
(1980) 02 AP CK 0004

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 4848 of 1978

Sankara Laxmana Rao

APPELLANT

Vs

Dasam China Papaiah Raju

RESPONDENT

Date of Decision : 12-02-1980

Acts Referred:

Andhra Pradesh Agricultural Indebtedness (Relief) Act, 1977 — Section 3

Citation : (1980) 1 APLJ 228

Hon'ble Judges : C. Kondaiah, C.J.; P.A. Choudary, J

Bench : Division Bench

Advocate : M. Krishna Mohan Rao, for the Appellant; K.V. Ramanarao, for the Respondent

Judgement

P.A. Choudary, J.—In O. S. No. 167/1975 on the file of the District Munsif Court Pithapuram, the defendant-debtor filed I. A. No. 745/1977 claiming protection of Andhra Pradesh Agricultural Indebtedness (Relief) Act, 1977 (Act No. 7 of 1977). The defendant claimed that the above suit instituted by the plaintiff-creditor against him for the recovery of a debt should be dismissed as having abated because he is a small farmer within the meaning of the aforesaid Andhra Pradesh Agricultural Indebtedness (Relief) Act, 1977 (Act No. 7 of 1977), hereinafter called as the Act. The District Munsif Court found that the defendant-debtor who is a non-trial holds a small extent of Ac. 0-37 cents of wet land and Ac. 0-973/8 cents of dry land. On that basis and without taking into account the fact that the debtor's wife is possessed of Ac. 9-50 cents dry land, the lower Court held that the defendant-debtor is a small farmer within the meaning of the Act and accordingly dismissed the aforesaid O.S. No. 167/1975 as having abated.

2. Against that order of the District Munsif Court, Pithapuram, the plaintiff-creditor filed the present C. R. P. No. 4848/1978 which has been referred by our learned brother Justice Ramachandra Rao to a Division Bench.

3. There are two arguments advanced by the petitioner. The 1st contention of the petitioner is that for purpose of determining the applicability of the beneficial

provisions of the Act one should aggregate the properties of all those who are mentioned in Section 3 (1) as constituting a family because S. 3 (p) which defines a "person" takes in a family. In other words, the argument of the petitioner is that in Sec. 3 (t) where the words "small farmer" are found defined, the word "family" must be read in the place of "person". So read the properties of all the members of the family defined in S. 3 (1) must be aggregated. The second contention of the petitioner of the petitioner is that the annual household income as defined in S. 3 (d) should be computed by aggregating annual income of all the family members without excluding the annual agricultural income so as to find out whether it exceeds Rs. 1,200/- in any one of the 2 years within 3 years immediately prior to the commencement of the Act. When the annual income so computed exceeds the figure of Rs. 1,200/- the benefit of the Act, according to the petitioner, should be denied to a debtor under the exclusionary words of S. 3 (t) (iii).

4. In order to appreciate the petitioner's contentions it is necessary to recall the fact that the Andhra Pradesh Agricultural Indebtedness (Relief) Act (Act No. 7 of 1977) is enacted replacing the Andhra Pradesh Indebted-agriculturists, Landless Labourers and Artisans (Temporary Relief) Ordinance, 1976 for the purpose of providing relief from indebtedness to agricultural labourers, rural artisans and small farmers. Section 2 of the Act declares that the Act was enacted for giving effect to the policy of the State towards securing the principles specified in Art. 46 of the Constitution charges the State with duty to promote with special care the educational and economic interest of the weaker section of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation. In this context we may also note the statement of objects and reasons given for enacting this law not in order to interpret the language used in the Statute but for the purposes of identifying the mischief which was intended to be remedied. The Objects and Reasons are as follows:-

"The State Government have been viewing with great concern the exploitation of weaker sections of the community by unscrupulous money lenders and landlords. The existing laws on the subject of "debt relief" had to a certain extent saved from exploitation, such communities which are placed in economically disadvantageous position. As the feeling in the public was growing that these laws are not enough, the Prime Minister in announcing 20- Point Economic Programme included "Plan for liquidation of rural indebtedness, legislation for moratorium on recovery of debts from landless labourers, small farmers and artisans" to be one of the most important points thereof. As a first step to implement the above plan, the Andhra Pradesh Indebtedness Agriculturists, Landless Labourers and Artisans (Temporary Relief) Act, 1976, was enacted so as to bar the institution of suits for the recovery of debts, the making of application for execution of decrees for payment of money passed in a suit for recovery of a debt and the institution of a suit and making an application for eviction of a tenant on the ground of non-payment of debt against and agriculturist, landless

labourer or artisan in any civil or revenue Court before the expiry of a period of one year from the date of commencement of the said Act which period has been subsequently extended to two years. In furtherance of the above plan, the Government decided to give a more substantial and permanent relief by liquidating the indebtedness of the agricultural labourers, rural artisans, and small farmers in the State. As the State Legislature was not then in session and it was decided to give effect to the above decision immediately, the Andhra Pradesh Agricultural Indebtedness (Relief) Ordinance, 1976, was promulgated by the Governor on the 29th Dec. 1976."

5. Section 3 of the aforesaid Act defines "annual household income" to mean the aggregate of the annual income from all sources of all the members of the family; 3 (d). The "debt" is defined as including any liability owing to a creditor in cash or in kind whether secured or unsecured payable under a decree or order of a Civil Court or otherwise and subsisting at the commencement of this Act; Section 3 (1). "Debtor" is defined to mean an agricultural labourer, a rural artisan or a small farmer, who has borrowed or incurred any debt before the commencement of this Act; Sec. 3 (j). "Family" in relation to a person is defined to mean the individual, the wife or husband, as the case may be, of such individual and their unmarried minor children; Section 3 (j) Explanation : - For the purposes of this clause "minor" means a person who has not completed his or her age of 18 years. "Person" is defined to mean an individual or a family; Section 3 (p). Scheduled Tribes have been assigned with the same meaning as that word has in cl. (25) of Art. 366 of the Constitution; Section 3 (s). It is necessary to reproduce in full S. 3 (t) which defines the "small farmer."

"Section 3 (t): "Small farmer" means a person whose principal means of livelihood is income derived from agricultural land and who holds and personally cultivates, or who cultivates as a tenant or share-cropper or mortgagee with possession, agricultural land which does not exceed in extent, -

(i) in the case of persons other than the members of the Scheduled Tribes, one hectare, if it is wet or two hectares, if it is dry:-

(ii) In the case of the members of the Scheduled Tribes, two hectares, if it is wet, or four hectares, if it is dry but does not include any person whose annual household income, other than from agriculture exceeds one thousand and two hundred rupees in any two years within three years immediately preceding the commencement of this Act.

Explanation : For the purposes of computing the extent of land under this clause, one hectare of wet land shall be deemed to be equal to two hectares of dry land."

Section 4 of the Act enacts that notwithstanding any other relevant law, every outstanding debt including interest owing to any creditor by any agricultural labourer, a rural artisan or a small farmer shall be deemed to be wholly discharged with effect from 29th of Dec. 1976. The sweep of this language is in a way the measure of its mission. Section 4 forbids every Civil Court from

entertaining any proceedings for the recovery of the debt which is deemed to be discharged under the Act. Section 4 (2) (b) declares that all pending proceedings in the Courts for the recovery of such debt should abate.

6-7. We have to examine the aforesaid mentioned two contentions of the petitioner in the light of the above provisions which we have enumerated.

8. The 1st contention of the petitioner is mainly based on the submission that as the word "person" is defined under S. 3 (p) to mean not merely an individual but also family, the word "person" occurring in S. (3) (t) must be taken as referring to family as defined in S. 3 (1) where a family exists and to an individual only where a family does not exist. Basing upon this argument, it is contended that in order to determine whether a person is a small farmer, we have to aggregate the different extent of land held by all the members of the family as defined in S. 3 (1). We find it somewhat difficult to follow this argument which involves a great deal of redrafting of the Act. Section 3 (t) which defines a small farmer does not only refer to a person but also specifies certain qualifications which that person must possess in order to qualify himself to be a small farmer. Those qualifications are certain holding qualification and certain occupational qualifications. The holding qualification mentioned in S. 3 (t) is that the person should hold certain extents of agriculture land subject to a maximum of one hectare of wet land and two hectares of dry land. The word "hold" in the collocation of words in S. 3 can only mean "own". In addition to the above, the principal means of livelihood must be income derived from agriculture. If so, the family as defined in S. 3 (1) can never legally fulfil the holding qualification mentioned in Section 3 (t) because family not being a legal person would be incapable of owning any property. If family is incapable of holding any property, it can never qualify itself to be a small farmer. The argument of the petitioner that the word "family" shall be read in the place of "person" occurring in S. 3 (t) must, therefore, be rejected on this ground alone. Further, the family would be incapable of fulfilling the occupational qualifications for a family consisting of a husband, a wife and their unmarried children up to the age of 18 can never personally cultivate agricultural land. The very idea of personal cultivation excludes proxy cultivation and therefore puts at least the minor children out of the scope of the idea of personal cultivation that is present in S. 3 (t). This is another ground on which the petitioner's argument is liable to be rejected. However, the petitioner argued that just as in the A. P. Agricultural Ceiling Act the concept of family is used to include the holding by the members of a family. The word "family" is similarly used in the present Act No. 7 of 1977. The Full Bench judgment of this Court reported in *M. Venkatarao v. State*, (1975) 2 AWR 70 is cited before us. That case, which has nothing in common with the present discussion, does not, in our opinion, lend any support to the petitioners' argument. On the other hand, a reading of the Agricultural Ceiling Act more particularly S. 4 and its Explanation clearly shows the untenability of the petitioner's attempt to derive any support by analogous reasoning from that Act. The Explanation to S. 4 of the Andhra Pradesh Agricultural Ceiling Act clearly shows that , "In the case of family unit

the ceiling area shall be applied to the aggregate of the lands held by all the members of the family unit." It is the Explanation to S. 4 of the Ceiling Act that provided for and permits aggregation of all the lands held by all the members of the family unit. We do not find any similar provision in any of the provisions of Act No. 7 of 1977. In the absence of similar language in Act 7 of 1977, we cannot resort to the method of aggregating the individual holdings in order to disqualify a debtor from enjoying the benefits of the Act. We are, therefore, unable to agree with the petitioners on this point. We must note that the word "family" is used in only in two definitions of the words "family" in Section 3 (1) and "person" in S. 3 (p), both of which occur in a definitional clause. A definitional clause really is a small dictionary. The meaning which it gives to the words is always subject to context. We have already shown that in the context of S. 3 (t) insisting upon a holding and occupational qualification that can never be fulfilled by a family, the person under S. 3 (t) cannot be read as meaning family. Further, the acceptance of the petitioner's contention would mean that the status of a small farmer can be denied to a person not on the basis of that person's position and property but on the basis of his association with the other members of his family. The acceptance of the petitioner's argument would compel us to adopt the concept of aggregates in the place of individuals, As the Act is intended for the benefit of the individual, we reject that interpretation. As the word "family" does not occur in any enacting clause, the argument that our interpretation renders purposeless does not frighten us too much. We therefore, reject this argument and hold that the question whether a person is or is not a small farmer within the meaning of Act 7 of 1977 must be decided exclusively on the basis of individual debtor's holding of an agricultural land and his personal cultivation and on the basis of the principal means of livelihood and not on the basis of the holding of his family members.

9. The second contention of the petitioner is based on the use of the words to be found in S. 3 (t) (ii): "But does not include any person whose annual household income other than from agriculture exceeds one thousand and two hundred rupees....." The argument of the petitioner is that as the word "household income" as defined in S. 3 (d) means the total annual income from all sources of all the members of the family, the words "other than from agricultural" occurring in S. 3 (t) (ii) must be taken to refer to the individual debtor's agricultural income only. To put in other words, according to the petitioner in computing the household income, the agricultural income of the debtor should be excluded and not that of the household. According to this argument the household. According to this argument the household income referred to in S. 3 (t) (ii) should be computed by adding income of all the members of the family from all sources but subtracting from it the agricultural income of the debtor only. This appears to us to be strange arithmetic. Why should the legislature think it proper to lay down the agricultural income should be excluded if it is in the hands of the debtor but include if it is in the hands of the members of his family is difficult to follow. But, we cannot act merely on our guess work. We find our objection can be grounded

on the solid foundation of the language. Income of household should include the income of all members of the family which should either be included or excluded as a whole. Sub-clause (ii) of S. 3 (t) speaks of a person's household income. It is the debtor's household the section is talking about. It is out of the debtor's household income, agricultural income is directed to be excluded. It follows that agricultural income referred to in S. 3 (t) form a component of the total household income. As there are no qualifying words limiting the agricultural income that is directed to be excluded to that of the debtor alone, it must be taken that agricultural income referred to in S. 3 (t) belongs to the entire household. It follows that the whole of the agricultural income of the household of which the debtor is only a part must be excluded. The household agricultural income is a natural factor. It follows that under S. 3 (t) (ii) the status of a small farmer can be denied only when the debtor's household non-agricultural income exceeds Rs. 1,200/-.

10. The above discussion has proceeded on the assumption that the limiting words occurring in cl. (ii) of S. 3 (t), "but does not include any person whose annual household income, other than from agriculture exceeds one thousand two hundred" etc. govern both cl. (I) as well as cl. (ii) of S. 3. But is there any basis for this assumption? Sub-clause (I) deals with debtors belonging to non-Scheduled Tribes. In other words sub-cl. (I) is a residuary clause covering all the rural debtors who are not members of Scheduled Tribes. Sub-clause (ii) is limited to Scheduled Tribes. It is well known that sub-clause (I) deals with the main bulk of the rural debtors which includes such well known poverty stricken unfortunates belonging to Scheduled Castes, Backward Classes, artisans and agricultural labourers while sub-clause (ii) is confined to Scheduled Tribes whose number is relatively small. The statute therefore deals with these two classes of debtors disjunctively. There are no words connecting clause (I) with clause (ii). Further, the holding qualification mentioned in the case of the bulk of the debtors like Scheduled Castes, backward classes and other weaker sections of the society is very much lower as compared to the holding qualifications of a member of the Scheduled Tribe. This difference in treatment accorded by the Act clearly shows that the intention of the Act is to deal with the non-Scheduled Tribes and Scheduled Tribes on two different and distinct basis. This should make us realise that confining the limiting of the words, "but does not include any person whose annual household income" etc. occurring in sub-clause (ii) of Sec. 3 (t) to Scheduled Tribes involves us in doing no great violence to the letter of the Act. In other words, a person who comes under the description of a small farmer u/s 3 (t) (I) cannot be denied the benefits of the Act, 7 of 1977 on the basis of the language occurring in sub-clause (ii) of Sec. 3 (t). Further, this interpretation makes the benefits of the Act available to much larger rural debtors than it would otherwise be possible. Thus we would help to wipe out more tears from more eyes. It may be mentioned that the words which we have referred to above do not operate as a general proviso to both clause (I) as well as clause (ii). They are expressly used as limiting the language in Cl. (ii) only. Our interpretation

promotes the object of the Act which is to wipe out rural indebtedness. The other alternative would restrict the benefits of the Act by implication to a small segment of rural debtors a course to which we cannot agree without clear textual mandate. Further, the ordinance which was replaced by this Act No. 7/1977 did not contain any such limitation even on clause (ii). From that fact, we must infer that this newly introduced limitation clause is not introduced as a general limitation but is used only as a limitation on clause (ii).

11. It is argued that the legislature should be taken not to have intended to make a distinction between clause (I) and clause (ii) debtors. It is always difficult to make a guess work of the intention of the legislature when the legislature has not expressed its meaning clearly. But the provisions of the Act show that it did in fact make a distinction between clause (I) and clause (ii) debtors. It is reasonable to say that an Act which intended to wipe out the rural indebtedness engulfing the barbers, washermen, potters and all other debtors belonging to backward classes and Scheduled Castes could have consciously made such a distinction between the bulk of the debtors and the debtors belonging to Scheduled Tribes whose number is limited. We find in the Act that the holding qualification was put higher in the case of Scheduled Tribes. That may also be the inducement for the legislature to limit clause (ii) by the household income disability. Any other interpretation would place members of the Scheduled Castes and other backward classes at a disadvantageous position compared to that of the members of the Scheduled Tribes. This would not only be contrary to the spirit of Article 14 of the Constitution but also be contrary to the spirit of Article 46 of the Constitution which inspired this legislation. Even on this interpretation of our only an agriculturist whose principal means of livelihood is agricultural income and who holds and personally cultivates the land would be benefited. We must note in this context what the Supreme Court observed in *Mani Subrat Jain Vs. Raja Ram Vohra*,

"It is too platitudinous to preach and too entrenched to shake the proposition that rent control legislation in a country of terrible accommodation shortage is a beneficial measure whose construction must be liberal enough to fulfil the statutory purpose and not frustrate it. So construed, of the benefit of interpretative doubt belongs to the potential evictee unless the language is plain and provides for eviction. That intendment must by interpretation, be effectuated. This is the essence of rent control jurisprudence."

For all the above said reasons we hold that the limiting language of clause (ii) of Sec. 3 (t) does not control and govern clause (I) of Sec. 3 (t) of the Act.

12. As the debtor in this case is not a member of the Scheduled Tribes, the case of the debtor must be adjudged with reference only to section 3 (t) (I). So done, the question of taking his household income with or without agricultural income into account for the purpose of disqualifying him from enjoying the benefits of Act 7 of 1977 does not arise for consideration.

13. In his argument the learned counsel for the Revision petitioner stresses the fact that Act 7 of 1977 takes away the petitioners legal rights and must therefore be strictly construed. This argument is merely a variation of the old theory that every statute that impinges upon common law rights must be strictly construed. But, there is a basic fallacy behind this argument as advanced in a case like this. The whole purpose of Act 7 of 1977 is to wipe out the debts owed by the rural people to the landlords. This purpose can never be achieved unless the usurious rights of the landlords are expropriated. That is the purpose of Act 7/77. To apply to such a measure of law, the restrictive canons of interpretation developed in an oligarchically ruled society like England is virtually to kill the Act. We must remember that these doctrines of interpretation had their origin in the English social order whose legislative assemblies were then neither constituted on the principle of universal adult suffrage nor whose members of the society are steeped in grinding poverty. In our society where half of our fellow citizens live below poverty line but enjoy the political right to elect their legislature, attributing an intention to the popularly elected legislature not to invade the common law rights does not appear to us to be correct. Such a method of interpretation is sure to fail us in our attempt to find out the meaning of the law maker which after all is the purpose of interpretation: SEE (1977) 40 M LR 578. Law Review P. 578. Law like public finance is an instrument of social policy. While law transfers rights and obligations among its citizens, public finance distributes wealth and means of living among the members of the community. We must always ask what is the social policy behind the particular law, which we are called upon to interpret. Where the purpose of the law is to completely liquidate the rural indebtedness, we cannot but put expansive meaning on its words and limit the limiting clauses. By restrictively interpreting we only succeed in limiting its use and benefit. The efficacy of the legal instruments of a social policy chosen by a democratically elected legislature should not be allowed to be blunted by application of jural theories hatched and developed in a different social milieu of stability and prosperity which do not have any present day relevance to our social conditions.

14. We accordingly dismiss this Civil Revision Petition. No costs.

15. Revision dismissed.