

(1986) 12 KAR CK 0020
In the Karnataka High Court
Case No : C.R.P. No. 937 of 1983

Annasaheb Ramachandra Patil

APPELLANT

Vs

Ramachandra Sataba Mane Wakerekar

RESPONDENT

Date of Decision : 01-12-1986

Acts Referred:

Citation : (1987) ILR (Kar) 979

Hon'ble Judges : Kulkarni, J

Bench : Single Bench

Advocate : G.S. Visweswara, for the Appellant; Vigneswara S. Shastri, for R-3 to 6, for the Respondent

Final Decision : Dismissed

Judgement

Kulkarni, J.—This is a revision by judgment debtor-1 against the order dated 17-1-1983 passed by the Principal Munsiff, Chikodi, in E.P. No. 79 of 1980, overruling the objections of the judgment debtors.

2. The decree holders obtained a decree against the judgment debtors in the Court of the Civil Judge, Junior Division Kolhapur, in Civil Suit No. 333/68. That decree was transferred to the Court of the Munsiff, Chikodi, for execution in 1980 and it was numbered as E.P. No. 79 of 1980.

3. The judgment debtors raised a contention that they were debtors within the meaning of the Karnataka Debt Relief Act, 1980, and that the amount claimed in the execution stood wiped out.

4. The Court below over-ruled the objections of the judgment debtors. Hence the revision.

5. Section 3 of the Karnataka Debt Relief Act, 1980, reads as :--

"Notwithstanding anything contained in any law for the time being in force or in any contract or instrument having force by virtue of any law or otherwise and save as otherwise.....

expressly provided in this Act, with effect on and from the date of commencement of this Act,--

(a) every debt incurred by a debtor before the date of commencement of this Act and payable by him to his creditor on such date shall be deemed to be wholly discharged;

(b) no Civil Court shall entertain any suit or other proceeding against the debtor or his surety for the recovery of any amount of such debt :

Provided that where any suit or other proceeding is instituted jointly against a debtor and some other person, other than a surety, nothing in this Section shall apply to the maintainability of such suit or proceeding in so far as it relates to such other person ;

(c) all suits and other proceedings including appeals, revisions, attachments or execution proceedings, pending on the date of commencement of this Act against any debtor or his surety for the recovery of any such debt shall abate : etc., etc.,"

Though Section 3(a) says that it would apply to every debt incurred before the date of the commencement of this Act, it will have to be borne in mind that the debt was incurred by the judgment debtors outside the territorial limits of Karnataka State. In order to attract the provisions of the Karnataka Debt Relief Act, 1980, the debt mentioned in Section 3 of the Act must be one incurred within the limits of the Karnataka State. If the debt is incurred beyond the limits of the Karnataka State, the judgment debtors are not entitled to claim the benefit of the Karnataka Debt Relief Act.

6. The Supreme Court in Kavalappara Kottarathil Kochuni and Others Vs. The State of Madras and Others, as :--

"Before we pass on to the merits of the case, it would be convenient at the outset to clear the ground. It cannot be disputed that the impugned Act passed by the Madras Legislature could not have had any extra-territorial operation so as to affect the properties in the quondam Cochin State. It is not disputed that, after the states reorganization, the provisions of the Act were not extended by any legal process to the properties situate in that area of the Kerala State which originally formed part of Cochin State. In the premises, we are not called upon to decide the fundamental right of the sthanee in respect of the sthanam properties in the said area."

Similar is the view expressed in State of Bombay Vs. R.M.D. Chamarbaugwalia and Others, and in The State Vs. Narayandas Mangilal Dayame, The said 1958 Bombay case clearly lays down as :--

"It is not open under the Indian Constitution to a State to enforce social legislation outside its boundaries, and if social legislation has to be enforced all over the Country, then the proper method of doing it is to approach the Central Government to pass a law if the subject-matter is within the Concurrent List. To

suggest that social legislation can be embarked upon by a Provincial Legislature not only within its own, boundaries but outside its boundaries is to confer a jurisdiction and competence upon the Legislature which it certainly does not possess under the Constitution."

7. Article 245 of the Constitution reads as :--

"Extent of laws made by parliament and by the Legislatures of States :-

(1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation."

Article 245 of the Constitution makes it clear and manifest that it is only the law made by the Parliament that can have extra-territorial operation. Such a provision has not been made in relation to a law made by the State Legislature.

Therefore Article 245(1) and (2) if read together make it manifestly clear that the application of an Act passed by the State Legislature is limited to the limits of that State only and it cannot have any extra-territorial operation as in the case of a law made by the Parliament.

8; In *Basheer Ahamed v. G. Padmanabha Kamath*, AIR 1953 Mysore 37 a case decided before the Reorganisation by the High Court of the erstwhile State of Mysore, it is laid down as :

"It is now a well settled rule that the jurisdiction of the transferee Court is limited to the execution of the decree transferred to it. It cannot for instance transfer it to another Court, or entertain any objections as to its correctness or that it is defective or that it was obtained by fraud. It cannot entertain an objection that it directs a sale of property which is not saleable under Section 60 Civil P.C. or Section 9 N.W.P. Rent Act (See- "*Sadashiv Lalit v. Jayant bai*" 8 Bom. 185 and- "*Madhlal v. Katwari*" 10 All 130). It cannot alter vary or add to the terms of the decree. See *Mulla's C.P.C.* 11 Edn. p 170; See also *Gajadhar Prasad v. Manulal Jagarnath* 93 I.C 257 : AIR 1925 Pat 807)."

It was a case Where a decree was passed by the High Court of Madras and it was transferred to the Court of the District Judge, Bangalore, for execution. During the pendency of the execution, the judgment debtor claimed that he was entitled to instalments under the provisions of the Mysore Agricultural Debtors Relief Act. In the said Mysore decision, it was held that the judgment debtor was not entitled to the benefit of the Mysore Agricultural Debtors Relief Act, because the application of that Act was limited to the limits of Mysore State and that the said Act had no extra-territorial application.

9. In this case, the judgment debtors could not have claimed the benefit of the Karnataka Debt Relief Act, 1980 or 1976, when the suit itself was pending in the

Court of the Civil Judge, Junior Division, Kolhapur, because the Karnataka Debt Relief Act, 1976, or 1980 had no extra-territorial application at all. The contentions which the judgment debtors could not have raised in the Court of the Civil Judge, Junior Division, Kolhapur, they cannot raise them now in the Court of the Munsiff, Chikodi, only because that decree is transferred by the Court of the Civil Judge, Junior Division, Kolhapur, to the Court of the Munsiff at Chikodi.

10 Further Section 3(c) of the Karnataka Debt Relief Act, 1980 reads as :

"all suits and other proceedings including appeals, revisions, attachments, or execution proceedings, pending on the date of commencement of this Act against any debtor or his surety for the recovery of any such debt shall abate : etc."

The execution is transferred to the Court of the Munsiff, Chikodi, in 1980, and it is numbered as Execution Case of 1980. The Karnataka Debt Relief Act, 1980, as can be seen from Section 1(2) shall be deemed to have come into force on 15th day of November, 1979. Therefore the present execution was not pending in 1979. Therefore even viewed from this angle, the judgment debtors are not entitled to get the benefit of the Karnataka Debt Relief Act.

11. In the result, the order passed by the lower Court over-ruling the objections of the judgment debtors in this connection, needs no interference. The revision is dismissed.