

(1942) 10 BOM CK 0006
In the Bombay High Court
Case No : Second Appeal No. 410 of 1940

Ramrakh Bakshiram Marwadi	Vs	APPELLANT
Madhavrao Ganpatrao Bambale		RESPONDENT

Date of Decision : 20-10-1942

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 60

Citation : AIR 1943 Bom 258 : (1943) 45 BOMLR 494

Hon'ble Judges : John Beaumont, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

John Beaumont, Kt., C.J.—This is an appeal against a decision of the District Judge of Nasik raising a question as to whether certain remuneration payable by the Collector of Nasik to respondent No. 1, an inamdar, of the village of Taked-Budruk, is attachable. By a consent decree dated July 16, 1932, against respondent No. 1 it was directed that the respondent should pay a certain sum to the plaintiff (the present appellant) by instalments, and then under Clause 3 it was directed :-

The plaintiff should recover the amount due as above from out of the sum of about Rs. 2,200 which the defendant gets every year as income of the jahagir of the village of Taked-Budruk. The defendant has accordingly made arrangements for the payment of the aforesaid sum through the Collector, Nasik District, from out of the amount of the jahagir. If that arrangement fails, then the plaintiff should recover from the defendant through Court the monies due as above from out of the amount of the aforesaid income or by taking other legal steps.

An application was made to the Collector by the plaintiff for payment of instalments in arrears, whereupon the Collector, through the Government Pleader of Nasik, made an application to the Court, which is exhibit 8, claiming that the monies in his hands payable to the defendant in the suit as jahagir were not

attachable in law. On that application the trial Court came to the conclusion that the monies in the hands of the Collector were not attachable, and he therefore raised the attachment and dismissed the darkhast. In appeal the learned District Judge upheld the order of the lower Court, and from his order this appeal is brought.

2. The sanad under which these monies are derived is not produced, and is said to have been lost. There is produced, however, a copy of the Land Alienation Register of the village in question for the year 1887/1888 from which it appears that the class of alienation is "Class VI : village servants useful to Government", that the sanad consists of Government Resolution No. 3450, dated August 10, 1865 (which as I have said is not forth-coming), that the duration of the tenure" is during the pleasure of Government, and that the entire village is the subject-matter of this sanad with certain deductions. It is not disputed that respondent No. 1, the inamdar, is an alienee of the revenue and not of the soil, and the practice is for the revenue officers to collect the village revenue, and to pay it over to the respondent.

3. It is argued by Government in the first place that the money in the hands of the Collector is not attachable because it is not a debt within the operative part of Section 60 of the Civil Procedure Code, nor does it fall within any other description of properties liable to attachment under the section. The view that the money is not a debt appealed to both the lower Courts. It is difficult to be certain on that point without seeing the sanad. No doubt the services of the respondent may be dispensed with at any time by Government. But until they are dispensed with he is entitled to his remuneration, and if monies are in the hands of the Collector which were earned by him at a time when his services were still subsisting, I am not prepared to say that such money is not a debt.

4. It is next argued by Government that the monies are a political pension and are exempt from execution u/s 60(g). But I do not think that these payments for services rendered can be described as a political pension. It is noticed that they are payable by the Government of Bombay and not by the Government of India.

5. However, in my opinion the monies are not attachable on the ground of public policy. It is apparent from the terms of the extract of the Alienation Register that the monies are payable to the inamdar for services useful to Government, and if the monies due to the inamdar in the hands of Government can be attached before they are paid over to the inamdar, the object of the grant will be defeated because there will be nothing to ensure that the inamdar will be in a financial position to enable him to carry out his services. I think the general principle is that monies payable as reward for services to be rendered to the public are" not attachable before receipt (see *Sattappa v. Mahomedsaheb* (1935) 38 Bom. L.R. 221. On that ground the decisions of the lower Courts are right and the monies in the hands of the Collector cannot be attached.

6. The appeal is dismissed with costs.