
(1988) 10 P&H CK 0032
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2686 of 1979

Madan Gopal

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 05-10-1988

Acts Referred:

Haryana Relief of Agricultural Indebtedness Act, 1976 — Section 14, 18, 5

Citation : AIR 1989 P&H 134 : (1989) 95 PLR 85

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Advocate : Ashok Aggarwal and Arun Sanghi, for the Appellant; G.C. Garg and Rajan Gupta, for the Respondent

Final Decision : Allowed

Judgement

S.S. Sodhi, J.—The matter here arises under the Haryana Relief of Agricultural Indebtedness Act, 1976 (hereinafter referred to as "the Act"). The challenge being to the order of the Collector, Narnaul of March 6, 1979, holding the appeal filed by the petitioner under the Act to be not maintainable.

2. The relevant facts here are, that on Nov. 6, 1974, the petitioner filed a suit in the Court of the Senior Subordinate Judge, Narnaul seeking to recover a sum of Rs. 3,480/- from the respondents-Sohan Lal and Dhansi Ram. During the pendency of the suit, the Act came into force and the Senior Subordinate Judge, thereupon transferred it to the Debt Settlement Officer, Narnaul, in view of the provisions of the said Act.

3. The contesting respondents Sohan Lal and Dhansi Ram questioned both the genuineness as also the enforceability of the debt claimed by the petitioner. The Debt Settlement Officer, by his order of June 13, 1977, held that Sohan Lal and Dhansi Ram fell within the definition of debtors u/s 2(g) of the Act and this debt stood discharged u/s 5 thereof. Aggrieved by this order, the petitioner filed an appeal before the Collector, Narnaul," which was dismissed by him on March 6,

1979 holding that as he had come to the conclusion that what claimed was a debt, which had been discharged no appeal was competent. A reading of the provisions of Section 14 of the Act would show that an appeal lies where the challenge is to the genuineness or the enforceability of any debt.

4. When a finding is recorded that a debt stands discharged under the provisions of Section 5 of the Act, it cannot, but be held to affect the enforceability of such debt and this being so, the challenge to this finding cannot, but be held to fall within the parameters laid down u/s 14 of the Act with regard to the scope and ambit of an appeal thereunder.

5. Faced with this situation, counsel for the respondents sought to wriggle out of the situation by adverting to the provisions of Section 18 of the Act, which read as under :--

"Decision of debt settlement officer to be final:--

If any question arises in any proceedings under this Act, whether a loan or liability is a debt or not, or whether a person is a debtor or not, the decision of the Debt Settlement Officer shall be final, and shall not be called into question in any Court."

This can, by no means, be construed as a bar to the appeal filed by the petitioner in the present case. The challenge in appeal, as shown earlier, was plainly arid directly to the enforceability of the debt, as also its genuineness.

6. The Collector thus clearly fell in error in holding the appeal filed by the petitioner to be not maintainable.

7. The impugned order of the Collector is accordingly hereby set aside and the matter is remitted to him for fresh decision on merits, in accordance with law.

8. This writ petition is accordingly hereby accepted. There will, however, be no Order as to costs.

9. Parties are directed to appear before the Collector on Nov. 7, 1988.