

**Parkha Vs. Jawan Mal**

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**Court :** Rajasthan

**Decided On :** Jul-16-1979

**Reported in :** 1979WLN(UC)515

**Judge :** M.C. Jain, J.

**Appeal No. :** S.B. Civil Revision No. 276 of 1978

**Appellant :** Parkha

**Respondent :** Jawan Mal

**Disposition :** Petition dismissed

**Judgement :**

**M.C. Jain, J.**

1. This revision petition is directed against the order dated June 26-1978, passed by the District Judge, Jalore, whereby the application presented by the present petitioner before the District Judge, Jalore, under Section 4 of the Rajasthan Schedule Debtors (Liquidation of Indebtedness) Act, 1975 (hereinafter referred to as the 'Scheduled Debtors Act'], was rejected.

2. The facts, in brief, are that the Debt Relief Court passed a decree on September 4, 1974, against the petitioner and four others. Dissatisfied with the same a revision petition was preferred under Section 17 of the Rajasthan Relief of

Agricultural Indebtedness Act, 1957, (hereinafter referred to as the 'Debt Relief Act'). Before the Revisional Court the present petitioner moved an application under Section 4 of the Scheduled Debtors Act. An objection was raised by the respondent decree holder that the proceedings can only abate if the same are pending against the Scheduled Debtors. The revision petition is not pending against the Scheduled debtors and it is revision by the debtor, so such a proceeding cannot be abated. It appears that this preliminary objection finds favour with the learned District Judge and on that basis the application of the present petitioner was rejected. Dissatisfied with the order of rejection the petitioner has preferred this revision petition-

3. The learned Counsel for the petitioner submitted that the learned District Judge erred in considering that Section 4(d) has application to the case and has erred in sustaining the preliminary objection raised by the decree holder respondent. He contended that the application was for the discharge of the debt as envisaged in Clause (a) of Section 4. The Courts below should have considered the application on merits and should have discharged the entire debt after accepting the revision petition pending before him.

4. I find substance in the contention of the learned Counsel for the petitioner. However, the question arises as to whether the present petition against the impugned order is maintainable. The proceedings before the learned District Judge were proceedings under the Debt Relief Act and no revision lies to this Court under the Act. The Scheduled Debtors Act does not deal with any remedy. In my opinion, the present revision petition is misconceived. The learned Counsel for the petitioner moved an application for treating this revision petition as a writ petition. In this contention it may be stated that the revision under the Debt Relief Act is still pending before the District Judge. It would be open to the petitioner to challenge the final orders, which may be passed in the revision petition by recourse to appropriate remedy. It would be also open to the petitioner to bring it to the notice of the learned District Judge that the matter is required to be dealt with under Clause (a) of Section 4 of the Scheduled Debtors Act.

5. With these observations the revision petition is dismissed. In the circumstances of the case the parties shall bear their own costs of this revision petition.

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