



W.P.No.22153 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.22153 of 2017

&

W.M.P.Nos.23187 and 23188 of 2017

1. S.Senguttuvel

2. V.Kalaiselvi

... Petitioners

Vs.

1.The State of Tamil Nadu

rep.by its Additional Chief Secretary to
Government (FAC) Commercial Taxes and
Registration (G) Department fort St.
George Chennai-1.

2 The Deputy Secretary of
Chits Salem(East) Salem.

3 Sri Vijayaram Chit Funds
(P) Ltd. rep.by its Joint Managing
Director No.14 Thayumanavar Street Salem
District Attur - 636 102.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in G.O.(D) No.314, Commercial Taxes and Registration (G) Department, dated 19.07.2017, on the file of the first respondent and to quash the same with consequential direction to the second respondent to conduct retrial in this issue by remanding the same.



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For Petitioners : Mr.A.Malathi Devapriyam

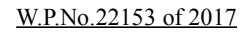
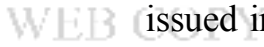
For Respondents : Mr.Venkateswaran, Spl.G.P for R1 and 2

Mr.P.Jagadeesan for R3

ORDER

This Writ Petition has been filed challenging the order passed by the Appellate Authority in holding the decision of the Arbitrator passed award Chapter XII Sec. 64 of the Tamil Nadu Chit Funds Rules, 1984 in A.O.P.No.71 of 2014.

2. The first petitioner in view of developing his business had subscribed a chit to the value of Rs.40,00,000/- (Rupees Forty lakhs) payable in 40 instalments at the rate of Rs.1,00,000/- per instalment and he became a successful bidder on 16.08.2012 and he executed the chit promissory note for Rs.37,00,000/- (Rupees thirty seven lakhs only) and agreed to pay the amount with interest. As the amount has not been paid along with interest the proceedings was initiated. Thereby the award has been passed for a principal amount of Rs.27,89,000/- with interest at the rate of 18%. As against which appeal was also filed before the respondent. The Appellate Authority



3. Learned counsel appearing for the petitioners mainly contended that award of the Arbitrator is against the principles of natural justice and no opportunity was granted and further interest rate is also exorbitant and it cannot be maintained in the eye of law. Hence, seeks to quash the impugned Government Order.

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5. I have perused the entire materials. The Arbitrator has passed an award, it is not disputed and that the Writ petitioners have subscribed the chit for a value of Rs.40,00,000/- and became a successful bidder and received the amount of Rs.37,00,000/-. As regular instalment has not been paid, the matter was referred to the Chit Registrar and proceedings have been commenced as per the Chit Funds Act.

6. The contention that petitioners were not granted an opportunity is not true. On perusal of the entire Government Order makes it very clear that the proceedings were conducted on 17.07.2017, 30.07.2014 and 20.08.2014 and infact writ petitioners appeared before the Arbitrator through their Advocate. After granting several adjournments as no counter was forthcoming considering the materials award has been passed. Though interest at the rate of 36%, was claimed Arbitrator has restricted the rate of interest to 18%. It is also upheld by the Appellate Authority. It is relevant to note 49(5) of the Chit Funds Acts states that Registrar normally may not ordinarily grant more than two adjournments. However, in this case, he has granted more than two adjournments which was not availed by the petitioners.

7. When the matter came before this Court in the last hearing, the



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learned counsel appearing for the petitioners submitted that admitted principal amount at the rate of reference is only 21,00,000/- and the same will be paid.

When the Court posed a question whether they are willing to deposit 21,00,000/- on the next hearing i.e today, learned counsel appearing for the petitioners would submit that they could not contact the clients. When the very principal amount is not been disputed, merely on the ground that counter has not been filed by the petitioners, the same is not the ground to set aside the well considered award and order of the 1st respondent. Accordingly, this Court do not find any infirmity in the order passed by the 1st respondent.

8. Accordingly, with the above observations, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

26.09.2022

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Internet: Yes

Speaking/Non speaking order



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N. SATHISH KUMAR, J.

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To

1. The Additional Chief Secretary
State of Tamil Nadu
Government (FAC) Commercial Taxes and
Registration (G) Department fort St.
George Chennai-1.
- 2 The Deputy Secretary of
Chits Salem(East) Salem.

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