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Court : Allahabad

Decided On : Oct-14-1936

Reported in : AIR1937All96

Appellant : Baryar Singh

Respondent : Ram Dularay

Judgement :

ORDER

Bennet, J.

1. This is a civil revision by a judgment-debtor raising the question of the interpretation of Section 30, Sub-section (2), U.P., Agriculturists' Belief Act (Act 17 of 1934). The following dates are relevant : On 19th January 1929 the judgment-debtor executed a simple mortgage for Rs. 300 at 2 per cent simple interest per mensem in. favour of the decree-holder. On 18th January 1935 a suit was brought on this mortgage and on 28th February 1935 the written statement was filed. Both of these dates occur before the Act came into force, which was 30th April 1935, with the assent of the, Governor-General in Council, and publication was made in the Gazette on 27th April 1935. It is possible that his Gazette had not reached Shahjahanpur before the arguments were heard on 1st May 1935, and the suit was decreed on that date. Consequently no plea was made for reduction of interest under Section 30, Sub-section (1). An application was made on 10th

October 1935 by the judgment-debtor for relief under Sub-section (2) of Section 30, and the Court below has refused that relief holding that the words in Sub-section (2) of Section 30 do not cover the case of a decree which was passed after the Act came into force. Sub-section (2) of Section 30 states:

If a decree has already been passed on the basis of a loan and remains unsatisfied in whole or in part, the Court which passed the decree shall, on the application of the judgment-debtor amend it by reducing, in accordance with the provisions of Sub-section (1), the amount decreed on account of interest.

2. The Court below interprets the words 'has already been passed' as meaning a decree passed before the Act came into force. It appears to me that this interpretation of the sub-section is not correct. According to the laws of grammar and interpretation 'has already been passed' should refer to some point of time indicated in the sub-section itself. The only point of time indicated is in the words 'on the application,' that is, the date of the application. On this interpretation the defendant is within time as the sub-section means any decree passed prior to the date of the application. Another reason which leads me to this view is that the legislature intended to grant relief to agricultural tenants, and there is no reason why it should refuse relief to persons whose decrees were passed after the Act came into force. If this had been the intention of the legislature it would have been natural that the legislature should have stated in Sub-section (2) : 'If a decree has already been passed before this Act comes into force,' but the words 'before this Act comes into force' do not occur in Sub-section (2) of Section 30. Moreover if this had been the intention of the legislature the result would be that a defendant could obtain relief only if his legal advisers were aware of the law on the point during the pendency of the suit and he would be deprived of relief if his legal advisers did not take the plea during the suit where a decree was passed after the Act. I do not think that the legislature intended relief to depend on whether the legal advisers of defendants were or were not aware of this provision. It is more natural in dealing with agriculturists to give them relief both during the suit and also after the decree, and legislation of this nature should be construed liberally to give the intention of the Act as much force as possible. For these reasons, I consider that the application of the judgment-debtor is one which should be granted under

Section 30, Sub-section (2) and accordingly I allow this revision and remand the case to the Court below with a direction to amend its decree in accordance the Section 30, Sub-section (2). The applicant is granted costs in this Court.

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