
(1964) 06 KL CK 0003
In the High Court Of Kerala
Case No : A.S. No. 203 of 1961

State Bank of Travancore

APPELLANT

Vs

Shahudeen Musaliar

RESPONDENT

Date of Decision : 23-06-1964

Acts Referred:

Kerala Agriculturists Debt Relief Act, 1958 — Section 2(h), 4(2)

Citation : (1964) KLJ 1183

Hon'ble Judges : T.K. Joseph, J; T.C. Raghavan, J

Bench : Division Bench

Advocate : K.C. John, for the Appellant; T.S. Krishnamoorthy Iyer, for the Respondent

Final Decision : Allowed

Judgement

Joseph, J.—The decree-holder, a banking company, has preferred this appeal from an order u/s 7 of the Kerala Agriculturists Debt Relief Act, 31 of 1958. The principal sum lent was Rs. 31,322/- and the sum decreed was Rs. 40,152/-. The court below held that the judgment-debtor was liable to pay the sum due on 14-7-1958 with interest thereafter at 5 per cent per annum on Rs. 31,322/-, in 17 half-yearly instalments. Aggrieved by this order the decree-holder has preferred this appeal. Before considering the points raised in appeal we have to state that the order under appeal was passed on 31-10-1960. Since then Act 31 of 1958 has been amended with retrospective effect by Acts 2 of 1961 and 26 of 1963. The case has now to be decided under the provisions of the amended Act.

2. Two points are raised on behalf of the appellant: (i) that interest should have been allowed from 14-7-1958 on the decree amount due on that date and not on the original sum lent and (ii) that only eight instalments should have been allowed.

3. The relevant provisions of the Act have to be examined. The definition of "debt" in section 2(c) of the Act is subject to several exemptions and Section 2(c)

(xi) provides:

(xi) any debt exceeding one thousand five hundred rupees" borrowed under a single transaction and due before the commencement of this Act to any banking company as defined in the Banking Companies Act, 1949:

Provided that in the case of any debt exceeding one thousand five hundred rupees borrowed under a single transaction and due before the commencement of this Act to any banking company as defined in the Banking Companies Act, 1949, any agriculturist debtor shall be entitled to repay such debt in eight equal half yearly instalments as provided in subsection (3) of S.4, but the provisions of section 5 shall not apply to such debt.

A debt to which the Act applies is repayable in seventeen half-yearly instalments but a debt exceeding Rs. 1,500/- due to a banking company has to be repaid in eight half-yearly instalments in the manner provided in section 4 (2) of the Act which is extracted below:

If any debt is repaid in seventeen equal half-yearly instalments together with interest at the rate specified in sub-section (1) of S. 5. on the principal debt outstanding at the time of each payment, the whole debt shall be deemed to be discharged:

Provided that in the case of debts due to a banking company as defined in the Banking Companies Act, 1949, the number of instalments in which the debt shall be repaid shall be twelve where the debt does not exceed one thousand and five hundred rupees and eight where it exceeds one thousand and five hundred rupees.

Now we will take up the first point, namely, whether the debt has to be repaid in eight half-yearly instalments. Admittedly the debt exceeded Rs.1,500/- and it was due to a banking company. By virtue of the amendment to Act 31 of 1958, the number of instalments has to be reduced to eight. The first point must therefore be upheld.

4. The second point relates to the amount which should bear interest after 14-7-1958. According to the appellant, the decree amount as on 14-7-1958 has to be treated as principal for this purpose and thereafter the balance debt on the date of each instalments. This depends on the construction of the words "principal debt" in section 4(2) extracted above. The word "principal" has been defined in section 2(h) as follows:

(h) "Principal" means the amount originally advanced, together with such sum, if any, as has been subsequently advanced, notwithstanding any stipulation to treat any interest as principal and notwithstanding that the debt has been renewed or included in a fresh document whether by the same debtor or by his heirs, legal representatives, or assigns or by any other person acting on his behalf or in his interest and whether in favour of the same creditor or his heirs, legal representatives or assigns or of any other person acting on his behalf or in his

interest.

It is impossible to hold that a different meaning is to be ascribed to the word "principal" in section 4(2). The effect of accepting the appellant's argument will be that the decree-holder will be entitled to get a larger sum after the passing of Act 31 of 1958 than he would have got under the decree, as the amount due on 14-7-1958 will represent not merely principal but interest thereon till that date. The Act which was intended to provide relief for indebted agriculturists cannot be construed in a manner which would allow interest on interest and enhance the burden of the debtors. Our attention was drawn to the decision of this Court reported in 1960 K.L.J. 576. This decision was given on 18th January 1960, i.e., long before the amendment of the Act, so that all the points arising in this case are not covered by that decision. However, the definition of the word "principal" has been left untouched by the amending Act. After referring to this definition it is observed that the principal outstanding on 14-7-1958 was Rs. 11,585-5-0. There is nothing in that decision which supports the argument that the word "principal" in section 4 (2) includes interest accrued till 14-7-1958. The decision of the court below on this point must therefore be upheld. In the result, the order of the court below is modified to this extent, namely, that the number of instalments is reduced to eight. The due dates for payment of these eight instalments are over. Had the Act not been amended after the decision of the court below the period for discharge of seventeen instalments would not have been over, and we therefore allow the respondent two months to make up the deficit, if any, in the payment of instalments. The appeal is allowed only to the extent indicated above and is dismissed in other respects. In the circumstances we make no order as to costs.