BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.11.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) No.23039 of 2015
and
M.P.(MD) No.2 of 2015 and W.M.P.(MD) Nos.8771 and 16998 of 2016

K.Ravindran ... Petitioner

/vs./

1.The Secretary to Government,
Commercial Tax Department,
St.George Fort,
Chennai.

2.The Deputy Registrar of Chits,
Marthandam,
Kanyakumari District.

3.P.Venugopalan Nair

4.K.Mohanan

5.N.Madhavan Pillai ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to ARC No.14 of 2005 dated 27.06.2012 on the file of the 2nd Respondent herein as confirmed in G.O.(2D)No.80 dated 14.10.2015 on the file of Commercial Taxes and Registration (G) Department, quash the same.

For Petitioner : Mr.G.Ramanathan

For R1 & R2 : Mr.R.Suresh Kumar
Additional Government Pleader

For R3 : Mr.C.Kishore

ORDER

The writ petition has been filed challenging the order passed by the first respondent confirming the award of the second respondent.

2. When the matter was taken up for hearing, it was brought to the notice of this Court that the third respondent herein, the Proprietor of a Chit, based on whose claim, an award was passed by the second respondent, is no more. It is the case of the petitioner that he had not stood as Security to the fourth respondent, who was the subscriber of the chit. He would submit that when a similar plea was raised by the fifth respondent herein, the first respondent had remitted the matter

back to the second respondent to send the disputed signature to the Forensic Department and thereafter pass appropriate orders. Upon such remittence, the second respondent having sent to the disputed signature of the fifth respondent to the Forensic Department and having a positive report with regard to the claim of the first respondent had deleted the name of the fifth respondent from the array of the parties. However, in this case, a different yardstick has been applied and the case of the petitioner had been rejected.

3. A reading of the said order indicates that on the claim made by the fifth respondent, the first respondent had remitted the matter back to the second respondent for sending the disputed signature for forensic examination, upon which it was found that the fifth respondent had not subscribed his signature in the promissory note executed by the fourth respondent as surety to the amount to be paid by the fourth respondent with the third respondent. In the present case, the petitioner also makes a claim that he has not subscribed the signature in the disputed promissory note. Without following the same yardstick, the first respondent had rejected the appeal.

4. In such view of the matter, I am inclined to hold that the order passed by the first respondent without considering the claim of the petitioner is an arbitrary exercise of power. In fine, the order passed by the first respondent is set aside and the matter is remitted back to the second respondent to do the same exercise of sending the disputed signatures for forensic examination. Till such time, the award passed by the second respondent shall be kept in abeyance. The said exercise shall be carried out by the second respondent within a period of 3 months from the date of receipt of a copy of this order.

5. The Writ Petition stands allowed, accordingly. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
mm

25.11.2024

To

1.The Secretary to Government,
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K.KUMARESH BABU, J.

mm

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