

(2003) 07 KAR CK 0116

Karnataka High Court

Case No: Writ Petition No. 3565 of 2001

Southern Wonder World Resorts
Ltd.

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision: July 25, 2003

Acts Referred:

- Constitution of India, 1950 - Article 226
- Prize Chits and Money Circulation Schemes (Banning) Act, 1978 - Section 2 (c), 2 (e)

Citation: (2003) 48 SCL 580

Hon'ble Judges: D.V. Shylendra Kumar, J

Bench: Single Bench

Advocate: Sriyuths, H.S. Chandramouli, S. Basavaraj and Girisagar, for the Appellant; M.N. Ramanjaneya Gowda, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

D.V. Shylendra Kumar, J.

First petitioner claims to be a company carrying on activities such as acquiring properties, developing them and selling them to interested persons. It also carries on the activity of developing resorts on the basis of what is known as "time-share" and the resort is sold to its members on receiving lump sum amounts and providing accommodation to such members of a limited duration as per the scheme evolved by the company.

2. The grievance of the petitioner is that the respondents, law enforcing agency, have resorted to criminal action against the petitioner on the premise that their activity attracts the provisions of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978 ("the Act" for short) and as such the petitioner carrying on business in such trade attracting the provisions of the Act even without a proper

registration is required to be prevented from carrying on such activity.

3. In this regard the second petitioner had also been arrested and later released on bail and certain criminal cases are pending against the first petitioner-company as also the second petitioner Director, before the Courts of law. Petitioner, to get over the same, has approached this Court inter alia contending that the provisions of the Act are not attracted to the activities carried on by them; that they have not violated any of the provisions of the Act.

4. The relief that the petitioners are seeking is for a declaration to the effect that the petitioner-company does not fall u/s 2(c) and 2(e) of the Act and for a further declaration that the interference by the respondents in the business activities of the petitioner is illegal.

5. This Court, while entertaining petitions under Article 226 of the Constitution, does not grant declarations of this nature in respect of private persons who seek individual relief to declare their particular status. As to whether the activity of the petitioner attracts the provisions of the Act enabling the law enforcing agencies to take action and if they find that there are any violations it is for them to take any further action in accordance with law. It is as and when any action is initiated and the petitioner is called upon to face any charges, he can defend such action before the Court. A declaration in rem as prayed for cannot be granted in exercise of jurisdiction under Article 226 of the Constitution.

6. Law enforcing agencies cannot also be restrained from implementing the laws or from taking proper action against erring persons. As to whether petitioners are such erring persons or not is a disputed aspect which will have to be gone into by the proper authority and if found so, to be prosecuted or action taken before the appropriate Court. All these things cannot be looked into in this writ petition.

7. The relief sought for cannot be granted.

8. The writ petition is dismissed reserving liberty to the petitioners to set up such defences as are available to them as and when they are proceeded against.