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CRP.No.1898 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2022

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 1898 of 2019

and

CMP.Nos.12470 and 26194 of 2019

M/s. S M S Computer House,
Rep. by its Proprietor Mr. A. Krishnamurali,
No.27-19-13, Ground Floor, Governorpet,
Vijayawada - 520 002.
Petitioner

..

Versus

1. Margadarsi Chits Private Limited,
1st Floor, Adaya Sakthi Square,
No.24, Sardar Patel Road, Adayar,
Chennai - 600 020.

2. Mr. P. Srinivasarao,
3. Mr. D. Seshagirirao,
4. Mrs. A. Venkateswari,
5. Mr. E. Rajendra,
6. Mr. D. Ramu,
7. Mrs. P. Nagamani
...Respondents

Civil Revision Petition is filed under Article 227 of the Constitution



of India, to strike off the Arbitration case No.395 of 2018 on the file of the Chit Fund Cases Court, North and South Chennai District for want of jurisdiction and pass such or further orders as this Court deems fit.

For Petitioner : Mr.P Umesh Rao

For Respondents : Mr. D. Shivakumaran for R1

: No appearance for R3

: Left for R2, R4 to R7

ORDER

This Civil Revision Petition has been filed by the petitioner herein seeking to strike off the Arbitration case No.395 of 2018 on the file of the Chit Fund Cases Court, North and South Chennai District for want of jurisdiction and pass such or further orders as this Court deems fit.

2. The petitioner is the Chit Subscriber and the respondent is the Chit Company.

3. The case of the petitioner is that the petitioner herein participated in the auction held on 13.10.2016 and became the successful Bidder. The petitioner/bidder has received a sum of Rs.37,50,000/- on 07.03.2017 for which a promissory note for Rs.40,00,000/- was executed in favour of the



1st respondent/Chit Company along with others who stands as sureties for the due payment of the future installments payable by the bidder/petitioner herein . However, the petitioner herein defaulted in making payment of monthly installments to the 1st respondent/chit company herein. As the petitioner/bidder is liable to pay a sum of Rs.15,31,843/, to the 1st respondent/Chit Company, the petitioner/bidder was issued legal notice dated 29.03.2018 along with other Sureties to make the consolidated payment with interest. Despite the repeated request, the petitioner/bidder failed to make the balance installment amount payable to the 1st respondent/Chit Company. Hence, the 1st respondent/the Chit Company has filed Arbitration Case in Arb. Case No.395 of 2018 before the Chit Fund Cases Court, North and South Chennai District. Pending this case, the bidder/petitioner herein has filed the present Civil Revision Petition seeking to strike off the aforesaid Arbitration case on the ground of the territorial Jurisdiction.

4. The learned counsel for the petitioner would submit that the petitioner along with his guarantors are residents of Vijayawada, Andhra Pradesh and the petitioner herein has been transacting with the 1st



respondent herein through their Vijayawada branch office and he has been issued a Pass Book No.166437 there. While being so, it has been stated that Chit Reference No.ST001VVDR subscribed by the petitioner has territorial nexus with their Adyar Branch in Chennai. When the addresses and residence of the petitioner and others who are Guarantors are in the Vijayawada, Andhra Pradesh, the 1st respondent has filed the aforesaid Arbitration case in Chennai Jurisdiction wrongly stating that the entire transaction was held with the Chennai, Adayar Branch of the 1st respondent Chit Company. Hence, the Registry of the Chit Fund Cases Court, North and South Chennai District ought to have returned the arbitration case No.395 of 2018 filed by the Chit Company/1st respondent herein on the ground of territorial jurisdiction.

5. The learned counsel for the petitioner has relied on the following Sections of Chit Funds Act, which run as follows:

*"Section 3: Act to override other laws, memorandum, articles, etc.- Save as otherwise expressly provided in this Act,-
(a) the provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in the memorandum or articles of association or bye-laws or in any agreement or resolution whether the same be registered, executed or passed, as the*



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case may be, before or after the commencement of this Act; and

(b) any provision contained in the memorandum, articles, bye-laws, agreement or resolution aforesaid, shall, to the extent to which it is repugnant to the provisions of this Act, become or be void, as the case may be".

"Section 64. Disputes relating to chit business.—

(1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the management of a chit business shall be referred by any of the parties to the dispute, to the Registrar for arbitration if each party thereto is one or the other of the following, namely:— (a) a foreman, a prized subscriber or a non-prized subscriber, including a defaulting subscriber, past subscriber or a person claiming through a subscriber, or a deceased subscriber to a chit; (b) a surety of a subscriber, past subscriber, or a deceased subscriber. Explanation.—For the purposes of this sub-section, a dispute touching the management of a chit business shall include— (i) a claim by or against a foreman for any debt or demand due to him from a subscriber, or due from him to a subscriber, past subscriber or the nominee, heir or legal representative of a deceased subscriber whether such debt or demand is admitted or not; (ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan by a foreman and recovered from the surety owing to the default of the principal borrower, whether such sum or demand is admitted or not; and (iii) a refusal or failure by a subscriber, past subscriber or the nominee, heir or legal representative of a deceased subscriber to deliver possession to a foreman of land or any other asset resumed by him for breach of conditions of the assignment. (2) Where any question arises as to whether any matter referred to for the award of the Registrar is a dispute or not for the purposes of sub-section (1), the same shall be decided by the Registrar whose decision thereon shall be final. (3) No Civil Court shall have jurisdiction to entertain any suit or other proceedings in



respect of any dispute referred to in sub-section (1)."

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" Section: 66. Settlement of disputes.—

(1) If the Registrar is satisfied that any matter referred to him or brought to his notice is a dispute within the meaning of section 64, he shall, subject to such rules as may be prescribed, settle the dispute himself, or refer it for disposal to a person appointed by him (hereafter in this Chapter referred to as the nominee). (2) Where any dispute is referred under sub-section (1) for settlement to the nominee, the Registrar may, at any time for reasons to be recorded in writing, withdraw such dispute from the nominee and may settle the dispute himself, or refer it again for settlement to any other nominee appointed by him."

Section:67. Procedure for settlement of disputes and powers of Registrar or nominee:-

(1) The Registrar or the nominee hearing a dispute under section 66, shall, in addition to the powers conferred on him under that section, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of persons and examining them on oath;*
- (b) requiring the discovery and inspection of documents;*
- (c) receiving evidence on affidavits;*
- (d) requisitioning any public record or copies thereof from any court or office;*
- (e) issuing commissions for the examination of witnesses or documents; and*
- (f) any other matter which may be prescribed.*

(2) Except with the permission of the Registrar or the nominee, no party shall be represented at the hearing of a dispute by a legal practitioner.

(3) (a) If the Registrar or the nominee is satisfied that



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any person, whether he is a subscriber or not, has acquired any interest in the property of a person who is a party to a dispute, he may order that the person who has acquired the interest in the property may be joined as a party to the dispute, and any decision that may be given by the Registrar or the nominee on the dispute shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been referred in the name of a wrong person, or where all the necessary parties have not been included, the Registrar or the nominee may, if he is satisfied that it was due to a genuine mistake, order any other person to be substituted or added as parties to the dispute at any stage of hearing of the dispute on such terms as he thinks just.

(c) The Registrar or the nominee may, at any stage of the proceedings, either upon or without the application of either party and on such terms as may appear to the

Registrar or the nominee to be just, order that the name of any party improperly joined be struck off.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any such reliefs, but if he omits to claim any such relief, he shall not be entitled to claim that relief, except with the leave of the Registrar or the nominee.

Section 19:- Restriction on opening of new place of business:

(1) No person carrying on chit business shall open a new place of business without obtaining the prior approval of the Registrar within whose territorial jurisdiction his registered office or, as the case may be, the place or the principal place of business is situated.

(2) Before granting approval under sub-section (1), the Registrar shall consult the Registrar of the State within whose territorial jurisdiction the new place of business is proposed to be opened and shall also keep in view the financial



condition and methods of operation of the foreman, the extent to which public interest will be served by the opening of the new place of business and such other matters as may be prescribed.

(3) Where a person carrying on chit business opens a new place of business in a State other than the State (hereinafter referred to as the State of origin) in which his registered office or the place or the principal place of his business is situated, the Registrar of the State in which such new place of business is opened may also exercise and perform any of the powers and functions which the Registrar of the State of origin may exercise and perform in respect of the chit business carried on at such new place of business.

(4) For the purposes of this section, "place of business" shall include any branch office, sub-office, or any place of business where the chit business may be conducted by such person.

6. Pointing out the aforesaid sections, the learned counsel for the petitioner would further submit that while the main principal office of the said Chit Company is operating at Vijayawada, Andhra Pradesh and the Chit subscriber and other Guarantors are residing at Vijayawada, Andhra Pradesh, the branch office of the Chit Company operating in Adyar Chennai cannot proceed the said Arbitration case under the Jurisdiction of Chennai for mere part and parcel of action has done in the Adyar branch office, Chennai and the Chit Arbitration at Vijayawada, alone will have jurisdiction since the petitioner was doing the aforesaid transactions with



the 1st respondent through Vijayawada Branch, Andhra Pradesh. Hence, he seeks to strike off the Arbitration Case No.395 of 2018 on the file of the Chit Fund Cases Court, North and South Chennai District filed by the 1st respondent/Chit Company on the ground of Territorial Jurisdiction.

7. The learned counsel for the 1st respondent would contend that even though the petitioner along with his guarantors are residents of Vijayawada, Andhra Pradesh, the following transactions were done with the 1st respondent herein at Adyar Branch, in Chennai, through their Vijayawada branch office;

(1) The petitioner herein has signed the Application Form in the Chennai Adyar Branch of Margadarsi Chits Private Limited.

(ii) The petitioner herein signed the Chit Agreement with Chennai Adyar Branch, Chennai and also executed the details of prized bidder and details of surety only with Adyar Branch of Margadarsi Chits Private Limited, Chennai.

(iii) The petitioner herein acknowledged the receipt of prized money of Rs.37,50,000/- by signing the bank voucher on receiving the cheque from Karur Vysya Bank, Chennai, Adyar Branch and also encashed it as an



outstation cheque.

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(iv) The petitioner herein has signed in the promissory note to pay the future transaction only to Adyar Branch of the 1st respondent. Except that,

(v) The petitioner herein has sent a letter to the 1st respondent herein with regard to adjust their FD amount to chit dues and

(vi) While the 1st respondent herein has sent Lawyer Notices from Chennai to the petitioner herein and other Guarantors having address of Adyar Branch Office, the petitioner herein did not raise any question of Territorial Jurisdiction.

8. In view of the above transactions which are executed between the 1st respondent/Chit Company operating in Chennai, Adyar Branch and the petitioner herein, the 1st respondent/Chit Company has filed the Arbitration Case No.395 of 2018 on the file of the Chit Fund Cases Court, North and South Chennai District, for non-payment of dues payable to the 1st respondent herein and hence, the question of Territorial Jurisdiction cannot be raised by the petitioner herein.



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9. Heard, the learned counsel for the petitioner and the learned counsel for the 1st respondent as well as perused the material available on record.

10. On a perusal of the records, it is seen that the petitioner has enrolled the application in Chit Reference No.ST001VVDR06 dated 18.09.2016 in Chennai Adyar Branch of Margadarsi Chits Pvt. Ltd in which the petitioner has duly signed along with Company Seal even though business address of the petitioner has been mentioned as Vijayawada, Andhra Pradesh in the said Application Form. Further, the Chit Agreement was also entered into between the petitioner and the 1st respondent Chit Company operating at Adyar Branch, Chennai mentioning terms and conditions therein. After participating in the Chit Auction held on 13.10.2016, the petitioner has received the said Bid amount by way of Cheques Nos.882 and 883 drawn on Karur Vysya Bank, Adyar Branch, Chennai wherein the Chit Company is maintaining their Current Account and the ledger in the name of the petitioner is also maintained in the Chennai Adayar Branch of Chit Company. Furthermore, the petitioner has



sent a letter to the Branch Manager of the Chit Company, Adayar Branch requesting to adjust the chit amount for the month of April to June' 2017 with FD Amount of Rs.7,50,000/- lying in the Chit Company and legal notices were also sent from the Branch of Adyar of the Chit Company to the petitioner herein and his Guarantors. Thus, the petitioner herein did have all transaction only with the Chennai Adyar branch of Chit Company through Vijayawada Branch of Chit Company. While being so, as per the Chit agreement entered with the 1st respondent operating at Adyar Branch, Chennai, the petitioner is liable to pay the bid amount to the 1st respondent herein. On default of the payment of installment on the side of the petitioner herein, the 1st respondent is entitled to proceed the Arbitration case No.395 of 2018 as per their terms and conditions in the Chit Agreement under Jurisdiction of Chennai even if the Addresses of the petitioner and the Guarantors are mentioning as Vijayawada, Andhra Pradesh in the application and Chit Agreement. Hence, the aforesaid Sections of Chit Fund Act, relied by the petitioner herein is not applicable to this case.

11. In view of the above, the Arbitration case No.395 of 2018 filed by



the Chit Company against the petitioner herein is maintainable and the Civil Revision Petition filed by the petitioner herein is liable to be dismissed.

10. In the result, the Civil Revision Petition is dismissed as there is no merit in the petition and the Arbitration case No.395 of 2018 is hereby directed to dispose of within a period of three months from the date of receipt of copy of this order. Consequently connected miscellaneous petitions are closed if any. There shall be no order as to costs.

01.11.2022

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Index : Yes/No

Speaking Order : Yes/No

To

1. The Chit Fund Cases Court, North and South Chennai District
2. The Section Officer, V.R.Section
High Court, Madras.



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T.V.THAMILSELVI, J.
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