

**Mallappa Vs. Appanappa**

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**SooperKanoon Citation :** [sooperkanoon.com/380407](http://sooperkanoon.com/380407)

**Court :** Karnataka

**Decided On :** Aug-31-1984

**Reported in :** ILR1985KAR461

**Judge :** Kulkarni, J.

**Acts :** Karnataka Debt Relief Act, 1980 - Sections 3

**Appeal No. :** C.R.P. No. 264 of 1979

**Appellant :** Mallappa

**Respondent :** Appanappa

**Advocate for Def. :** Dattatreya D. Bhat, Adv.

**Advocate for Pet/Ap. :** M.B. Zirali, Adv. for ;I.G. Gachchinamath, Adv.

**Disposition :** Revision allowed

**Judgement :**

ORDER

**Knlkarni, J.**

1. This is a revision by the judgment-debtor against the order dated 2-12-1978, passed by the Munsiff, Jamkhandi, in Execution Case No. 127 of 1977. The decree holder sued out the execution. The judgment-debtor raised a contention

that he was a debtor within the meaning of the Karnataka Debt Relief Act.

2. The Trial Court over-ruled the objections of the judgment debtor and ordered execution to be proceeded.

3. The Executing Court appears to be of the impression that the K.D.R. Act does not apply to a pronote debt at all.

He relied on the decision in Marur Basappa -v.-Basavarajappa C.E. & Ors., 1978(1) K.L.J. 262 what Puttaswamy, J has held in the said case is that:

'An on demand pronote is a negotiable instrument and is not an article that can be pledged as a security for a debt' A debt secured under an on demand promissory note cannot be treated as a pledged article.'

In this view it has been that the Sub-Divisional Magistrate did not have any jurisdiction to grant the relief. But, however, it has been further stated in the said decision that:

' A debt due by a debtor on an or demand promissory note would fall within the meaning of the term of the 'debt' occurring insub-section (b) of Section 3 of the Act. But, there is no provision for extinguishmentsof a debt under on an demand promissory note muchless to entertain an application by a debtor and grant him relief, though the debt may possibly stand discharged under sub-section (a) of Section 4 of the Act.'

Therefore, the ruling of this Court was not properly under-stood by the Munsiff. His view that the K.D.R. Act will not apply to a pronote debt is highly erroneous.

4. Therefore, under these circumstances; the revision is allowed and the order passed by the Court below is set aside. The Court below should proceed to consider as to whether the judgment debtor would be a debtor within the meaning of Section 3(c) of the K.D.R. Act or whether he would fall within any one of the three clauses in Section 3(c) of the Act No costs.