

(2002) 04 KL CK 0028
In the High Court Of Kerala
Case No : W.A. No. 755 of 2002

Vasanthakumari

APPELLANT

Vs

Child Development Project Officer

RESPONDENT

Date of Decision : 01-04-2002

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 60, 60(1)
Kerala Revenue Recovery Act, 1968 — Section 80

Citation : (2002) 04 KL CK 0028

Hon'ble Judges : B.N. Srikrishna, C.J;G. Sivarajan, J

Bench : Division Bench

Advocate : Sajan Varghese K. and Jeby Jacob, for the Appellant; Abdul Rahim, Government Pleader, for the Respondent

Final Decision : Partly Allowed

Judgement

B.N. Srikrishna, C.J.—Appeal admitted. Notice made returnable forthwith. Respondents waive service through the learned Government Pleader. By consent, appeal called out for hearing and heard.

2. The appellant had availed of a loan from the bank under the self employment scheme and defaulted in payment thereof. Revenue recovery proceedings have been taken out and the appellant's honorarium payable for working as Anganawadi worker (Rs. 750/- per month) is sought to be attached. The appellant challenged this action in the Original Petition. The Original Petition has been dismissed holding that, even if the petitioner is getting only honorarium, the debt has to be paid back. Being aggrieved, the appellant is before this court.

3. No doubt the appellant is a defaulter and owes money to the bank. The material question is, the extent to which the appellant's honorarium can be attached u/s 80 of the Revenue Recovery Act. Section 80 of the Act reads as under:

"80. Attachment of salaries and debts of defaulter:- The salaries or allowances

and debts due to a defaulter may be attached and realised for the recovery from him of any arrear of public revenue due on land, in the manner and to the extent provided for attachment and realisation of debts and salaries in the Code of Civil Procedure, 1908."

Section 80 only empowers attachment of salaries of the debtors only in the manner and to the extent provided for attachment and realisation of debts and salaries in the Code of Civil Procedure, 1908.

4. Section 60 of the CPC describes the property liable to be attached and sold in execution of a decree. Clause (i) of Sub-section (1) of Section 60 of the CPC provides that salary to the extent of first four hundred rupees and two thirds of the remainder shall not be liable to attachment in execution of any decree other than a decree for maintenance. The mere fact that the remuneration paid to the appellant is only a honorarium may not exempt it from attachment; it cannot be fully attached, but only attached as provided u/s 60(1)(i) of the CPC. Subject to the limitation provided therein.

In the result, we set aside the judgment of the learned single Judge and direct that the honorarium paid to the appellant shall not be attached except in accordance with the provisions of Section 60(1)(i) of the Code of Civil Procedure, 1908.