courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 20/09/2026

(1940) 07 PAT CK 0001

In the Patna High Court

Chota Nagpur Banking Association Ltd. APPELLANT

Vs

Radha Gobinda Singh and Others RESPONDENT

Date of Decision : 26-07-1940

Acts Referred:

Bihar Money Lenders (Regulation of Transactions) Act, 1939 — Section 3
Government of India Act, 1915 — Section 92(1)
Money Lenders Act — Section 11

Citation : AIR 1941 Patna 561

Hon'ble Judges : Meredith, J;Fazl Ali, J

Bench : Full Bench

Judgement

Meredith, J.—This is an appeal by the, Chota Nagpur Banking Association, decree, holder, against an order of the learned Subordinate Judge of Purulia fixing instalments u/s H, Money-lenders Act. It has been held by this Court in Dhanukdhari Singh and Others Vs. Ramratan Singh and Others, , that no appeal lies against such an order. Apart from that however, there appears to be no merit in the appeal. The point raised is that on the date when the order was passed, namely 20th July 1939, the Banking Association together with other banks had been exempted from the operation of Section 11, Money-lenders Act, and consequently the learned Subordinate Judge had no jurisdiction to make an order fixing instalments u/s 11 of that Act. Actually on 19th July 1989, the Government of Bihar issued Notification No. 1000-VIA-7/89 Com., in the following terms:

In exercise of the power conferred by Section 3, Bihar Money-lenders (Regulation of Transactions) Act, 1939 (Bihar Act, 7 of 1939) as applied to the Chota Nagpur Division by Notification No 786-VIA-82 Com., dated 29th May 1939, issued under Sub-section (1) of Section 92, Government of India Act, 193S, the Governor of Bihar is pleased to exempt in all areas of the Chota Nagpur Division the money-lenders or class of money-lenders or class of loans specified in col. 1 of the schedule below from the provisions of the Bihar Money-lenders (Regulation of Transactions) Act, 1939 (Bihar Act, 7 of 1939) mentioned against them in col. 2 of the said schedule, for the reasons mentioned against them in col. 3 of the said

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/chota-nagpur-banking-association-lt...

schedule.

2. In the schedule to the notification, item 3 in col. l is "Joint Stock Banks registered under the Companies Act, 1913" and in col. 2 is " Sections. 4, 7, 8, 10, 11 and 12." It therefore follows that at the time of the order the appellant company must be taken to have been exempted from the Money-lenders Act if it is a Joint Stock Bank registered under the Companies Act, 1913.

3. The difficulty in the appellant''s way however is that the Chota Nagpur Banking Association was not registered under the Act of 1913 but under the old Act, 6 of 1882. Mr. De for the appellant contends that the company must be deemed to be one registered under the Companies Act, 1913, and he relies upon the definition of "company" in that Act. Section 2(2) of the Act of 1913 says ''company'' means a company formed and registered under this Act or an existing company." Clearly, therefore, the word "company" when used in the Act of 1918 will cover a company registered under the old Act such as the appellant company. But the fact that the provisions of the Act of 1913 are made applicable to such a company does not, in my view, render that company one actually registered under the Act of 1913. On the contrary, it is apparent from the very definition cited by Mr. De, that a distinction was drawn between companies registered under the Act and previously existing companies.

4. The notification of 19th July refers in specific terms to joint stock banks registered under the Companies Act, 1913, and no others. In my opinion this cannot be taken to include banks which were registered under some other Act. It is argued that if the notification is interpreted in this way it will lead to an absurd result, which could not have been intended by Government. That may or may not be so; but this is a point with which we are not concerned, for when the language is perfectly clear, no other interpretation is possible. There is no ambiguity in the language used and no absurdity in the wording itself. We understand that an application has already been made to Government to secure a correction of the notification and if that be so, it clearly implies that the appellant bank itself feels that a correction is necessary. In my view it must be held that the appellant bank was not exempted from the Moneylenders Act by the notification referred to The order passed by the learned Subordinate Judge was therefore not without jurisdiction.

5. I would dismiss this appeal with costs.

Fazl Ali J.

I agree.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/chota-nagpur-banking-association-lt...