



W.P.No.4317 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.4317 of 2019

and

W.M.P.No.4856 of 2019

V.Nagaraj

... Petitioner

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Commercial Taxes and Registration (G) Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Deputy Registrar of Chits (Administration),
District Registrar Office,
Collector Office Complex,
Nallipalayam Post,
Namakkal, Namakkal District.

3.Shriram Chits Tamil Nadu Private Ltd.,
Rasipuram Branch,
Represented by its Foreman,
No.78, Amith Arcade complex,
Anna Salai, Near Mathakovil,
Rasipuram,
Namakkal District.

4.R.Ayyanar



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5.S.Sundarrajan

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6.T.Chinnaraj

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in G.O.(D) No.395 Commercial Taxes and Registration (G) Department dated 05.12.2018 and quash the same and consequently direct the 2nd respondent/Deputy Registrar to conduct a fresh Arbitration giving a reasonable opportunity to the petitioner and make a fresh award on the dispute.

For Petitioner : Mr.P.Rathanavel

For Respondents : Mr.K.M.D.Muhilan
Additional Government Pleader
[R1 & R2]

ORDER

This Writ Petition has been filed seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in G.O.(D) No.395 Commercial Taxes and Registration (G) Department dated 05.12.2018 and quash the same and consequently, to direct the second respondent/Deputy Registrar to conduct a fresh Arbitration giving a reasonable opportunity to the petitioner and make a fresh award on the dispute.



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2.The case of the petitioner is that the fourth respondent has joined as a subscriber in the third respondent-Chit Company in a Chit group No.53005 as ticket No.12 for the value of Rs.1,00,000/- per chit payable at the rate of Rs.2,500/- per month for a period of 40 months. He participated in the second auction held on 21.07.2010 and become a successful bidder and received the prize amount of of Rs.60,000/- on 28.08.2010 after executing a promissory note for Rs.95,000/- along with three sureties, namely V.Nagaraj, the petitioner herein, S.Sundarrajan and T.Chinnaraj, respondents 5 and 6 herein, in favour of the third respondent-Chit Company for future instalments. However, the fourth respondent paid only 14 installments out of 40 installments. Thus, he committed default in payment of the installments. Hence, the third respondent-Chit Company had filed a case under Section 64 of the Chit Funds Act, 1982 and prayed the Arbitrator to issue direction to the defaulters to pay arrears with interest. The Deputy Registrar of Chits, Namakkal admitted the case in A.R.C.No.86 of 2012 and passed an *ex-parte* order on 30.11.2012 under Section 69 of the Chit Funds Act, directing the defaulters jointly to pay the amount of Rs.71,500/- [Principal Rs.65,000/- + Interest Rs.6,500/-]. Aggrieved by the same, the



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petitioner had preferred an appeal before the first respondent. However, the first respondent rejected the appeal filed by the petitioner through the impugned Government Order in G.O.(D)No.395 dated 05.12.2018. Challenging the same, the petitioner has filed the present writ petition before this Court for appropriate directions.

3.Mr.P.Rathanavel, learned counsel for the petitioner would submit that though the petitioner as a guarantor is liable to pay equal contribution along with other two guarantors including the principal, after the impugned order, the third respondent filed an Execution Petition before the Arbitrator as against the petitioner alone without impleading the other guarantors before the District Munsif Court, Rasipuram. He would also submit that as per the interim order passed by this Court, the petitioner has already deposited a sum of Rs.17,875/-.

4.In view of the aforesaid submissions, this writ petition is disposed of granting liberty to the petitioner to challenge the execution proceedings in the manner known to law and also granting liberty to the petitioner to file appropriate application either before the Trial Court or



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before the Lower Appellate Court in the manner known to law. No costs.

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Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes \ No

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To

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M.DHANDAPANI, J.

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