
(1940) 04 MAD CK 0038
In the Madras High Court

Amatipati Bhadrachalam and Others

APPELLANT

Vs

Ramineedi Nagarupavatamma and Another

RESPONDENT

Date of Decision : 15-04-1940

Acts Referred:

Tamil Nadu Agriculturists Relief Act, 1938 — Section 4(h)

Citation : AIR 1940 Mad 885 : (1940) 52 LW 387 : (1940) 2 MLJ 342

Hon'ble Judges : Wadsworth, J

Bench : Division Bench

Judgement

Wadsworth, J.—This revision petition raises the question of the effect of Section 4(h) of the Madras Agriculturists' Relief Act upon the

liabilities of the parties when the debt sought to be scaled down is a debt owned in common by two women. I have found considerable difficulty in

dealing with the questions of law raised by this petition owing to the absence of any clear finding of fact in the lower Court's judgment. So far as

the evidence goes the position seems to me to be as follows:

The petitioners are the judgment-debtors under a decree for Rs. 625, the decree-holders being two sisters. These two sisters had been given a

sum of money by their father and this sum of money was originally invested in a mortgage executed by the present petitioners which was

discharged in 1936 by payments amounting in all to a sum variously estimated at Rs. 4,000 and Rs. 4,500. According to the evidence of the

respondents' father, the whole of the payments in discharge of this mortgage went towards three documents Exs. I, II and IV. Ex. I is a mortgage

in favour of the two sisters, the respondents, for the sum of Rs. 408 dated-23rd October, 1936. Ex. II is a similar mortgage for a sum of Rs. 1,475

in favour of the same two sisters dated 24th February, 1936; and Ex. IV is a sale-deed for Rs. 1,000 executed by the present petitioners, mortgagors, in favour of the respondents' father. It provides that the sale price having been adjusted against the mortgage-debt due to the vendee's daughters, the vendee is to pay the sale price of his daughters. The father of the respondents has given evidence to the effect that this sum of Rs 1,000 was used to discharge debts incurred for the marriage of one of the daughters which took place in 1935 and also to purchase jewels for the daughters. So according to his evidence this sum of Rs. 1,000 has to be left out of account for the purpose of Section 4(h) of the Act. The learned Subordinate Judge does not say whether he accepts or rejects this evidence. But his whole judgment seems to proceed on the basis that the two daughters are together possessed of assets worth more than Rs. 4,000. He does not find what those assets are. Exs. I and II cannot account for much more than Rs. 2,000 allowing for interest. If on the other hand the balance is made up of jewels and the money spent on the marriages of the two daughters, whether the two daughters are treated as one unit or as two units for the purpose of Section 4 (h) of the Act, they are not shown to be possessed of unexempted property other than the suit debt and the two mortgage-debts. If, on the other hand, the evidence of the father is not believed, it would seem to follow that they must be possessed either of an interest in the land sold under Ex. IV, the purchase price for which really came out of their money, or of other assets which have not been disclosed. It seems to me impossible to dispose of this petition without first recording a finding on the question whether either or both of these ladies did own any other property excluding those classes of property covered by the explanation. The learned Subordinate Judge has gone at length into the question whether the mortgages Exs. I and II are immovable properties or not. This question seems scarcely to arise. For, if these two mortgages are debts due from agriculturists, seeing that they together do not exceed Rs. 3,000 they would clearly not bar the respondents from getting the benefit of Clause (h), provided that Clause (h) has any application to a case of joint creditors or co-owners. If, on the other hand; Exs. I and II are not debts due from agriculturists, they do not come within the definition of debts under the Agriculturists' Relief Act and must therefore be regarded as other property, whether they be regarded

as movable property or immovable property, and the existence of any other property not covered by the explanation will take the ladies out of the

exemption in Sub-section (h) of Section 4, having regard to the decision to which I was a party in *Ramasami Reddi v. Alagayammal*.

2. The question whether Clause (h) of Section 4 applies to a debt owed by an agriculturist to two women is not without difficulty and the working

out of the effects of the dual ownership of the debt under this clause is also clothed with difficulty. Ordinarily speaking unless there is anything

repugnant in the context the singular includes the plural [vide Section 3(35) of the Madras General Clauses Act]. Both sides here, in fact, contend

that the words in Clause (h) "any debt or debts due to a woman" would apply to a debt or debts to two women and I can see no reason for

rejecting this view, unless it be that the clause does not make any clear provision for the consequences of a plurality of female creditors. Assuming

that Clause (h) does apply to a debt due to *two women and having regard to the fact that it imposes a limit of wealth below which a woman may

claim to be exempted from the purview of the Act, it would to my mind follow that the same financial limit, cannot have been intended to apply to a

number of joint creditors as to a single creditor and that the limit must have been imposed with reference to the debt owed to each one of those

joint creditors and the property owned by that creditor and not to the debt due to all of* them jointly and their joint property. This is substantially

the view taken by the lower Court. A reasonable interpretation of this clause seems to me to be that when a debt is due to two women jointly or as

co-owners and relief is claimed by the debtor under the Act, in order to determine whether either of the creditors is entitled to resist that relief, the

Court must look to the amount of the debt due to that particular creditor, the amount of other debts due from agriculturists to that particular

creditor and the possession of other property by that creditor not covered by the explanation, that is to say, when the Court has to adjudicate

under the Act on a debt due to two women jointly or as co-owners; the interest of each women in the debt and the assets of each woman apart

from the debt must be taken into consideration in order to determine whether each woman is entitled to claim the exemption u/s 4(h).

3. As the facts have not been found so as to enable me to apply the provisions of the Act to these facts, the petition will be remanded to the lower

Court for disposal in the light of this judgment. Costs throughout to abide by the result.