

(1994) 07 MAD CK 0007
In the Madras High Court

Natarajan and Others

APPELLANT

Vs

D. Periyasamy Gounder and Company

RESPONDENT

Date of Decision : 04-07-1994

Acts Referred:

Citation : (1994) 2 MLJ 473

Hon'ble Judges : Pratap Singh, J

Bench : Division Bench

Judgement

Pratap Singh, J.—This civil revision petition is directed against the order passed in E.A. No. 466 of 1987 in E.P. No. 139 of 1983 in O.S.

No. 219 of 1969 on the file of II Additional Sub Judge, Coimbatore.

2. Short facts are: In execution of the money decree obtained in O.S. No. 219 of 1969, properties were brought to sale. The revision petitioner

claim benefits of the Tamil Nadu Act 13 of 1980 and want to nullify the decree. After enquiry, the court below had given a finding that revision

petitioners are not entitled to the benefits of the said Act. Aggrieved by that order, this revision petition is filed.

3. Learned Counsel for the revision petitioners would submit that originally there were 2 judgment-debtors. The second judgment-debtor died

leaving behind him, three heirs and as on today, there are four judgment-debtors and each of the legal representative of the deceased judgment-

debtor is entitled to 1/3 share in the properties being proceeded with and if 1/3 share is taken, the value of the same shall be less than Rs. 25,000

and so they are entitled to the benefits of the said Act.

4. Per contra, Mr. E. Padmanabhan, learned Counsel for the respondent would submit that the properties of the judgment debtor has to be taken

as a single unit and the value of the same is very much higher than Rs. 25,000 and the court below was right in dismissing the claim of the revision petitioners.

5. I have carefully considered the submissions made by learned Counsels.

6. Learned Counsel for the revision petitioners would rely upon the decision reported in Lakshmi Ammal and Others Vs. Sundaramurthi Chetti, .

Learned Counsel for the respondent pointed out that the said Ruling has been overruled in Komalambal v. Neelavathi 100 L.W. 1059, by the

Division Bench of this court : So it is futile still to rely upon the decision reported in Lakshmi Ammal and Others Vs. Sundaramurthi Chetti, . That

apart, proviso to Section 3(d) of the Tamil Nadu Act XIII of 1980 reads as follows:

"debtor" means any person from whom any debt is due and whose annual household income does not exceed four thousand and eight hundred

rupees:

Provided that a person shall not be deemed to be a debtor, if he or any member of his family whether individually or jointly owns in this State or

elsewhere both agricultural lands and other immovable property, the market value of both such agricultural lands and other immovable property

exceeds twenty-five thousand rupees.

The plain language of proviso (vii) to Section 3(d) of the Act would show that the properties of the judgment debtors put together must be taken as

on unit. Taking that view of the matter, the submission made by learned Counsel for the petitioners has to be rejected.

7. In view of the above, this civil revision petition which has got no merits shall stand dismissed. No costs.