

(2012) 11 AP CK 0043
In the Andhra Pradesh High Court
Case No : C.R.P. No. 2947 of 2012

Shriram Chits (P) Ltd.

APPELLANT

Vs

M.A. Saber and Others

RESPONDENT

Date of Decision : 09-11-2012

Acts Referred:

Andhra Pradesh Chit Funds Act, 1971 — Section 3
Chit Funds Act, 1982 — Section 85, 85(1), 90
General Clauses Act, 1897 — Section 6

Citation : (2013) 1 ALT 182

Hon'ble Judges : Vilas V. Afzulpurkar, J

Bench : Single Bench

Advocate : Maheswara Rao Kuncheam, for the Appellant;

Final Decision : Allowed

Judgement

Vilas V. Afzulpurkar, J.—Petitioner'ss plaint S.R. No. 7152 of 2011 was returned by the learned Senior Civil Judge, Khammam, unnumbered by order dated 21-02-2012 on the ground that the civil Court is divested of jurisdiction in view of Section 85 of the Chit Fund Act, 1982 (Central Act 49 of 1982). Petitioner'ss specific case in the plaint is that the petitioner chit came to be registered on 15-09-2008 under the A.P. Chit Fund Act, 1971 and defendant No. 1 approached the plaintiff on 4-11-2008 and joined in the chit Group No. SZOI-14 for a value of Rs. 5,00,000/- as per agreement dated 04-11-2008.

2. The Court below declined to entertain the suit on the ground that the chit agreement and the commencement of chit so far as defendant is concerned, is after the commencement of the Central act (which was made applicable from 15-09-2008). The Court below has also placed reliance upon Section 85(1) of the Central Act, 1982, which provides that nothing in this Act shall apply to any chit started before commencement of this Act. Since the defendant'ss chit is started after the commencement of the Central Act, the plaint was not numbered and returned even before numbering. Petitioner, being aggrieved by the said order,

filed the present revision petition.

3. Document No. 10 filed along with the plaint is the Bye-law No. 207/08-09 and form No. 1, which is accompanied by certificate of registration, shows that the bye-law of the petitioner was registered as per Section 3 of the A.P. Chit Fund Act 1971 read with Rule 5 of the A.P. Chit Fund Rules, 1971. The application for such registration was made on 22-08-2008 and the bye-law is accordingly registered on that date, which is admittedly prior to the commencement of the Central Act, referred to above. Section 90 of the Central Act, which deals with repeals and savings, particularly, sub-clause (2) thereof provides as follows:

90. Repeal and saving:-

1...

2. Notwithstanding such repeal, the Acts mentioned in sub-section (1) shall continue to apply to chits in operation on the commencement of this Act, in the same manner as they applied to such chits before such commencement.

4. Even otherwise u/s 6 of the General Clauses Act, any act done under the Repealed Act would be saved and as such, even though the A.P. Chit Fund Act, 1971 is repealed by the Central Act, since the petitioner chit was registered prior to commencement of the Central Act, the Court below ought not to have declined to number the suit. The order impugned is accordingly set aside. The Court below shall number the suit and shall proceed further, in accordance with law, by issuing summons to the defendants and decide the suit, thereafter, by following the procedure prescribed. The civil revision petition is accordingly allowed. As a sequel the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.