

(1958) 10 KL CK 0002
In the High Court Of Kerala
Case No : A.S. No. 111 of 1957

Palai Central Bank Ltd.

APPELLANT

Vs

Ramaswami Nadar

RESPONDENT

Date of Decision : 07-10-1958

Acts Referred:

Travancore-Cochin Indebted Agriculturists Relief Act, 1956 — Section 6(1)

Citation : (1958) KLJ 1149

Hon'ble Judges : K.T. Koshi, C.J.;C.A. Vaidialingam, J

Bench : Division Bench

Advocate : K.K. Mathew, for the Appellant; T.R. Subramonia Iyer and S. Neelakanta Iyer, for the Respondent

Judgement

Koshi, C.J.—The appeal arises out of an order of the Trivandrum District Court admitting the judgment-debtor in O.S. No. 66 of 1953 of the Nagercoil District Court to the benefits of Act III of 1956. The decree was being executed by the Trivandrum Court as per orders of transfer made by the Nagercoil Court. Besides challenging the order on the merits it is urged that under S. 6 of the said Act the Trivandrum Court was incompetent to entertain the deposits of the decree debt or the application of the judgment debtor to admit him to the benefits of the Act. From a plain reading of section 6(1) it appears to us that the objection as to jurisdiction is sound. Even though the Trivandrum Court could have entertained the plaintiff's suit with respect to the debt, once the debt has ripened into a decree, the court which passed the decree alone would be competent to deal with the question. Otherwise, the words "as the case may be" occurring in the latter part of cl. (1) of section 6 would be meaningless or purposeless. Mr. T.R. Subramania Iyer appearing for the respondent (judgment-debtor) contended that the subsequent clauses of the section would show that even after the decree a court other than the court which passed the decree which also could have entertained a suit on the debt would continue to have jurisdiction for purposes of the Act. We cannot find any warrant for the contention. Nor do we agree with the contention that the Trivandrum Court had at the worst acted only irregularly and

not illegally or without jurisdiction. The appeal has therefore to be allowed on the question of jurisdiction of the Trivandrum Court and accordingly its order is vacated. If the Trivandrum Court had no jurisdiction to decide the matter on the merits we are equally without jurisdiction to pronounce upon it.

2. The point of jurisdiction was not raised before the lower court and we therefore make no order for costs here or in the court below. Order accordingly.