(1989) 06 KAR CK 0040

In the Karnataka High Court

Case No : W.P. No. 11833/1986

K. Purushothama Shenoy APPELLANT

Vs

Tahsildar, Puttur Taluk and Others RESPONDENT

Date of Decision : 08-06-1989

Acts Referred:

Karnataka Debt Relief Act, 1976 — Section 3(B)

Citation : (1989) 2 KarLJ 252

Hon'ble Judges : H. G. Balakrishna, J

Judgement

Balakrishna, J.-This writ petition is directed against the order of the 1st respondent dated 2-6-1986 under Annexure-A holding that the petitioner is not a debtor within the meaning of the provisions of the Karnataka Debt Relief Act, 1976 (hereinafter referred to as ''the Act'').

2. Annexure-R1 is the mortgage deed executed by the petitioner K. Purushothama Shenoy in favour of the 3rd respondent K. Venogopal Shenoy. The debt under the mortgage deed is a sum of Rs. 20,000/-. Under Annexure-R2 which is the statement of the petitioner, it is deposed that the petitioner does not intend to substantiate that the value of the house which belongs to him is less than Rs. 10,000/- in value as against the valuation certificate produced by the 3rd respondent which is to the effect that the market value of the house is Rs. 2,00,000/-.

3. In the impugned order of the 1st respondent Tahsildar, specific reference and finding is forthcoming to the effect that as regards the market value of the immovable property owned by the petitioner, it is not less than Rs. 10,000/- and, based on that finding, the Tahsildar has inferred that the petitioner does not fall within the category of debtor as understood under the Act. This finding appears to be in conformity with the provisions of law under the Act and the legal position does not admit tenable controversy.

4. The learned Counsel for the 3rd respondent contended that the findings of the Tahsildar are based on tangible evidence and the valuation of the property got

done by the 3rd respondent has not been impeached either in the pleadings or in the course of evidence by the petitioner at any stage. In other words, the valuation has gone unchallenged. The petitioner has not made any efforts to rebut the valuation by producing any counter valuation made by a competent person and has not even questioned the correctness or genuineness of the valuation relied upon by the 3rd respondent.

5. An argument which does not bear legal scrutiny was advanced, though hesitatingly, by the learned Counsel for the petitioner that the petitioner had not received any payment under the mortgage deed. But this is diametrically opposed to the contents of the registered mortgage deed. Another interesting aspect is that the loan contracted by the petitioner was actually meant for purchase of a car, to the extent of Rs. 15,000/-. It seems to me that the claim of the petitioner to the status of a debtor under the Act is farcial and the transaction of borrowing money from the 3rd respondent for purchase of a car is more akin to an aristocrat rather than a "have-not." I have no hesitation in dismissing the contention that the Tahsildar ought to have treated the petitioner as a debtor. Far from it, there is more than adequate basis to reach the conclusion that the petitioner does not fit into the category of a debtor at all within the meaning of the Act. There is no merit or substance in the contentions of the petitioner and, therefore, I uphold the impugned order of the Tahsildar.

6. For the reasons stated above, the writ petition is dismissed and the rule discharged. However, in the circumstances of the case, there will be no order as to costs.

Petition dismissed.

