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(1940) 07 MAD CK 0027

In the Madras High Court

The Nellore Permanent Fund Limited — APPELLANT

Vs

Kondapi Subba Rao and Another — RESPONDENT

Date of Decision : 30-07-1940

Acts Referred:

Citation : AIR 1941 Mad 888 : (1941) 54 LW 239 : (1941) 2 MLJ 388

Hon'ble Judges : Wadsworth, J

Bench : Division Bench

Judgement

Wadsworth, J.—Petitioner is a public company which has got a decree on a mortgage providing interest at something under 8 per cent, with a default rate of 12 1/2 per cent. The latter rate has actually been adopted in the decree, so that it is not open to the petitioner to base an argument on the theory that the 12 1/2 per cent, is not a rate of interest payable but a penal rate which could not be recovered. Nor can it be argued that the rate of interest "payable in respect of the liability" in Section 10(2)(iii) of Act IV of 1938 means the rate of subsequent interest on the decree amount. Clearly the sub-clause is dealing with an exemption from the operation of Sections 8 and 9, which are concerned with the scaling down of the debt whether or not it has ripened into a decree. It must, therefore, be interest on the basic debt to which this rather cumbrously worded clause refers. The order of the lower Court is correct and there are no grounds for interference in revision. The petition is dismissed with costs.

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