

## REVISIONAL CIVIL

Before Mr. Justice Bennet

BARYAR SINGH (JUDGMENT-DEBTOR) v. RAM DULAREY  
(DECREE-HOLDER)\*

1936  
October, 14

*U. P. Agriculturists' Relief Act (Local Act XXVII of 1934),  
section 30(2)—Applicability to decrees passed after the Act.*

The provisions of section 30(2) of the U. P. Agriculturists' Relief Act, 1934, are applicable to decrees passed after the coming into operation of that Act. The words, "decree has already been passed", in that sub-section are not meant to confine its operation to decrees passed before the Act came into force.

Mr. *L. N. Gupta*, for the applicant.

Mr. *Hazari Lal Kapoor*, for the opposite party.

BENNET, J.:—This is a civil revision by a judgment-debtor raising the question of the interpretation of section 30, sub-section (2) of the U. P. Agriculturists' Relief Act (Act XXVII of 1934). The following dates are relevant. On the 19th of January, 1929, the judgment-debtor executed a simple mortgage for Rs.300 at 2 per cent. simple interest per mensem in favour of the decree-holder. On the 18th of January, 1935, a suit was brought on this mortgage and on the 28th of February, 1935, the written statement was filed. Both of these dates occur before the Act came into force, which was on the 30th of April, 1935, with the assent of the Governor-General in Council, and publication was made in the Gazette on April 27, 1935. It is possible that this gazette had not reached Shahjahanpur before the arguments were heard on May 1, 1935, and the suit was decreed on that date. Consequently no plea was made for reduction of interest under section 30, sub-section (1). An application was made on the 10th of October, 1935, by the judgment-debtor for relief under sub-section (2) of section 30, and the court below

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has refused that relief holding that the words in sub-section (2) of section 30 do not cover the case of a decree which was passed after the Act came into force. Sub-section (2) of section 30 states: "If a decree has already been passed on the basis of a loan and remains unsatisfied in whole or in part, the court which passed the decree shall, on the application of the judgment-debtor, amend it by reducing, in accordance with the provisions of sub-section (1), the amount decreed on account of interest." The court below interprets the words "has already been passed" as meaning a decree passed before the Act came into force. It appears to me that this interpretation of the sub-section is not correct. According to the laws of grammar the interpretation of "has already been passed" should refer to some point of time indicated in the sub-section itself. The only point of time indicated is in the words "on the application", that is, the date of the application. On this interpretation the defendant is within time as the sub-section means any decree passed prior to the date of the application. Another reason which leads me to this view is that the legislature intended to grant relief to agricultural tenants, and there is no reason why it should refuse relief to persons whose decrees were passed after the Act came into force. If this had been the intention of the legislature it would have been natural that the legislature should have stated in sub-section (2) "If a decree has already been passed before this Act comes into force", but the words "before this Act comes into force" do not occur in sub-section (2) of section 30. Moreover if this had been the intention of the legislature the result would be that a defendant could obtain relief only if his legal advisers were aware of the law on the point during the pendency of the suit and he would be deprived of relief if his legal advisers did not take the plea during the suit where a decree was passed after the Act. I do not think that the legislature intended relief to depend on whether the legal advisers of defendants

were or were not aware of this provision. It is more natural in dealing with agriculturists to give them relief both during the suit and also after the decree, and legislation of this nature should be construed liberally to give the intention of the Act as much force as possible. For these reasons I consider that the application of the judgment-debtor is one which should be granted under section 30, sub-section (2) and accordingly I allow this revision and remand the case to the court below with a direction to amend its decree in accordance with section 30, sub-section (2). The applicant is granted costs in this Court.

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 APPELLATE CIVIL
 

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

NADIR HUSAIN AND OTHERS (DEFENDANTS) v. MUNICIPAL  
BOARD, AGRA (PLAINTIFF)\*

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October, 16
 

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*Civil Procedure Code, section 110—Appeal to Privy Council—  
Valuation test—Second paragraph of section 110 is inde-  
pendent of first paragraph—“Involves claim or question to  
or respecting property etc.”—Mortgage—Amount of mort-  
gage less than Rs.10,000 but property mortgaged above  
Rs.10,000 in value—Appeal lies.*

The condition laid down in the second paragraph of section 110 of the Civil Procedure Code is independent and self-sufficient, and is not in any way dependent on the fulfilment of both or either of the conditions in the first paragraph. Even if none of the conditions mentioned in the first paragraph is fulfilled but the sole condition mentioned in the second paragraph is fulfilled, namely that the decree sought to be appealed against to the Privy Council involves directly or indirectly some claim or question to or respecting property of the amount or value of Rs.10,000 or upwards, the requirements of section 110 regarding valuation are complied with.

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\*Application No. 24 of 1936, for leave to appeal to His Majesty in Council.