

Chikkeeraiah Vs. Basappa

Chikkeeraiah Vs. Basappa

SooperKanoon Citation : sooperkanoon.com/382495

Court : Karnataka

Decided On : Oct-01-1986

Reported in : ILR1986KAR3549

Judge : Kulkarni, J.

Acts : Karnataka Debt Relief Act, 1980 - Sections 11(2) and 17

Appeal No. : C.R.P. No. 3538 of 1981

Appellant : Chikkeeraiah

Respondent : Basappa

Advocate for Def. : H. Kumaraswamy, Adv. for R-1

Advocate for Pet/Ap. : A.S. Mallesh, Adv. for Hanumanthaiah, Adv.

Disposition : Revision allowed

Judgement :

ORDER

Kulkarni, J.

1. This is a revision by the judgment debtor against the order dated 26-9 1981 passed by the Munsiff, Tiptur, in Ex No. 1.12/1979 dismissing LA. III filed by the judgment-debtor under Section 11(2) of the Karnataka Debt Relief Act,

1980(hereinafter referred to as the 'Act').

2. It is undisputed that the judgment debtor had filed an application under the provisions of Karnataka Debt Relief Ordinance 1979 (hereinafter referred to as the ('Ordinance')) alleging that he was a 'small farmer' within the meaning of the Ordinance and that his debt stood wiped-off. It was held that he was not a 'small farmer' as he held more than one unit of land and taking this view, the application was dismissed. Thereafter, the Karnataka Debt Relief Act, 1980 was brought into force. The Act repealed the 1979 Ordinance. 'Small Farmer' as defined in the Ordinance reads as follows :

'Small farmer' means a person who on the date of commencement of this ordinance holds whether as owner, tenant, or mortgage with possession or partly in one capacity and partly in another not more than one unit of land and who has no income from any source other than agriculture.'

Therefore, the definition of 'small farmer' given in the Ordinance required that in order to become a 'small farmer', a person should not hold more than one unit of land. Now under the 1980 Act, 'Small Farmer' has been defined as follows :

' 'Small Farmer' means a person who on the date of commencement of this Act, holds whether as owner, tenant or mortgagee with possession or partly is one capacity or partly in another not more than two units of land, the annual income from which does not exceed Four thousand Eight Hundred Rupees and who has no income from any sources other than agriculture.'

Therefore, the definition of 'small farmer' has been widened by the K.D.R. Act, 1980. The definition of 'small farmer' under the 1980 Act appears to be slightly different from the one found in the Ordinance. Under the 1980 Act, a person should not hold more than 2 units of land and the annual income from the said land should not exceed Rs. 4800/- and he should not have any income from any other source. The income limit is not to be found in the definition of 'small farmer' given in the Ordinance. Therefore, 'small farmer' as defined by 1980 Act is different from 'small farmer' as defined by 1979 Ordinance.

3. The Trial Court referred to Section 17 of the 1980 Act which reads as follows :

'17. Repeal of Karnataka Ordinance No. 19 of 1979.-

(1) The Karnataka Debt Relief Ordinance, 1979(Karnataka Act No. 19 of 1979 (Karnataka Act No. 19 of 1979) is hereby repealed.

2. Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act was in force at all relevant times.'

Hence Section 17 saves the orders that have been passed under the Ordinance. Section 17 cannot be interpreted to mean that any order passed under the Ordinance would operate as a bar to a further plea raised under the 1980 Act, Therefore, the interpretation put by the Court below is erroneous. Under these circumstances, the order passed by the lower Court and impugned in this revision petition is set aside. The revision is allowed. The matter is sent back to the Court below for considering as to whether the judgment debtor is a 'small fanner' within the meaning of the 1.980 Act.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com