
(1940) 12 AHC CK 0011
In the Allahabad High Court

Ahmad Sayeed

APPELLANT

Vs

Kanizak Zohra

RESPONDENT

Date of Decision : 04-12-1940

Acts Referred:

Citation : AIR 1941 All 157 : (1941) 11 AWR 55

Hon'ble Judges : Collister, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Collister, J.—This is a judgment-debtor's application u/s 25, Small Cause Courts Act. The opposite party in execution of her decree against the applicant attached, among other things, six sewing machines which were in the applicant's tailoring shop. It appears from the judgment of the Court below that two of these machines were released from attachment and that the applicant, thereafter sold them. The applicant claimed the release of the remaining four machines u/s 60(1)(b), Civil P.C., but his claim has been disallowed. The learned Judge says:

He is now working elsewhere. One machine was enough for his livelihood and he had no business to sell the released machines.

2. Section 60(1)(b), Civil P.C., enacts that "tools of artisans" shall not be liable to attachment; it does not say that only such tools shall not be liable to attachment as are necessary for the maintenance of the artisan. An artisan is defined in Webster's New International Dictionary, Edn. 2 as "one trained to manual dexterity in some mechanical art or trade; a handicraftsman; a mechanic." There can be no doubt that a tailor who uses a sewing machine is an artisan and that the sewing machine is an artisan's tool. This view was taken in *Vitkoba v. Babulal* ("23) 10 AIR 1923 Nag. 289, where the learned Judge says:

I can find no guidance on the point in reported rulings, but I consider that a sewing machine is a tool. It can hardly be denied that a simple machine such as a simple form of loom is a tool. I do not see how a line can be drawn shutting out

a more complicated form of loom from the definition. A complicated loom or a sewing machine is certainly an instrument used by a craftsman or labourer at his work. Section 60, Civil P.C., speaks of the tools of artisans and the implements of husbandry of an agriculturist. Implements of husbandry may be specialised and costly. I see no reason why a tool should be confined to primitive implements. I hold then that a sewing machine is a tool.

3. With the above observations I am in agreement. The applicant stated that he used to do the cutting out of materials at his shop and that he also used to do the sewing along with some employees. The learned Judge says that the applicant is now working elsewhere and I find from the applicant's deposition that he is working on commission at a shop belonging to another person; but I do not think that this circumstance and the fact of his having sold two machines will in any way affect his claim. The criterion in such matters is the position of affairs at the time of execution. At the date of execution the applicant was working at his own shop with half a dozen machines. He was an artisan and was employing an artisan's tools, and in my opinion the six machines which were in use in his shop were artisan's tools within the meaning of Section 60(1)(b), Civil P.C. I accordingly allow this application with costs in both Courts. The order of the Court below is set aside and the objection is allowed.