

APPELLATE CIVIL.

Before Bhide J.

SANT RAM (DECREE-HOLDER) Appellant,

versus

BUTA KHAN (JUDGMENT-DEBTOR) Respondent.

Civil Execution Second Appeal No. 1660 of 1936.

Civil Procedure Code, Act (V of 1908), S. 60, cl. (c) — 'Agriculturist' — meaning of — Explained.

Held, that the word 'agriculturist' as used in section 60, clause (c) of the Code of Civil Procedure must be understood in its dictionary meaning and must be strictly construed, and that it denotes a husbandman and a person who carries on and makes his living by tillage and not a mere owner of land, and that a large landed proprietor, even though his main source of livelihood is agriculture and his sole income is from land, is not an agriculturist within the meaning of the clause.

Gurbakhsh Singh v. Ghulam Qadir (1) and Gurbakhsh Singh v. Lal Chand-Darshan Chand (2), relied upon.

Other case law, discussed.

Second appeal from the order of Mr. M. R. Kayani, District Judge, Gujranwala, dated 24th August, 1936, reversing that of Lala Raghunath Lal Batra, Subordinate Judge, 1st Class, Gujrat, dated 27th March, 1936, and ordering release of judgment-debtor's houses from attachment.

D. N. AGGARWAL, for Appellant.

ABDUL KARIM, for Respondent.

BHIDE J.

BHIDE J.—Four houses of the judgment-debtor Buta Khan having been attached in execution, he claimed exemption under section 60 (c) as an agriculturist. The executing Court held that he did not himself cultivate any land and was not an agriculturist

(1) 47 P. R. 1897.

(2) (1936) 38 P. L. R. 333.

within the meaning of that section and dismissed the objection. He preferred an appeal to the District Judge, who affirmed the finding that Buta Khan did not till any land 'with his own hands,' but considered that this was not necessary and held him to be an 'agriculturist' on the ground that his main source of livelihood was agriculture. He accordingly upheld the objection and ordered the houses to be released from attachment. From this decision, Sant Ram has appealed.

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The word 'agriculturist' has not been defined in section 60 (c) of the Civil Procedure Code and must be understood in its dictionary sense. It was held in *Gurbakhsh Singh v. Ghulam Qadir* (1) that the term 'agriculturist' as used in the section must be strictly construed and that it denoted a husbandman and a person who carries on and makes his living by tillage and not a mere owner of land. This view has been, I believe, consistently followed in this province and not been dissented from. A similar interpretation was placed on the word by a learned Judge of this Court recently in *Gurbakhsh Singh v. Lal Chand-Darshan Chand* (2).

The learned District Judge has relied on *Abdullah v. Anjuman Dehi* (3), *D. Rubine v. Balwant Rai Ramnarayan* (4) and *Muhammad Akbar v. Harbans Singh* (5) in support of his view that a person whose main source of income is agriculture, is an agriculturist even if he does not till the land himself. But I do not think these rulings lay down any proposition contrary to that laid down in *Gurbakhsh Singh v. Ghulam Qadir* (1). The latter ruling was in fact relied upon

(1) 47 P. R. 1897.

(3) 1928 A. I. R. (Lah.) 132.

(2) (1936) 38 P. L. R. 333.

(4) 1923 A. I. R. (Bom.) 12.

(5) 1936 A. I. R. (Lah.) 532.

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in *Abdullah v. Anjuman Dehi* (1). *D. Rubine v. Balwantrai Ramnarayan* (2) was also relied upon in the same ruling, but the head-note appears to be somewhat misleading. In *D. Rubine v. Balwantrai Ramnarayan* (2), the judgment-debtor had leased 150 acres of land, some of which he had let out again to tenants and some he tilled with the aid of his servants. One of the witnesses stated that the judgment-debtor used to supervise cultivation. But it was held that this did not justify a finding that he was personally engaged in agricultural labour. The Lower Court had held in that case that the defendant's only business was agriculture, but it was held that this was not sufficient. In *Muhammad Akbar v. Harbans Singh* (3), it was found that the judgment-debtor had not even proved that his main source of income was agriculture. But this does not mean that if the main source of livelihood was agriculture, this would have been sufficient to declare the judgment-debtor an 'agriculturist' within the meaning of section 60, Civil Procedure Code. In fact the learned Judge who decided that case relied in the course of his judgment on the fact that the judgment-debtor did not cultivate the land himself and also referred to Madras and Bombay High Court rulings in *Muthuvenkatarama Reddiar v. Official Receiver, South Arcot* (4) and *Jivan Bhaga v. Hira Bhaiji* (5) in which it was held that the term the 'agriculturist' must be interpreted in the strictest sense for the purpose of the exemption under section 60, Civil Procedure Code, and that a large landed proprietor, even though his sole income is from land, is not an 'agriculturist' within the meaning of clause (c) of that section.

(1) (1928) A. I. R. (Lah.) 132. (3) 1936 A. I. R. (Lah.) 532.

(2) 1923 A. I. R. (Bom.) 12. (4) I. L. R. (1926) 49 Mad. 227.

(5) I. L. R. (1888) 12 Bom. 363.

In the present case, it has been found that the judgment-debtor does not cultivate any land himself. His statement shows that he owns houses in two places and he has kept his two wives in one village and a mistress in another. He apparently owned a considerable area of land, but he is said to have gifted some of it to his sons. His statement also shows that he was for some time carrying on some business in United Provinces. In view of all these facts, the decision of the trial Court was in my opinion correct. I accept the appeal and restore the order of the trial Court with costs throughout.

A. N. C.

Appeal accepted.

REVISIONAL CIVIL.

Before Bhide J.

PEOPLES BANK OF NORTHERN INDIA (IN
LIQUIDATION) (PLAINTIFF) Petitioner,

versus

KANAYA LAL AND OTHERS (DEFENDANTS)
Respondents.

Civil Revision No. 156 of 1937.

Revision by High Court — of an interlocutory order in respect of Court-fees — Jurisdiction to revise such an order — where petitioner has another remedy open to him — Government of India Act, 1919, Section 107 — whether applicable.

This was a petition for revision of the order of Subordinate Judge, 1st Class, Lahore, holding that the plaint was not properly stamped and requiring the plaintiff to make up the Court-fee. A preliminary objection was raised on behalf of the respondent that no revision was competent as the order in question was an interlocutory one. The petitioner relied upon section 107 of the Government of India Act, 1919.

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