

(1989) 02 OHC CK 0010

In the Orissa High Court

Case No : Civil Revision No. 570 of 1986

Yernagula Kamaraju alias Y. Kamaraju and Others

APPELLANT

Vs

Manda Dandasi

RESPONDENT

Date of Decision : 14-02-1989

Acts Referred:

Orissa Debt Relief Act, 1980 — Section 2, 3
Orissa General Clauses Act, 1937 — Section 2(33)

Citation : (1989) 67 CLT 615

Hon'ble Judges : G.B. Patnaik, J

Bench : Single Bench

Advocate : J. Patnaik and H.M. Dhal, for the Appellant; R.H. Mohanty, for the Respondent

Final Decision : Allowed

Judgement

G.B. Patnaik, J.—Defendants are the Petitioners against the order of the learned Subordinate Judge, Parlakhemundi dated 23-7-1986 rejecting their application on a finding that they are not scheduled debtors within the meaning of Section 2(h) of the Orissa Debt Relief Act, 1980 (hereinafter referred to as "the Act") and, therefore, the suit does not abate and would proceed.

2. The suit is one for recovery of Rs. 1772.00 on the assertion that Defendant No. 1 borrowed a sum of Rs. 800,00 on one occasion and Rs. 500.00 on, another occasion for himself and for his two minor sons, Defendant Nos. 2 and 3 and executed a pronote in favour of the Plaintiff for the entire sum stipulating to repay the same with interest. After filing of the written statement by the Defendants and framing of issues, while the suit was pending the Act came into force. The Defendants filed an application contending therein that in view of the provisions contained in the Act and as they are scheduled debtors, the debt gets discharged u/s 3 of the Act. On this application the issue as to whether the Defendants are scheduled debtors or not was decided as a preliminary issue. The same was answered against the Defendants and in favour of the Plaintiff. The

Defendants, therefore, moved this Court in Civil Revision No. 161 of 1982. The order of the learned Subordinate Judge was set aside and the matter was remanded back to the lower court for re-determination after giving opportunity to the parties concerned bearing in mind the observation made in the order passed in the Civil revision. After remand, the matter having been re-adjudicated and the lower court having decided against the Defendants again, this revision has been filed.

3. The short question for consideration is whether the conclusion of the lower court that the Defendants are not scheduled debtors is in accordance with law or not and while coming to the aforesaid conclusion the learned Subordinate Judge has borne in mind the observation made by this Court in the earlier Civil Revision No. 161 of 1982 or not. For liquidating rural indebtedness several legislative measures had been taken in the past. The legislature felt the necessity to enact the Act for liquidation of rural indebtedness so that relief to the weaker sections of the community can be given by complete redemption of loans. Therefore, the Act has been made applicable to small farmers, agricultural labourers and rural artisans and consequently in respect of these three categories of debtors the debt even before the commencement of the Act gets wholly discharged after coming into force of the Act. "Scheduled debtor" has been defined in Section 2(h) of the Act to mean:

A person who is a small farmer or a rural artisan or an agricultural labourer and who is ordinarily resident in the State of Orissa.

The Defendants claim themselves to be covered by the expression "small farmer", "Small farmer" has been defined in Section 2(i) to mean;

A farmer who owns land measuring not more than one standard acre and whose principal source of income is agriculture or any allied occupation,

In order to come within the definition of "small farmer" it has to be shown therefore, that a person owns land not more than one standard acre and his principal source of income is either

agriculture or any allied occupation. If a person owns land within one standard acre but his principal source of income is not land which he owns then he cannot be held to be a small farmer so as to take advantage of the provisions of the Act. "Standard acre" has been defined in Section 2(j) to mean a standard acre as defined in the Orissa Land Reforms Act. 1960. It is quite clear from the provisions of the Act that where a suit is filed for recovery of a debt then the onus is on the Defendants to show that they are scheduled debtors within the meaning of the Act and the transaction in respect of which they are claimed is connected with money-lending.

The expression "person" has not been defined in the Act, though "scheduled debtor" means a person who is either a small farmer or It rural artisan or an agricultural labourer and who is ordinarily resident in the State of Orissa. The

learned Subordinate Judge, in the absence of the definition of "person" in the Act has imported the meaning of the said expression defined in the Orissa General Clauses Act the Urban Land Ceiling and Reputation Act and the income tax Act. It is a cardinal principle of interpretation of statutes that the words are to be understood according to the subject-matter they refer to and the object of the legislature and therefore, when used with reference to one subject-matter or object may convey a different intention when used with reference to a different state of circumstances or another object. That is why a rule of caution is always there not to construe one statute by reference to the words of the another statute. If the words of a statute are unambiguous then it is not permissible to order to any other legislation or statute for construing the words in it, since the scope of the two enactments may be widely different and the object of the two enactments may be quite wide apart. Therefore, even if the languages used in two enactments were indetical the same conclusion would not necessarily follow having regard to the different scopes of the two pieces of legislation. Consequently it was not proper for the learned Subordinate Judge to look to the definition of "person" in other statutes like the Urban Land Ceiling and Regulation Act, the Income Tax Act etc. But where a particular word has not been interpreted in the statute itself then one can always look to the definition in the Orissa General Clauses Act since the very purpose of the said Act is to facilitate the interpretation of the Orissa Acts. The word "person" has been defined in the Orissa General Clauses Act in Section 2(33) which reads as follows:

"Person" would include any company or association or body of individuals, whether incorporated or not:

In interpreting the expression "person" used in Section 2(h) of the Act, the definition at "person" in the Orissa General Clauses Act can be imported. But that definition does not bring within its sweep the concept of a joint family or Hindu Mitakhara coparcenary. That concept is peculiar to statutes like the Orissa Land Reforms Act, where the legislature has given an artificial definition of family and person importing the definition of "person" in the Orissa General Clauses Act to Section 2(h) of the Act I am not in a position to agree with the conclusion of the learned Subordinate Judge that a Hindu Joint Family would come within the said definition. The conclusion of the learned Subordinate Judge, therefore, cannot be accepted on this score. But in view of the definition of "person" in the Orissa General Clauses Act, a body of individuals may be brought within its sweep u/s 2(h) of the Act. Therefore, Defendants 1, 2 and 3 may come within the sweep but if they have individual interest in the property in question then it cannot be added together for finding out whether they own whether more than one standard acre or not. At any rate while disposing of the earlier civil revision it was indicated in the order that the Court below must find out as to the extent of the interest of Defendants 1, 2 and 3 in the ancestral lands of the father of Defendant No. 1 and Defendant No. 1 cannot be said to be owner of the entire lands. It was also indicated that the court below must examine whether Defendant Nos. 2 and 3 also are scheduled debtors or not. Obviously the learned

Subordinate Judge in the impugned judgment has not borne the aforesaid direction in mind. Consequently the order of the learned Subordinate Judge cannot be sustained and is hereby set aside and the matter is remitted back to the learned Subordinate Judge for re-consideration in view of the observations made herein as well as the law laid down in the judgment.

4. In the net result therefore, the order dated 23-7-1986 passed by the learned Subordinate Judge is hereby set aside and the matter is remitted back to the learned Subordinate Judge for reconsideration on the existing materials on record only after giving an opportunity of bearing to both the patties. Parties are directed to appear before the learned Subordinate Judge on 7-3-1989 to receive appropriate direction regarding further hearing of the matter.

5. Revision allowed.