

(1945) 07 MAD CK 0016
In the Madras High Court

Natteti Poliah and Others

APPELLANT

Vs

Alapati Muniswami Chetty and Another

RESPONDENT

Date of Decision : 27-07-1945

Acts Referred:

Madras Debt Conciliation Act, 1936 — Section 4

Citation : (1946) ILR (Mad) 504 : (1945) 58 LW 405 : (1945) 2 MLJ 204

Hon'ble Judges : Rajamannar, J

Bench : Division Bench

Judgement

Rajamannar, J.—The first respondent in the lower Court, a creditor, filed an application u/s 4 of the Madras Debt Conciliation Act to the

Debt Conciliation Board, Gudur, for the settlement of the debts of respondents 2 to 5 in the Court below. The petitioner in the lower Court who is

the first respondent herein is another creditor who claims under a mortgage deed in his favour dated 19th July, 1934, the principal sum of Rs.

2,739-9-7 and subsequent interest at 6 per cent, per annum. u/s 10(1) of the Act notice of the application was issued in the manner prescribed and

it was duly served on the first respondent herein on the 14th February, 1941. He, however, did not file a statement with regard to his debt within

the time prescribed, that is, two months from the date of receipt of the notice. In due course the Debt Conciliation Board approved on 31st July,

1941, a composition scheme and discharged the debt of the first respondent. On the 29th of August, 1941, the first respondent herein filed the

present application u/s 10(3) of the Madras Debt Conciliation Act in the Court of the District Munsiff of Nellore. He prayed that the Court may be

pleased to set aside the order of the Debt Conciliation Board discharging his debt and to revive his debt. He alleged that the petition was within

time as the orders of the Board were passed on 31st July, 1941, and he became aware of the said order four days before the date of the

application. Several objections were raised on behalf of the debtors as well as by the petitioning creditor. The learned District Munsiff overruled all

the objections and directed that the first respondent's debt be revived. Respondents 2 to 5 in the Court below have preferred this Civil Revision

Petition against the order of the District Munsiff.

2. Though several objections as mentioned above were raised in the Court below the learned advocate for the petitioners confined himself to two

of them. He first urged that the District Munsiff of Nellore had no jurisdiction to entertain the petition as the debt sought to be revived amounted to

more than Rs. 3,000 which is the pecuniary limit of the learned District Munsiff's jurisdiction. He next urged that the petitioner in the lower Court

did not establish by evidence that he was really unable to submit the statement for sufficient reason, the reason given being that he was laid up with

typhoid fever.

3. Under Sub-section (3) of Section 10 of the Act, the creditor may file an application for revival either before the Debt Conciliation Board or a

Civil Court." There is no definition of " Court " or " Civil Court " in the Act; but it is clear to me that the "Civil Court " contemplated is the " Civil

Court" which would be competent to entertain a suit for the recovery of the debt sought to be revived. A reference to the wording of Sections 25

and 27 of the same Act fortifies me in this view. Section 25 speaks of a suit or other proceeding pending before a Civil Court in respect of any

debt. Section 27 refers to a suit or proceeding before a Civil Court for the recovery of a debt which was the subject of any proceeding under the

Act. So understood, the District Munsiff of Nellore would certainly be not competent to entertain a suit for the recovery of the debt in question

which must have amounted to more than Rs. 3,000 on the date of the application to the Debt Conciliation Board. The learned advocate for the

respondent contended that the only limitation that should be placed on the jurisdiction of a Civil Court referred to in the sub-section is the territorial

limitation. I do not see any logic in such a restriction. A Civil Court should be possessed not only of territorial but also of pecuniary jurisdiction in

regard to it before it can entertain any suit. The application was therefore not

maintainable in the District Munsiff's Court and ought to have been dismissed.

4. I therefore set aside the order of the learned District Munsiff, Nellore, and dismiss O.P. No. 86 of 1941. Mr. Krishnamurthi for the respondent

urged that the petition may be directed to be re-presented to the proper Court. I am not sure if the procedure indicated under Order 7, Rule 10,

would apply to this case. In any event, it cannot be said that the order of dismissal is wrong. If so advised, the respondent may try to pursue his

remedy in a competent Court. The first respondent will pay the petitioners their costs here and in the lower Court.