

## REVISIONAL CIVIL

Before Mr. Justice Bisheshwar Nath Srivastava, Chief Judge  
and Mr. Justice H. G. Smith

1937  
August 10,

MIRZA YUSUF HUSAIN BEG (PLAINTIFF-APPLICANT) v.  
MIRZA WAQAR ALI BEG (DEFENDANT-OPPOSITE PARTY)\*

*United Provinces Agriculturists' Relief Act (XXVII of 1934); section 3—Section, if restricted to decrees passed on basis of loans—"Decree for money" in section 3, meaning of—Suit for arrears of guzara—Court, if can fix instalments.*

The application of section 3 of the United Provinces Agriculturists' Relief Act is not restricted to decrees passed on the basis of a loan. The words "decree for money" in that section are quite general, and are applicable to all money decrees, whether they are based on a loan or on any other claim.

Section 3, United Provinces Agriculturists' Relief Act is, therefore, applicable to suits for arrears of *guzara* and the court can fix instalments for payment of the decretal amount in such suit. *Sardar Nihal Singh v. Messrs. Ganeshdass Rangopal* (1), relied on.

Mr. Ghulam Hasnain Naqvi, for the applicant.

Mr. R. S. H. Qidwai, for the opposite party.

SRIVASTAVA, C.J. and SMITH, J.:—These are two applications in revision against the orders of the Munsif of Sitapur fixing certain instalments for payment of the decretal amount under section 3 of the Agriculturists' Relief Act.

The plaintiffs in these suits claimed certain arrears of *guzara*. The defendant did not deny his liability for payment of the *guzara*, but only asked that he should be allowed to pay the amount in instalments. The learned Munsif held that the words "decree for money" used in section 3 were sufficiently wide to cover the case. He rejected the contention of the plaintiffs that the application of section 3 should be confined to decree based on loans. The plaintiffs dissatisfied with the interpretation put by the lower court on the provisions of section 3

\*Section 115 Application no. 99 of 1936, against the order of Sh. Mohammad Tufail Ahmad, Munsif of Sitapur, dated the 30th April, 1936.

have come to this Court in revision. We are of opinion that the matter is covered by the decision of a Bench of this Court in *Sardar Nihal Singh v. Messrs. Ganeshdass Ram Gopal* (1). No doubt that was a case under section 5 of the Agriculturists' Relief Act, but this does not, in our opinion, make any difference. The words "decree for money" have been used both in sections 3 and 5. Section 3 gives the court power to fix instalments at the time of passing a decree, whereas section 5 allows the same power to be exercised after the decrees have been passed. The class of decrees to which both these sections apply have been described in the same terms in both the sections. One class of such decrees is that of decrees for money. In the decision referred to above it was held that the words "any decree for money" are quite general, and are applicable to all money decrees, whether they are based on a loan or on any other claim. It may be pointed out that in section 30(2) reference is made to a decree "passed on the basis of a loan". If the intention of the Legislature had been to restrict the application of section 3 to decrees passed on the basis of a loan, there is no reason why the language used in section 30(2), or words to the same effect, should not have been used in section 3 also. In the circumstances, we think that the court below is right in holding that section 3 applies to the present suits.

We accordingly dismiss the applications with costs.

*Application dismissed.*

(1) (1936) O.W.N., 1158.

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Smith, J.*