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W.P.No.14946 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.14946 of 2021 and
WMP.No.15832 of 2021

1.V.Ashok George(deceased)
represented by his wife and legal heir
Leena Ashok

2.Leena Ashok
(Surety and legal heir/Wife of
deceased V.Ashok George)

3.ALN Home Builders Pvt.Ltd.,
represented by its Director Leena Ashok
Flat No.4A, 4th Floor,
Jains La Gardenia,
18B, Kothari Road,
Nungambakkam, Chennai 600 034

... Petitioners

Vs.

1.The Arbitrator for Central Chennai Chit Fund Cases Court
Ground Floor, Integrated Commercial Taxes and
Registration Department Building,
Veterinary Hospital Complex,
Nandanam, Chennai 600 035

2.Shree Gokulam Chit & Finance Company(P) Ltd.,
Rep. By its Manager N.Kannan,



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No.49, Arcot Road, Kodambakkam,
Chennai 600 024

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari calling for the records in the order dated 23.10.2020 in MP.No.1 of 2020 in ARC.No.285 of 2020 passed by the first respondent and to quash the same.

For Petitioner : Mr.M.Radhakrishnan

For Respondents

For R1 : No appearance

For R2 : Mr.P.Rakesh Kumar,
for Mr.L.Rajasekar

ORDER

This writ petition has been filed challenging the order passed by the first respondent in MP.No.1 of 2020 in ARC.No.285 of 2020 thereby condoned the delay of 41 months in filing the arbitration case.

2. The second petitioner is the wife of the deceased first petitioner i.e. Ashok George. The said Ashok George had subscribed to



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chit series G2M45 (ticket No.5) for a value of Rs.50 lakhs at the rate of Rs.2,50,000/- per month for a period of twenty months conducted by the second respondent. He had participated in the auction held on 18.03.2013 and became a prized subscriber and received a sum of Rs.38,50,000/-. He had also executed pronote and deed of guarantee dated 01.04.2013. Thereafter, he died. The second petitioner being the legal heir, had no knowledge that the deceased V.Ashok George failed to settle the dues. On receipt of notice from the second respondent, she came to understand that the deceased failed to settle the chit amount and as such, the second respondent initiated arbitration proceedings under Section 64 of the Chit Funds Act, 1982 and Rule 45 of the Tamilnadu Chit Fund Rules, 1984. Petitioners 2 & 3 were served with notice in MP.No.1 of 2020 in ARC.No.285 of 2020 to condone the delay of 41 months in referring the dispute for arbitration. The said application was allowed. Aggrieved by the same, the present writ petition has been filed.

3. As per Section 65(1) of Chit Funds Act, the period of limitation for referring a dispute to the arbitrator under Section 64 of the



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Chit Funds Act is three years. It is relevant to extract the provision under

Section 65(3) of Chit Funds Act hereunder:

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Registrar may admit a dispute after the expiry of the period of limitation specified therein, if the applicant satisfies the Registrar that he had sufficient cause for not referring the dispute within such period.

4. On perusal of the affidavit filed in support of the condone delay petition in MP.No.1 of 2020 revealed that the deceased Ashok George had joined the chit, prized the chit group, received the price amount and subsequently failed to pay the dues. He was issued legal notice and though he promised to pay the dues, subsequently he failed to settle the dues and thereafter he died. Except these statements, there is absolutely no sufficient cause stated for the delay in referring the matter before the first respondent. There was huge delay of 41 months in referring the dispute before the first respondent. The first respondent also allowed the petition without even referring any reason for delay and mechanically allowed the application on the ground that there was dispute in payment of dues between the deceased Ashok George and the



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second respondent.

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5. The Hon'ble Supreme Court of India and this Court repeatedly held that the applicant has to explain the court as to what was the sufficient cause which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by the Hon'ble Supreme Court of India and this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.



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6. As stated supra, the first respondent failed to state any reason whatsoever to condone the huge delay of 41 months in referring the matter before the arbitrator. The first respondent also mechanically allowed the application without saying anything about the delay of 41 months. As per provision under Section 65(3) of the Chit Funds Act, it is clear that the Registrar may admit a dispute even after period of limitation if the applicant satisfies the Registrar that he had sufficient cause for not referring the dispute within such period. The affidavit filed in support of the condone delay petition, does not even whisper about the sufficient cause and does not even say anything about the delay. That apart, the second respondent also failed to produce any piece of evidence to support the condone delay petition. The second respondent also failed to state any date as to when the period for reference expired and the delay starts till the filing. Therefore, this Court finds infirmity and illegality in the order passed by the first respondent. As such, the impugned order cannot be sustained and the same is liable to be quashed.



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7. Accordingly, the impugned order dated 23.10.2020 of the first respondent is quashed and this writ petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

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