(1980) 07 KAR CK 0038

In the Karnataka High Court

Case No : WP 8054/80

Venkatarangaiah Mc — APPELLANT

Vs

State Bank of Mysore and Another — RESPONDENT

Date of Decision : 21-07-1980

Acts Referred:

Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 — Section 5(2)

Citation : (1981) 1 KarLJ 61

Hon'ble Judges : K. Jagannatha Shetty, J

Judgement

Venkatarangaiah-the petitioner approached the State Bank of Mysore (''the Bank'') for financial assistance to purchase a tractor. The Bank granted a loan of Rs. 14,000 in 1974 and Rs. 82,000 in 1975. The loan was required to be repaid by six years in half yearly instalments. The petitioner, however, defaulted to pay the instalments. The Bank thereupon approached the Tahsildar, Kunigal, under S. 5(3) of the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 (''the Act'') with a request to recover the dues from the petitioner by attachment and sale of the tractor which was hypothecated by the petitioner. The Bank also produced an extract of the account maintained in relation to the loan transaction. The Tahsildar called upon the petitioner to show cause why the dues could not he recovered from him. The petitioner appeared before the Tahsildar and disputed the correctness of the amount claimed by the Bank. But he did not produce proof in support of his contention. The Tahsildar by order dated 31-5-1980 directed the Revenue Inspector to take charge of the tractor. Challenging that order the petitioner has approached this court for relief under Art. 226 of the Constitution. The only question that arises for consideration is, whether the Bank could have invoked the provisions of S. 5(3) of the Act without a certificate issued by the Assistant Registrar of Co-operative Societies under S. 12 of the Act. Mr. Achar, learned Government Advocate for the respondents submitted that a certificate under S. 12 of the Act is wholly unnecessary, if the Bank wants to proceed against the petitioner under S. 5(3) of the Act, whereas

Mr. Dasappa for the petitioner contended to the contrary.

In my opinion the contention urged by Mr. Achar is well founded and must be accepted as correct. S. 5(3) of the Act provides:

"(3) A credit agency may distrain and sell through an official designated in this behalf by the State Government the crops or other produce or other moveables charged to that credit agency to the extent of the agriculturist''s interest therein and appropriate the proceeds of such sale towards all moneys due to the credit agency from that agriculturist."

It is clear from this provision that the Bank could proceed against the petitioner for sale of the charged property through the official designated by the State Government and appropriate the proceeds towards all moneys due from the petitioner. It is conceded that the Tahsildar is a designated authority notified by the Government under S. 5(3) S. 12 of the Act provides:

12.Recovery of dues of a Credit agency on a certificate by the precribed officer.- (1) On an application made by a credit agency for the recovery of arrears of any sum due to it by an agriculturist towards the financial assistance given to him and on its furnishing a statement of accounts in respect of the arrears, the prescribed officer may after making such enquiries as he deems fit and after giving the agriculturist a reasonable opportunity of being heard, grant a certificate for the recovery of the amount stated therein to be due.

(2) A certificate by the prescribed Officer under Sub-Section (1) shall be final and conclusive as to the arrears due. The arrears stated to be due therein shall be recoverable as if it were an arrear of land revenue."

Under this section the Bank could also recover the dues from the petitioner provided it has obtained a certificate from the prescribed Officer, who is said to be the Assistant Registrar of Co-operative Societies. The certificate must specify the amount due from the petitioner.

The arrears specified under S. 12 could be recovered as if it were arrears of land revenue. That would be by the sale of the properties belonging to the petitioner including the charged property, if any. Whereas the operation of S. 5(3) is of limited extent. The arrears could be recovered thereunder by attachment and sale of only the charged property. The Bank in the instant case has taken only a limited action, i.e., attachment and sale of the hypothecated tractor for which a certificate under S. 12 is not required.

The petition is accordingly rejected. Sri Achar, learned High Court Government Advocate, is permitted to file his memo of appearance within four weeks from today.

