

(1965) 05 KL CK 0004
In the High Court Of Kerala
Case No : A.S. No. 308 of 1962

John and Others

APPELLANT

Vs

Popular Automobiles

RESPONDENT

Date of Decision : 20-05-1965

Acts Referred:

Kerala Agriculturists Debt Relief Act, 1970 — Section 2(c)

Citation : (1965) KLJ 666

Hon'ble Judges : M.S. Menon, C.J; V.P. Gopalan Nambiyar, J

Bench : Division Bench

Advocate : Joseph Augustine and M.C. Mathew, for the Appellant; M.V. Joseph, for the Respondent

Final Decision : Allowed

Judgement

M. S. Menon, C. J.

1. The defendant in O. S. No. 83 of 1961 of the Subordinate Judge's Court, Kottayam, is the appellant before us. The sole question for determination is whether he is entitled to the benefits of the Kerala Agriculturists Debt Relief Act, 195S. In order to get relief under that Act two conditions have to be satisfied. The appellant must be an agriculturist as defined in Section 2 (a) of the Act and the debt must be a debt as defined in Section 2 (c) of the Act.

2. It is not disputed that the appellant is an agriculturist as defined in Section 2 (a) of the Act. The only question for determination is whether the debt in respect of which relief is sought is a debt as defined in Section 2 (c) of the Act.

3. The definition in Section 2 (c) specifically excludes from its ambit all debts which represent the price of goods "purchased for purpose of trade". The debt in this case represents the price of automobile parts purchased from the plaintiff for the purpose of a bus service and we entertain no doubt that such a purchase cannot be considered as a purchase "for purpose of trade."

4. The ordinary meaning of the word trade is "an exchange of goods for money or goods for goods with the object of making a profit" (*Burmah Shell Oil Storage and Distributing Co. of India, Ltd. Vs. Sudhansu Bhusan Chatterjee*,). We do not see any reason to hold that the word has been used in a different sense in Section 2 (c) of the Act. The same was the conclusion of Raghavan J. in *Ulahannan Alexander v Kuruvila Thachara & Co.* (1963 K. L. T. 8).

5. The word "trade" has a narrower signification than the word "business", and the fact that the automobile parts were purchased for use in a bus service business does not mean that the purchase was for the purpose of trade. In the context in which the word "trade" occurs it can have relation only to the business of buying and selling. In the light of what is stated above we must hold that the debt with which we are concerned is a debt coming within the definition of Section 2 (c) of the Act, and that as both the conditions mentioned in paragraph 2 above are satisfied this appeal has to be allowed. We do so, but in the circumstances of the case without any order as to costs.