

**(1955) 09 PAT CK 0010**  
**In the Patna High Court**  
**Case No : Civil Revision No. 804 of 41953**

State of Punjab (India)

APPELLANT

Vs

Mangal Singh Nagpal

RESPONDENT

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**Date of Decision :** 01-09-1955

**Acts Referred:**

Displaced Persons (Debts Adjustment) Act, 1951 — Section 13, 2(10)  
General Clauses Act, 1897 — Section 3(42)

**Citation :** AIR 1956 Patna 91

**Hon'ble Judges :** Sinha, J

**Bench :** Single Bench

**Advocate :** Government Advocate and L.M. Sharma, for the Appellant; U.N. Sinha, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Sinha, J.—This is an application against an order of the learned Subordinate Judge, 2nd Court, Arrah, dated 24-6-1953, holding that the petitioner, the State of Punjab (India), is included within the expression "any other person" occurring in Section 13, Displaced Persons (Debts Adjustment) Act, 1951 (70 of 1951).

2. The plaintiff, opposite party, who is admittedly a displaced person, has filed an application under the aforementioned Act, which will hereafter be referred to as the Act, for recovery of certain debt due from the petitioner. Two suits of like nature had also been brought in the same Court against the petitioner. The State of Punjab filed written statements in all; the suits, and the three suits were, made analogous and certain preliminary points going to the root of the jurisdiction of the. Court were dealt with together by the order in question.

In the other two suits, the Court below has held that, as there was no notice u/s 80, Civil P. C., those suits were not maintainable. In regard to the present suit, it has been held that no such plea was taken in the written statement and, therefore, that plea cannot be said to be a bar to the suit. A further point was taken in the written statements to the effect that the State of Punjab cannot be

brought within the expression "any other person", and, therefore, the suits were not maintainable.

As the other suits were held to be not maintainable on the ground of want of notice u/s 80, Civil P. C., that point arose only in the present suit. The suit with which, I am concerned in the present petition is Money Suit No: 13 of 1952, pending in the subordinate Judge's 2nd Court, Arrah.

3. Learned Government Advocate, who appeared in support of the application, has sub-mitted two points for the consideration of this Court, namely (1) that the State of Punjab is not a person within the meaning of Section 13 of the Act; and (2) that the Court below was wrong in holding that the bar of Section 80, Civil P. C., had not been pleaded in the written statement of the petitioner in the present suit namely, Money Suit No. 13 of 1952.

4. So far as the first point is concerned, we must have a look at Section 13 of the Act, which runs as follows :

"At any time within one year after the date on which this Act comes into force in any local area, any displaced creditor claiming a debt from any other person who is not a displaced person make an application, in such form as may be prescribed, to the Tribunal within the local limits of whose jurisdiction he or the respondent or, if there are more respondents than, one, any of such respondents, actually and voluntarily resides, or carries on business or personally works for gain, together with a statement of the debt owing to him with full particulars thereof."

To bring an application within the provisions of this Act, any displaced creditor claiming a debt from any other person who is not a displaced person may make an application for the recovery of his debt. It is not disputed that the creditor in the present case comes within the expression "any displaced person" as defined in Section 2(10) of the Act. The only other question which has to be considered is, whether the State of Punjab can be brought under the expression "any other person".

If the answer be in the affirmative, the other part of the section need not be considered. The section says that such an application could be filed to the Tribunal,

"within the local limits of whose jurisdiction he (the creditor) or the respondent or, if there are more respondents than one, any of such respondents, actually and voluntarily resides, or carries on business or personally works for gain".

It is enough if the displaced person is a person who actually - and voluntarily resides or carries on business or personally works for gain within the local limits of the jurisdiction of the Arrah Court. There is no dispute, again, that the creditor, namely, the opposite party, answers the description given in the section; and if the maker of the application is a displaced person and carries on business within the local limits of the jurisdiction of the Arrah Court, it is sufficient for him

to make his application in that Court.

The qualifications which govern the respondent or, if there are more than one respondent, any of such respondents, in regard to residence or carrying on of business of working for gain do not arise for consideration in the present case. u/s 13, either the person making the application, a displaced creditor, must answer the description given in section or, if that be not so the respondent or any of the respondents, where there are more than one respondent, answers the qualifications mentioned in that section. In the present case, the creditor answers the qualifications required of him.

The only question which remains to be answered is, whether the State of Punjab could be classed in the expression "any other person"; in other words, whether the word "person" would include the State of Punjab. The word "person" is not defined in this Act though a "displaced person" is. We will have, therefore, to go to the General Clauses Act (10 of 1397) where "person" is defined in Section 3 Sub-clause (42). It says, "person" shall include any company or association or body of individuals, whether incorporated or not".

In my judgment, therefore, the definition of the word "person" is comprehensive enough to include a State Government. Mr. Government Advocate urged with great vehemence that the word "person" as defined in the General Clauses, Act cannot apply to a State Government. Ag per definition of the word "person" which includes any company or association or body of Individuals," I see no reason, as at present advised, as to why the word "person" shall not include a State Government. So far as suits by or against a State Government are concerned, they are governed by the provisions of Sections 79 and 80, Civil P. C.

Section 79 speaks of suits by or against the Government and it says that in case of suits by or against the Central Government, the authority to be named as plaintiff or as defendant shall be the Union of India, and in case of suits by or against a State Government, the State. No other qualifications are needed in regard to residence or occupation of such a Government, whether a State Government or the Union of India, as contradistinguished by Order 7, Civil P. C., Rule 1 of which describes the particulars to be contained in. a plaint where the name, description and place of residence of the defendant have to be given.

I would, therefore, hold that the Court below was right in holding that the petitioner is fully covered by the expression "any other person" occurring in Section 13 of the Act. Reference was made to some authorities, namely, -- "Nagi Bros. v. Dominion of India" AIR 1951 Pun 92 (A); -- Dominion of India Vs. R.C.K.C. Nath and Co., ; -- "R. J. Wyllie & Co. v. Secy. of State" AIR 1930 Lah 818 (C) and -- C. Govindarajulu Naidu Vs. The Secretary of State for India in Council, .

In the Punjab case, it was held that the Dominion of India and now the Union of India could not be brought within the meaning of the phrase "carry on business or personally work for gain in India" within the provisions of Section 4 of Act 47

of 1948. In the present case, this Court is not called upon to decide as to whether the State of Punjab could be said to "carry on business or personally work for gain in India."

In the Calcutta case, the same question had arisen, u/s 20, Civil P. C., whether the defendant in that suit, namely, the Dominion of India, could be said to be residing or carrying on business within the territorial jurisdiction of the Sealdah Court.

In the other two cases, again, the question for decision was whether the defendant, namely, the Secretary of State, could be said to be a person answering the qualifications mentioned in Sections 20 and 19, Civil P. C. as to residence and carrying on business. In my judgment, those decisions afford no guidance so far as the present case is concerned. I hold, therefore, that there is no merit in the first submission made by Mr. Government Advocate.

5. In regard to the second contention, it is Bald that the written statement of the petitioner does mention that the bar of Section 80, Civil P. C. was pleaded, and some portions of the written statements were placed before this Court. It will be open to the learned Judge in the Court below to re-hear the parties and if the bar of Section 80 has been pleaded, he should come to a fresh decision in accordance with law if the previous decision was come to on a wrong assumption of the contents of the written statement.

From the written statement, it appears that one of the pleas of the petitioner, the State of Punjab, was that, though the money claimed by the opposite party was due, it had been paid to certain agents known as "clearing agents" of the petitioner. The Court below will consider the desirability of making those clearing agents parties to the action so that complete justice may be done in presence of all the parties concerned.

6. In my judgment, therefore, this application must fail as being without merits; hearing fee Rs. 16/-.