IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2023

CORAM: JUSTICE N.SESHASAYEE

WP.Nos.542 & 548 of 2023
& WMP.Nos.496 & 502 of 2023

Sree Gokulam Chit and
Finance Company (P) Ltd.,
Represented by its Vice Chairman,
Mr.V.C.Praveen having its office
At No.66, Arcot Road, Kodambakkam,
Chennai – 600 024. ..Petitioner in both the WPs

-Vs-

1.The Secretary to Government,
Commercial Taxes and Registration (G)
Department,
Fort St.George,
Chennai 600 009.

2.The Arbitrator of Chits
Central Chennai,
Electronic Complex, II Floor,
Guindy Industrial Estate, Guindy,
Chennai – 600 032.

3.Thiruselvi.K
4.G.Kamaraj ...Respondents in both WPs

Prayer in WP.No.542 of 2023: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records leading to the impugned order dated 15.09.2022 in G.O.(D) No.185, passed by the 1st respondent and quash the same and consequently confirm the award passed by the 2nd respondent in ARC No.253 of 2014 dated 06.07.2017.

Prayer in WP.No.548 of 2023: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records leading to the impugned order dated 10.11.2022 in G.O.(D) No.228, passed by the 1st respondent and quash the same and consequently confirm the award passed by the 2nd respondent in ARC No.714 of 2015 dated 20.09.2017.

For Petitioner : Mr.T.V.Ramanujam,
Senior Counsel for Ms.R.Ramya

For R1 : Mr.M.Bindran,
Additional Government Pleader

For R3 & R4 : Mr.D.Dayalan

COMMON ORDER

A certain Kamaraj and his wife, named Thiruselvi, were subscribers of a chit conducted by the petitioner herein. Both the husband and wife are prized subscribers. Since they defaulted in paying the future subscription amount, the petitioner approached the Arbitrator under the Chit Funds

Act, 1982, who passed an award in favour of the petitioner. This award was challenged by the said Kamaraj and his wife, Thiruselvi, before the Government, and the Government, vide the impugned orders, confirmed the principal liability of these two subscribers but interfered with the rate of interest payable and the duration for which such interest is payable.

2.Learned counsel for the petitioner took this Court through Section 33 (2) of the Chit Funds Act, 1982, and submitted that the subscribers are liable to pay contracted rate of interest. Whereas, the contracted rate of interest is 24%, but the Government has reduced it by half and fixed it at 12% and also has reduced the duration for which this interest is payable, both of which are untenable in the context of the statutory scheme.

3.Mr.M.Bindran, the learned Additional Government Pleader appearing for the first respondent, submitted that the Government had relied on Rule 63 of the Tamil Nadu Chit Funds Rules, 1984, and added that Kamaraj is now suffering from mouth cancer and the family is battling it, and hence this was also considered by the Government.

4.In response, the learned counsel for the petitioner submitted that Section 63 of the Act applies only to non-prized subscribers and not prized subscribers such as Kamaraj and his wife.

5.The learned counsel for the petitioner submitted that after careful consideration the Board of the petitioner has chosen to give a concession up to 6%. Whereas, the respondents 3 and 4 plea for further reduction of interest given their present status of financial affairs.

6.Howsoever, this Court may like to help the respondents 3 and 4, it may not be able to stretch it beyond the 6%, since the Court cannot rewrite the statute for the benefit of the respondents 3 and 4. These are issues born purely out of contract and the role of the Court itself is very minimal in interfering with that.

7.In view of the same, the Petitions are partly allowed and the rate of interest, as directed by the first respondent in its impugned proceedings is now increased from 12% to 18%.

8.The Writ Petitions are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

9.The respondents 3 and 4 are free to approach the petitioner for further negotiations, if they want further concession.

28.08.2023

Index : Yes/No
Internet : Yes/No
Tsg

To

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Chennai 600 009.

2.The Arbitrator of Chits
Central Chennai,
Electronic Complex, II Floor,
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N.SESHASAYEE, J.,

Tsg

Order made in
WP.Nos.542 & 548 of 2023
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