

(2011) 08 P&H CK 0285

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 11045 of 2010

M/s. Jai Bhagwan Raghubir
Chand

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision: Aug. 3, 2011

Acts Referred:

- Haryana Relief of Agricultural Indebtedness Act, 1989 - Section 18, 19, 6, 8

Citation: (2011) 164 PLR 293

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

K. Kannan, J.

The petitioner seeks to challenge an order passed by the Debt Conciliation Board, Kurukshetra, which has disposed of an application filed under Sections 6 and 8 of the Haryana Relief of Agricultural Indebtedness Act, 1989. The application had been filed after the debt had fructified into a decree at the instance of the petitioner. The contention before this Court is that the decree debt is not covered under the terms of the above said Act and only after it was put in execution by the petitioner, the respondent has applied before the Debt Conciliation Board and has obtained the order. According to him, in terms of the definition of debt, the decree debt is not included. The debt defined under the Act is as follows:-

2(g) ["debt" means loan taken for agricultural occupations mentioned in clause (a) and includes construction of room for tube well, purchase of van or cart etc. for transport of produce and all liabilities owing to a creditor including a Bank in cash or kind, secured or unsecured, payable under a decree or order of a civil court or otherwise] whether due or not due but it does not include-

(i) to (iii) xxx xxx xxx xxx xxx xxx xxx xxx xxx xxx xxx xxx xxx xxx

(iv) any liability arising out of breach of trust or any tortious liability;

(v) to (xiii) xxx xxx xxx xxx xxx xxx xxx xxx xxx xxx xxx xxx xxx xxx xxx

2. The reading of the Section clearly includes a decree debt as well for the purpose of the Act. Learned counsel for the petitioner seeks to contend that the liability arose out of breach of trust and therefore, debt, which has fructified into a decree cannot be treated as a debt under the Act. The decree that the petitioner has obtained is for payment of commission charges, which the respondent was liable to pay to the petitioner for transacting in some agricultural produce. This cannot be said to be a debt arising out of breach of trust and it is a simple liability arising under a contract where there is a liability for payment of commission charges to the petitioner. I have no doubt in my mind that the decree debt is included in the definition of the debt under the Act and the order passed by the Board does not lack jurisdiction of the Board to pass the order. It cannot, therefore, be quashed.

3. Even the Act itself provides u/s 18 a provision for review and in Section 19 a provision for appeal to the Collector. It is admitted that the petitioner himself has filed an appeal against the decision of the Collector and the same is pending. The petitioner cannot have two remedies in respect of enforceability of the same debt. The petitioner having availed of a remedy under the Act cannot, therefore, approach this Court for intervention.

4. The writ petition is dismissed as not maintainable, also having regard to the remedy which the petitioner has availed by preferring an appeal as mentioned above.