Mst. Payari
v.
Faqir Chand and others

Gurdev Singh, J.

in which such marriage is void by reason of its taking place during the life of such husband or wife" merely emphasises the fact that unless a person is prohibited by the law, to which he is subject in the matters of marriage and divorce, from marrying more than one wife he is not to be punished under section 494 of the Indian Penal Code, but the person on whom the law enjoins monogamy commits an offence of bigamy if he goes through a form of marriage with another person during the existence of the first spouse. In this view of the matter I find that the acquittal of the respondents is wrong in law and the same must be set aside. As the learned trial Magistrate had disposed of the complaint only on a legal point without going into merits, the case must go back to him. I would accordingly remand the case to the trial Court for decision in accordance with law and in the light of the correct position of law as explained above. Records be returned to the trial Magistrate. The parties are directed to appear before him on the 19th of September, 1960.

Falshaw, J.

FALSHAW, J.— I agree.

B.R.T.

APPELLATE CIVIL

Before Inder Dev Dua, J.

DEV NATH SURI,—*Appellant.*

versus

RAM CHAND SURI,—*Respondent.*

E. S. A. No. 57-D of 1957

1960

August 26.

Displaced Persons (Debts Adjustment) Act (LXX of 1951)—Section 2(6)(c)—Debt—Definition of—Pecuniary liability incurred by a displaced person after he came to reside in India—Whether covered—Interpretation of statutes—Rules as to, stated.

Held, that where a displaced person has incurred any pecuniary liability after he came to reside in India, that liability is not a debt as defined by clause (c) of sub-section (6) of section 2 of the Displaced Persons (Debts Adjustment) Act, 1951 and he cannot be called a displaced debtor in respect of that liability. It was really with the object of rehabilitating the displaced persons that this Act was enacted. But in the light of equality clause of the Indian Constitution it is exceedingly difficult to impute to the Parliament an intention, the controlling factor in all legislative construction being legislative intent, that for all times to come a displaced person has been placed in a privileged position and all debts incurred by him, even after his migration to India, are to be treated differently from the debts incurred by other citizens.

Held, that the best test in the construction of statutes is to see the subject-matter of the purpose for which a provision of law is enacted. One should always get at its real object and purpose; the importance of the provision of law enacted and its relation to or effect on the general object intended to be secured by its enactment. The surroundings, the purpose of enactment, the end to be accomplished and the consequences that may result by adopting one meaning rather than the other are important factors which must be taken into account while interpreting law. The purpose of law is to control the society but this purpose can hardly be achieved without satisfying the basic social needs; with this end in view the actual effect of law upon social life must always be borne in mind and taken into account in legal thinking.

Held, that another rule of interpretation of statutes is to harmonise seemingly incongruous provisions of law rather than to bring them into conflict. This is all the more so when the conflict or the incongruity seems to give rise to an arbitrary or irrational discrimination which the Constitution does not favour. In this connection, Courts must also see that no undue prejudice to the legitimate interests of suitors before them is caused except where it is expressly provided by law or can be spelled out as a matter of necessary intendment. The effect of alternative construction of statutes and its probable consequences have therefore always to be kept in view.

Execution Second Appeal from the order of Shri Jasmer Singh, Additional Senior Sub-Judge, Delhi, with Enhanced Appellate Powers, dated the 21st January, 1957, confirming that of Shri M. L. Jain, Sub-Judge, 1st Class, Delhi, dated the 18th April, 1956, dismissing the petition.

R. S. NARULA, ADVOCATE, for the Appellant.

BASHESHAR NATH, ADVOCATE, for the Respondent.

JUDGMENT

Dua, J.

DUA, J.—The only point which arises for decision in this case relates to the interpretation of word 'debt' as defined in Section 2(6) of the Displaced Persons (Debts Adjustment) Act, LXX of 1951.

The facts out of which this revision arises are not in dispute. Ram Chand, decree-holder respondent before me, obtained a decree for Rs. 742 with costs on account of arrears of rent against Dev Nath Suri, judgment-debtor appellant. This decree is dated 19th January, 1954, and the rent for which it has been passed admittedly fell due after the partition of the country, i.e, 15th August, 1947. In execution of this decree the decree-holder got attached one-half of the judgment-debtor's pay in excess of Rs. 100. The judgment-debtor filed objections under Sections 47 and 60 of the Code of Civil Procedure read with Section 31 of Act LXX of 1951, contending that the judgment-debtor is a displaced person as defined in the Displaced Persons (Debts Adjustment) Act and that his pay being Rs. 120 p.m., nothing is liable to attachment in view of Section 60 of the Code of Civil Procedure as amended by Section 31 of Act LXX of 1951.

The decree-holder resisted these objections contending that the amendment of the Code

of Civil Procedure by Act LXX of 1951 did not apply to the present case in as much as the decree sought to be executed is not for a debt as defined in Section 2(6) of Act LXX of 1951.

The trial Court after hearing both the parties came to the conclusion that the amended Section 60 of the Code of Civil Procedure would apply only if the decree related to debt as defined in Act LXX of 1951. After considering the definition of the word 'debt' as contained in Section 2(6), the Court opined that the debt in suit having been incurred after the year 1948 was not covered by the amended provision. On this view the objections were dismissed with costs.

On appeal by the judgment-debtor the learned Additional Senior Subordinate Judge concurred with this view. The Lower appellate Court, while discussing the question, also made a reference to *Jamia Millia Islamia, Delhi, and another* v. *Prithi Raj* (1), *B. S. Bali* v. *Seth Batalia Ram and others* (2), and an unreported judgment of a Division Bench of this Court in *Karam Narain* v. *Ved Parkash,* Civil Revision No. 390-D of 1954. The unreported decision was relied upon for the view that any pecuniary liability incurred by a displaced person after he came to reside in India cannot be called a debt and that displaced person cannot be regarded as a displaced debtor in respect of that liability. I may at this stage mention that admittedly both the judgment-debtor and the decree-holder in the case in hand are displaced persons and the decree under execution is also for arrears of rent that fell due after 1948. Feeling aggrieved by the adverse decisions of both the Courts below, the

(1) 1954 P.L.R. 325.
(2) 1954 P.L.R. 16.

Dev Nath Suri,
v.
Ram Chand Suri

Dua, J.

judgment-debtor has come up on second appeal to this Court and Mr. Narula has assailed the view of the Courts below in a very elaborate argument.

The principal contention raised on behalf of the appellant, and indeed this is the only point on which the whole argument is centred, is that by virtue of clause (c) of Section 2(6) a debt due to a displaced person from any other person (whether a displaced person or not) ordinarily residing in the territories to which this Act extends, falls within the definition of the word 'debt' as defined in the Displaced Persons (Debts Adjustment) Act. It is admitted that clauses (a) and (b) of Section 2(6) are not directly relevant for our purposes. It would be helpful at this stage to reproduce the definition of the word 'debt' in so far as is relevant for our purposes:—

> "2. (6) 'debt' means any pecuniary liability, whether payable presently or in future, or under a decree or order of a civil or revenue Court or otherwise, or whether ascertained or to be ascertained, which.....
>
> (a) * * * * * *
> * * * * * *
> (b) * * * * * *
> * * * * * *
>
> "(c) is due to a displaced person from any other person (whether a displaced person or not) ordinarily residing in the territories to which this Act extends:
>
> "and includes
>
> any pecuniary liability incurred before the commencement of this Act by any

such person as is referred to in this clause, which is based on, and is solely by way of renewal of, any such liability as is referred to in sub-clause (a) or sub-clause (b) or sub-clause (c),

Provided that in the case of a loan, whether in cash or in kind, the amount originally advanced and not the amount for which the liability has been renewed shall be deemed to be the extent of the liability;
but does not include

any pecuniary liability due under a decree passed after the 15th day of August, 1947, by any Court situate in West Pakistan or any pecuniary liability the proof of which depends merely on an oral agreement."

As already observed the counsel has laid great stress on the unqualified nature of the language used in clause (c). It has indeed been submitted that the inclusive provision of the definition, which refers to any pecuniary liability incurred before the commencement of the Act is clearly suggestive of the fact that liability incurred after the partition of the country must also be deemed to be included in the definition as contained in clause (c).

The argument as put sounds plausible but the matter is not res integra and it actually came up for consideration before a Division Bench of this Court in *Karam Narain* v. *Ved Parkash*, Civil Revision No. 390-D of 1954, decided on 6th April, 1956, in which D. Falshaw, J., who first heard that case sitting in Single Bench, referred

Dev Nath Suri
v.
Ram Chand Suri

Dua, J.

it for decision to a larger Bench on account of some apparent conflict in certain decisions of this Court. The case was ultimately heard by G. D. Khosla J. (as he then was) and Dulat J., the main judgment having been prepared by the latter. The Division Bench approved the view taken by G. D. Khosla J. in *Jamia Millia Islamia, Delhi, and another* v. *Prithi Raj* (1), and expressed itself in the following words:—

> "Going to the decided cases I find that the only one directly on the point as far as this High Court is concerned is the decision of Bhandari C. J. dated the 16th December, 1955, in Civil Revision No. 45-D of 1955, *S. Sobha Singh and others* v. *Shri Amar Nath Talwar and another.* We are told that this was a case between two displaced persons and since the application purports to have been made under Section 10 of the Act this is probably correct. It was held in that case that a displaced creditor could maintain an application under Section 10 of the Act against a displaced person even if the liability was incurred after the partition. The judgment is short and without going into any reasons follows a previous decision of Harnam Singh, J., in *B. S. Bali* v. *Seth Batalia Ram and others* (2) and of Khosla J. in *Jamia Millia Islamia, Delhi, and another* v. *Prithi Raj* (1), *which was affirmed by a* Division Bench of this Court in *Jamia Millia Islamia, Delhi* v. *Prithi Raj and others* (3). The case was heard ex

(1) 1954 P.L.R. 325.
(2) 1954 P.L.R. 16.
(3) 1955 P.L.R. 468.

parte and there was no one to present the opposite view. Out of the decisions that appear to have been followed the report of the first by Harnam Singh, J. is so incomplete that it has not been possible to ascertain whether the respondent was a displaced person or not and one sentence in the judgment gives some indication that he was not. The other two decisions referred to are in one and the same case and in that case certainly the respondent was not a displaced person. The judgment of Khosla, J., reported in *Jamia Millia Islamia Delhi, and another* v. *Prithi Raj* (1) would show that this particular distinction was present to his mind and after referring to clause (c) of sub-section (6) of Section 2, he observed:—

"Thus, clause (c) deals with two types of debts—

(1) due to a displaced person from a non-displaced person; and

(2) due to a displaced person from a displaced person. With regard to the first type of debt there are no restrictions. With regard to the second type of debt the restrictions are contained in clauses (a) and (b) and are further illustrated in what I have called the illustrative phrase".

I find myself entirely of the same view and considering the scheme of the Act and

(1) 1954 P.L.R. 325.

Dev Nath Suri
v.
Ram Chand Suri

Dua, J.

the obvious purpose behind it, I have no doubt that where a displaced person has incurred any liability after he came to reside in India, he cannot be called a displaced debtor in respect of that liability, and that being so, it follows that no application against him can lie under Section 10 of Act LXX of 1951."

Mr. Narula has, however, contended that the facts in *Karam Narain's case* were somewhat different and that the ratio of that decision does not in any way militate against his contention in so for as the case in hand is concerned. It has not been possible for me to persuade myself to sustain this contention. The ratio of the decision in *Karam Narain's case* is very clear and it is not possible to place two constructions on it. The Court while dealing with the case of a debt due to a displaced person from another displaced person, in express words, stated that where a displaced person has incurred any liability after he came to reside in India he cannot be called a displaced debtor in respect of that liability, and that being so it follows that no application against him can lie under Section 10 of Act LXX of 1951. But then the counsel contends that the point before the Division Bench was the competency of an application under Section 10 of the Displaced Persons (Debts Adjustment) Act whereas in the instant case we are not concerned with any application under the above section. So far as the contention that we are not concerned with any application under Section 10 of Act LXX of 1951, is concerned, the counsel is right. But where the confusion creeps in is that the counsel ignores that it was Section

2(6) (c) which was the subject matter of the decision of the Division Bench and indeed it was the construction of the word 'debt' as used in the said clause which was the basis of the decision. That being the position I find it exceedingly difficult to uphold the admissibility of Mr. Narula's argument. The above decision is not only binding on me but I am also, as at present advised, in respectful agreement with the view expressed therein.

The best test in the construction of statutes is to see the subject matter of the purpose for which a provision of law is enacted. One should always get at its real object and purpose; the importance of the provision of law enacted and its relation to or effect on the general object intended to be secured by its enactment. The surroundings, the purpose of enactment, the end to be accomplished and the consequences that may result by adopting one meaning rather than the other are important factors which must be taken into account while interpreting law. The purpose of law, in my view, is to control the society but this purpose can hardly be achieved without satisfying the basic social needs; with this end in view the actual effect of law upon social life must always be borne in mind and taken into account in legal thinking. Keeping this basic consideration in the fore-front and viewing the impugned provision of law in retrospect, the reason for its enactment, the evil it sought to end and the object intended to be achieved, I may state that the Displaced Persons (Debts Adjustment) Act was as is obvious meant primarily for the settlement of debts due by displaced persons and for the recovery of certain debts due to them and for matters connected therewith and incidental thereto. It is well known that during

Dev Nath Suri
v.
Ram Chand Suri

Dua, J.

the unfortunate partition of our country in 1947, a very large number of people were forced to leave their hearths and homes in the territory which is now called Pakistan and had to migrate to what now constitutes the Indian Republic. It was really with the object of rehabilitating such displaced persons that the Parliament, in its wisdom, chose to enact this provision of law. Bearing in mind this basic and main object of the statute, and also the provisions of our Constitution according to which certain fundamental rights have been assured to all citizens, one of them being equality before the law and equal protection of the law within the territory of India; we have to determine the scope and effect of the word 'debt' as defined in the above Act. Construing clause (c) of Section 2(6) of the impugned Act, in the light of equality clause of our Constitution, I find it exceedingly difficult to impute to the Parliament an intention, the controlling factor in all legislative construction being legislative intent, that for all times to come a displaced person has been placed in a privileged position and all debts incurred by him, even after his migration to India, are to be treated differently from the debts incurred by other citizens. I may here emphasize that Article 14 of the Constitution has guaranteed this right of equality before law, not only to the citizens of this Republic, but, to all persons irrespective of the fact whether or not they are Indian citizens. This is not without significance.

At this stage I may also notice another rule according to which the Courts generally try to harmonise seemingly incogruous provisions of law rather than to bring them into conflict. This

is all the more so when the conflict or the incongruity seems to give rise to an arbitrary or irrational discrimination which the Constitution does not favour. In this connection, Courts must also see that no undue prejudice to the legitimate interests of suitors before them is caused except where it is expressly provided by law or can be spelled out as a matter of necessary intendment. The effect of alternative construction of statutes and its probable consequences have, therefore, always to be kept in view. In the instant case, I am not quite sure if the construction suggested on behalf of the appellant would not tend to make the impugned provision constitutionally vulnerable on the ground of arbitrary or irrational discrimination or at least bring it dangerously close to the sphere of vulnerability. I would in the circumstances be disinclined to adopt the construction suggested on behalf of the appellant. In the light of this discussion and of the ratio of the decision in *Karam Narain's case*, I have no hesitation in repelling the contention of the learned counsel for the appellant and in affirming the decision of the Court below.

The decision in *Union of India* v. *Shrimati Tara Rani and others* (1), to which also a reference was made by Mr. Narula, need not detain me. The only proposition, in support of which this decision was cited, is that the Displaced Persons (Debts Adjustment) Act having been enacted for the relief of a class of persons called the displaced persons and the object being remedial, beneficial interpretation should be put on the words used therein. With the proposition enunciated therein there can hardly be any quarrel, though the terms 'beneficial', 'liberal' or

(1) 1956 P.L.R. 518.

Dev Nath Suri
v.
Ram Chand Suri

Dua, J.

'strict' interpretation are relative, and they vary in degree according to the nature of the statute and the rights of the persons affected thereby. They depend on combination of many factors, e.g., former law, persons and rights affected, language of the statute, and its purpose and object, etc. The question, however, which I am called upon to determine in the case in hand is entirely different. If the Parliament did not intend by means of this statute to confer on a displaced person a privileged position for all times to come with respect to all liabilities to be incurred by him after he came and settled down in this country, then I cannot see how the rule of law adumbrated in the reported case can be of any assistance to the learned counsel. In this connection it must not be ignored that in the case before me both parties are displaced persons and the rule of beneficial interpretation can hardly be utilised for favouring one displaced person to the detriment of the other. Mr. Narula's contention must, therefore, be held inadmissible.

Before parting with this case I should like to notice an unreported judgment of the Supreme Court in *Shrimati Raj Kumari Kaushalya Devi* v. *Bawa Pritam Singh, etc.* (1), (since reported-Editor). In that case the precise point which arose for determination was whether the liability created under a mortgage is a debt within the meaning of Section 2(6) of the Displaced Persons (Debts Adjustment) Act. The Court held such a liability to be a debt, but in the course of the judgment while considering the three clauses of Section 2(6) it was observed that sub-clause (c) has to be taken independently of sub-clauses (a) and (b), for it refers to a creditor who is a displaced person while the other two

(1) A.I.R. 1960 S.C. 1030

sub-clauses refer to a debtor who is a displaced person. Though at first sight it appeared as if this observation, to some extent, militated against the view of the Bench in *Karam Narain's case*, on deeper thought I have come to the conclusion that this observation of the Supreme Court must be read in its own context and that it cannot be so construed as to lend support to the view canvassed on behalf of the appellant. As observed by Sir John Edge in *Hari Bakhsh* v. *Babu Lal and another* (1), "to understand and apply a decision of the Board or of any Court it is necessary to see what were the facts of the case in which the decision was given, and what was the point which had to be decided.". Considering the observation in the light of the rule just quoted, I do not think the Supreme Court decision can be considered to have in any way shaken the authority of *Karam Narain's case*.

For the reasons given above, this appeal fails and is dismissed with costs.

B.R.T.

CIVIL MISCELLANEOUS

Before G. D. Khosla, C.J., and D.K. Mahajan, J.

THE COMMISSIONER OF INCOME-TAX, PUNJAB,—
Petitioner.

versus

M/s JAI PARKASH-OM PARKASH COMPANY LTD.,—
Respondent.

Income Tax Case No. 6 of 1957.

Income-tax Act (XI of 1922)—Section 4—Income, profits and gains—Whether include profits and gains which are claimed by the assessee but denied by the other party and have thus not been received.

1960

August, 29th.

(1) .I.L.R. 5 Lahore 92 (P.C.).