

1941.  
Apr. 17.

A. L. S. P. P. L. SUBRAHMANYAN CHETTIAR

v.

MUTTUSWAMI GOUNDAN.

[ SIR MAURICE GWYER, C. J., SIR SRINIVASA  
VARADACHARIAR AND SIR JOHN BEAUMONT, JJ. ]

*Federal Court—Appeal to Privy Council—Grant of  
leave to appeal—Practice—Government of India  
Act, 1935, s. 208 (b).*

The Federal Court will not formulate in advance any code of rules for the granting or withholding of leave to appeal to His Majesty in Council, and will deal with each case on its merits as it comes before it. But the Court will not be disposed to grant leave to appeal, save in cases of real importance, cases which are likely to affect a large number of interests hereafter or cases in which difficult questions of law are involved.

APPLICATION for leave to appeal to His Majesty in Council.

This was an application for leave to appeal under s. 208 (b) of the Constitution Act from the Judgment of the Court in *Subrahmanyam Chettiar v. Muttuswami Goundan*, reported [1940] F. C. R. 188.

*Mohammad Taqi (Raghubir Singh with him)* for the applicant.

The respondent did not appear.

The Judgment of the Court was delivered by GWYER C. J.—This is an application for leave to appeal under s. 208 (b) of the Constitution Act. The case was one in which the appellant had sued the respondent for a sum due under a promissory note and had obtained a decree. After the decree had been obtained, the Madras Agriculturists Relief Act<sup>(1)</sup> became law. That Act gave agriculturist debtors the right to have their debts drastically scaled down, and s. 19 empowered the courts to apply its provisions to a decree for the payment of a debt obtained against an agriculturist before the commencement of the Act. This Court, when the case came before it, heard arguments on a variety of questions, including the question whether the Act

(1) Madras Act, No. IV of 1938.

conflicted with the Negotiable Instruments Act<sup>(1)</sup>, which is an Act within the exclusive competence of the Central Legislature; but a majority of the Court were of opinion that questions relating to the Negotiable Instruments Act were irrelevant for the purposes of the case, holding that the original debt had merged in the decree and that the scaling down was of a liability evidenced by a decree and not by a negotiable instrument at all<sup>(2)</sup>.

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Counsel for the appellant has cited to us a number of decisions in which the Judicial Committee itself has indicated the principles on which it will act when advising His Majesty to grant or withhold special leave to appeal to His Majesty in Council. This Court will not attempt to formulate in advance any code of rules which it will take for its guidance in granting or withholding leave to appeal to the Judicial Committee, and will deal with each case on its merits as it comes before it. But it will not be disposed to grant leave to appeal, save in cases of real importance, cases which are likely to affect a large number of interests hereafter or cases in which difficult questions of law are involved.

In the present case the decision of the Court dealt only with the scaling down of decrees obtained before the Madras Act came into force. The number of such decrees must necessarily be limited, and there can be no addition to their number. In a case<sup>(3)</sup>, which was before us in May, 1939, and in which we had refused leave, the applicant afterwards petitioned the Judicial Committee for special leave to appeal. The Judicial Committee, in refusing special leave, emphasized the fact that the decision of this Court was concerned with the construction of a section which would have no application in the future: *Hori Ram Singh v. King-Emperor*<sup>(4)</sup>. It appears to the Court that this is a sufficient reason for refusing leave in the present case. It should be added that the amount in dispute in the case appears on the figures which were

(1) Central Act No. XXVI of 1881.

(3) *Hori Ram Singh v. The Crown* [1939] F.C.R. 159.

(2) [1940] F.C.R. 188.

(4) (1940) 47 Ind. Ap. 122.

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given to us not to have exceeded Rs. 3,000 or Rs. 4,000 at the outside.

The majority of the Court declined to enter into any of the other questions which were raised at the Bar and reserved their opinion upon all of them. There is therefore nothing to prevent these matters being raised and determined at any future time in an appropriate case.

The application is dismissed.

*Application dismissed.*

Agent for applicant: *B. Banerji.*