

(1997) 10 KAR CK 0016

In the Karnataka High Court

Case No : Civil Revision Petition No. 2502 of 1993

M/s. Kavery Trading, Financing and Chits (Private) Limited,
Bangalore

APPELLANT

Vs

S. Krishna and Another

RESPONDENT

Date of Decision : 16-10-1997

Acts Referred:

Chit Funds Act, 1982 — Section 64 (1), 85

Citation : (1997) ILR (Kar) 3432 : (1998) 1 KarLJ 349

Hon'ble Judges : B.K. Sangalad, J

Bench : Single Bench

Advocate : Sri K. Vittal Shetty, for the Appellant; Sri K.N. Laxminarasimha, for the Respondent

Judgement

1. The petitioner has preferred this civil revision petition against the order dated 24-11-1990, passed by the Court of the Small Causes Judge, Bangalore in S.C. No. 4809 of 1987 who has allowed I.A.VI, holding that the suit is not maintainable before the Civil Court.

2. The petitioner filed the above stated suit against the respondents for recovery of Rs. 8,857/- being the amount to be paid by the respondents in respect of the chit transaction. The first respondent is the subscriber to the chit conducted by the petitioner. The other respondents are the sureties for the first respondent. The chit in question commenced on 16-5-1980 consisting of 111 monthly instalments, the instalment being Rs.100/-. The first respondent was the successful bidder in the chit auction held on 16-7-1980. He defaulted to pay the 49th instalment. During the pendency, the first defendant filed I.A.VI stating that in view of Section 64(1) of the Chit Funds Act, 1982 the suit is not maintainable as such the suit ought to be dismissed. After filing of the objections by the plaintiff, I.A.VI is disposed of holding that the suit is not maintainable. Being aggrieved by this order, the present appeal arises.

3. Mr. K. Vittal Shetty, learned Counsel for the petitioner submitted that the

learned Small Causes Judge has erred in not looking into Section 85 of the Chit Funds Act, 1982. In view of this Section 85 of the Chit Funds Act, 1982 is not at all applicable to the chit started prior to 5-1-1984. Now it is to be seen whether the order of the Small Causes Judge is correct or not.

4. At the very outset, it is to be seen that the learned Small Causes Judge has not at all considered Section 85 of the Chit Funds Act, 1982. That the petitioner's chit fund started on 16-5-1980 is not disputed. The respondent 1 was the subscriber. The only contention is that in view of the Chit Funds Act, 1982, the suit is not maintainable. No doubt Section 64(1) explicitly makes it clear that the dispute should be referred to the Registrar of Co-operative Societies for the arbitration. But it is also pertinent to note that Section 85, clause (a) of the same Act states that this Act is not applicable to any chit started before the commencement of this Act. In view of this section, it is explicitly clear that the order of the Small Causes Judge is erroneous for the simple reason that the chit fund of the petitioner started on 16-5-1980, whereas, the Act of 1982 came into force from 5-1-1984. In view of this position, I am constrained to hold that the order of the Small Causes Judge is erroneous, as such it is set aside. In the result, the petition is allowed. The order on I.A.VI dated 24-11-1990, is set aside. The matter is remanded back for trial in accordance with law.