



IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 25th DAY OF JULY, 2003

BEFORE:

THE HON'BLE MR. JUSTICE D.V. SHYLENDRA KUMAR

WRIT PETITION No.3565 OF 2001 (GM-RES)

Between:

1. Southern Wonder World
Resorts Ltd., A Company
registered under The Companies
Act, 1956, having its office at
V.N.R. Commercial Complex,
Station Road, Kachiguda,
Hyderabad, 27, by its Chairman/
Managing Director
E. Reddy Sekhar,
major, r/at Hyderabad.

2. E. Reddy Sekar s/o. E. Naganna,
42 yrs., r/at 1/69/5, Snehapuri
Colony, Natharam, Hyderabad

... PETITIONERS

(By Sriyuths. H.S. Chandramouli, S. Basavaraj & Girisagar,
Advs.)

And:

1. State of Karnataka, by its
Secretary, Dept. of Home,
Vidhana Soudha,
Dr. Ambedkar Road,
Bangalore-560 001
2. The Inspector General of
Police, Infantry Road,
Bangalore.
3. The Station House Officer,
Chitradurga Town Police
Station, Chitradurga.
4. The Deputy Superintendent
of Police, Chitradurga Dt.,
Chitradurga.
5. The Station House Officer,
Somwarpet Police Station,
Somwarpet.
6. The Deputy Superintendent
of Police, Coorg Dist.,
Madikeri.
7. The Station House Officer,
Upparpet Police Station,
Bangalore City,
Bangalore.

... RESPONDENTS

(Sri. : M.N. Ramanjaneya Gowda, Govt. Advocate)

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to declare that the activity of the first petitioner company does not fall under Section 2 (c) and 2(e) of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and declaring the interference by the respondents and their subordinates with business activities of the petitioners as illegal and arbitrary etc.

This petition coming on orders this day, the Court made the following:-

ORDER

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 lumpsum amounts and providing accommodation to such members of a limited duration as per the scheme evolved by the company.

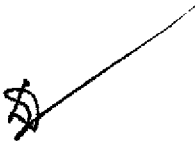
2. The grievance of the petitioner is that the respondents, law enforcing agency, have resorted to criminal action against the petitioner on the premise that their activity attracts the provisions of the Prize Chits and Money Circulation Scheme (Banning) Act,



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 under Section 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.

Sd/-
Judge

(1)

Gcs/-