

In Re: Siddappa Chettiar

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SooperKanoon Citation : sooperkanoon.com/789051

Court : Chennai

Decided On : Jul-27-1942

Reported in : AIR1942Mad738; (1942)2MLJ616

Appellant : In Re: Siddappa Chettiar

Judgement :

Byers, J.

1. The facts leading to these revision petitions are that the defendant in Small Cause Suit No. 299 of 1941 on the file of the District Munsiff of Dharmapuri filed an application under Section 4 of the Madras Debt Conciliation Act in respect of a mortgage debt due to the plaintiff. In due course the plaintiff was called upon to file a statement of his claims under Section 10 (1) of the Act. This he failed to do in spite of notices served upon him and finally the debt was deemed to be discharged under Section 10 (2) of the Act. Subsequently, the plaintiff filed the present suit on a promissory note and the defendant's answer was that all debts due to the creditor had been wiped out under Section 10 (2) of the Act. The learned District Munsiff accepted this plea and dismissed the suit.

2. The point which has been raised in , revision is that Section 10 (2) of the Act applies only to debts which have been shown by the debtor in his application under Section 4. This is not what the sub-section says. It is in the following words:

Subject to the provisions of Sub-section (3) every debt of which a statement is not submitted to the Board in compliance with the provisions of Sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

The meaning of these words is not open to any possible doubt. Under Section 10 (1), if the Board, after examining the debtor, is of the opinion that it is desirable to effect a settlement between the debtor and his creditors, a notice is then issued to each of the creditors and upon each creditor served with the notice the duty then devolves of submitting a statement of all debts owing to him by the debtor. Clearly this statement is not to be limited to the debts given by the debtor himself in his application under Section 4 although there is a burden on him to include in his application particulars of all his debts. When creditors have filed their statements, the conciliation proceeds on the basis of their statements and it is clear from Section 10 (2), that debts which are not included in those statements are outside the scope of the settlement and cannot be sued upon in future. If Section 10 (2) is to be limited to debts mentioned only by the debtor in his application, then there can be no purpose in calling on creditors to file statements of all their claims and it would be open to a debtor to file successive applications for each one of his debts as each of his creditors proceeds against him in execution. I do not think there can be any doubt about the meaning of the plain words in Section 10 (2) of the Act, the effect of which is that any debt not included in the creditor's statement is for all purposes deemed to have been discharged. The order of the Munsiff dismissing the suit was therefore correct and Civil Revision Petition No. 840 is dismissed.

3. Civil Revision Petitions Nos. 841 and 842 relate to the learned Munsiff's order under Section 10 (3) of the Act. The plaintiff applied subsequently for the revival of his other debts on the ground that there was sufficient cause for his failure to furnish the statement of his claims under Section 10 (1). The learned Munsiff found as a fact that he had been served with notice and that there was no sufficient cause for his failure. There is no error of jurisdiction in these proceedings and both the petitions are also dismissed.