LAHORE HIGH COURT

Nihal Singh

Vs

Siri Ram

(Dalip Singh, J.)

28.04.1939

JUDGMENT

Dalip Singh, J.

1. The facts of this case are clearly and succinctly given in the Order of Reference where most of the rulings dealing with the point of law involved have also been cited. The decree-holder in this case took out execution against the judgment-debtor whose houses were attached. The judgment-debtor objected that he was an agriculturist and his houses were, exempt from attachment under Section 60(1)(c), Civil Procedure Code The executing Court found that the judgment-debtor did not till the land with his own hands, but two-thirds of his land was leased out to tenants and he received rent there from and one-third of his land was cultivated by himself through siris and sepis: the judgment-debtor had no other source of livelihood except the income so arisen from the land and it held on a consideration of the rulings that in the above circumstances the judgment-debtor could not be said to be an agriculturist. The judgment-debtor owned a one-third share in about a thousand ghumaons of land. It therefore dismissed the objections of the judgment-debtor. The judgment-debtor appealed and the learned Single Judge referred the case to a Division Bench and the Division Bench referred the case to a Pull Bench. It is unnecessary to cite all the rulings from the various High Courts which are summarized in the referring order at length. It is sufficient to say that the vast bulk of authority is to the effect that the judgment-debtor in such cases could not be considered ah agriculturist. It is not always possible to reconcile all the various tests proposed for the meaning of the word "agriculturist." I propose here to cite first of all the relevant clauses of Section 60:

> (b) Tools of artizans and where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as my have been declared to be free from liability under the provisions of the next following Section; (c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and

necessary for their enjoyment) belonging to an agriculturist and not let out on rent or lent to others or left vacant for a period of a year or more.

2. The last words have been added to the Civil Procedure Code by the Punjab Debtor's Relief Act. There is no definition of the word "agriculturist" in the Civil Procedure Code and the dictionary meanings vary from a husbandman, a farmer, to any person employed in the science or art of agriculture. It is obvious that the widest meaning of the term cannot be held to be the one contemplated in this Section and this was conceded by the learned Counsel for the appellant. If this widest meaning were taken, a professor of agriculture in a college who had not the remotest connexion with any actual piece of land, might be held to be an agriculturist. If the narrowest meaning is taken then the term "agriculturist" would mean a person actually tilling the soil. The contention of the learned Counsel for the appellant has varied during the course of the arguments from time to time, but finally he claimed that the true construction of the word "agriculturist" was a person engaged in agriculture, that is whose main occupation is agriculture, that is cultivation of the land personally or through the medium of intermediaries, whether tenants, partners or servants. It appears to me however, that where a word is used in an Act which is capable of various shades of meaning, the particular meaning to be attached must be arrived at by reference to the scheme of the Act or of the Section in particular taken as a whole. It is also obvious that the word "agriculturist" must mean the same whether used in Clause (b) or Clause (c) of Section 60. Reading Clause (b) of the Section it appears to me clear that the juxtaposition of the word "agriculturist" along with the word "artizan" implies a person who occupies himself in tilling the soil and whose livelihood depends on this tilling of the soil. It could hardly be said that the term "artizan" meant merely a person who engaged himself in the practice of some handicraft without reference to the fact that the per. son maintained himself by the practice of that handicraft. Otherwise, a man who made a hobby of some handicraft might 1 say that for the purposes of this Section his tools were exempt from attachment because he was an artizan. But the meaning of 'artizan' is not in this Section clearly, a person who merely engages in some particular handicraft for pleasure or as a hobby or even as an additional source of income, but it means a person who employs himself in a handicraft personally and who depends for his living essentially on the proceeds derived from that handicraft.

3. Similarly, the word 'agriculturist' in this Section, it appears to me, means a person who personally engages himself in the tilling of the soil and whose livelihood depends upon the proceeds derived from that tilling, of the soil. This appears to me to be the natural construction of the words as used in the Civil Procedure Code, and in this way of looking at the matter it would seem, obvious that a person such as the present; judgment-debtor could not be said to be an agriculturist, for a man merely receiving, rent from tenants or the income of produce derived by the employment of servants or partners could not be said to be personally engaging himself in tilling the soil and could not be said to depend for his livelihood upon the proceeds derived from so engaging himself in the tillage of the soil. So far as our own Court goes, from the earliest ruling, *Gurbakhsh Singh v. Ghulam Qadir*[1] down to the latest rulings in *Sant Ram v. Buta Khan*[2]

and *Balwant Singh v. Anjuman Imdad Bahami Qarza*[3] it has never been held that; a person merely drawing the income from tenants or from the produce actually raised by servants is to be regarded as an agriculturist for the purposes of this Section. The learned Counsel was not able to draw our attention to any authority of

[1](1897) 47 P.R. 1897

[2] A.I.R.(1938) Lah. 72

[3] A.I.R.(1939) Lah. 40

this Court which would support him. Similarly, as pointed out in the referring order, the general trend of the rulings in the High Courts of Allahabad, Bombay and Calcutta is also to the same effect. There is only one ruling of Nagpur, *Anandarao v. Pandurang*, and a ruling of Madras, *Muthuvenkatarama Reddiar v. Official Receiver South Arcot*[4] where it appears to have been held that actual tilling of the soil was not essential for the purpose of making a man an agriculturist. In *Lakshmayya v. Official Receiver Masulipatam*[4] a Full Bench propounded a test different to the test proposed in *Muthuvenkatarama Reddiar v. Official Receiver South Arcot*[5] In the Full Bench ruling it was pointed out that the test was not whether the main source of income was from agriculture, nor was it whether the sole source of income was agriculture; the true test was that protection was intended to be given to those who are real tillers of the land and that an agriculturist in this Section is a person who is really dependent for his living on tilling the soil and unable to maintain himself otherwise.

4. Thus, the general current of authority would appear to support the view that the present appellant is not an agriculturist. If it were necessary to define the word 'agriculturist' so as to include all possible cases, I would prefer to define it as meaning a person who personally engages himself in the occupation of tilling the soil and who derives his livelihood from that occupation and cannot or does not maintain himself from other sources. I do not mean thereby that the sole source of his income or the main source of his income must be this occupation of tilling the soil. No doubt in most cases a rough and ready test would be afforded by considering the main source of income or the sole source of income, but that in my opinion is not an absolutely correct test. The true test is whether a man personally engages in tilling and whether this occupation is essential to his maintenance. I would therefore hold in this case that the appellant is not an agriculturist and would uphold the decision of the trial Court and dismiss this appeal with costs.

Monroe J.

5. I agree.

Ram Lall J.

6. I also agree.

[4] A.I.R.(1937) Mad. 551

[5] A.I.R.(1926) Mad. 350