

**Babu Kishan Chand Vs. Habib Ullah**

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**SooperKanoon Citation :** [sooperkanoon.com/449072](http://sooperkanoon.com/449072)

**Court :** Allahabad

**Decided On :** May-08-1946

**Reported in :** AIR1946All448

**Appellant :** Babu Kishan Chand

**Respondent :** Habib Ullah

**Judgement :**

Allsop, Ag. C.J.

1. These two appeals arise out of suits for the recovery of money on the basis of mortgages. The question to be decided in both appeals is whether the mortgagor was a workman within the meaning of the Debt Redemption Act. Appeal No. 1374 of 1942 is an appeal against the decree of the Civil Judge of Benares passed in appeal in a suit for sale on the basis of a mortgage. Appeal No. 999 of 1943 is an appeal against the order or decree of the Civil Judge of Ghazipur passed in appeal against the order of the Munsif on an application for the amendment of a decree for sale. In the former case it has been found as a fact that the mortgagor was employed to make golden embroidery or tinsel and in the latter case that the mortgagor was employed in a sweet shop. In both cases it has been held that the mortgagor's wages were less than Rs. 600 within the twelve months preceding the first day of June 1940, and did not exceed Rs. 60 in any such months. In neither case was the mortgagor employed in a factory within the meaning of the Payment of Wages Act, 1936. The question is whether a person can be a workman within the meaning of the Debt Redemption Act, 1940, even if he is not employed in a factory within the meaning of the Payment of Wages Act, 1936. Section 2, Sub-section (20), Debt Redemption Act, 1940, says:

'Workman' means a person who is not a proprietor or a tenant and-

(a) who earned wages within the meaning of Sub-section (vi) of Section 2, Payment of Wages Act, 1936, within the twelve months preceding the first day of June, 1940, which did not exceed Rs. 600 in the said twelve months and did not exceed Rs. 60 in any such months....

2. Sub-section (vi) of Section 2, Payment of Wages Act, says:

'Wages' means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled be payable, whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed, or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment....

3. In the judgment which has given rise to appeal No. 1374 of 1942 it was held that the mortgagor was a workman. In the judgment which has given rise to the other appeal it was held that he was not a workman. In the former case, therefore, it is the creditor plaintiff and in the latter case the debtor applicant who is the

appellant. In both cases it is argued on behalf of the debtors that the definition of the term 'wages' in Sub-section (vi) of Section 2, Payment of Wages Act, 1936, should be imported into the U.P. Debt Redemption Act, 1940, with, out reference to any other section in the Payment of Wages Act. The debtors urge that the meaning which we must give to the term 'wages' is the same as it would have been if the Legislature had said in the Debt Redemption Act that 'workman' means a person who is not a proprietor or a tenant and who earned wages within the twelve months preceding 1st June 1940, which did not exceed Rs. 600 in the said twelve months and did not exceed Rs. 60 in any such months and then added a definition of the word 'wages' in the same terms as those in Sub-section (vi) of Section 2, Payment of Wages Act, 1936. On the other side it is urged that the Payment of Wages Act by Sub-section (4) of Section 1 applies the Act in the first instance to the payment of wages to persons employed in any factory and to persons employed (otherwise than in a factory) upon any railway or by a railway administration and there, fore that the definition of the term 'wages' in the Act can only apply to wages paid to such persons.

4. In my judgment although there may be some doubt about the meaning of the Legislature the view put forward by the creditors is preferable to that put forward by the debtors. In the first place if we take the term 'wages' as defined in the Payment of Wages Act, 1936, away from its context in the Act it would have such a wide and unnatural meaning that it seems improbable that the Legislature could have intended to give it that meaning. The definition standing alone, it must be noted, does not suggest that there must be any regular payment of salary to a person who would generally be regarded as a servant or employee. It would include any remuneration for any casual work done or service rendered such for instance as payment to a photographer for taking one's photograph or payment to a tailor for repairing one's clothes or to a job carpenter for repairing a chair or a table. It is also to be noted that the preamble of the Debt Redemption Act says that the Act has been passed because it is expedient to provide for further relief from indebtedness to agriculturists and workmen. It can, of course, be argued that the term 'workmen' in the preamble is used with reference to the later definition in the Act, but I think it is more natural to suppose that the Legislature when expressing the object of the legislation was using the word in its natural sense and the later definition was intended to confine the meaning within the larger natural sense and not to extend it to persons who would not in the ordinary way be regarded as workmen. When the Act was passed for the benefit of workmen it is difficult to believe that the Legislature intended to extend its provisions to clerks or junior lawyers with little practice or other classes of similar kinds. Where there is some doubt about the meaning of a provision in a statute I think it is a recognised canon of interpretation that the statute should be construed so as to secure a result which it seems from the preamble and general tenor of the statute that the Legislature intended to produce.

5. One argument on the other side is that the reference in the definition in the Debt Redemption Act particularly to Sub-section (vi) of Section 2, Payment of Wages Act, 1936, and not to the Payment of Wages Act as a whole suggests that the Legislature intended merely to import the definition of 'wages' in the Payment of Wages Act, 1936, into the U.P. Debt Redemption Act, 1940, without reference to any other section in the Payment of Wages Act. The answer to this argument, I think, is that we have to ask ourselves what the word 'wages' means in Sub-section (vi) of Section 2, Payment of Wages Act, 1936, and I think the proper answer is that the word means wages paid to a person to whom that Act applies and not wages paid to any person to whom the Act does not apply. The introduction of the words 'Sub-section (vi) of Section 2' is, in my judgment, to be explained by the simple fact that that is the sub-section of the Act in which the term 'wages' is defined. We have been referred to the case in *Secy. of State v. Hindusthan Co-operative Insurance Society, Ltd* in which their Lordships of the Privy Council laid down that the amendment of a provision in a statute which has been incorporated in some other statute does not affect that other statute, that is, that the provision incorporated is the provision which was in effect at the time of its incorporation and not the amended provision. That ruling seems to me to be quite irrelevant to the present case. If the Payment of Wages Act is amended in any way so as to affect the meaning of the term 'wages' it may be that the term in the Debt Redemption Act must be interpreted in the light of the definition at the time when the Debt Redemption Act was passed and not the definition as later amended but that contingency has not arisen and cannot form the basis of any argument in

the case before us.

6. It was also suggested in the course of arguments that the Debt Redemption Act is a remedial statute and should be given a wide interpretation. Perhaps a reference was intended to the remark of their Lordships of the Privy Council in *Raghuraj Singh v. Hari Kishan Das* that the words of a remedial statute must be construed so far as they reasonably admit so as to secure that the relief contemplated by the statute shall not be denied to the class intended to be relieved. The question before us is what class was intended to be relieved and it seems to me that this expression of opinion supports rather the creditors than the debtors because I should think that the Legislature intended to give relief to workmen in the generally accepted sense of the term and not to persons of the class of the debtors in these two cases. I would say that the balance of probability is that the Legislature intended that the term 'wages' should mean wages paid to workers in factories or railways and this view has been accepted by several Judges of the Court. I may refer to the cases in *Ambika Nath v. Chhedi Nath* : AIR1943All273 , *Kedar v. Sheo Dulare* Civil Revn. No. 99 of 1942, *Tirloki Nath v. Mansukh Lal* Civil Revn. No. 284 of 1942 reported in 1944 A.L.W. 31 and a case decided by my brother Mathur and myself, *Mt. Sita v. Narain Sahu* Exn. Second Appeal No. 2038 of 1943, in which we said that we had no reason to differ from the decision of our brother Yorke in *Ambika Nath v. Chhedi Nath* : AIR1943All273 . Apart from other consideration it seems to me when there are two possible views about a matter it is better that we should follow the view which has been already held by Judges in previous decisions. It has been suggested to us that the remarks in *Ambika Nath v. Chhedi Nath* : AIR1943All273 are obiter, but the fact remains that the learned Judge was expressing his view about this matter and the question whether a remark is obiter or not arises only when there is a question of accepting or not accepting an authority. We are not concerned with accepting the decision of a learned Single Judge as an authority but merely with treating his opinion with a certain respect.

7. I would, therefore, hold that the two debtors involved in these two cases were not workmen within the meaning of the U.P. Debt Redemption Act, 1940. I would allow second Appeal No. 1374 of 1942 and dismiss the other appeal (Exn. Second Appeal No. 999 of 1943) with the direction that the costs should follow the result in each appeal.

Verma, J.

8. This second appeal has arisen out of a suit brought in the City Munsif's Court at Benares by the appellant for the recovery of Rs. 500 by sale of a house which had been hypothecated to him by the respondent as security for the payment of a sum of Rs. 300 together with interest at Rs. 1-8-0 per cent, per mensem, the mortgage deed having been executed on 24th November 1931. The appellant admitted that a sum of Rs. 139 had been paid by the respondent on account of interest. He claimed interest in the suit at the rate of only one rupee per cent, per mensem and alleged that Rs. 800 were due to him at the date of the suit. The defendant-respondent admitted the execution of the deed and the terms embodied therein but pleaded that he was a 'workman,' as defined in the U.P. Debt Redemption Act, 13 [XIII] of 1940, and was entitled to reduction of interest in accordance with the provisions of that Act. He alleged that, on that basis, a sum of Rs. 254-6-0 only was due to the plaintiff. The Munsif accepted the defendant-respondent's plea that he was a 'workman,' as defined in the U.P. Debt Redemption Act, but found that the account of interest given by the defendant in the written statement was incorrect and that, upon a correct calculation, the amount payable by the defendant was Rs. 284-12-0. He accordingly passed a decree under Order 34, Rule 4, Civil P.C., for the recovery of that sum. The plaintiff appealed to the lower appellate Court and contended that the trial Court was wrong in holding that the defendant was a 'workman,' as defined in the Debt Redemption Act. The learned Judge, however, agreed with the learned Munsif and dismissed his appeal. He has consequently brought this second appeal.

9. The only question that arises for determination is whether the Courts below were right in holding that the defendant-respondent was a 'workman' within the meaning of the Debt Redemption Act and therefore entitled to the benefits conferred upon such persons by that Act. It will be convenient here to state that the

U.P. Debt Redemption Act is an Act 'to provide for further relief from indebtedness to agriculturists and workmen in the United Provinces' and to reproduce the definition of 'workman' given in Section 2(20) of the Act. It is as follows:

'Workman' means a person who is not a (proprietor or a tenant and-

(a) who earned wages within the meaning of Sub-section (vi) of Section 2, Payment of Wages Act, 1936, within the twelve months preceding the first day of June, 1940, which did not exceed Rs. 600 in the said twelve months and did not exceed Rs. 60 in any such months, or

(b) who does not ordinarily reside within a municipality, cantonment or notified area and who 'belongs to one of the classes specified in the first Schedule.

10. The defendant-respondent's allegations of fact, on the basis of which he pleaded that he was entitled to the benefits of the Act, were that, during the material period, he had been working on wages amounting to five or six annas per day, making chamki and sitara - which are ornamental articles made of gold or silver thread and used for decorating saris and other similar things - in the employment of one Amanat Ullah, who was a manufacturer of such articles in the city of Benares. It may be stated here that Benares is well-known for its gold and silver thread industry. The plaintiff admitted that the defendant was a maker of chamki and sitara and that he had been doing that work during the requisite period. He did not further deny that the defendant's income had been within the required limits. He alleged, however, that the defendant had not been in the employment of Amanat Ullah or anyone else but had been making chamki and sitara on his own account, in other words, that the defendant had himself been a manufacturer and had worked for himself and not on wages for anybody else. Both the Courts below have found that the allegations of fact made by the defendant were true and that the plaintiff's allegation to the contrary was not correct. The question remains whether the Courts below were right in holding that, on the facts alleged by him, the defendant was entitled to the benefits conferred upon 'workmen' by the Debt Redemption Act. In order that the respective contentions of the parties may be clearly appreciated, it is necessary at this stage to read the relevant provisions of the Payment of Wages Act. It was passed by the Central Legislature in the year 1936 and was Act No. 4 [IV] of that year. It was enacted because it was considered 'expedient to regulate the payment of wages to certain classes of persons employed in industry.' That being so, it was obviously necessary for the Legislature to explain what it meant by the word 'wages' in other words, to define the thing the payment of which was to be regulated by that enactment. That definition is given in Sub-section (vi) of Section 2 and is as follows:

'Wages' means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed, or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment, but does not include-

(a) the value of any house-accommodation, supply of light, water, medical attendance or other amenity, or of any service excluded by general or special order of the Provincial Government,

(b) any contribution paid by the employed to any pension fund or provident fund,

(c) any travelling allowance or the value of any travelling concession,

(d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment, or

(e) any gratuity payable on discharge.

11. The portion of the definition quoted above which is material for the purposes of the present case is as follows:

'Wages' means all remuneration...which would...be payable...to a person employed in respect of his employment or of work done in such employment....

12. The contention of the defendant-respondent was that the wages which he was receiving from Amanat Ullah, while he was in the latter's employment, were of the 'kind mentioned in Sub-section (vi) of Section 2, Payment of Wages Act, quoted above, and that, therefore, he came within Clause (a) of Section 2(20), U.P. Debt Redemption Act, there being no controversy as to the other conditions laid down in that clause being fulfilled. Clause (b) is admittedly not applicable for the defendant resides within a municipality and, further does not belong to any of the classes specified in Schedule 1. It was contended, on the other band, on behalf of the plaintiff-appellant that only those persons can claim to be within Clause (a) of Section 2(20), Debt Redemption Act, who belong to the classes to which the Payment of Wages Act applies, that is the classes of persons the payment of whose wages is regulated for the time being by the Payment of Wages Act. For this purpose, reference was made on behalf of the plaintiff to Sub-sections (4) and (5) of Section 1, Payment of Wages Act. They are as follows:

(4) It applies in the first instance to the payment of wages to persons employed in any factory and to persons employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration.

(5) The Provincial Government may after giving three months' notice of its intention of so doing, by notification in the official Gazette, extend the provisions of the Act or any of them to the payment of wages to any class of persons employed in any industrial establishment or in any class or group of industrial establishments.

13. It was contended that, as the defendant admittedly is not within either of these two sub-sections of Section 1, Payment of Wages Act, he is not a person the payment of whose wages is regulated by the Payment of Wages Act and that, consequently, he cannot be a person who can claim the benefits of the U.P. Debt Redemption Act. The parties have further explained their respective contentions thus. The defendant-respondent contends that the words 'within. the meaning of' have, and can have - in the context in which they have been used - no other meaning than 'as defined in.' It is argued that all that has to be seen in the Payment of Wages Act is the definition of the term 'wages' given in Sub-section (vi) of Section 2. It is pointed out that the framers of the U.P. Debt Redemption Act had to define the term, and it is said that, finding a definition in the Payment of Wages Act with which they entirely agreed, they considered it more convenient to refer to that definition than bodily reproducing it. The plaintiff, appellant's argument is that, if the Legislature had meant nothing more than 'as defined in,' it would have used those words, instead of the words 'within the meaning of' and that, therefore, it will not be right to substitute the former words for the latter.

14. Having given the matter my careful consideration, I have come to the conclusion that the contention put forward on behalf of the defendant-respondent is correct and my reasons for coming to that conclusion are as follows. The definition of 'workman' given in the U.P. Debt Redemption Act opens with the words "Workman' means a person.' The 'person' who was to be treated as a 'workman' for the purposes of the Act had obviously to be qualified, and the Act proceeds to lay down the qualifications. An analysis of the qualifications laid down yields the following result : The person should not be a proprietor or a tenant (both these words being defined in the Act), and either (a) the person should have earned wages (within the meaning of Sub-section (vi) of Section 2, Payment of Wages Act, 1936) within the twelve months preceding the first day of June, 1940, and such wages should not have exceeded Rs. 600 in the said twelve months-and should not have exceeded Rs. 60 in any one of those months, or (b) the person should belong to one of the classes specified in Schedule 1 to the Act and, further, should not ordinarily be residing within a municipality, cantonment or notified area. The first paramount requirement is that the person in question must not be

either a proprietor or a tenant. In addition to that, he must possess one of two alternative sets of qualifications. The first of those alternative sets of qualifications consists of four items : (i) he must have earned wages within the meaning of Sub-section (vi) of Section 2, Payment of Wages Act, 1956, (ii) such wages must have been earned within the twelve months preceding the first day of June, 1940, (iii) the total of such wages must not have exceeded Rs. 600 in the said twelve months, and (iv) the total of such wages earned in any one of those twelve months must not have exceeded Rs. 60.

15. If the person in question possesses all these four items of qualifications, in addition to the qualification that he is not a proprietor or a tenant, he is a 'workman' for the purposes of the Act. The second of the two alternative sets of qualifications consists of two items : (i) he must belong to one of the classes specified in Schedule 1 to the Act, and (ii) he must not be ordinarily residing within a municipality, cantonment or notified area. If he satisfies these two items of qualifications, in addition to the qualification that he is not a proprietor or a tenant, then also he is a 'workman' for the purposes of the Act. It appears to me that Clause (a) is concerned with the thing earned by the person in question - irrespective of the class to which he belongs-and mentions certain requirements with regard to that thing, and Clause (b) is concerned with certain classes to which the person in question must belong-irrespective of the thing earned by him. It may be repeated that, if the person in question satisfies the requirements, as to the thing earned, mentioned in Clause (a) - and is not a proprietor or a tenant - he comes within the definition of 'workman,' or, in the alternative, if he satisfies the requirements, as to the classes to which he should belong, mentioned in Clause (b) - in addition to the fact that he is not a proprietor or a tenant- he is a 'workman.' The matter may, in other words, be put thus. The qualifications which a person claiming to be a 'workman' has to possess are divisible under two main heads : (i) classes to which he must not, or must, belong, and (ii) the nature of the thing earned by him. The paramount qualification is one of class, namely, that he must not be a proprietor or a tenant. In addition to this, he must possess one of two qualifications : either the thing earned by him must possess certain attributes laid down in Clause (a) of the definition, or, he must belong to certain classes mentioned in Clause (b). It is also apparent to my mind that Clause (a) of the definition-and that is the clause which we have to consider in this case - is concerned only with the nature of the thing earned and not with the nature of the work in respect of which anything is earned.

16. I now proceed to examine the argument advanced on behalf of the plaintiff-appellant. The argument, in essence is that the person claiming to be a 'workman' must belong to certain classes, irrespective of the nature of the thing earned by him, and further that in order to find out the classes to which he must belong, we must travel outside the definition given in the U.P. Debt Redemption Act and must examine the Payment of Wages Act to discover the classes of persons the payment of whose wages is regulated by that Act. It appears to me - and I say so with great respect to those of my learned brothers who hold the contrary opinion - that there is no justification for this. We are primarily concerned with the construction of the U.P. Debt Redemption Act. Whatever qualifications, based on the class or classes to which the person in question must belong, were considered necessary by the framers of the Act are expressly and explicitly laid down in the definition of 'workman' given in that Act. In my judgment, it will not be right to import any further qualifications or restrictions based on the class to which the person in question must belong, from another Act. Furthermore, it appears to me to be clear that the argument put forward on behalf of the plaintiff-appellant leads to the result that the words 'of Sub-section (vi) of Section 2' in Clause (a) of the definition of 'workman' in the U.P. Debt Redemption Act must be deleted. That, in my judgment, is not permissible. In my opinion, the argument of the defendant-respondent's learned counsel, that the framers of the U.P. Debt Redemption Act, for reasons of convenience, refer to the definition of the term 'wages' in Sub-section (vi) of Section 2, Payment of Wages Act, instead of reproducing the whole definition, is correct. In this connection reference may be made to the following observation of their Lordships of the Privy Council in *Secy. of State v. Hindusthan Co-operative Insurance Society, Ltd* at page 266:

Their Lordships regard the Local Act as doing nothing more than incorporating certain provisions from an existing Act, and for convenience of drafting doing so by reference to that Act, instead of setting out for itself

at length the provisions which it was desired to adopt.

17. The case before their Lordships was concerned with Acts other than those which have to be considered in the case before us, but the observation just quoted lays down a principle of general application and clearly applies to the matter which we have to consider. Is there, then, anything in the U.P. Debt Redemption Act - or, rather, in the definition of 'workman' given in that Act, for nowhere else is the Payment of Wages Act mentioned - which can possibly lead to the conclusion that the framers of the Debt Redemption Act wanted to incorporate or adopt any other provision from the Payment of Wages Act than the definition of 'wages' contained in Sub-section (vi) of Section 2 of that Act? The answer to this question must, in my judgment, be in the negative. What justification can there then be for the argument of the plaintiff-appellant that Sub-sections (iv) and (v) of Section 1, Payment of Wages Act, must also be incorporated in the U.P. Debt Redemption Act and thus, the benefits of the latter Act must be confined only to those classes of persons the payment of whose wages is regulated by the Payment of Wages Act, even though the person claiming those benefits comes within the plain language of the definition of 'workman' given in Section 2(20), U.P. Debt Redemption Act, read with Sub-section (vi) of Section 2, Payment of Wages Act

18. From what I have said above, it follows that, in my opinion, the words 'within the meaning of' are tantamount to 'as defined in.' There is, it appears to me, no objection to placing that construction upon those words. It may, further, be pointed out that, if once we start incorporating in the U.P. Debt Redemption Act other provisions of the Payment of Wages Act than Sub-section (vi) of Section 2 of the latter Act, there is no reason why we should stop at Sub-sections (iv) and (v) of Section 1. To illustrate my point, I may say that in Sub-section (i) of Section 2, Payment of Wages Act, there is a definition of 'factory' and it is this : "Factory' means a factory as defined in Clause (j) of Section 2, Factories Act, 1934.' According to Clause (j) of Section 2, Factories Act, only those premises, in which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, whereon 20 or more workers are working, or were working on any day of the preceding twelve months, can be considered to be a factory. According to Clause (g) of Section 2 of that Act 'manufacturing process' means any process - (i) for making, altering, repairing, ornamenting, finishing or packing, or otherwise treating any articles or substance with a view to its use, sale, transport, delivery or disposal, or (ii) for pumping oil, water or sewage, or (iii) for generating, transforming or transmitting power. 'Power' is defined in Clause (f) of Section 2 of that Act, as meaning 'electrical energy, and any other form of energy which is mechanically transmitted and is not generated by human or animal agency.' It is obvious that there are many concerns in the United Provinces which carry on a manufacturing process (as defined in the Act) with the aid of power in which less than 20 workers are employed. If these are described as the smaller concerns, it is clear that the Factories Act, 1934, deals only with what may be described as the bigger concerns, and the Payment of Wages Act, 1936, is also intended to regulate the payment of wages to persons employed in the bigger concerns. If the argument of the plaintiff-appellant is accepted, the result will be that only the workmen employed in the bigger concerns will be entitled to the benefits of the U.P. Debt Redemption Act and the workers in the smaller concerns will not be entitled to those benefits. An argument that leads to such a result cannot be accepted.

19. It will, further, be noticed that the argument advanced by the plaintiff-appellant rests, not on the nature of the thing earned by the person in question, but on the nature of the work - (in a factory, upon a railway, etc.) - done by that person. As has been shown above, that is a position which is not justified by the plain language of Clause (a) of the definition of 'workman.' On behalf of the plaintiff-appellant reliance has been placed on certain cases decided in this Court. They are : *Ambika Nath v. Chhedi Nath* : AIR1943All273 (Yorke J.), *Kedar v. Sheo Dulare Civil Revn. No. 99 of 1942*, (Yorke J.), *Tirloki Nath v. Mansukh Lal Civil Revn. No. 284 of 1942* reported in 1944 A.L.W. 31 (Mulla J.), and *Mt. Sita v. Narain Sahu Exn. second Appeal No. 2038 of 1943*, (Allsop and Mathur JJ.). Although the observations, with regard to the point that has arisen before us, made by Yorke J., in the two cases decided by him were in the nature of obiter dicta, the opinion expressed by the learned Judge does undoubtedly favour the contention of the appellant before us. There is no question of any Single Judge decision being binding on this Full Bench but the opinion expressed by a learned Judge, even if it was

obiter, is entitled to respect. In civil Tirloki Nath v. Mansukh Lal Civil Revn. No. 284 of 1942 reported in 1944 A.L.W. 31 Mulla J., in rejecting the defendant-petitioner's contention that he should have been held by the Court below to be a 'workman,' expressed himself as follows:

He could be deemed to be a 'workman' within the meaning of Section 2(20), Debt Redemption, Act (13 [XIII] of 1940) only if he had received wages within the meaning of Sub-section (vi) of Section 2, Payment of Wages Act, 1936, within a certain prescribed period. Now, the Payment of Wages Act applies to the wages payable to persons employed in any factory or upon any railway or in the event of a notification being made by the Local Government to any class of persons employed in any industrial establishment.

20. The opinion thus expressed is to the same effect as that expressed by Yorke J. in Ambika Nath v. Chhedi Nath : AIR1943All273 and Kedar v. Sheo Dulare Civil Revn. No. 99 of 1942. In Mt. Sita v. Narain Sahu Exn. second Appeal No. 2038 of 1943, the learned Judges, after quoting the definition of 'workman,' given in Section 2(20), U.P. Debt Redemption Act, observed as follows:

It has been urged that all that was necessary to come within the said definition was that the person must be earning the amount as given in the said sub-section. On the other hand, it is argued that this definition only applies to workmen in the factories and railway administration, etc. In support of this latter view there are two rulings of this Court - one reported in Ambika Nath v. Chhedi Nath : AIR1943All273 , and the other in Tirloki Nath v. Mansukh Lal Civil Revn. No. 284 of 1942 reported in 1944 A.L.W. 31. We see no reason to differ from the view taken in these two rulings and think that the lower Courts were right in holding that the appellants were not workmen as defined in the Debt Redemption Act.

21. The two cases referred to by the learned Judges are those in Ambika Nath v. Chhedi Nath : AIR1943All273 and Tirloki Nath v. Mansukh Lal Civil Revn. No. 284 of 1942 reported in 1944 A.L.W. 31, mentioned by me above. Thus, there was no discussion of the point in Mt. Sita v. Narain Sahu Exn. second Appeal No. 2038 of 1943, and the learned Judges merely followed the opinion expressed by Yorke and Mulla JJ. in the two cases mentioned above. With deference to my learned brethren who have decided the cases referred to above, I venture to think that a certain anxiety to construe the U.P. Debt Redemption Act as it is conceived it should, or might, have been drafted, has led to an unfortunate confusion between 'wages' - that is, the thing which is paid - and the recipients of wages - that is, the persons to whom they are paid. With great respect, I am unable to agree with them, for it is not, in my judgment, right to allow such considerations to influence the construction of statutes. It was also suggested on behalf of the plaintiff-appellant that there must be a regularity in the payment of the remuneration to a person before it can come within the definition of wages and that the remuneration paid for any casual work done, or service rendered, ought not to be held to be 'wages.' It was also argued that, if the contention of the plaintiff-appellant was not accepted, certain anomalies would result as certain classes of persons, who, according to the plaintiff-appellant, could not have been within the contemplation of the Legislature, would become entitled to the benefits available to 'workmen' under the Debt Redemption Act. I am unable to accept this argument and my reason is the same as the one which has led me to differ from my learned brethren who have decided the four cases mentioned above. If the language of a statute is plain-as, in my opinion, it is in this instance-it is not open to the Court to speculate as to what the Legislature intended or contemplated.

22. For the reasons given above, I am unable to accept the argument that only those persons are entitled to the benefits of the U.P. Debt Redemption Act the payment of whose wages is regulated by the Payment of Wages Act, 1936. In my judgment, the decision to which the Courts below came was correct. I would, therefore, dismiss this appeal with costs.

Sinha, J.

23. I agree with my brother Verma and have nothing to add.

Malik, J.

24. The point for consideration in these cases is, to my mind, very simple and very easy of solution. These two appeals arise out of applications filed on behalf of the judgment-debtors who had claimed the benefit of the U.P. Debt Redemption Act (13 [XIII] of 1940) on the ground that they were workmen as defined in Section 2, Sub-section (20)(a) of the same Act. Under Section 2(20)(a) of the Act 'workman' means:

A person who is not a proprietor or a tenant and who earned wages within the meaning of Sub-section (vi) of Section 2, Payment of Wages Act, 1936, within the twelvemonths preceding the first day of June, 1940, which did not exceed Rs. 600 in the said twelve months and did not exceed Rs. 60 in any such months.

25. It is not denied that the wages received by the judgment-debtors did not exceed Rs. 600 within the 12 months preceding 1st June 1940, and that it also did not exceed Rs. 60 in any such months. The question only is whether they earned 'wages' within the meaning of Sub-section (vi) of Section 2, Payment of Wages Act, 1936. In determining the question whether the judgment-debtors had earned wages within the meaning of Sub-section (vi) of Section 2, Payment of Wages Act, 1936, the Court would have to decide what was the meaning of the word 'wages' as given in this sub-section.

26. So far as I have been able to understand the arguments of learned Counsel for the judgment-debtors they want to urge that the words of Sub-section (vi) of Section 2, Payment of Wages Act, 1936, alone should be considered out of their context and not as a part of that Act. This, to my mind, would be a wholly wrong method of interpretation. When a Court dealing with an application of a person, who claims to be workman because he receives wages, sits down to find out whether the payment received by the applicant is of the nature which would be considered as 'wages' within the meaning of Sub-section (vi) of Section 2, Payment of Wages Act, 1936, the Court would have to consider the meaning of that sub-section in the context in which it is used, that is, the meaning of the sub-section as in the Payment of Wages Act. In considering the meaning of the word 'wages' in the Payment of Wages Act, the Court is bound to consider the context in which the sub-section has been drafted and the preamble of the statute which makes it quite clear that the 'wages' there refers to the 'wages' received by an industrial workman. We cannot isolate the words of Section 2, Sub-section (vi), from their context. The question that the Court dealing with the matter has to put to itself is what is the meaning of the word 'wages' in Section 2, Sub-section (vi), Payment of Wages Act, 1936, and not what would be the meaning of the word 'wages' dissociated from its context and independent of the Payment of Wages Act, 1936. To my mind, therefore, there can be no doubt - and I say this with the greatest respect - that the views taken by this Court in the previous decisions, which are all one way, lay down the correct law.

27. Even on the principle of stare decisis I would have come to the same conclusion. The Act came into force on 1st January 1911, and the first case dealing with this point arose sometime in the year 1942 and since then this Court has persistently followed the view expressed by me above. I, therefore, agree to the order proposed by the acting Chief Justice and I would allow Second Appeal No. 1374 of 1942 and dismiss Execution second Appeal No. 999 of 1943 with the direction that the costs should follow the result in each case.

Mathur, J.

28. I fully agree with the reasoning of the acting Chief Justice and my brother Malik, and the order proposed by them.

29. We dismiss Execution second Appeal No. 999 of 1943 with costs. We allow Second Appeal No. 1374 of 1942. We set aside the decrees of the Courts below and remand the suit to the Court of first instance with a direction that that Court shall ascertain the amount due on the mortgage without applying the provisions of the Debt Redemption Act and shall pass a decree for sale of the property for the recovery of the sum found due and the plaintiff-appellant will get his costs in this Court and in the lower appellate Court and he will also get proportionate costs in the trial Court in accordance with the ultimate finding of that Court.