

**(2005) 10 MAD CK 0007**  
**In the Madras High Court**  
**Case No : C.R.P. (PD) No. 336 of 2000**

Sree Visalam Chit Fund Ltd.

APPELLANT

Vs

A. Hussain and Another

RESPONDENT

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**Date of Decision :** 21-10-2005

**Acts Referred:**

Chit Funds Act, 1982 — Section 64(3), 85, 90(2)  
Civil Procedure Code, 1908 (CPC) — Section 20

**Citation :** (2006) 1 RCR(Civil) 710

**Hon'ble Judges :** Prabha Sridevan, J

**Bench :** Single Bench

**Advocate :** S. Parthasarathy, for the Appellant; No appearance, for the Respondent

**Final Decision :** Allowed

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## Judgement

Prabha Sridevan, J.—This revision has been filed against the order dismissing E.P.No. 199 of 1997. Notice of motion was ordered on

04.02.2000 and it continues to be in the same state. Today the matter is listed for final disposal. The first respondent has been served and for the

second respondent, it appears that he died as long as 1989 itself. The first respondent is the principal borrower and the second respondent is the

guarantor, against whom the decree was passed for recovery of a sum of Rs. 5,704.34 being the amount due from the chit conducted by the

petitioner. In execution of the decree in O.S. No. 265/87, the petitioner filed execution petition in E.P. No. 199 of 1997 and prayed for

attachment and the sale of the movables. The first judgment Debtor viz., first respondent herein appears to have made some payments when the

execution petition was pending. Subsequently, he raised jurisdictional issue, which was found in favour to him by the Court below. The Execution

Petition was therefore dismissed and the present revision has been filed.

2. The chit transaction, which is the subject matter of the suit was registered and commenced from 6.6.1986 in the State of Pondicherry and at that

point of time, it was governed by the provisions of Pondicherry Chit Funds Act, 1966. On 1.11.1986, the Pondicherry Chit Funds Act was

repealed and the Chit Funds Act of 1982 came into force with effect from that date. The Petitioner filed the suit in O.S. No. 265 of 1987 before

the District Munsif Court, Pudukottai, after the commencement of the Chit Fund Act, 1982, which bars the jurisdiction of Civil Court. The suit

came to be filed in Pudukottai, because the defendants were residing and carrying on business within the jurisdiction of the District Munsif Court,

Pudukottai. The Court below dismissed the Execution Petition on the ground that the Courts in the State of Tamil Nadu had no jurisdiction to

entertain the suit after 13.04.1984, which is the date on which the Chit Funds Act, 1982 came into force in the State of Tamil Nadu. The Court

below held that if the decree is executed it would amount to nullifying the effect of Section 64(3) of the Chit Funds Act, 1982, since the Court

which passed the decree lacks jurisdiction.

3. Learned Counsel for the petitioner submitted that the Court below totally failed to take note of Section 85 and Section 90(2) of the Act.

Learned Counsel would submit that the petitioner was entitled to sue the defendants in the place where they are residing as per Section 20 of the

Civil Procedure Code.

4. Respondents have been served and have not chosen to enter appearance, In somewhat similar circumstances, this Court in the decision in The

Mayavaram Financial Chit Corporation Ltd. Vs. R. Narayanan and Others, , held that the Civil Court has jurisdiction to entertain and adjudicate

upon the claims relating to Chit transactions in respect of chits which were commenced and registered prior to coming into force of the Act.

However, the Court below has not followed the decision on the ground that the suit which was the subject matter of the aforesaid decision, was

filed in Karaikal and not in Tamil Nadu and since the Chit Funds Act came into force in the Union Territory of Pondicherry on 1.11.1986, the

Court at Karaikal was entitled to entertain the suit and that the said decision was not applicable to this case.

5. The three relevant Sections of the Act for deciding this matter are Section 64(3), Section 85 and Section 90(2), they read as follows:

Section 64(3): No Civil Court shall have jurisdiction to entertain suit or other proceedings in respect of any dispute referred to in Sub-section (1).

Section 85: Nothing in this Act shall apply in respect of --

(a) any chit started before the commencement of this Act, or

(b) any chit the amount of which, or where two or more chits were started or conducted simultaneously by the same foreman, the aggregate

amount of which does not exceed one hundred rupees.

Section 90(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.

6. Section 85 of the Act clearly states that the provision of the Act will not apply to the chit started before the commencement of the Act.

Therefore, the chit which is the subject matter of the present revision, is not governed by the provisions of the Act, since it was started before the

Act came into force in the State of Pondicherry. The bar of filing of suit is also not applicable to the said chit. Further Section 90(2), which is the

non-obstante clause, clearly provides that the Pondicherry Chit Funds Act 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. The fact that the suit was filed in the District Munsif Court,

Pudukottai, will not make a difference to the chit in question. The said chit continues to be governed by the provisions of the Pondicherry Chit

Funds Act until the Central Government Act came into force in that State. Therefore, the petitioner was entitled to proceed against the subscriber

in the same manner as he was entitled to had the Central Act not come into force. It is only because the respondents residing outside the Union

Territory of Pondicherry, the suit came to be filed there. It will not make a difference to the applicability of the Chit Funds Act to the suit whether

the suit is filed in the State of Tamil Nadu or in the Union Territory of Pondicherry, as the chit was governed by the provisions of the Pondicherry

Chit Funds Act till the Central Act came into force.

7. Impugned order is therefore set aside and this civil revision petition is allowed.

No costs. Consequently, connected C.M.P. is closed.