THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 24.02.2026	Judgment pronounced on : 27.02.2026

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.5960 of 2025
& CMP.No.29461 of 2025

P.J.Prabaharan .. Petitioner

Vs.

1.M/s.Margadarsi Chits Private Limited,
Kumaran Building,
No.AA-152, 3rd Avenue,
Anna Nagar, Chennai – 600 040.

2.V.Raja Singh
3.K.Sethupandian
4.R.Gnanapooranam
5.S.Meerabai
6.S.Durai Babu .. Respondents

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the order and decree dated 24.09.2025 made in E.P.No.46 of 2025 in ARC.No.252 of 2016 on the file of the XXVII Assistant City Civil Court, Chennai.

For Petitioner : Mr.S.Vijayakumar

For Respondents : Mr.D.Shivakumaran for R1
No appearance for RR2 to 6

ORDER

The chit subscriber/ first judgment debtor is the revision petitioner, challenging the order in EP.No.46 of 2025 on the file of the XXVII Assistant City Civil Court, Chennai.

2.I have heard Mr.S.Vijayakumar, learned counsel for the revision petitioner and Mr. D. Shivakumaran, learned counsel for the first respondent / decree holder.

3.The learned counsel for the revision petitioner, Mr.S.Vijayakumar, would contend that there is a bar for the decree holder to claim the amount, beyond the period of 3 years and in this connection, he would rely on the bar under Section 71(b) of the Chit Funds Act, 1982. Secondly, he would contend that the decree holder had filed an earlier EP and he has suppressed the same, while filing the present EP. Thirdly, he would contend that the permission under Section 39 of the Code of Civil Procedure has not been obtained and lastly, referring to Rule 63 of the Chit Fund Rules, the learned counsel for the petitioner would contend that the respondent is not entitled to interest beyond 12 % per annum. The learned counsel for the petitioner would further state that the petitioner himself had subscribed to several other chits and he has already settled 5 chits at the rate of 6% per annum and therefore, he would state that the petitioner was certainly entitled to concessional interest. He would therefore pray for the revision being allowed.

4.Per contra. Mr.D.Shivakumaran, learned counsel appearing for the respondent/Chit Fund Company would state that the bar under Section 71(b) will not apply, as the execution petition has been laid to execute the award, only treating it as a decree of civil Court and not as an arrear of land revenue. Insofar as limitation, he would state that once the decree can be executed as a civil Court, the EP filed within 12 years is very much in time. He would also state that the earlier EP, no doubt, filed before the Poonamallee Court had been dismissed for default, however, as long as the decree remains unsatisfied, the first respondent was entitled to take out a subsequent execution petition.

5.As regards reliance on Rule 63, Mr.D.Shivakumaran, learned counsel for the first respondent would state that the said rule would not even apply to the revision petitioner, as it is specifically made available to non-prized subscribers. He would further state that the petitioner had lodged a complaint before the Consumer Commission and made allegations against the officials of the first respondent and even obtained an award for compensation. Therefore, the first respondent cannot be expected to give any concession to the petitioner. The learned counsel for the 1st respondent would also state that the said order of the Consumer Commission is also being appealed against. He would further state that the executing Court has rightly ordered the execution petition, after rejecting all the contentions advanced by the petitioner. He would therefore pray for dismissal of the revision petition.

6.I have carefully considered the submission advanced by the learned counsel on either side.

7.With regard to limitation and the bar under Section 71(b) of the Chit Funds Act, 1982, there are two modes of recovery of money to an award holder. He can either opt to treat the award as a decree of a civil Court and file a regular execution petition under Section 71(a). However, alternatively, he can treat it as an arrear of land revenue and make a claim under Section 71(b). Section 71 of the the Chit Funds Act, 1982 is extracted hereunder for easy reference:

> *"**71. Money how recovered.—** Every order passed by the Registrar or the nominee under section 68 or section 69 and every order passed by the State Government in appeal under section 70 for payment of any money shall, if not carried out,—*
>
> *(a) on a certificate issued by the Registrar, be deemed to be a decree of a Civil Court, and shall be executed in the same manner as a decree of such Court, or*
>
> *(b) be executed in accordance with the provisions of any law for the time being in force for the recovery of amounts as arrears of land revenue:*
>
> *Provided that no application for execution under clause (b) shall be made after the expiry of three years from the date fixed in the order, and if no such date is fixed, from the date of the order."*

8.A reading of Section 71 clearly shows that the bar of 3 years is only when the award is treated as an arrear of land revenue and not when it is proceeded, as if it were a civil decree. Therefore, there is no merit in the argument of the learned counsel for the petitioner in this regard. Consequently,

9.The question of limitation also pales into insignificance. On perusal of records, it is seen that the award was passed on 30.01.2020 and the execution petition was filed in 2025, which is very much within 12 years.

10.With regard to suppression of the dismissal of the earlier EP, before the III Additional District Judge, Poonamallee on 10.01.2025, I do not see how the dismissal for default will have any bearing on the executability of the decree. Admittedly, it is not the case of the petitioner that the earlier EP was dismissed on enquiry or after contest, which alone would foreclose the right of the first respondent/ decree holder. Admittedly, the earlier EP was only dismissed for default. Therefore, non-mentioning of the earlier EP, in my considered opinion, would not be fatal to the case of the first respondent / decree holder.

11.As regards the permission to be obtained under Section 39 of the Code of Civil Procedure, the very same contention was also canvassed before the executing Court and the executing Court relying on the decision of the Hon'ble Supreme Court in *Sundaram Finance Ltd vs. Abdul Samad and another,* reported in *AIR 2018 SC 965,* held that enforcement of an award through execution can be filed anywhere in the country, where such decree can be executed and there was no necessity for obtaining a transfer of the decree from the Court, which would have jurisdiction over the arbitral proceedings. Applying the ratio laid down by the Hon'ble Supreme Court, the executing Court has rejected the argument of the petitioner. I do not see any infirmity in the said findings of the executing Court.

12.Lastly, the quantum of interest is challenged, placing reliance on Rule 63. Rule 63 r/w Section 28 is extracted hereunder for easy reference:

> *"**Rule 63**. Rate of interest for defaulted installment of subscription by a non-prized subscriber -- The rate of interest payable by a defaulting subscriber in pursuance of the proviso to sub-section (1) of Section 28 of the Act shall not exceed twelve per cent per annum.*
>
> ***Section 28. Removal of defaulting subscribers.**—(1) A non-prized subscriber who defaults in paying his subscription in accordance with the terms of the chit agreement shall be liable to have his name removed from the list of subscribers and a written notice of such removal shall be given by the foreman to the defaulting subscriber within fourteen days of the date of such removal:*
>
> *Provided that if the defaulter pays the defaulted instalment with interest at such rate as may be prescribed within seven days of the date of receipt of such notice, his name shall be re-entered in the list of such subscribers.*
>
> *(2) Every such removal under sub-section (1) shall with the date thereof be entered in the relevant book maintained by the foreman.*

(3) A true copy of the entry referred to in sub-section (2) shall be filed by the foreman with the Registrar within fourteen days from the date of removal.

(4) Any defaulting subscriber aggrieved by the removal of his name from the list of subscribers may, within seven days of the date of receipt of the notice of removal refer the matter to the Registrar for arbitration under section 64."

13.On a careful reading of the above provisions. It is clear that the rate of 12% interest is only where the subscriber is a non-prized subscriber. However, in the present case, the petitioner is a prized subscriber and therefore, he cannot fall back on Rule 63 and contend that he is entitled to be liable to pay only interest at 12% per annum. Therefore, I do not see any merit in the revision the petition.

14.In fine, the Civil Revision Petition is dismissed. It is made clear that the appellant has made payment of Rs.15,00,000/- pursuant to conditional order, the same shall be taken into consideration while arriving at the total amount due to the first respondent. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

27.02.2026

Neutral Citation Case : Yes / No
Speaking / Non-speaking order
Index : Yes/No
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P.B.BALAJI.J,

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To

The XXVII Assistant City Civil Court, Chennai.

Pre-delivery order made in
CRP.No.5960 of 2025
& CMP.No.29461 of 2025

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