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right is absolute, it must be a right in the land itself and an absolute right against all persons connected with the land whether as owners or as occupiers. Accordingly we allow this second appeal and dismiss the suit of the plaintiffs throughout with costs.

*Before Sir Shah Muhammad Sulaiman, Chief Justice,  
 and Mr. Justice Bennet*

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 January, 6

BIRESHWAR DAS BAPULI AND OTHERS (DEFENDANTS) v.  
 UMA KANT PANDAY (PLAINTIFF)\*

*U. P. Agriculturists' Relief Act (Local Act XXVII of 1934), section 30—Benefit of scheduled rate of interest—"Debtor"—Includes successor of original debtor or mortgagor—Need not be himself an "agriculturist".*

All that is necessary for the application of section 30 of the U. P. Agriculturists' Relief Act, is that there should be a "loan" taken before the Act, i.e. the loan should have been taken by a person who was an "agriculturist". The section does not say that the "debtor" entitled to the benefit of the section must be an "agriculturist" debtor; the word "debtor" in the section, therefore, may cover one who is not an agriculturist.

The word "debtor" in section 30 is used in the wide sense of one who has to pay a debt and is not limited to the person who took the loan nor to a person who is personally liable. He may be a successor of the original mortgagor, though as such he is not personally liable for the debt.

Messrs. *B. Malik* and *N. C. Tewari*, for the appellants.

Drs. *K. N. Katju* and *K. N. Malaviya*, for the respondent.

SULAIMAN, C.J., and BENNET, J.:—This is a first appeal from order by certain applicants under sections 5 and 30 of the U. P. Agriculturists' Relief Act. A preliminary objection is taken that an appeal does not lie to this Court. In reply a reference was made to the fact that the property in question was valued at Rs.30,000. But it is necessary to examine the language

\*First Appeal No. 19 of 1936, from an order of Brij Narain, Second Additional Subordinate Judge of Benares, dated the 21st of December, 1935.

of the sections dealing with appeals. For section 5 it is provided in sub-section (2) that if the application is refused, the order of the court "shall be appealable to the court to which the court passing the order is immediately subordinate". Now the court which passed the order was a court of a Civil Judge of special jurisdiction under the Agriculturists' Relief Act. The court to which that court was immediately subordinate was the court of the District Judge, and accordingly so far as section 5 is concerned the appeal lies to the court of the District Judge.

As regards section 30 which is in chapter IV, there is no provision for an appeal from an order refusing to act under that section and accordingly a revision will lie. The section lays down that "no debtor shall be liable to pay interest on a loan taken before this Act comes into force at a rate higher, etc." The words used are "loan taken before this Act". It is not provided that the loan must be taken by the particular person making the application. All that is necessary is that it should be a loan and therefore a loan as defined by the Act. In section 2, sub-section (10) it is laid down that "Loan means as advance to an agriculturist". The finding of the court below is that the loan was advanced to an agriculturist and the present applicants are also found to be agriculturists on the date when the suit was filed. In *Misri Lal v. Alexander Gardner* (1) a Bench of this Court held: "Where money advanced to an agriculturist under a mortgage deed is a loan within the meaning of section 30 of the U. P. Agriculturists' Relief Act, a non-agriculturist transferee from him who has to repay that money is entitled to the benefit of the provisions of section 30 in respect of interest, contained in that section." It is therefore laid down that even if the applicant is a non-agriculturist, he can have the benefit of section 30 if the loan was originally advanced to an

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agriculturist. The present case is stronger and therefore there is no doubt that the applicants are entitled to the benefits of the reduction of interest under section 30. For the respondent Dr. *Katju* argued that the present applicants were not debtors within the meaning of section 30 of the Agriculturists' Relief Act because they were not the persons who took the loan, and as the loan was one which arose on a mortgage executed by the father of the applicants therefore there is no personal liability of the applicants. We are of opinion that the word "debtor" should not be limited to the person who took the loan nor to a person who is personally liable. A debtor in our opinion is one who has to pay a debt. He may be one who is personally liable or may be one who is a mortgagor or the successor of a mortgagor who has to pay a debt to the mortgagee. The word "debtor" is not defined in the Act but we consider from the preamble of the Act that the Act intends that the word "debtor" should be construed in a wide sense. In certain sections of the Act the word "debtor" has the word "agriculturist" prefixed to it and therefore the sense is limited to an agriculturist debtor. In section 30 there is no such limitation and therefore in our opinion the word "debtor" in that section might cover one who is not an agriculturist. The section stipulates that there shall be a loan, and loan is defined in the Act. Therefore the section requires that the loan should have been originally granted to one who was an agriculturist but the debtor may be the successor of the person to whom the loan was granted.

Accordingly we allow this appeal in regard to the order so far as it is under section 30 of the Agriculturists' Relief Act and we direct that the court below should readmit this application and dispose of it according to law and that it should allow the applicants the benefits under section 30 of the Agriculturists' Relief Act. The parties will pay their own costs in this Court as the appeal has partly succeeded and partly failed.