(2002) 6 ALT 641 : (2003) 2 BC 32

Andhra Pradesh High Court

Case No: Writ Petition No. 13491 of 2001 and Batch

Challa Rama Narasimha Reddy and Others	APPELLANT
Vs	
Branch Manager, Nagarjuna Grameena Bank and Another	RESPONDENT

Date of Decision: April 8, 2002

Acts Referred:

- Revenue Recovery Act, 1864 - Section 52A, 52A(1)

Citation: (2002) 6 ALT 641 : (2003) 2 BC 32

Hon'ble Judges: V.V.S. Rao, J

Bench: Single Bench

Advocate: Kilara Khader Baba, for the Appellant; K. Srinivasamurthy and None for Respondent, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

V.V.S. Rao, J.
A short, but interesting, question arises for consideration in these three writ petitions filed against the Nagarjuna Grameena Bank, Sattupalli Branch, Khammam district and the Tahasildar-cum-Recovery Officer in the Lead Bank Office, Khammam. The three petitioners obtained agricultural loans from Nagarjuna Grameena Bank in the years 1984, 1994 and 1980 respectively.

2. In these writ petitions, as noticed above, the 2nd respondent issued distraint orders on different dates authorising the Branch Manager of Nagarjuna Bank to distrain the property of the petitioners, presumably, at the request of the 1st respondent. The petitioners,

however, objected to the same on various grounds, inter alia, that the loans they obtained are agricultural loans and are not loans under any of the employment programmes of the Central or State Government; that they have discharged a part of the debt; that the balance of the debt, if any, is time-barred and that the provisions of the Revenue Recovery Act, 1864 ("the Act" for brevity) cannot be used for recovery of an agricultural loan.

3. Counter-affidavit is silent as to the applicability of the Act for recovering the loans sanctioned by Nagarjuna Grameena Bank. What is relevant is that the petitioners allegedly paid only part of the amount, but issued revival letters acknowledging the debt. It is also not denied that in W.P. No. 13508 of 2001, EP has been filed against the petitioner.

4. The learned Counsel for the petitioners, Mr. K. Khader Baba, reiterated the submissions made in the affidavit. Mr. K. Srinivasa Murthy, the learned Counsel for the Bank submits that a writ petition at the instance of a person who availed loan from the Bank is not maintainable, when the Bank initiates action under law for recovering the same. He also would submit that the exclusion of certain debts in Section 52A or Notification issued by the Government under Clause (iii) of Sub-section (1) of Section 52-A is itself not relevant to consider the question whether Revenue Recovery Act can be applied or not. It is his further submission that by reason of Clause (i) of Sub-section (1) of Section 52-A, a loan granted, or advance made by any Bank is recoverable under the Revenue Recovery Act.

5. To resolve the dispute, it is necessary to refer to Section 52-A of the Act, which reads as under:

"52-A. Recovery of sums due to certain Banks and other public bodies as arrears of land revenue--(1) Without prejudice to any other mode of recovery which is being taken or may be taken, all loans granted and all advances made to any person--

(i) by any Bank to which the re-payment of the said loans and advances is guaranteed by the State Government; or

(ii) by such Corporation established by or under a Central or Provincial or State Act, or Government Company as defined in Section 617 of the Companies Act, 1956, or such other public body as may be notified in this behalf by the State Government in the Andhra Pradesh Gazette; together with interest on such loans;

(iii) by any Bank under any welfare scheme or programme, such as Prime Minister''s Rojgar Yojana and the like, sponsored by the State or Central Government as may be notified therein in this behalf by the State Government in Andhra Pradesh Gazette;

together with interest on such loans and advances and all sums, such as rents, margin money and the like, due to the bodies mentioned aforesaid may be recovered in the same manner as arrears of land revenue under the provisions of this Act:

Provided that the State Government may, by Notification in Andhra Pradesh Gazette, specify the loans and advances together with interest thereon, and other sum due to the bodies mentioned in Item (ii) and Item (iii) above which may be recoverable under the provisions of this section.

Explanation--In this sub-section, "Bank" means any banking company as defined in Clause (c) of Section 5 of the Banking Regulation Act, 1949 and includes-

(a) the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934;

(b) the State Bank of India constituted under the State Bank of India Act, 1955;

(c) any subsidiary Bank as defined in the State Bank of India (Subsidiary Bank) Act, 1959;

(d) any corresponding new Bank constituted u/s 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970.

(2) Out of the proceeds of the dues pertaining to the bodies mentioned in Item (ii) and Item (iii) of Sub-section (1) so recovered, ten per centum thereof shall be deducted towards the collection charges and the balances shall be paid by the Collector or other officer empowered by the Collector in that behalf, to the respective bodies."

A plain reading of Section 52-A shows that only certain loans together with interest on such loans can be recovered in the same manner as arrears of land revenue under the provisions of the Act, These loans and advances are: (1) loans and advances by any Bank, the repayment of which is guaranteed by the State Government; (2) the loans and advances made to any person, (i) by any Corporation established by, or, under Central Government Act; (ii) the Government Company, as defined in Section 617 of the Companies Act, 1956; or (iii) any public body notified by the State Government in A.P. Gazette; (3) loans and advances made by any Bank under any welfare schemes of Prime Minister, such as, Prime Minister''s Rojgar, Yojana and the like sponsored by the State or Central Government, as may be notified by the State Government.

6. Further, the proviso to Sub-section (1) of Section 52-A also enables by Notification to specify loans and advances together with interest under the welfare schemes or programmes which may be realized as arrears of land revenue.

7. "The Bank" is defined in Explanation under Sub-section (1) of Section 52-A as to mean any banking company as defined u/s 5(c) of the Banking Regulation Act, 1949 and also includes Reserve Bank of India, State Bank of India and any corresponding new Bank constituted u/s 3 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970. It is interesting to note that Rural Bank, like, Nagarjuna Bank, which is established and constituted under the Regional Rural Banks is conspicuous by absence

in Explanation to Sub-section (1) of Section 52-A. Therefore, without any much ado, it is reasonable to conclude that the main provision of Section 52-A does not ex facie enable the Regional Rural Bank like the first respondent to recover the loans and advances given towards agricultural loans,

8. The next aspect of the matter is whether the Nagarjuna Grameena Bank is covered by the Notification issued by the Government vide G.O.Ms. No. 410, dated 10.6.1998 in exercise of their powers under Clause (iii) of Sub-section (1) of Section 52-A of the Act which reads:

"NOTIFICATION

In exercise of the powers conferred by Clause (iii) of Sub-section (1) of Section 52-A of the Andhra Pradesh Revenue Recovery Act, 1864, (Act No. II of 1864), the Governor of Andhra Pradesh hereby notifies mat all loans granted and all advances made under Prime Minister''s Rojgar Yojana by any Bank to any person and all sums due to the said Banks from such persons shall be recovered together with interest thereon in the same manner as arrears of land revenue under the provisions of the said Act."

It is admitted that the loan is not under Prime Minister''s Rojgar Yojana or any other State or Central Welfare Scheme or programme. Therefore, the above Notification does not help Nagarjuna Bank. Though the learned Counsel for the Bank placed strong reliance on the opening words of Section 52-A(1) which are to the effect ".....Without prejudice to any other mode of recovery which is being taken or may be taken, ...", in my considered opinion, unless a Bank or a Corporation or institution or any organization is specifically brought under the omnipotent umbrella of Section 52-A, the language of Section 52-A is of no avail to the Bank. It is axiomatic that the Court should resort to the plain language interpretation and should only read an extra word or omit an extra word from the provision when plain reading results in incongruity or absurdity. (See Gurudevdatta VKSSS Maryadit and Others Vs. State of Maharashtra and Others, . Therein it was held thus :

"Further we wish to clarify that it is a cardinal principle of interpretation of statute that the words of a statute must be understood in their natural, ordinary or popular sense and construed according to their grammatical meaning, unless such construction leads to some absurdity or unless there is something in the context or in the object of the statute to suggest to the contrary. The golden rule is that the words of a statute must prima facie be given their ordinary meaning. It is yet another rule of construction that when the words of the statute are clear, plain and unambiguous, then the Courts are bound to give effect to that meaning, irrespective of the consequences. It is said that the words themselves best declare the intention of the law giver....."

9. The decision relied on by Mr. K. Srinivasa Murthy, in R. Rambabu Vs. APSRTC, Musheerabad, Hyderabad and another, has no application to the fact situation in this case.

10. In the result, the writ petitions are allowed with costs. Be it recorded that this Court has not adverted to various disputed questions as to enforceability of debt having regard to law of limitation and as to genuineness of the claim made by the Bank which are to be gone into before an appropriate Civil Court.