
(1956) 07 MAD CK 0034
In the Madras High Court

N.V. Govindaraja Nadar and Others

APPELLANT

Vs

T. Namadevar Reddiar and Others

RESPONDENT

Date of Decision : 03-07-1956

Acts Referred:

Agriculturists Relief Act — Section 13A

Citation : (1956) 69 LW 808 : (1956) 2 MLJ 425

Hon'ble Judges : Somasundaram, J

Bench : Single Bench

Judgement

Somasundaram, J.—This appeal is by respondents 1 to 3 and 6 to 14 in E.P. No 161 of 1952, in O.S. No. 55 of 1943 on the file of the

Additional Subordinate Judge of Vellore. The suit O.S. No. 55 of 1943 was filed on a mortgage dated 21st September, 1931. A decree was

passed on 27th September, 1944, for a sum of Rs. 2,000 and odd. The rate of interest on the mortgage was 9 per cent, and after a certain date,

12 per cent, per annum. An execution application was filed for the execution of the decree for an amount of Rs. 37,000 and odd. The appellants

herein claimed relief under the Agriculturists' Relief Act, and contended that the Amending Act XXIII of 1948 is applicable to the facts of this case

and that therefore they are entitled to relief u/s 13-A of the Agriculturists Relief Act. The lower Court has held that relief should be given as from

the date of the amendment, that is, from January, 1949 and not from the date of debt which is 1931. It is against this order that the above C.M.A.

is preferred by the defendant on the ground that he is entitled to relief from the date of the debt.

2. The question raised involves the construction of Section 16(iii) of the Amending Act and Section 13-A of the Act.

3. Section 16(iii) is as follows:

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

Clause (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.

4. It is not disputed, and it is conceded, by the advocate of the respondents that this Clause (iii) of Section 16 of the amending Act is the one which

applies to the proceedings in question. It is also not disputed, and it is conceded, that the appellants are entitled to relief under this Act. The only

question is, what is the relief to be granted and under what Section. The contention of the learned Counsel for the appellant is that u/s 13-A he is

entitled to relief as from the date of the debt. Section 13-A is 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 (A) or proviso (c) to

that section, the rate of interest applicable to the debt shall be the rate applicable to it under the law, custom, contract or decree of a Court under

which the debt arises or the rate applicable to an agriculturist u/s 13, whichever rate is less.

5. According to the contention of the learned Counsel for the appellants, the amendments (Section 13-A) is intended to extend the benefits of the

Madras Agriculturists Relief Act to all agriculturists irrespective of the ban imposed by the provisos (b) and (c) of Section 3 (ii) of the Act and the

language of the section does not in anyway restrict the debt to one incurred only after the Act or the amendment. The respondent's learned

advocate, as already stated, concedes and does not dispute the fact that Section 16(iii) of the Amending Act applies to the facts of this case. But,

when asked as to which of the sections will be applicable to give relief, he is unable to point out specifically the section that will apply, but contends

that if any section applies at all, it will be Section 13-A. In regard to that, the contention is that the expression ""where a debt is incurred"" means a

debt incurred after the Act and relief can be granted only as from the date of the amendment. It is his contention that this section must be read

subject to Section 13 of the Act. There is no authority in support of his argument that the word "is" means and refers only to the debt incurred after

the commencement of this Act. The literal and plain meaning of the words "where a debt is incurred by a person" seems to us to mean a debt

which has been incurred. The amending Section 13-A has been introduced to remove the ban which has been imposed by the operation of proviso

(b) and proviso (c) to Section 3(ii). In fact, it extends the benefit of the agricultural relief to all persons irrespective of Section 3(ii) proviso (b) or

(c). We do not therefore agree with the interpretation given by the lower Court. We are of opinion that relief must be given to the appellants from

the date of the debt and not from the date of the amendment of the Act. In this view we allow the appeal with costs.