



WEB COPY



WP No.41303 of 2002

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.41303 of 2002

V.Rama

... Petitioner

Versus

- 1.Gokulam Chits and Finance Company Pvt. Ltd.,
No.4, Stringer Street, Broadway,
Chennai 600 108.
- 2.The District Registrar of Chits,
Chennai North,
Chennai 600 001.
- 3.The Government of Tamilnadu,
Rep. by its Secretary, Commercial Taxes Department,
Secretariat, Chennai - 9.

4.A.V. Subramanian

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records in relation to the award passed by the 2nd respondent in A.R.C. No. 508 of 1997 dated 19.03.1998 and the proceedings of the 3rd respondent in relation to the order of dismissal of the appeal filed by the petitioner in Letter No.22078/G/99-1 dated 07.10.1999 by confirming the said award and quash the same.



WEB COPY



WP No.41303 of 2002

For Petitioner : Mr.V.S.Subramanian
For RR2 & 3 : Mr.T.Chezhian
Additional Government Pleader

ORDER

Challenging the order of the third respondent rejecting her appeal filed under Section 70 of the Chit Funds Act, on the ground of delay, the petitioner has filed the present Writ Petition.

The facts leading to the filing of the present Writ Petition are as follows:-

2. The petitioner claims that she was deserted by her husband in the year 1995. When they were living together in cordial terms, according to the petitioner, her husband took her signature in blank papers. Believing his bonafide, she did not question the purpose for which such signatures were obtained. According to the writ petitioner, once the couple parted ways, the husband of the petitioner is alleged to have used one such signed paper of the petitioner for chit transaction with the first respondent. The first respondent filed a claim before the third respondent for a sum of Rs.41,000/- in A.R.C.No.508 of 1997.

3. In the meanwhile, the petitioner has filed an Insolvency Petition in <https://www.mhc.tn.gov.in/judis>



WP No.41303 of 2002

I.P.No.115 of 1995 and she was adjudged as an insolvent on 24.08.1995.

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4. The petitioner filed a counter in the proceedings initiated by the first respondent stating that she being an insolvent, the first respondent ought not to have initiated any proceedings against her. The claim raised by the petitioner decided by the first respondent, who passed an award dated 19.03.1998 for a sum of Rs.41,869/-. As against the said order of the second respondent, the petitioner filed an appeal invoking Section 70 of the Chit Funds Act before the third respondent on 03.09.1999. The third respondent has passed the impugned order rejecting the appeal on the ground that it was filed belatedly. Challenging the said order, the present Writ Petition has been filed.

5. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents 2 and 3 and perused the entire materials available on record.

6. The issue involved lies on a very narrow campus. The petitioner is protected by Section 17 of the Presidency- Towns Insolvency Act, 1909. The said Section reads as follows:-

“17. Effect of order of adjudication.- On the making of an

order of adjudication, the property of the insolvent wherever



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situate shall vest in the official assignee and shall become divisible among his creditors, and thereafter, except as directed by this Act, no creditor to whom the insolvent is indebted in respect of any debt provable in insolvency shall, during the pendency of the insolvency proceedings, have any remedy against the property of the insolvent in respect of the debt or shall commence any suit or other legal proceeding except with the leave of the Court and on such terms as the Court may impose: Provided that this section shall not affect the power of any secured creditor to realize or otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed.”

7. The third respondent ought to have dealt with the appeal strictly in accordance with Section 17 of the Act. Therefore, this Court is inclined to set aside the order passed by the third respondent in Letter No.22078/G/99-1 dated 07.10.1999 and the matter is remanded back to the third respondent. The petitioner is directed to appear before the third respondent within a period of two weeks from the date of receipt of a copy of this order, failing which the appeal would stand rejected. If the petitioner appears, the third respondent is



WP No.41303 of 2002

directed to provide an opportunity and pass appropriate orders.

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8. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

07.08.2024

Index : Yes/No
Internet : Yes/No
gsa

To

1.The District Registrar of Chits,
Chennai North,
Chennai 600 001.

2.The Secretary, Commercial Taxes Department,
The Government of Tamilnadu,
Secretariat, Chennai - 9.



WEB COPY



WP No.41303 of 2002

M. DHANDAPANI, J

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W.P. No.41303 of 2002

07.08.2024