(1943) 03 MAD CK 0013

In the Madras High Court

D. Ramachandra Ayyar APPELLANT

Vs

K. Sesha Aiyangar RESPONDENT

Date of Decision : 01-03-1943

Acts Referred:
Civil Procedure Code, 1908 (CPC) — Section 60(1)(d)

Citation : AIR 1943 Mad 523 : (1943) 56 LW 301 : (1943) 1 MLJ 414

Hon'ble Judges : Horwill, J

Bench : Division Bench

Judgement

Horwill, J.—The respondent is a hotel-keeper and the question is whether the vessels with which he prepares sweetmeats are tools of an

artisan within the meaning of Section 60 (1) (b) of the CPC which are exempt from attachment. The lower Court held they were.

2. The word "" artisan "" has a well-recognised meaning and is roughly synonymous with ""handicraftsman"" or ""mechanic."" The three artisans

mentioned in the Hereditary Village Offices Act, namely, blacksmith, carpenter and potter, are examples of what is ordinarily understood by the

term "" artisan,"" although they undoubtedly do not exhaust the class of artisans. The use of the word ""tool "" in Section 60 (1) (b) is also an indication

that the word "" artisan "" is used in its ordinary sense as a man who uses tools. If we give an extended meaning to "" artisan "" to include persons not

ordinarily regarded as artisans, then it becomes necessary to give an extended meaning to "" tools "" also and to regard as tools things which are not

commonly understood as such. Cooking vessels are certainly not tools in the ordinary sense of the word.

3. In Seemakurthi Manikyam Vs. Jonnavithula Manikyamma, , Happell, J., has discussed this question fully in considering whether musical

instruments used by a professional musician can be regarded as the tools of an artisan; and I completely agree with all that the learned Judge has

said on this point. If we apply the reasoning of Happell, J., to the case under consideration it would follow that cooking utensils used by a

sweetmeat seller are not tools of artisans. With respect, I find myself unable to agree with the conclusions drawn in Mahabir Prasad Vs.

Raghunandan Lal, and Bindeshri v. Banshilal (1931) ILR 54 All. 399.

4. Moreover, even a tool used by an artisan is not always the subject of exemption, u/s 60 (1) (b) of the Code unless the artisan is the judgment-

debtor himself. If a person employs a number of artisans to work for him and gives them tools for that purpose, he is not himself an artisan but an

employer of labour who Would not be entitled to the benefit of the section. So that even if a person who prepared sweetmeats were an artisan,

one who employs others to do so would not) be an artisan. A hotel-keeper cannot claim exemption from attachment of the vessels used by his

employees in the preparation of food which he sells to the public.

5. The petition is allowed with costs and the execution petition filed by the petitioner in the lower Court ordered to proceed.

