



WEB COPY

W.P.No.20928 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20928 of 2018
and
W.M.P.No.24570 of 2018

1.K.S.Kalidass
2.K.Chokkalingam

... Petitioners

Vs.

1.The Principal Secretary to the Government,
Commercial Tax and Registration (G) Department,
Chennai.

2.The Arbitrator Cum Deputy Registrar of Chits,
District Registrar's Office,
Coimbatore.

3.M/s.Shriram Chits Tamil Nadu Limited,
R.S.Puram,
Coimbatore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of impugned order dated 17.05.2018 passed by the 1st respondent *vide* proceedings in G.O.(D).No.100 and quash the same.

For Petitioners

: Mr.K.Myilsamy



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For R1 and R2

: Mr.G.Ameedius

Government Advocate

For R3

: Not ready in notice

ORDER

The order passed by the 1st respondent in G.O.(D) No.100 Commercial Taxes and Registration (G) Department dated 17.05.2018 under Section 70 of the Chit Funds Act, 1982 (hereinafter referred to as 'the Act') is under challenge in the present writ proceedings.

2. It is not in dispute that the writ petitioners are the members in 3rd respondent-M/s.Shriram Chits Tamil Nadu Limited. The petitioners were the successful bidder and received the amount but committed default in payment of instalments. Therefore, the 3rd respondent/M/s.Shriram Chits Tamil Nadu Limited has initiated actions against the petitioners under the Act and the Arbitrator has passed an *exparte* award. Aggrieved by the same, the petitioner has preferred an appeal before the Government with a delay of 325 days. The Government considered the issues on merits.

3. The award was passed by the Arbitrator in ARC No.13/2014 on 02.03.2016, but the Appeal was filed on 11.04.2017 with a delay of 11 months and 10 days. On merits, the Order impugned reveals that the



Government had examined the contentions of the writ petitioners with the records relating to the Chit arbitration case before the Arbitrator of Chits, Coimbatore. It is observed from the records that the hearings were conducted for about 30 occasions and the appellants appeared for the hearings conducted only on few dates. The writ petitioner Thiru.K.S.Kalidass himself appeared before the Arbitrator on 16.04.2015. On the other dates, neither the writ petitioners nor their Counsel attended the hearing. Thus, the Chit Arbitrator, Coimbatore passed an *exparte* award in ARC No.13 of 2014.

4. The Government found that sufficient opportunities were afforded to the writ petitioner to defend their case. But the case was adjourned on several occasions and one of the petitioner himself appeared before the Arbitrator and thereafter, remained absent. The intentional absence of the writ petitioners were taken into consideration by the Arbitrator and consequently, the *exparte* award was passed. Thus, the Government has rightly rejected the appeal filed by the writ petitioners. More so, the appeal itself has been filed with a delay of 325 days, which is enormous.

For the above reasons, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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Index : Yes / No

Speaking order / Non-Speaking Order

Neutral Citation : Yes / No

To

- 1.The Principal Secretary to the Government,
Commercial Tax and Registration (G) Department,
Chennai.
- 2.The Arbitrator Cum Deputy Registrar of Chits,
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Coimbatore.

S.M.SUBRAMANIAM, J.

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