

[3209]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
WEDNESDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

IA No. 1 & 2 OF 2023

IN

WP NO: 21316 OF 2023



Between:

1. Margadarsi Chit Fund Pvt Ltd, A Company incorporated under the provisions of The Companies Act, 1956, having its registered office at 5-10-195, Margadarsi Corporate Office, Fateh Maidan Road, Hyderabad - 500 004, Represented by their Authorised Signatory P.Rajaji, S/o.P.V.Subba Rao, R/o. Hyderabad
2. P. Rajaji, , S/o Late P.V. Subba Rao, Aged about 72 years, Occ. Vice-Pres.dent(Administration), Margadarsi Chit Fund Pvt Ltd, Fateh Maidan Road, Hyderabad 500004

...Petitioner(s)

(Petitioner in WP 21316 OF 2023
on the file of High Court)

AND

1. The State of AP, Represented by its Principal Secretary, Stamps and Registration, Secretariat, Andhra Pradesh.
2. Commissioner And Inspector General Of Stamps And Registration-Cum-Registrar Of Chits,, Government of Andhra Pradesh, Amaravathi.
3. District Registrar, Visakhapatnam.
4. District Registrar, Srikakulam
5. District Registrar, Vizianagaram
6. District Registrar, Vijayawada
7. District Registrar, Eluru
8. District Registrar, Machilipatnam
9. District Registrar, Guntur
10. District Registrar, Palnadu
11. District Registrar, Kakinada
12. District Registrar, Nellore
13. District Registrar, Ongole
14. District Registrar, Kurnool
15. District Registrar, Ananthapuram
16. District Registrar, Kadapa
17. District Registrar, Chittoor
18. The Andhra Pradesh Crime Investigation Department, Represented by Additional Superintendent of Police, A.P CID, CID Headquarters, Mangalagiri, Guntur District.
19. Deputy Superintendent Of Police, SEO, CID, Mangalagiri
20. The Commissioner, The Commissioner, Andhra Pradesh State Directorate of Revenue Intelligence, Vijayawada

...Respondent(s)

(Respondents in-do-)

Counsel for the Petitioners :Smt. S PRANATHI

Counsel for the Respondent Nos. 1 to 17:GP FOR REGISTRATION AND STAMPS (AP)
Counsel for the Respondent Nos. 18,19: Smt. Y SIVAKALPANA REDDY
Counsel for the Respondent No. 20:GP FOR REVENUE

IA No. 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the inspection/search proceedings being conducted by the Respondents, Pending disposal of WP No. 21316 of 2023, on the file of the High Court.

IA No. 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased directed to not to interfere in the regular day to day business activities of the Petitioner Company , Pending disposal of WP No. 21316 of 2023, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
THE HON'BLE SRI JUSTICE NINALA JAYASURYA
I.A.Nos.1 & 2 of 2023 in W.P.No.21316 of 2023

COMMON ORDER:-

The present Writ Petition is filed *inter alia* aggrieved by the action in conducting inspections/searches, in the business premises/branches of the 1st petitioner-Company from 17.8.2023 onwards by some teams along with the Police personnel/Crime Investigation Department (C.I.D) & others and thereby affecting the rights of the petitioner/s guaranteed under Article 19 of the Constitution of India.

2. Mr.Naga Muthu, Learned Senior Counsel submits that the day-to-day activities including the auctions of the 1st petitioner-Company, which are scheduled on 19.8.2023 and 20.8.2023, were disrupted by some Clerical staff along with the Officials of C.I.D, D.R.I by closing the shutters of its Branches/business premises under the guise of conducting inspections/searches and they remained there till night, even after business hours and confining the employees of the 1st petitioner-Company.

3. Referring to Section 46 of the Chit Funds Company Act (hereinafter referred to as the 'Act'), the Learned Senior Counsel would emphasize that inspection of Chit Books or Chit Records shall be done either by the Registrar or an Officer authorized by the State Government only during

the working hours on any working day and therefore conducting of any inspections beyond the working hours that too by some Clerical staff, who have no authority is not tenable.

4. Drawing the attention of this Court to Page 275 of the material papers(Ex.P16), the Learned Senior Counsel submits that as is evident from the Letter dated 17.8.2023, a Senior Assistant along with a Team of C.I.D Officials, D.R.I Officials and Mediators sought to conduct verification of Records. He also submits that the Proceedings of the Deputy Registrar of Chits dated 16.8.2023 (Ex.P.15) authorizing the said Senior Assistant and others itself is not tenable, in as much as, the Act does not provide for sub-delegation of powers by the Registrar/Deputy Registrar of Chits.

5. While referring to the earlier Writ Petitions filed by the 1st petitioner-Company in the High Court for the State of Telangana as also in this Court, the Learned Senior Counsel would submit that the actions of the respondents are fraught with Legal malice and the grounds raised on the earlier occasions in the Writ Petitions filed by the 1st petitioner-Company are equally applicable to the present case also.

6. He submits that action against the 1st petitioner-Company in respect of various Chit groups was sought to be initiated on the basis of inspections conducted between November, 2022 to March, 2023 and as such there is no necessity to conduct further inspections. Drawing the

attention of this Court specifically to the orders passed in W.P.Nos.19478 & 19481 of 2023 dated 11.8.2023 in this regard as also the Order dated 11.5.2023 in W.P.No.13199 of 2023 passed by the High Court for the State of Telangana, the Learned Senior Counsel submits that the action of the respondents despite the orders passed therein, without even seeking any clarification cannot be sustained.

7. The Learned Senior Counsel also made submissions with reference to the instructions stated to have been issued by the Inspector General of Stamps & Registration. Referring to the Provisions of the Andhra Pradesh Co-operative Societies Act viz., Section 131, the Learned Senior Counsel submits that there is no such Provision in the Chit Funds Act and only the Registrar/Deputy Registrar/Assistant Registrars are the concerned authorities to initiate actions in terms of the said Act and the Inspector General of Stamps & Registration, who is the head of the Stamps & Registration Department has no role to play in the affairs of the Chit Companies governed by Chit Funds Act, a self-contained enactment.

8. While referring to some Press statements stated to have been made by some Officers, the Learned Senior Counsel contends that the only intention of the respondents is to disrupt the functioning of the 1st petitioner-Company and effect it's business operations because of the stand taken by the Newspaper being published by the promoters of the 1st petitioner-Company against the Government in power.

9. Mr.C.Sumon, Learned Special Government Pleader attached to the Office of the Learned Advocate General, on the other hand, submits that it is not a joint inspection by the authorities under the Chit Funds Act and the C.I.D personnel. He submits that the inspections are well within the powers of the authorities and in terms of the orders dated 26.12.2022 in W.P.No.40880 of 2022 and there is no violation of the same. He submits that the earlier inspections were conducted prior to March, 2023 and the authorities are not precluded from conducting fresh inspections in respect of the transactions for the subsequent period. He contends that there is no material to show that the shutters were closed down during the working hours, as alleged.

10. Referring to Section 61(2) of the Act, the Learned Special Government Pleader would submit that the Registrar is empowered to appoint Officers as Inspectors of Chits and the said Officers are empowered to perform the acts under Section 46 of the Act. Submitting that there is no violation of the Provisions of the Act and the inspections conducted cannot be found fault with, he however states that the concerned Authorities would strictly adhere to the statutory provisions while conducting inspections.

11. The Learned Special Public Prosecutor-cum-Standing Counsel for C.I.D submits that so far seven (7) Crimes have been registered against the 1st petitioner-Company and others *vide* F.I.R Nos.2 to 8 of 2023 and in

respect of Crime Nos.3 & 8 of 2023, Charge Sheets have already been filed. She submits that in respect of other Crimes, investigation is in progress and that in March and April, 2023, the Officers of C.I.D conducted searches by duly complying with the relevant Provisions i.e., Sections 164 and 165 of Cr.P.C. She submits that incriminating material was found with regard to diversion of Funds/Chit amounts from Narsaraopet Branch to Rajamahendravaram Branch during investigation. In so far as the presence of the Police personnel and the Photographs filed along with the I.A.No.4 of 2023, the Learned Counsel states that she needs to secure specific instructions in that regard.

12. In reply, the Learned Senior Counsel Mr.Naga Muthu submits that the Act does not provide for joint inspections by the authorities under the Chit Funds Act and C.I.D personnel. He submits that the C.I.D/Police Officers will have power to investigate/interrogate in connection with the Crimes registered against the 1st petitioner-Company and there is no power to inspect the premises/branches. He further submits that all the actions of the concerned Authorities in interfering with the activities of the 1st petitioner-Company's were video graphed and the same would be presented through an appropriate Application.

13. Referring to Section 2(o) of the Act R/w Section 46 of the Act, the Learned Senior Counsel submits that power to conduct inspections is conferred only on the Registrar, the same cannot be delegated. In any

event, the Learned Senior Counsel submits that the present inspections in the absence of any authorization by the Government are illegal, impermissible and not tenable. Making the said submissions the Learned Senior Counsel seeks interim reliefs as sought for.

14. This Court has considered the submissions made and perused the material available on record.

15. For the purpose of appreciating the rival contentions, it may be appropriate to mention that Section 46 of the Act specifically provides for inspection of Chit Books and Chit Records by the Registrar. The said provision, inter alia provides that the Registrar or an Officer authorized by the State Government in this behalf may inspect Chit Books/records of a chit during working hours on any working day at the premises of the foreman with or without giving notice.

16. As seen from the Proceedings dated 16.8.2023 (Ex.P.15), it would appear that some of the Officers of Registration Department and a Senior Assistant are deputed and authorized to act as Assistant Registrar of Chits. Thereafter, on 17.8.2023 inspections in respect of some Branches along with the Officials of C.I.D and D.R.I are sought to be carried out (Ex.P.16). Though in this regard, an argument was advanced by the Learned Special Government Pleader with reference to Section 61(2) of the Act, in the *prima facie* opinion of this Court, authorization of some persons by the Deputy Registrar would not amount to appointment of Inspectors of Chits.

Whether such authorization is permissible or amounts to sub-delegation of powers needs further examination, more particularly, in the light of Section 46 of the Act.

17. Further, there cannot be any second opinion that Section 46 of the Act provides for inspections of Chit Books and Chit Records during the working hours, that too on any working day. Even the orders passed in W.P.No.13199 of 2023 dated 11.5.2023 with reference to investigation into the Crimes registered against the 1st petitioner-Company and others contains specific directions to the respondents not to cause any interruption or disturbance to the day-to-day business activities of the 1st petitioner-Company and its various Branches and also not to close down the main entrance of the Branches of the 1st petitioner-Company while conducting any search operations in respect of the Crimes registered, in future.

18. From a perusal of the material on record, prima facie, it would appear that inspections by a team or by some authorized persons are sought to be conducted in respect of some Branches and were carried out even after the working hours of the Branches and the presence of the Police/officials of C.I.D is apparent. No satisfactory answer is forthcoming from the respondents in that regard and perhaps the same has to be explained by filing Counter Affidavits.

19. This Court, on a due consideration of the matter, is of the *prima facie* opinion that conduct of inspections by some persons on mere authorization is not tenable, any such inspections contrary to provisions of the Act are not permissible and any such acts without due respect to the orders of the Court referred to above cannot be countenanced.

20. In the light of the material on record and reasons stated *supra*, this Court is satisfied that the petitioners have made out a *prima facie* case for granting interim protection, pending further consideration of the matter.

21. Accordingly, there shall be an interim direction not to conduct any inspections in the Business premises/Branches of the 1st petitioner-Company, except in strict compliance with Section 46 of the Act and as indicated in the orders dated 11.5.2023 in W.P.No.13199 of 2023. Further, under the guise of inspection/searches the Officials of C.I.D or others shall not cause any hindrance to the business activities of the 1st petitioner-Company, much less, by creating panicky situation.

Sd/- S. SRINIVASA PRASAD
ASSISTANT REGISTRAR

//TRUE COPY//

For ,

SECTION OFFICER

To,

1. The Principal Secretary, State of AP, Stamps and Registration, Secretariat, Andhra Pradesh.
2. Commissioner And Inspector General Of Stamps And Registration-Cum-Registrar Of Chits,, Government of Andhra Pradesh, Amaravathi.
3. District Registrar, Visakhapatnam.

4. District Registrar, SrikaKulam
5. District Registrar, Vizianagaram
6. District Registrar, Vijayawada
7. District Registrar, Eluru
8. District Registrar, MachiNpatnam
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13. District Registrar, Ongole
14. District Registrar, Kurnool
15. District Registrar, Ananthapuram
16. District Registrar, Kadapa
17. District Registrar, Chittoor
18. The Additional Superintendent of Police, Andhra Pradesh Crime Investigation Department, A.P CID, CID Headquarters, Mangalagiri, Guntur District.
19. Deputy Superintendent Of Police, SEO, CID, Mangalagiri
20. The Commissioner, The Commissioner, Andhra Pradesh State Directorate of Revenue Intelligence, Vijayawada(Addressess 1 to 20 By RPAD)
21. One CC to Smt .S PRANATHI Advocate [OPUC]
22. Two CCs to GP FOR REGISTRATION AND STAMPS (AP) ,High Court Of Andhra Pradesh. [OUT]
23. Two CCs to GP FOR REVENUE ,High Court Of Andhra Pradesh. [OUT]
24. One CC to Smt. Y SIVAKALPANA REDDY Advocate [OPUC]
25. One spare copy.

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HIGH COURT

NJSJ

DATED:23/08/2023

ORDER

LIST AFTER FOUR WEEKS

**IA No. 1 & 2 OF 2023
IN
WP NO: 21316 OF 2023**

DIRECTION

