

(2002) 03 KAR CK 0019

In the Karnataka High Court

Case No : Writ Petition No's. 35730-35734 of 2001

Ravindreswar and Others

APPELLANT

Vs

Shriram Chits Bangalore Limited and Others

RESPONDENT

Date of Decision : 13-03-2002

Acts Referred:

Chit Funds Act, 1982 — Section 82 (1)

Citation : (2002) 2 KCCR 1020

Hon'ble Judges : N.K. Jain, C.J;N. Kumar, J

Bench : Division Bench

Advocate : Y.N. Nagaraja, for the Appellant; M.N. Seshadri, A.G.A. for Respondents 5, 6 and 7, K. Sriram, for Respondents 1, 3, 4 and 8 and E. Shivaprasad, for Impleading Respondent, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Jain, C.J.—One Ravindreswar and four others claiming to be the chit members and subscribers have filed this PIL seeking for a direction to the 7th and 8th Respondents to take over forthwith the administration of the Respondent-company operating and running the chit fund business all over Karnataka and other States and duping the subscribers in different names for the last 15 years as detailed above violating the provisions of Chit Funds Act, 1982, and the rules framed thereunder, duly appointing a Liquidator in terms of the provisions of Section 82(1), and the control of the Respondent-company be taken over and procedure for winding up of the company be initiated and further direct the 9th Respondent to invoke the provisions of Indian Penal Code and take action against the Directors and Executives of company. Along with these petitions, learned Counsel for the Petitioners has also filed an application for issuing a direction not to release the fixed deposit amount.

2. In response to the notice, the 1st Respondent has filed statement of objections denying the allegation made in the petition. It is stated that the 1st Petitioner-Ravindreswar has mentioned him with a different name in the cause-

title and his actual name is B.N. Ravindreshwara. It is stated that the 1st Petitioner has suppressed the material facts and not stated true facts. It is stated that the 1st Petitioner became a defaulter to an extent of Rs. 31.00 Lakhs and has filed a petition seeking for declaration as an insolvent, in I.C. No. 9 of 1999, pending before C.H. No. 11, Bangalore City Civil Courts. It is also stated that the 2nd Petitioner is a minor and is the daughter of the 4th Petitioner. It is stated that there is no entity by name Shriram Chits at Bangalore. It is further stated that the Petitioners have not made it clear as to in what way the public money has been looted by the Government. It is also stated that the Petitioners have come with unclean hands and not disclosed the true facts rather has suppressed the facts and in the garb of this PIL are making an attempt to tarnish the image of the 1st Respondent-Company and therefore the petition is liable to be dismissed.

3. The 1st Respondent has also filed a detailed counter to I.A. No. 1 denying the averments made in the application. It is stated that the Petitioners have no locus standi and they have attempted to extort unlawful advantages and are to be non-suited, with a imposition of exemplary costs and I.A. No. 1 be dismissed.

4. The grievance in all the writ petitions is identical and common. We have heard the learned Counsel for the parties and perused the material on record.

5. No doubt, this Court in appropriate cases can issue a direction, if there is a clear violation of the fundamental rights or if it touches the conscience of the Court, but not for personal gain or publicity. It is also settled that when remedy under a Statute is available to the aggrieved person, this Court cannot interfere in the garb of public grievance.

6. As per the facts culled out, the alleged facts are all questions of fact. More so as per the counter, all the allegations are denied. It is also stated that they are made only to defame the 1st Respondent-Company, which cannot be gone into by this Court in this PIL. But the fact remains that the Petitioner No. 1, a subscriber to the 1st Respondent-company and who has become a defaulter, has already moved an application praying to declare as insolvent and therefore, in the garb of PIL he cannot agitate to settle his personal score. In any view of the matter, this Court cannot go into merits of the case and as such no direction as prayed for in the petition can be issued.

7. As stated, seeking relief to settle ones personal scores in the garb of PIL cannot be permitted. It is also to be seen that the Hon"ble Supreme Court, in a catena of decisions repeatedly making a warning that "public interest litigation is a weapon, which has to be used with care and circumspection and the judiciary has to be extremely careful to see that under the guise of redressing a public grievance it does not encroach upon the sphere reserved by the Constitution to Executive and Legislature". In Sri. Sachidanand Pandey and Anr. v. The State of West Bengal and Ors. AIR 1987 SC 1009, their Lordships observed how the public interest litigation poses a threat to Courts and public alike as follows:

If Courts do not restrict the free flow of such cases in the name of Public Interest Litigation, the traditional litigation will suffer and the Courts of law, instead of dispensing justice, will have to take upon themselves administrative and executive functions.

It is also to be seen that the Court must be careful to ensure that the process of the Court is not sought to be abused by a person, who desires to persist with his point of view, almost carrying it to the point of obstinacy, and therefore, as stated, the Petitioners cannot agitate to settle their personal scores in the garb of PIL and these petitions are nothing but the abuse of process of Court.

8. In view of what has been stated, these PIL petitions are liable to be dismissed with costs. On the question how much cost is to be imposed, on consideration, we deem it proper to direct the Petitioner to pay costs of Rs. 2,000/- by each of the five Petitioners within two months failing which the Government will take action for recovery of the said costs from the Petitioners. It is also made clear that the dismissal of these PI Ls will not prejudice the decision on merits in appropriate Court, if any matter is pending.

With the above observation, these PIL petitions are dismissed with costs as indicated above.