
(1987) 07 BOM CK 0052

In the Bombay High Court

Case No : Civil Revision Application No. 839 of 1983

State Bank of India

APPELLANT

Vs

Kashinath Bhikaji Wage and Others

RESPONDENT

Date of Decision : 03-07-1987

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 60(1)

Citation : (1987) 07 BOM CK 0052

Hon'ble Judges : G.H. Guttal, J

Bench : Single Bench

Advocate : R.G. Ketar, for A.V. Sawant, for the Appellant; V.Z. Kankaria, for the Respondent

Judgement

G.H. Guttal, J.—This Revision Application, by the Judgment Creditors is against the order, dated 8th September, 1983 made by the Civil Judge (SD), Nasik, whereby he held that the motor tractor, which was the subject-matter of attachment, is an agricultural implement within the meaning of Section 60(1)(b) of the CPC and, therefore, not liable to attachment in execution of the decree. He, therefore, raised the attachment of the motor tractor.

2. The question in this revision Application is whether a motor tractor of the agriculturist Judgment-Debtor is an "implement of husbandry" which is necessary to enable the judgment-debtor "to earn his livelihood"?

3. Section 60(1)(b) of the CPC exempts certain property from attachment and sale. Clause (b) of the proviso to Section (1) reads thus:

tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry, and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section....

4. The important words in this Clause are "implements of husbandry" and "livelihood".

5. Before considering the meanings of these words, brief reference may be made to the case of the Judgment-Debtors in the affidavit" dated 1st March, 1983, to which may attention was drawn. In his affidavit he has asserted that he needs the tractor for ploughing the land and, therefore, for cultivation. He is not possessed of bullocks. The land will remain fallow if he is not permitted to use the tractor. The trolley attachment to the tractor is also an agricultural implement and is necessary attachment of the motor tractor.

6. The word "implement" has been assigned following meanings in Black's Law Dictionary, Fifth Edition:

such things are used or employed for a trade, or furniture of a house, particularly applied to tools, utensils, instruments of labour as the implements of trade or of farming.

The dictionary meaning of "implement" also is that is a tool or instrument (The Pocket Oxford Dictionary - Seventh Edition). Similarly, the word "livelihood", which is also required to be construed, has been assigned the following meaning in Black's Law Dictionary, Fifth Edition.

Means of support or subsistence.

7. It is of the essence of the exemption under Clause (b) of the proviso to Section 60(1) of the CPC that the property is an "implement" necessary to enable the judgment-debtor to earn his "livelihood".

In common parlance the word "livelihood" is used to denote the idea of making a bare living, supporting oneself, earning one's bread and butter. By its very nature, the expression excludes the concept of making a big business or large scale earning. In common usage, the hammer and tong of the goldsmith, file of a carpenter, axe of a wood cutter, are his means of livelihood. In the same manner, ploughs and other tools are the means of livelihood of an agriculturist.

In *Armugha Gounder and Another Vs. K. Marappa Gounder*, , the Court considering the attachability of a mechanically operated oil engine, emphasized that the article must be indispensable for earning a living and held that Section 60(1)(b) excludes mechanical appliances even though they may, help in quick turn-over and higher production. An agriculturist, who expects to plough and till large areas of land by a tractor and produce a high yield, does not earn his "livelihood" by it; it not so indispensable that without it he cannot make a living at all.

8. By its plain meaning an implement being a tool or instrument, it follows that its essential characteristic is that it is manually operated and excludes equipment or appliance which is operated mechanically or by power. In *Arumugha Gounder v. K. Marappa Gounder* (supra), it was an oil engine used as a quick mode of

drawing water for irrigation. In *Mathrabai Bhat and Another Vs. Kanhaiyalal Baluram Agrawal*, , it was a water pump run on internal combustion engine. In both the cases, the appliances were not indispensable; for, water could be drawn by other modes also. In the case of a tractor, the same principal applies: the land can be tilled by ploughs also. It follows, therefore, that mechanically operated appliances though more productive, are not indispensable to an agriculturists. Nor do they partake the character of implements.

9. In *Shaligram Shriram Dangra v. Sheopratap Vallabhdas*. AIR 1939 Nag 3, the validity of attachment of motor tractor was considered. The judgment of the Nagpur High Court is entirely consistent with the legislative intent and fully effectuates the purpose of law. I agree with the view expressed in it. A motor tractor operated by internal combustion engine does the work of bullocks. Bullocks and ploughs are essential for tilling, but a tractor is not. Again the word "implement" has to be read in the context of the other expressions used in Section 60(1)(b). The words "tools of artisan" and "agriculturist" precede the expression "implements of husbandry". Understood in this context, it is clear that "agriculturist" is of the same status as "artisan". Therefore, it follows that the word "implement" has been used in the same sense in which the word "tool" has been employed. Therefore, the word "implements" signifies such appliances as the agriculturist handles during the agricultural operations. The word "implement" clearly excludes a motor tractor.

10. Learned Counsel for the Respondent relied upon the decision of the Allahabad High Court in *Dwarka Prasad Vs. Municipal Board, Meerut*, , where the Allahabad High Court rejected the argument that Section 60(1)(b) was limited in its operation to manual implements and, therefore, excluded motor tractor from the exemption u/s 60(1)(b) of the Code of Civil Procedure. For reasons, which I have set out in the foregoing paragraphs of this judgment, I do not accept the view of the Allahabad High Court. The Allahabad decision erroneously assumes that a farmer ceases to earn his livelihood if he is deprived of his tractor. In the absence of a tractor the agriculturist may have to plough the land slowly at the speed of bullocks, but that does not mean that he ceases to earn his "livelihood". Secondly* it is an error to hold, as the Allahabad High Court did, that Section 60(1)(b) seeks to protect the earning of livelihood "in the same way as he has been earning previously". With respect, the significance of the word "livelihood" and "implements" has not been fully appreciated by the judgment under reference.

11. For all these reasons, I hold that the motor tractor is not an implement of husbandry within the meaning of Section 60(1)(b) of the Code of Civil Procedure. The trial court was in error in raising the attachment. Subject to this, the impugned order is set aside. Rule is made absolute. The attachment of the tractor shall continue. No order as to costs.