(1971) 79 ITR 305

Karnataka High Court

Case No: Write Petition No. 481 of 1969

R.P. Janardhana		APPELLANT
	Vs	
Agricultural Income Tax Officer, Bangalore and Another		RESPONDENT

Date of Decision: June 11, 1970

Acts Referred:

- Mysore Agricultural Income Tax Act, 1957 - Section 24, 34, 42

Citation: (1971) 79 ITR 305

Hon'ble Judges: G.K. Govind Bhat, J; B. Venkataswami, J

Bench: Division Bench

Advocate: S. Rajendra Babu, for the Appellant; P.K. Shyamsundar, for the Respondent

Judgement

Govinda Bhat, J.
The petitioner, R. P. Janardhana, is the son of late A. T. Parthasarathiah. The said Parthasarathiah was an assessee under the Mysore Agricultural Income Tax Act, 1957. He died on October 4, 1957. On November 28, 1968, a notice was issued by the second respondent to the petitioner under the Mysore Land Revenue Act stating that a sum of Rs. 11,206.73 is in arrears as agricultural Income Tax and unless the said amount is paid, coercive steps would be taken to recover that amount.

2. This writ petition is directed against the said notice. The amount demanded as arrears of tax under the impugned notice represents the tax assessed on the petitioner''s father under the Mysore Agricultural Income Tax Act, 1957.

3. The contention of the petitioner is that the petitioner, though becomes liable to pay the tax assessed on his father u/s 24 of the Act, he is not a defaulter and unless the petitioner is a defaulter the amount cannot be recovered from him u/s 42 of the Act. It is not disputed by the respondents that no notice was served on the petitioner demanding the

tax amount due from him. The contention of the petitioner, in our opinion, is well founded.

4. A similar question arose under the Hyderabad Agricultural Income Tax Act, 1950, in Raja Pid Naik v. Agricultural Income Tax Officer, Yadgiri, wherein this court has held that, unless the legal representative of an assessee is served with a notice of demand, he does not become an assessee in default in making the payment of the agricultural Income Tax and as such the sum assessed cannot be recovered u/s 34 of the Hyderabad Agricultural Income Tax Act, 1950. Section 42 of the Mysore Agricultural Income Tax Act corresponds to section 34 of the Hyderabad Act.

5. For the above reasons, this writ petition succeeds and the impugned notice dated November 28, 1968, is hereby quashed. No costs.