



WEB COPY



W.P. No.5633 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.5633 of 2018

and

W.M.P. No.6965 of 2018

1. G. Anjali
2. N. Bhuvaneshwari
3. M. Maheshwari

...Petitioners

vs.

1. The State of Tamil Nadu
Represented by
The Additional Chief Secretary to the Government (FAC),
Commercial Tax and Registration Department,
Fort St. George,
Chennai – 600 009.

2. M/s.Shriram Chits Tamil Nadu Private Limited,
Thiruvanniyur Branch,
No.43, East Coast Road,
Srinivasapuram,
Thiruvanniyur,
Chennai – 600 041.

3. A. Aameedkhan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned order dated 27.10.2017 in reference No.G.O. (D) No.395 passed by the 1st respondent and quash the same.



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For petitioners : Mr.R. Muniyapparaj
For respondents : Mr.M. Alagu Gowtham
Government Advocate.

ORDER

This writ petition has been filed challenging the impugned order dated 27.10.2017 in reference No.G.O. (D) No.395 passed by the 1st respondent.

2. The case of the petitioners is that they joined under a chit scheme for the value of Rs.5,00,000/- and thereafter participated in the auction on 07.09.2013 and the 1st petitioner became a successful bidder. It is further stated that that even though the 1st petitioner received the chit auction amount of Rs.3,50,000/-, she has committed default in paying regular monthly instalments, for which, the respondents initiated Arbitration Proceedings in ARC No.1088 of 2013. Subsequently, an ex-parte Award was passed on 30.05.2016 directing the respondents therein, who are the petitioners as well as the 4th respondent in this writ petition to pay a total sum of Rs.4,82,515/-, together with interest. It is their case that without providing an opportunity to them, an ex-parte Award was passed. Later, 2nd and 3rd petitioners, who are guarantors in the said chit auction approached the 2nd respondent for adjusting their share, whereas to their shock and surprise, baseless and false allegations have been



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made against them by the 2nd respondent.

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3. It is the further case of the petitioners that due to some medical ailments, the 1st petitioner was unable to pay the instalments regularly, but it is her contention that behind the back, the Arbitration Proceedings have been initiated by the 2nd respondent in ARC No.1088 of 2013 and subsequently filed an Execution Petition viz., E.P. No.77 of 2017 before the Sub-Judge, Poonamallee, which is still pending. Aggrieved by the ex-parte order, an appeal has been preferred before the 1st respondent against the order of the 3rd respondent on 03.03.2017. Later, on 27.10.2017, G.O. (D) No.395, has been issued rejecting the said appeal on the ground of limitation. Challenging the same, this writ petition has been filed.

4. Learned counsel for the petitioner submitted that petitioners have stated bonafide reasons for the lapses on their part, but without considering the same, passing of the impugned order by the 1st respondent is arbitrary and illegal. Further, he submits that due to her medical ailments, the 1st petitioner is unable to pay the monthly instalments. Also, he submits that the petitioner seeks further time to repay the defaulted payments and hence, he prays before this Court for



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appropriate orders.

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5. Per contra, Mr.M.Alagu Gowtham, learned Government Advocate submits that the petitioners are defaulters, already an opportunity has been granted by this Court. Despite staying of the impugned proceedings, the petitioners having failed to pay 50% of the award amount, the relief sought in this writ petition for quashing of the impugned proceedings is unsustainable and therefore, on that score, he prays for mere dismissal of this writ petition.

6. Heard Mr.R. Muniyapparaj, learned counsel for the petitioners and Mr.M. Alagu Gowtham, learned Government Advocate for the respondents.

7. Admittedly, the 1st petitioner is a successful bidder in a chit auction, who has committed default in paying monthly payments. It is not in dispute that the 2nd and 3rd petitioners are Guarantors in the said auction. A perusal of earlier proceedings, reveal that the impugned proceedings has been stayed by this Court on 14.03.2018, subject to payment of 50% of the award amount to the 2nd respondent, within a period of four weeks therefrom. Non compliance of the conditional



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order clearly shows the disrespect shown by the petitioners to the orders of this Court. Further, it reveals that the benefit of stay has been enjoyed by the petitioners without depositing the conditional amount, which is only 50% of the award amount. Today, when the matter is taken up for final hearing, the learned counsel for the petitioner placed his arguments that due to illhealth of the 1st petitioner, she failed to pay the conditional amount, which is mere reiteration of earlier submissions and thus, the ground for non payment of such amount is unacceptable, which also proves the dragging on techniques of the petitioners.

8. In view of the aforesaid observations, and considering the pendency of this writ petition, this Court is of the considered view that petitioners having failed to prove their bonafide, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.03.2023

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order

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M.DHANDAPANI, J.

vsi2

To

1. The Additional Chief Secretary to the Government (FAC),
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Chennai – 600 009.

2. M/s.Shriram Chits Tamil Nadu Private Limited,
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