



C.R.P[NPD].No.1259 of 2024
and C.M.P.No.6642 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRP[NPD].No.1259 of 2024
and C.M.P.No.6642 of 2024

R.Shantha

... Petitioner

Versus

1.Margadarsee Chit Pvt Ltd.,
Rep by Foreman,
13-A, Velacherry Main Road,
Velacherry,
Chennai 600 042.

R.Sundar (deceased)

2.S.Ramesh
S/o.P.V.Sambandam,
Managing Director,
Keerthi Shoes India Pvt, Ltd.,
No.2A, Thiru Vi Ka Industries,
Estate Compound, Shyam Complex,
Guindy, Chennai 600 032.

3.S.K.Uthaman,
S/o.P.S.Karuppaiah,
Properietor, Raja Traders,
No.51, MIG II, TNHIB Colony,
3rd Main Road, Velacherry,
Chennai 600 042.



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4.L.Yuvathi,
W/o.T.Lokesh,
Proprietor, K.M.Infotech,
No.10, Medimix Avenue,
Kalaivanan Colony, Anna Nagar,
West Extension, Chennai 600 101.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the award dated 22.05.2017 in A.R.C.No.11 of 2015 passed by the learned North and South Chennai District Chit Fund Magistrate Court, Chennai 600 001.

For Petitioner : Mr.R.Srinivas
Senior Counsel
for Ms.V.Mythili
For R1 : Mr.D.Shivakumaran

ORDER

This Civil Revision Petition has been filed seeking to set aside the award dated 22.05.2017 in A.R.C.No.11 of 2015 passed by the learned North and South Chennai District Chit Fund Magistrate Court, Chennai 600 001.

2.The brief facts of the case are as follows:

One late R.Sundar, who is son of the petitioner is the subscriber of the 1st respondent's chit fund for a monthly subscription of Rs.1 Lakh for a



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period of 30 months. After 4 months, in the auction that took place on 25.11.2012, the petitioner's son got Rs.21 Lakhs. After paying 17 monthly subscription, the petitioner's son committed default. Thereafter, based on the pro-note executed between the petitioner's son and the 1st respondent, the 1st respondent initiated arbitration proceedings before the Chit Magistrate. The Chit Magistrate passed an award directing the petitioner's son and other subscribers to pay a sum of Rs.16,92,546/- along with interest, jointly and severally. Challenging the said award the present Civil Revision Petition has been filed.

3.Mr.R.Srinivas, learned Senior Counsel for Ms.V.Mythili learned counsel for the petitioner would submit that the petitioner's son expired on 06.08.2013. But, in the award passed by the learned Chit Magistrate, it has been recorded as if late R.Sundar appeared before the Chit Magistrate on 11.04.2017 and admitted his default. In this regard, the learned Senior Counsel produced the original death certificate of late R.Sundar and submitted that the award passed against a dead person is not sustainable and prayed to set aside the award of the Chit Magistrate.



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4.Learned counsel appearing for the 1st respondent submitted that the notice sent to the petitioner and her son was received and the signature also found in the acknowledgement card.

5.Heard Mr.R.Srinivas, learned Senior Counsel for Ms.V.Mythili learned counsel appearing for the petitioner and learned counsel appearing for the respondent and perused the materials available on records.

6.Upon hearing, this Court is of the view that the Chit Magistrate has recorded that the petitioner's son viz., R.Sunder received summons and appeared before him on 11.04.2017 and admitted his default. Whereas, the learned Senior Counsel has produced the original death certificate of the petitioner's son which shows that he expired on 16.08.2013 itself. Therefore, this Court is of the *prima facie* view that the contention of the 1st respondent that the summons has been received by the petitioner and his son and the signatures have been found in the acknowledgement card cannot be gone into at this stage in the Civil Revision Petition. Ultimately, the award passed against a dead person is not valid in law. Therefore, this



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Court is inclined to set aside the impugned award passed by the Chit Magistrate.

7.Thus, the award dated 22.05.2017 made in A.R.C.No.11 of 2015 passed by the learned North and South Chennai District Chit Fund Magistrate Court, Chennai is set aside and remanded back to the North and South Chennai District Chit Fund Magistrate Court, Chennai, who shall decide the case in A.R.C.No.11 of 2015 on merits after giving opportunity to the petitioner, within a period of six months from the date of receipt of a copy of this order.

8.In the result, this Civil Revision Petition is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

18.12.2024

Index: Yes/No
Internet: Yes/No
rst

To:

The North and South Chennai District

Chit Fund Magistrate Court, Chennai 600 001.



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N.SATHISH KUMAR.J.,

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