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Court : Rajasthan

Decided On : Jul-22-1964

Reported in : AIR1964Raj274

Judge : Jagat Narayan, J.

Acts : Debt Law; Rajasthan Relief of Agricultural Indebtedness Act, 1957 - Sections 4

Appeal No. : Civil Ref. No. 24 of 1962

Appellant : Nathudan

Respondent : State of Rajasthan

Advocate for Def. : G.C. Kasliwal, Adv. General

Judgement :

Jagat Narayan, J.

1. This is a reference by the Munsif, Jalore under Section 113, C. P. C.

2. One Nathudan filed an application before him under Section 6 of the Rajasthan Relief oi Agricultural Indebtedness Act, 1957, for determination of his 'debt'. His liabilities include some loan made to him by the State Government, under Section 4(j) of the Act, the provisions of which are not applicable to 'any other sum of

money dueto Government by way of or towards payment of a loan'. It is contended that this provision is void as it is hit by Article 14 of the Constitution.

3. The learned Advocate General concedes that it is so hit.

4. In Mukanchand v. Inder Singh, ILR (1959)9 Raj 547 a Division Bench of this Court held that Section 2(e) of the Rajasthan Jagirdars' Debt Deduction Act was hit by Article 14 of the. Constitution. This part of the judgment was upheld by their Lordships of the Supreme Court (State of Rajasthan v. Mukanchand, Civil Appeal No. 507 of 1061 D/- 26-2-64 : (AIR 1964 SC 1633)). Section 2 (e) of that Act ran as follows:

''Debt' means an advance in cash or in kind and includes any transaction which is in substance a debt but does not include an advance as aforesaid made on or after the first day of January 1949 or a debt due to:

(i) the Central Government or Government of any State;

(ii) a local authority;

(iii) a scheduled bank;

(iv) a co-operative society; and

(v) a waqf, trust or endowment for a charitable or religious purpose only; or (vi) a person where the debt was advanced onhis behalf by the Court of Wards.'

Confirming the judgment of the High Court then Lordships of the Supreme Court observed as follows:

'We think that the High Court was right in I holding that the impugned part of Section 2(e) infringes Article 14 of the Constitution. It is now well settled that in order to pass the test of permissible classification, two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differentiation which distinguishes persons or things that are to be put together fromothers left out of the group, and (2) that the differentia must have a rational relationship to the object sought to be achieved by the statute in question. In our opinion, condition

No. 2 above has clearlynot been satisfied in this case. The object soughtto be achieved by the impugned Act was to reducethe debts secured on jagir lands which had beenresumed under the provisions of the Rajasthan LandReforms and Resumption of Jagirs Act. TheJagirdar's capacity to pay debts had been reducedby the resumption of his lands and the object ofthe Act was to ameliorate his condition. The factthat the debts are owed to a government or localauthority or other bodies mentioned in the impugned part of Section 2(e) has no rational relationship with the object sought to be achieved by theAct. Further, no intelligible principle underliesthe exempted categories of debts.'

5. The above observations are equally applicable to the part of Section 4(3) of the Rajasthan Relief of Agricultural Indebtedness Act namely 'any other sum of money due to Government by way of or towards payment of a loan'.

6. The reference is answered as indicated above. Let the record be returned to Munsif, Jalore, so that the suit may be disposed of expeditiously.

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