

Subodhaya Chit Fund (P) Ltd. and Another

Vs

Director of Chits, Madras and Another etc.

C.A. No. 1323 of 1977

(Kuldip Singh, Smt. M.S. Fathima Beevi JJ)

11.12.1990

ORDER

1. These appeals on a certificate are against the judgment of the High Court upholding the validity of S. 12 of the Tamil Nadu Chit Funds Act, 1961 as amended by the Amendment Act 14 of 1975.
2. Section 12, as it stood before the amendment, required the foreman of the chit-scheme to execute an indenture by mortgaging property in favour and to the satisfaction of the Registrar by way of security for the realisation of the chit amount deposited in an approved bank. The said section after amendment required the foremen to deposit cash amount as security in such manner as prescribed. The conditions of depositing cash security were made more hazardous in the amended provisions of the section.
3. The vires of the amended S. 12 of the Tamil Nadu Chit Funds Act, 1961 was primarily challenged on the ground that the amendment was in violation of Art. 301 read with Art. 304 of the Constitution of India. It was contended that the provisions of the amended section were not reasonable restrictions made in public interest and were, therefore, beyond the competence of the Legislature. It was also argued that before enacting the impugned law the previous sanction of the President as required under clause (b) of Art. 304 was not obtained.
4. On the first point the High Court came to the conclusion that the amended provision was in public interest and was necessary to regulate the trade. The High Court observed as under:

"Allowing a chit fund transaction to be run by a foreman without a proper security would be normally ruinous to the interests of the several poor subscribers who 'are lured into the business by the promise of lump sum payment. The precaution that the State has taken by the present legislation requiring enhanced deposits to be made is a prudent one and is essential for the purpose of regulating the chit fund trade. We see no restrictiveness at all in the measure."
5. On the second question the High Court relied upon the judgment of this Court in Syed Ahmed Aga v. State of Mysore (AIR 1975 SC 1443) and came to the conclusion that the amended provision only varied the form of restriction which was already inherent in the original Act. According to the High Court since the principal Act had the sanction of the President it was not necessary to obtain the sanction of the President for the amending Act.

6. We have been taken through the judgment of the High Court. We see no infirmity in the same. We approve the reasoning and the conclusions reached by the High Court.

7. The appeals are, therefore, dismissed with no order as to costs.

Appeals dismissed.

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