
(1941) 01 MAD CK 0005
In the Madras High Court

Seemakurthi Manikyam

APPELLANT

Vs

Jonnavithula Manikyamma

RESPONDENT

Date of Decision : 20-01-1941

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 60(b)

Citation : AIR 1942 Mad 4 : (1941) 2 MLJ 671

Hon'ble Judges : Happell, J

Bench : Division Bench

Judgement

Happell, J.—The petitioner in this civil revision petition in execution of the decree obtained by him in Small Cause Suit No. 633 of 1937 on

the file of the District Munsif of Rajahmundry attached a sewing machine, a harmonium, a fiddle and a veena which belonged to his judgment-

debtor, who was a Brahmin widow. The judgment-debtor filed an application for the release of the articles from attachment, and the order passed

by the District Munsif of Rajahmundry on that application has given rise to this revision petition. The learned District Munsif finding that the

judgment-debtor made her living by sewing and teaching music and that the sewing machine and musical instruments were consequently ""tools of

an artisan"" within the meaning of Section 60, Clause (b) of the CPC allowed the application and released the articles from attachment. It is

conceded for the petitioner that the finding that the sewing machine was a ""tool of an artisan"" cannot be questioned. The only questions for

determination are, therefore, whether a musician is an artisan within the meaning of Section 60 (b), C. P. Code and whether, if so, musical

instruments are the tools of an artisan within the meaning of the same section.

2. It is urged by the learned advocate for the petitioner that the cases cited by the learned District Munsif do not support his conclusion. The

District Munsif referred to the ruling of a single judge of the Upper Burma Judicial Commissioner's Court in Maung Tha U v. Maung Hla (1916)

38 I.C. 414 and to decisions of the Allahabad and Bombay High Courts in Bindeshari v. Banshi Lal ILR (1931) All. 399 and Emperor v. Haji

Shaik Mahomed Shustari I.L.R.(1907) 32 Bom. 10. The first case is of no assistance as the learned judge, without deciding whether a musician

was an artisan, held that his musical instruments were not tools within the meaning of Section 60, Clause (b), C, P. Code. With respect, if I was of

opinion that a musician was an artisan, I should have no hesitation in holding that the musician's instruments were tools of an artisan within the

meaning of Section 60. In the Allahabad case it was held that cooking vessels (utensils) and the "paraphernalia" of a soap-maker were tools of an

artisan, and in the Bombay case, that a person engaged to drive an engine on board a steamer was an artisan within the meaning of the Indian

Emigration Act. It does not seem to me that it necessarily follows from either of these decisions that a musician is an artisan. The learned District

Munsif, however, was of opinion that these decisions justified a liberal interpretation of the terms "artisan" and "tools of an artisan" and relying on a

definition of "artisan" in Dr. Anan-dale's dictionary as "one skilled in any art or trade, a handicraftsman, a mechanic" found that the musical

instruments in, question were "tools of an artisan" within the meaning of Section 60 (b), Civil Procedure Code.

3. In the Allahabad and Bombay cases referred to above the learned Judges who decided the cases based their decisions on. the definitions of

artisan" given in standard dictionaries. In the Allahabad case, Niamatullah, J., referred to the definition in Murray's Dictionary, namely, "one who

practises or cultivates an art--an artist". A musician would no doubt fall within the scope of this definition, but I do not think that the definition is

one which can be accepted. In The Emperor v. Haji Shaik Mahomed Shustari I.L.R.(1907) 32 Bom. 10 the definition of an artisan given in

Webster's Dictionary was accepted--"one who is engaged in a mechanical employment". The Oxford English Dictionary defines an artisan as (i)

an artist"--a meaning attached to the word which was stated to be obsolete and (ii) "one who is employed in any of the industrial arts, a mechanic,

handicraftsman, artificer"". I have no doubt that in common speech ""artisan"" does not mean ""artist"" now and has not meant it for a very long time.

4. For the petitioners I have been referred to a ruling of this High Court in an old case reported in Poonen Ex parte I.L.R.(1876) Mad. 174. In that

case it was ruled that a washerman was not an artisan within the meaning of Madras Act III of 1871. Section 3 of the Act sets out the classes of

village officers to which the Act applies, and it is plain that under the ruling of this High Court the only village artisans among the classes mentioned

in Section 33, Clause (4) would be the village carpenter, blacksmith and potter. Neither a village barber, washerman, astrologer, nor a priest is an

artisan within the meaning of the Act. The ruling of course relates to an artisan within the meaning of the Madras Hereditary Village Officers' Act,

but it is of interest as, in my opinion, it follows common usage, and it certainly would not permit the inclusion of musicians in the category of

artisans. Moreover, the Bombay and Allahabad decisions referred to by the learned District Munsif, while they no doubt give a wider meaning to

artisan"" than ""handicraftsman"" or ""artificer"" do not take the definition beyond the scope of ""one who is employed in any of the industrial arts"". A

musician is not employed in an industrial art, and I think that the learned District Munsif was wrong in his conclusion that there was authority for

attaching a sufficiently wide meaning to ""artisan"" to include a musician. This view is justified by a reference to Section 60 (b), CPC itself. In the

same clause ""tools of artisans"" are freed with the ""implements of husbandry"" of an agriculturist from liability to attachment. It seems plain that,

probably, the legislature intended to provide that the tools of certain types of working men should not be liable to attachment. If a musician's

instruments are within the meaning of ""tools of an artisan"", it is clear that the implements required for his profession by any professional man must

come within the definition, as, for instance, the instruments of a surgeon or a dentist. I have no doubt that if the legislature had intended that the

implements required by any man in order to carry on his profession should be freed from liability to attachment it would have made its intention

plain.

5. For the reasons given I am of opinion that the musical instruments in question in this case were not ""tools of an artisan"" within the meaning of

Section 60, Clause (b), CPC and should not have been released from attachment. The order of the lower Court is, therefore, reversed and the petition is allowed. The lower Court has found that the respondent used the musical instruments in order to earn her livelihood. In the circumstances of the case, I make no order as to costs.