
(1968) 02 AP CK 0010

In the Andhra Pradesh High Court

Case No : L.P. Appeal No. 175 of 1964

Manne Venkatanarayana

APPELLANT

Vs

Tivari Yagna Prasad (died) and Others

RESPONDENT

Date of Decision : 19-02-1968

Acts Referred:

Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938 — Section 13, 3

Citation : AIR 1969 AP 335

Hon'ble Judges : P. Jaganmohan Reddy, C.J;A.D.V. Reddy, J

Bench : Division Bench

Advocate : B. Ramalingweswara Rao, for P. Raja Rao, for the Appellant; N. Bapiraju, for D.P. Narayana Rao, for the Respondent

Judgement

A.D.V. Reddy, J.—This appeal arises out of the judgment of our learned brother Krishnarao, J., confirming in appeal with some modifications the decree for redemption and accounts passed by the Subordinate Judge, Narsapur in O. S. No. 13 of 1960 on his file.

2. The question for determination in this appeal, i.e., whether the provisions of Section 13-A of the Andhra Pradesh Agriculturists' Relief Act 4 of 1938 (hereinafter referred to as the Act), apply to one of the mortgages executed by the plaintiffs in favour of the defendant, arises under the following circumstances: The plaintiffs, of whom the 1st plaintiff is the grandfather of plaintiffs 2 and 3 had jointly executed a mortgage deed Ex. B-1 in favour of the defendant for a sum of Rs. 25,000 carrying interest at 0-9-0 per cent per mensem on 25-8-1947. They had also executed another mortgage deed Ex. B-4 in favour of the same defendant for Rs. 4,000 carrying interest at Re. 0-12-6 per cent per mensem on 13-3-1948. They made two payments Rs. 3,000 on 17-11-47 and Rs. 12,919-14-0 on 28-8-49 towards the debt due under Ex. B-1. Thereafter on 20-10-1956, they deposited a sum of Rs. 22,742 in the Subordinate Judge's Court, Narsapur and filed O. P. 32/56 u/s 83 of the Transfer of Property Act, praying for an account from the defendant as to balance due.

During the pendency of the petition the amount deposited was withdrawn by the defendant without prejudice to their contentions and later the petition itself was dismissed as being not maintainable. The plaintiffs thereupon filed this suit (O. S. No. 13/60) for redemption of the mortgages and for directing an account of the amount due to him, contending that they are agriculturists and as such entitled to the benefit of the provisions of Section 13 of Act 4 of 1938.

The defendant resisted the suit contending that the first plaintiff has been paying Income Tax and profession-tax and therefore, the plaintiffs are not entitled to the benefits of provisions of Act 4 of 1938 and that with the express consent of the 1st plaintiff, he was appropriated the payments made, towards the debts due, with the result that Ex. B-1 stands discharged by appropriation of Rs. 19,307-4-0 and the balance of Rs. 3,381-12-0 has been appropriated towards the mortgage bond Ex. B-4 and the balance is still due. The trial Court found that the defendant was able to establish that the plaintiffs had paid profession-tax on a half-yearly income of more than Rs. 600 in all the four half-years ending on the 31st March immediately preceding Ex. B-1, disentitling them to the relief u/s 13 of Act in respect of that debt, as they attract proviso B to section 13 of the Act, will not be agriculturists to claim any benefit that he had not succeeded in establishing that the plaintiffs were also paying profession-tax for the four half-years ending on 31st March immediately prior to the execution of Ex. B-4, that therefore, they will be entitled to the relief under S. 13 of the Act with regard to the debt under Ex. B-4. He further found that though the plaintiffs will not be entitled to the benefit of the provisions of Section 13 of the Act with regard to the debt under Ex. B-1, they will be entitled to the relief u/s 13-A of the Act and as the rate of interest applicable in both the cases is 5-1/2% per annum, as per the notification issued under the proviso to Sec. 13, he held that on scaling down the money deposited by them in O. P. No. 32/56 was in excess of the amount due under the two mortgages and on this ground passed a preliminary decree declaring that both Exs. B-1 and B-4 were redeemed and directing the defendant to render an account calculating interest at 5-1/2 per cent per annum, so that the amount due could be determined in the final decree proceedings.

The defendant in appeal contended that the plaintiffs are not entitled to the relief u/s 13-A of the Act and this contention was negated by our learned brother Krishnarao, J., and he further held that there was no reason for the lower Court directing the defendant to render an account as the payments made are not in dispute and directed the lower Court itself to determine what amount is due and pass a preliminary decree for redemption and if it is found that the amount paid is in excess of the amount due, to pass a decree for refund. Hence this appeal.

3. The dispute in this appeal is whether the plaintiffs are entitled to claim the benefit of Section 13-A in the calculation of interest due under the mortgage deed Ex. B-1 dated 25-8-1947 which is after the commencement of the Act.

4. The first contention realized by the learned counsel for the appellant is that Section 13-A applies only to debts incurred prior to coming into force of the Act.

Section 13-A reads as follows:

"Where a debt is incurred by a person who would be an agriculturist as defined in Section 3 (ii) but for the operation of proviso (B) or proviso (C) to that section, the rate of interest applicable to it under the law, customs, contract or decree of Court under which the debt arises or the rate applicable to an agriculturist u/s 13, whichever rate is less."

5. It is one of the cardinal principles in the interpretation of statutes that the grammatical, natural and ordinary sense of the words used is to be adhered to unless that would lead to some absurdity repugnancy or inconsistency with regard to the rest of the provisions. A verbis Legis Non Est Residendum (From the words of the law, there should not be any departure). In Section 13-A the words "Where the debt is incurred by a person" can only refer to a present or future liability. This can only relate to a transaction coming into existence subsequent to the passing of the Act. This Section either expressly or by way of implication does not say that it should apply only to debts incurred prior to the Act. Therefore, the introduction of the words "prior to the commencement of the Act" in between the words "incurred" and "by a person" in Section 13-A is not warranted. It is contended that as Section 13 gives relief to agriculturists incurring a debt after the commencement of the Act, Section 13-A must, therefore, have been intended by the Legislature for the benefit of the agriculturist incurring debts before the Act. If that were so, they would have said so in so many words.

The Act was originally intended to relieve rural indebtedness by scaling down the debts of indigent agriculturists who were highly indebted. That is why in the Act, care was taken to confine the benefit to such indebted agriculturists who were not paying Income Tax, profession-tax, property -tax, property or house tax and who were not land-holders under the Madras Estates Land Act. It was thought necessary to hedge in the term "agriculturist" entitled to the benefit with limitations, to exclude persons who had other sources of income by introducing provisos A to D so that any and every agriculturist may not get the benefit. Later S. 13-A was introduced by the Amendment Act 23 of 1948, obviously with the object of enlarging the category of agriculturists entitling them also to the benefit of the rate of interest fixed under the Act in Section 13. Under this provision, people paying profession tax and property tax will also be entitled to the benefit, though they will not derive any such benefit u/s 13. While passing this amendment Act (Act 23 of 1948) retrospective effect was given to it under the following terms as stipulated in Section 16 which reads as follows:-

"The amendments made by this Act shall apply to the following suits and proceedings, namely:

(I) All Suits and proceedings Instituted after the commencement of this Act:

(ii) All suits and proceedings instituted before the commencement of this Act, in which no decree or order has been passed, or in which the decree or order

passed has not become final before such commencement:

(iii) All Suits and proceedings in which the decree or order passed has not been executed or satisfied in full before the commencement of this Act.

Provided that a creditor shall be required to refund any sum which has been paid to or realised by him, before the commencement of this Act."

The object, therefore, appears to be to extend the benefit u/s 13 to a section of agriculturists viz., persons who would be agriculturists as defined u/s 3, but for the operation of proviso (B) or (C) to that section. Therefore, there is no force in the contention of the learned counsel for the appellant that Section 13-A applies only to debts incurred prior to the coming into force of Act 4 of 1938. In this view we are supported by the decision in *K.N. Nannier and Others Vs. Krishnaveni Ammal*, .

6. It is next contended that as the plaintiffs have not established that they had paid profession tax for the four half years ending on 31st March immediately preceding the execution of Ex. B-1, they are not entitled to the benefit of the provisions of Section 13-A. As already pointed out, though u/s 13, it was originally intended that the benefit should go only to a limited category of agriculturists answering the definition u/s 3 (ii). Section 13-A has been introduced by the Amendment Act (Act 23 of 1948) to enable a larger category of agriculturists to get the benefit even though they may be paying profession tax or property tax. For finding who is the "agriculturist" entitled to the benefit of Section 13-A, the definition of "agriculturist" in Section 3 (ii) should be read, deleting the provisos (B) and (C). For purposes of Section 13-A the bar imposed by provisos (B) and (C) in Section 3 (ii) has been lifted. This would mean that if a person is an agriculturist, he would be entitled to the benefit irrespective, of the question whether he pays profession tax or property tax as contemplated in provisos (B) and (C) of that section. Whether the plaintiffs pay the profession-tax for the four half years ending on 31st March immediately preceding the execution of Ex. B-1, or not, he will still be entitled to the benefit of provision of Section 13-A, if he otherwise satisfies the requirements of the section with regard to his being an agriculturist. The question of proving their payment of profession tax in those periods, therefore, does not arise.

It has been found that the plaintiffs have saleable interest in agricultural land and in fact the properties mortgaged are agricultural lands in their interest. It is not contended that they otherwise attract provisos (A) and (D) to Section 3 (ii) of the Act. They are therefore, certainly entitled to claim that interest due on the debt under Ex. B-1 should be calculated at 5-1/2 per cent per annum as stipulated u/s 13-A as that is less than the contractual rate, the rate stipulated in Ex. B-1.

7. As both the contentions raised by the appellant here fail, this appeal is dismissed with costs.

8. Appeal dismissed.