
(2001) 02 RAJ CK 0027

In the Rajasthan High Court

Case No : Civil Revision Petition No. 670 of 2000

Rajasthan State Road Transport Corp. and Another

APPELLANT

Vs

Late Laxmi Chand Agarwal and Others

RESPONDENT

Date of Decision : 07-02-2001

Acts Referred:

Succession Act, 1925 — Section 214, 214(1)(a)(b), 214(1)(b)

Citation : (2001) 02 RAJ CK 0027

Hon'ble Judges : Mohd. Yamin, J

Bench : Single Bench

Advocate : Virendra Lodha, for the Appellant; S. Samdariya, for the Respondent

Final Decision : Dismissed

Judgement

Mohd. Yamin, J.—In this revision, a very short point is involved. Before deciding the question it is better that facts of the matter may be stated.

2. Laxmi Chand Agarwal was working in Rajasthan State Road Transport Corporation. He filed a civil suit along with an application for temporary injunction wherein he challenged the order of punishment by which a penalty of stoppage of 5 grade increments with cumulative effect was imposed by the petitioners on the ground inter alia that the same was against the principles of natural justice. The suit was decreed in his favour and the order of punishment dated 1.12.1982 was set aside. Then execution petition was filed by Laxmi Chand Agarwal for implementation of the order but during the pendency of the execution, he died on 14.11.99. An application was filed to bring his legal representatives on record and to allow to further pursue the execution application. When the notice was issued to petitioner, it took various objections including the objection that the legal representatives were required to file a succession certificate u/s 214 of the Indian Succession Act (hereinafter, referred as "the Act"). This application was dismissed by the executing Court against which this revision has been filed.

3. I have heard learned counsel for both the parties.

4. Learned counsel for the petitioners submitted that it was necessary for the successors to bring a certificate u/s 214 of the Act and unless a succession certificate was produced, the amount could not be recovered from the petitioner and, therefore, the learned trial Court committed jurisdictional error by rejecting the petition.

5. On the other hand, learned counsel for the respondents submitted that it was not a case of recovery of liquidated debt and hence provisions of Section 214 of the Act would not apply.

6. The bare reading of Section 214(1)(a)(b) of the Act makes it clear that no Court shall pass a decree against a debtor of a deceased person for payment of his debt to a person claiming on succession to be entitled to the effects of the deceased person or to any part thereof, or, proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt. So the question is whether the amount to be recovered to debt within the meaning of Section 214 of the Act. Sub-section (2) of Section 214, mentions that the word "debt" in sub-section (1) includes any debt except rent, revenue, or profits payable in respect of land used for agricultural purposes. The word "debt" has not been defined in the Act but has been a subject of interpretation in various authorities. One such in *Tarak Dasi and Others Vs. Batta Krishna Roy and Others*, wherein it has been held that a decree for costs is not a decree for debt and successors of decree-holder of such decree can take out execution without a succession certificate. It was further held that a decree for payment of a debt presupposes a debt existing before the passing of the decree. A judgment debt created by the decree itself is not a debt coming within the purview of Section 214(1)(b) as prior to the passing of the decree there was no debt and in such a case no succession certificate was required. In *Anehakana Sur & Ors. Vs Abani Bhusan Sur & Ors.* (AIR 1982 Cal 378), a suit was filed for recovery of profits, misappropriated by the Receiver. The suit was decreed ex-parte. Decree-holder died. Execution was filed by successors. It was held that the amount claimed was not debt and therefore, succession certificate was not necessary in execution proceeding. In this ruling, it was held that apparently since it was a claim for a liquidated sum but to all intents and purposes it was a suit for accounts and an action claiming an account is not a action for recovery of debt. It was further observed that debt implies a present obligation to pay a liquidated sum of money. A claim for un liquidated sum can hardly be called as a debt. So, it is clear from these citations that Section 214 of the Act will apply only to debts and not otherwise.

7. In *Nandlal Vs. Mahavir Kumar and Others*, wherein execution petition by two decree-holders was filed. One of them died. It was held that other could proceed with execution for the benefit of L.Rs of the dead decree-holder without succession certificate being produced u/s 214 of the Act and this section applies only when there is only one decree-holder and execution is taken out by his legal

representatives.

8. In the case in hand, the facts are very peculiar. Laxmi Chand was penalised departmentally and penalty of stoppage of 5 grade increments with cumulative effect was imposed by the petitioners. On filing a suit, the same was set aside and the amount was not paid to him by the petitioners. He filed an execution petition pending which he died and now when his legal heirs have come, the petitioners are raising objection that the decree would be unexecutable unless a succession certificate was submitted. It was definitely not a debt for which Section 214 of the Act requires a succession certificate. It was the balance amount which became due after the decree was passed in favour of Laxmi Chand by which the penalty was set aside. Laxmi Chand would have been entitled to this money had there been no order on the administrative side imposing penalty. The order of penalty was set aside during his life time. By no stretch of imagination, the arrears of his salary could be regarded as a debt within the meaning of Section 214 of the Act. In my humble view, the amount of arrears as a consequence of setting aside of the order of penalty by the civil court would not amount to debt and therefore, the provisions of section 214 of the Act would not be applicable in this case. Therefore, I am of the view that the learned Additional Civil Judge (Jr.Division) No.2, Jaipur City, Jaipur who is the executing court in this case has not committed any jurisdictional error by dismissing the objections of the petitioners.

9. Consequently, the revision petition is hereby dismissed, no order as to costs.