
(2013) 04 AP CK 0033

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 1477 of 2013

J. Rama Krishna

APPELLANT

Vs

M/s. Shriram Chits Pvt. Ltd. and 5 Others

RESPONDENT

Date of Decision : 09-04-2013

Acts Referred:

Chit Funds Act, 1982 — Section 64, 85(a), 90
Civil Procedure Code, 1908 (CPC) — Section 60
Constitution of India, 1950 — Article 227

Citation : AIR 2013 AP 185 : (2013) 5 ALD 656 : (2013) 5 ALT 230

Hon'ble Judges : R. Kantha Rao, J

Bench : Single Bench

Advocate : Sreenivasa Rao Velivela, for the Appellant; K. Maheswara Rao, for the Respondent

Final Decision : Dismissed

Judgement

R. Kantha Rao, J.—This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the docket order dated 12.07.2012 passed by the Senior Civil Judge, Gudur in E.P. No. 66 of 2012 in O.S. No. 54 of 2009. Heard the learned counsel appearing for the revision petitioner-JDr. No. 5 and the learned counsel for the first respondent-Decree Holder.

2. The first respondent/decreed holder obtained a money decree for an amount of Rs. 1,51,477/- and the amount allegedly became due in respect of chit transaction. The plaintiff is a Chit Fund Company. The decree was passed directing the defendants to pay the decretal amount. Thereafter, the decree holder filed E.P. No. 66 of 2012 to execute the money decree on the ground that the amount due under the decree was not paid. The executing Court, in E.P. No. 66 of 2012, passed the following order on 12.07.2012:

Issue notice to JDr. through Court and R.P. Meanwhile attach the salary of J.Dr subject to Section 60 C.P.C.

The said order is under challenge in this revision petition.

3. One of the contentions urged on behalf of the revision petitioner-JDr. No. 5 is that in view of the amendment to the Chit Fund Act, the execution petition before the Civil Court is not maintainable and therefore, the order is liable to be set aside. It is also contended that JDr. No. 1, who was the principal borrower, appeared before the Court and submitted to the Court that she has no objection to attach her salary instead of the salary of the revision petitioner/JDr. No. 5.

4. On the other hand, the learned counsel appearing for the first respondent-D.Hr submits that Section 90 of the Chit Funds Act, 1982 (herein after referred to as the "Central Act") repealing the A.P. Chit Funds Act (A.P. Act 9/1971) provides that notwithstanding such repeal, the acts mentioned in sub section (1) shall continue to apply to chits in operation from the date of commencement of this Act in the same manner as they applied to such chits before such commencement.

5. Section 85(a) of the Central Act lays down that nothing in this Act shall apply in respect of any chit started before commencement of this Act.

6. Section 64 of the Central Act lays down that notwithstanding anything contained in any other law for the time being in force, any dispute touching the management of a chit business shall be referred by any of the parties to the dispute, to the Registrar for arbitration if each party thereto is one or the other of the following, namely:

a) a foreman, a prized subscriber or a non-prized subscriber, including a defaulting subscriber, past subscriber or a person claiming through a subscriber, or a deceased subscriber to a chit;

b) a surety of a subscriber, past subscriber, or a deceased subscriber.

7. Sub section 3 of Section 64 of the Central Act states that no Civil Court shall have jurisdiction to entertain any suit or other proceedings in respect of any dispute referred to in sub-section (1).

8. Referring to the aforesaid provisions, the learned counsel appearing for the petitioner would argue that the suit filed before the trial Court which is Civil Court itself is not maintainable and the decree passed therein is therefore in-executable.

9. A combined reading of the aforesaid provisions would obviously indicate that if the chit was registered/commenced prior to the commencement of the Central Act, the Civil Court would have jurisdiction to entertain a suit. In the instant case, the chit commenced as could be seen from the byelaws on 28.06.2004, but the Central Act came into force on 15.09.2008.

10. A perusal of the cause of action para in the plaint copy filed by the first respondent at the hearing of the revision petition shows that the cause of action for the suit arose on 31.01.2005, when the first defendant joined as subscriber in

chit group GNRL-5/13 and executed a chit agreement and on 14.12.2005, when the first defendant became a successful prized bidder and on 31.03.2006, when the first defendant received the amount under a cash voucher. As such, the cause of action of the suit evidently had arisen long prior to the commencement of the Central Act.

11. Therefore, I see no substance in the contention urged by the learned counsel appearing for the revision petitioner that the learned Senior Civil Judge, Gudur, has no jurisdiction to entertain the suit and decree passed therein is null and void.

12. As regards the other contention that the principal borrower stated no objection before the executing Court to attach her salary instead of the revision petitioner/JDr. No. 5, there is no material available on record showing any such undertaking. It is required to be mentioned that if the decree could not be satisfied by the mere attachment of the salary of JDr. No. 1, the executing Court, at the instance of the Decree Holder, can proceed against the other judgment Debtors also.

13. Therefore, I see no illegality in the order passed by the learned executing Court attaching the salary of JDr. No. 5 subject to Section 60 C.P.C. For the foregoing reasons, I do not see any merits in the revision petition and the same is dismissed at the stage of admission. Miscellaneous petitions, if any, pending shall stand closed.