

4. For the reasons given above, I accept this petition and quash the notification dated September 22, 1967. There shall be no order as to costs.

S.C.K.

Before B. S. Dhillon and J. V. Gupta, JJ.

BHOLA SINGH,—Petitioner.

versus

LACHHMAN DASS,—Respondent.

Civil Revision No. 2225 of 1978.

September 3, 1979.

*Haryana Relief of Agricultural Indebtedness Act (18 of 1976)—Sections 2(f) & (g), 5, 8 and 19—Proceedings not initiated before the Debt Settlement Officer—Suit for the recovery of an alleged debt filed in a Civil Court—Jurisdiction of the court—Whether barred—Section 19—Scope of—Objection regarding jurisdiction of the Civil Court if raised—Procedure to be followed by such court—Stated.*

Held, that before the jurisdiction of the Civil Court is barred under section 19 of the Haryana Relief of Agricultural Indebtedness Act, 1976, it will have to decide whether the debt will be deemed to have been duly discharged under the provisions of the Act or while executing a decree passed by a Civil Court, whether the judgment-debtor is a debtor as contemplated under section 2(g) thereof. If a court, after giving the parties an opportunity to lead evidence, comes to the conclusion that either the person is a debtor or the debt will be deemed to have been discharged under the provisions of the Act, then it will stay its hands to proceed with the matter further. The Act nowhere provides that it is the sole jurisdiction of the Debt Settlement Officer to decide these matters under the Act. Of course, any decision given by him on these matters shall be final and will not be called in question in any court but in the absence of any such decision, the Civil Court, will be competent to go into the matter to decide these matters, i.e. whether the debt will be deemed to have been duly discharged under the provisions of the Act or the person against whom a decree passed by a Civil Court is being executed is a debtor or not. The Act nowhere provides that these matters can only be

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decided by the Debt Settlement Officer and by none else. It is well known that the jurisdiction of the Civil Court can be barred by providing specifically to that effect. Unless there is any specific provision barring the jurisdiction of the Civil Court directly or indirectly, the Civil Court shall always have the jurisdiction to decide the matter arising before it. Before the bar under section 19 of the Act is invoked, the Court will have to give a finding on evidence as to whether the person is a debtor or the debt will be deemed to have been duly discharged under the provisions of the Act. The jurisdiction of the Civil Court is not totally barred under Section 19 and relief can be given by it to a person under the Act if he is able to prove his case under the various provisions thereof. From the Scheme of the Act, it appears that such an objection when taken either in a suit or in an execution application will be decided by the court as a preliminary issue. In case it is held that either the loan is a debt or the person is a debtor as contemplated by the provisions of the Act the court will not proceed further in the matter.

(Para 4 and 5).

*Petition under Section 115 of the Code of Civil Procedure for revision of the order of the Court of Shrimati K. L. Anand, Sub-Judge 1st Class, Kurukshetra; dated the 3rd November, 1978, rejecting the application of the petitioner.*

K. G. Chaudhry, Advocate, for the Petitioner.

S. K. Goyal, Advocate, for the Respondent.

Naubat Singh, Senior D.A.G. (Haryana), for the State.

#### JUDGMENT

J. V. Gupta, J.

(1) This case has been referred to the Division Bench by S. P. Goyal, J.,—*vide* his order dated April 27, 1979.

(2) Brief facts giving rise to this revision petition are that the plaintiff-respondent has filed a suit for the recovery of Rs. 2,700 in the Court of Subordinate Judge 1st Class, Kurukshetra, in which the defendant-petitioner filed an application, alleging therein that he being a marginal farmer, as defined in Section 2 clause (h) of the Haryana Relief of Agricultural Indebtedness Act, 1976 (Haryana Act No. 18 of 1976) (hereinafter referred to as the Act), the suit should be dismissed. It was further pleaded that under Section 5 of the Act, every debt, together with any interest payable thereon,

owned on the commencement of the Act by a marginal farmer, whose annual household income does not exceed two thousand and four hundred rupees, shall be deemed to be wholly discharged. Thus, according to him, under Section 19, Civil Court cannot entertain this suit. By virtue of the impugned order dated 3rd November, 1978, the trial Court came to the conclusion that so far as Section 19 of the Act is concerned, it only deals with the loans which have been declared by the Debt Settlement Officer to be debts and bars the jurisdiction of the Civil Court to entertain suits for recovery of such type of debts. Since in the present case, there is no finding of the Debt Settlement Officer declaring the loan in question as a debt, as defined in Section 2 clause (f), nor the defendant has been held to be a debtor as contemplated by Section 2 clause (g), as such the jurisdiction of the Civil Court to try the suit is not barred under Section 19 of the Act, nor a Civil Court can declare that the loan in question shall be deemed to be wholly discharged. According to the trial Court, this job has been assigned to the Debt Settlement Officer and unless he gives a finding that the loan in question is a debt and the defendant is a debtor, the Civil Court is within its right to proceed with the case as such without deciding the matter as to whether the loan is a debt or not. Consequently, the application of the defendant-petitioner was rejected.

(3) The main question to be decided in this petition is as to the interpretation of Section 19 of the Act, which reads as under :—

“Bar of civil suits.—No civil court shall entertain—

(a) any suit, appeal or application for revision—

(i) to question the validity of any procedure or the legality of any order issued under this Act; or

(ii) to recover any debt which has been deemed to have been duly discharged under the provisions of this Act;

(b) any application to execute a decree passed by a civil court against a debtor ;

(c) any suit for declaration, or any suit or application for injunction affecting any proceedings under this Act before a debt settlement officer.”

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This Act was enacted to provide relief from indebtedness to the agricultural labourers, rural artisans, marginal farmers and small farmers, as defined in Section 2 thereof. Section 5 provides certain debts to be deemed to be wholly discharged as given therein. Section 7 provides for the appointment of Debt Settlement Officers. Section 14 provides the power of Debt Settlement Officer to adjudicate upon the application filed before him as contemplated under Section 8 thereof. Section 18 provides that if any question arises in any proceedings under the Act, i.e. whether a loan or liability is a debt or not, or whether a person is a debtor or not, the decision of the Debt Settlement Officer shall be final and shall not be called into question in any Court.

(4) Keeping all the provisions of the Act in view, it is quite clear that in case any decision has been given by the Debt Settlement Officer, the same shall be final and shall not be called into question in any Court. The question still remains to be decided is that in case either party, i.e. the creditor or the debtor does not approach the Debt Settlement Officer for adjudication by way of application under Section 8 of the Act, whether the jurisdiction of the Civil Court to decide the question of the loan being a debt or the person being a debtor as contemplated under the Act, is barred under Section 19. After hearing the learned counsel for the parties, we are clearly of the opinion that before the jurisdiction of the Civil Court is barred under Section 19, it will have to decide whether the debt will be deemed to have been duly discharged under the provisions of the Act; or while executing a decree passed by a Civil Court, whether the judgment-debtor is a debtor as contemplated under Section 2 clause (g) thereof. If a Court, after giving the parties an opportunity to lead evidence, comes to the conclusion that either the person is a debtor or the debt will be deemed to have been discharged under the provisions of this Act, than it will stay its hands to proceed with the matter further. The Act nowhere provides that it is the sole jurisdiction of the Debt Settlement Officer to decide these matters under the Act. Of course, any decision given by him on all these matters shall be final and will not be called into question, in any Court, but in the absence of any such decision, the Civil Court will be competent to go into the matter to decide these matters, i.e. whether the debt will be deemed to have been duly discharged under the provisions of this Act or the

person against whom a decree passed by a Civil Court is being executed, is a debtor or not. The Act nowhere provides that these matters can only be decided by the Debt Settlement Officer and by none else. It is well known that the jurisdiction of the Civil Courts can be barred by providing specifically to that effect. Unless there is any specific provision barring the jurisdiction of the Civil Court, directly or indirectly, the Civil Court shall always have the jurisdiction to decide the matter arising before it. Before the bar under Section 19 of the Act is invoked, the Court will have to give a finding on evidence as to whether the person is a debtor or the debt will be deemed to have been duly discharged under the provisions of this Act.

(5) There is another aspect of the matter, as well. Section 8 of the Act provides the period of six months from the date of notification under sub-section (2) of Section 1, within which a debtor or any of his creditors may apply to the Debt Settlement Officer. Suppose in a case the debtor or the creditor has not applied within the time prescribed, the question may arise that whether he is debarred to claim the protection under the Act, if he is otherwise entitled to it. If it is held that the Civil Court is debarred to go into the matter because it was the sole jurisdiction of the Debt Settlement Officer, it will amount to debarring the person of his claim under the Act and will thus defeat the very object of it. In these circumstances, it cannot be held that because of Section 19, the jurisdiction of Civil Court is totally barred and no relief can be given by it to the person under the Act, even if he is able to prove his case under the various provisions thereof. From the Scheme of the Act, it appears that such an objection when taken either into suit or in an execution application, will be decided by the Court as a preliminary issue. In case it is held that either the loan is a debt or the person is a debtor as contemplated by the provisions of the Act, the Court will not proceed further in the matter. In our opinion, this is the true scope of Section 19 of the Act.

(6) For the reasons recorded above, this petition is accepted, the order of the trial Court is set aside and it is directed that the application of the defendant-petitioner be decided on merits after giving opportunity to the parties to lead evidence. However, the parties will bear their own costs.

Bhopinder Singh Dhillon, J.—*I agree.*

H.S.B.