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Hansoo Vs. Suwalal

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Court : Rajasthan

Decided On : Nov-09-1959

Reported in : AIR1960Raj215

Judge : Sarjoo Prosad, C.J. and; L.N. Chhangani, J.

Acts : Debt Law; Rajasthan Relief of Agricultural Indebtedness Act, 1957 - Sections 24(2); Code of Civil Procedure (CPC) , 1908 - Sections 9

Appeal No. : Civil Revn. No. 207 of 1959

Appellant : Hansoo

Respondent : Suwalal

Advocate for Def. : S.L. Mardia, Adv.

Advocate for Pet/Ap. : J.S. Chordia, Adv.

Judgement :

Chhangani, J.

1. This is a defendant's revision in a money suit. The plaintiff suwalal Mahajan, resident of Nathdiyas brought a suit against the defendant Hausoo for the recovery of Rs. 1280/- in the Court of the Munsif, Gangapur. The suit is being contested by the defendant. During the pendency of the suit, on 24-7-1958 the defendant,

claiming to be an agriculturist, put an application under Section 5 of the Rajasthan Relief of Agricultural Indebtedness Act No. 28 of 1957 (hereinafter referred to the Act) for staying proceedings and to enable him to file an application under Section 6 of the Act before a Debt Relief Court. The petition was opposed by the plaintiff.

The Munsif held that the defendant was an agriculturist but he refused to stay suit on the ground that the Act cannot have retrospective effect and that the petitioner's case will have to be determined in accordance with the Mewar Agriculturist Relief Act, 1942. The petition was, therefore, held to be incompetent and was dismissed by him.

2. The defendant has come in revision. The revision was originally heard in the Single Bench but as a question of interpretation of Section 24 of the Act was involved and as there was no decision of this Court on the point, the matter was referred to a Division Bench.

3. We have heard Mr. J.S. Chordia for the petitioner and Mr. S.L. Mardia on behalf of the respondent. The Munsif relied upon Section 24 of the Act, which reads as follows:--

Section 24 'Repeal. -- (1) The enactments specified in the Schedule to this Act and all laws amending the same shall stand repealed on the date this Act came into force.

(2) Such repeal shall not affect any proceedings pending on the date of the commencement of this Act under any law so repealed before any court, board, tribunal or authority and all such proceedings shall continue and be heard and determined by the Debt Relief Court in accordance with such law as if this Act had not been passed.' Sub-section (2) of Section 24 clearly saves from the operation of this Act any pending proceedings which shall continue to be heard and determined in accordance with the law in force before the commencement of the Act. The sub-section also makes it clear that pending proceedings shall be determined by a Debt Relief Court.

4. Mr. J.S. Chordia contends that although. pending cases shall be determined in accordance with the old law yet they have to be tried by aDebt Relief Court. The language of Section 24 Sub-section (2) supports his contention.

5. Mr. S.L. Mardia does not oppose this contention of the petitioner's advocate. He has, however, invited our attention to the Revenue Department's Notification No. F. 1 (1681) Rev. D/57 dated May 2, 1958, according to which the Munsif Gangapur has been appointed as the presiding officer of the Debt Relief Court having pecuniary jurisdiction upto Rs. 5,000/-, and we are told that the present suit is being tried by the Munsif as a presiding officer of the Debt Relief Court.

6. In view of the position discussed abovewhile the Munsif was right in holding that the present suit shall be governed by the prior MewarLaw, he was not justified in dismissing the application completely inasmuch as he was not competentto try the suit as a Munsif. However, as the Munsifis now the Presiding Officer of the Debt ReliefCourt also, and is trying the suit in that capacity, the revision petition has, therefore, become infructuous. In the circumstances, we leave the partiesto bear their own costs.

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