceedings were initiated against the petitioner before the 3rd respondent by the 2nd respondent vide ARC No.82 of 2011 in which an award of Rs.50,615/- has been passed against the petitioner without serving mandatory notice on the petitioner against which the petitioner filed an appeal before the 3rd respondent. Subsequently, the 2nd Respondent had obtained impugned Recovery Certificate from the 3rd Respondent in ARC No.82 of 2011 vide order dated 10.01.2017. Hence the present Writ Petition is filed seeking the above relief.

4. The learned counsel for the petitioner submits that subsequent to the order passed by the 3rd Respondent, 2nd Respondent had initiated E.P. Proceedings in E.P.No.104 of 2017 after a lapse of five years against which the petitioner filed O.P.(C) No.1932 of 2018 before the High Court of Kerala in which certain orders have been passed, including deposit of Rs.25,000/-.

5. Though very many grounds have been raised, however, in view of the submission made by the petitioner, the rule 55(1) & 3 of the Tamil Nadu Chit Fund Rules, 1984 has not been complied with by the 2nd Respondent as the proceedings in E.P.No.104 of 2017 were initiated after a lapse of 5 years, this Court without going into the merits of the case permits the petitioner to approach the 3rd Respondent by filing appropriate petition for recalling the Recovery Certificate issued by the 3rd Respondent and make a deposit of Rs.1,00,000/- within a period of one week from the date of receipt of a copy of this order and upon receipt of the same delay, if any, shall be condoned and the appeal pending on the file of the 3rd Respondent be heard on merits and disposed of in accordance with law within a period of 3 months thereafter and the E.P. Proceedings shall not be proceeded with further until the disposal of the appeal by the 3rd Respondent.

6. Accordingly, this Writ Petition is disposed of with



the aforesaid direction. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

NHS

To

1. The Home Secretary,
Government of Tamil Nadu,
Tamil Nadu, Chennai-600 009.
2. The Arbitrator of Chits
Central Chennai
Electronic Complex
Guindy Industrial Estate
2nd Floor, Chennai - 32

+1cc to Mr.P.Sidharthan, Advocate, S.R.No.58852

+1cc to the Government Pleader, S.R.No.59450

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and
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NMI (CO)
SU(14/12/2021)