

**Darya Singh v. The Collector Bhiwani and others**  
(Pritpal Singh, J.)

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for an interim relief to have that vehicle put off the road. But this kind of fishing inquiry by the appointment of a Committee as a super Board of Inspection is totally uncalled for and would be a slur on the legislative wisdom reflected in the Motor Vehicles Act and the rules framed thereunder. Thus, in my view, the constitution of the Committee for the purpose must be and is hereby upset, leaving it open to the Court to seek such information from the petitioners as it may require of the vehicles, generally or specifically, as the circumstances of the case may warrant.

(7) So far as the details pertaining to the drivers are concerned, those, as said before, can also be obtained by the Court from the petitioners. The Committee has no function to perform in the matter. These are ordinary details and no experts are needed, much less mechanical experts which the Committee Members are styled to be, to gather details about the drivers, their convictions and misconduct. These details are a matter of record and can otherwise be summoned by the Court to effectuate justice between the parties and mould the relief accordingly, whether finally or as an interim measure. For that purpose too, the constitution of the Committee is upset.

(8) For the foregoing reasons, this petition succeeds but without any order as to costs. The impugned order is quashed in the light of the observations afore-made.

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N.K.S.

*Before Pritpal Singh, J.*

DARYA SINGH,—*Petitioner.*

*versus*

THE COLLECTOR BHIWANI AND OTHERS,—*Respondents.*

Civil Writ Petition No. 4205 of 1978.

September 19, 1985.

*Haryana Relief of Agricultural Indebtedness Act (18 of 1978)—Sections 2(g), 8 and 13—Creditor making application under section 8 for settlement of debt—Debt settlement officer allowing application and determining amount of debt—Debtor filing appeal to the*

*Collector—Said appeal allowed holding that the amount of debt should first be determined by a Civil Court—Appellate order—Whether maintainable.*

*Held*, that reading of section 2(g) of the Haryana Relief of Agricultural Indebtedness Act 1976 shows that 'debtor' means an agricultural labourer, a marginal farmer, a small farmer or a rural artisan who owes a debt. Section 13 of the Act does not envisage that the amount of debt should first be determined by a civil court and only thereafter the Debt Settlement Officer becomes competent to settle the dispute between the debtor and the creditor. It only talks of "debt", which not only includes a liability payable under a decree or order of a civil court but also the liability owing to a creditor otherwise. The proviso only lays down that if it is a case of liability under a decree or order of a civil court then such a decree or orders shall be conclusive evidence as to the amount of debt. The proviso certainly does not lay down that an application for settlement under section 8 of the Act can be entertained by the Debt Settlement Officer only if the debt has first been determined by the civil court. As such the order of the appellate authority is not maintainable.

(Para 4)

*Petition under Articles 226/227 of the Constitution of India, praying that:—*

- (a) *a appropriate writ, direction, or order quashing the impugned order, Annexure 'P-2' be issued;*
- (b) *Any other writ, order or direction which this Hon'ble Court deems fit in the circumstances of the case may be issued;*
- (c) *the costs of the writ petition may also be granted to the petitioner.*

Ashwani Kumar Chopra, Advocate, for the Petitioner.

Mani Ram, Advocate, for respondent No. 3.

#### JUDGMENT

*Pritpal Singh, J.—*

(1) The petitioner Darya Singh applied under section 8 of the Haryana Relief of Agricultural Indebtedness Act, 1976 (hereinafter

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called 'the Act') against Gillu Ram, respondent No. 3, for settlement of a debt of Rs. 1,400/- and interest thereon. The Debt Settlement Officer, Charkhi Dadri, holding that Gillu Ram's annual income exceeded Rs. 2,500/-, passed a decree against him and in favour of the petitioner Darya Singh for Rs. 1,400/- as principal amount and Rs. 434/- as interest, total decretal amount being Rs. 1,834/-. A copy of the order of the Debt Settlement Officer is Annexure P. 1. Gillu Ram filed an appeal under Section 14(2) of the Act which was heard by the Collector, Bhiwani. The Collector held that the amount of debt should have been first got determined from a civil Court by Darya Singh and only thereafter he could have applied under section 8 of the Act. On this finding the order of the Debt Settlement Officer (Annexure P. 1) was held to be without jurisdiction and it was set aside. A copy of the order of the appellate Court is Annexure P. 2.

2. In this writ petition Darya Singh has challenged the validity of the appellate order (Annexure P. 2) and has prayed that this order be quashed.

3. On hearing the learned counsel for the parties I find that the impugned order (Annexure P. 2) is patently illegal and deserves to be quashed. The Debt Settlement Officer was well within his jurisdiction to pass the order (Annexure P. 1) and the appellate Court erred in setting it aside as an order without jurisdiction.

4. It is provided in Section 8 of the Act that a debtor or any of his creditors may apply to the Debt Settlement Officer to effect a settlement between the debtor and the creditor. Debtors, according to Section 2(g) means an agricultural labourer, a marginal farmer, a small farmer or a rural artisan, who owes a debt. The term 'debt' is defined in Section 2(f) meaning all liabilities owing to a creditor in cash or kind, secured or unsecured, payable under a decree or order of a civil court or otherwise and subsisting on the date of commencement of the Act. Some exceptions are mentioned in this clause but we are not concerned with them. There is no dispute that Gillu Ram falls within the definition of 'debtor' and the disputed amount which he owed to the petitioner Darya Singh is covered by the definition of debt. In such circumstances the petitioner was undoubtedly entitled to file an application under section 8 of the Act for settlement. The Debt Settlement Officer was, therefore, empowered to adjudicate upon the matter under section 14 of

the Act. He had the requisite jurisdiction to determine the outstanding amount of debt and to allow interest at the rate of 6 per cent thereon to the creditor. The appellate Court has held the order of the Debt Settlement Officer as without jurisdiction on the interpretation of Section 13(1) of the Act, which reads as under:—

“13(1) Every creditor submitting in compliance with a notice issued under sub-section (1) of section 12 a statement of the debts owed to him shall furnish along with such statement, full particulars of all such debts, and shall at the same time produce all documents (including entries in books of account) on which he relies to support his claims, together with a true copy of every such document:

Provide that a decree or order of a civil court shall be conclusive evidence as to the amount of the debt to which the decree relates, but the amount may be reduced if it exceeds double the principal loan or has been made up by including simple interest at a rate higher than six per cent per annum.”

This provision of the Act does not envisage that the amount of debt should first be determined by a civil Court and only thereafter the Debt Settlement Officer becomes competent to settle the dispute between the debtor and the creditor. It only talks of “debt”, which not only includes a liability payable under a decree or order of a civil Court but also the liability owing to a creditor *otherwise*. The appellate Court seems to have been misled by the proviso. But the proviso only lays down that if it is a case of liability under a decree or order of a civil Court then such a decree or order shall be conclusive evidence as to the amount of debt. The proviso certainly does not lay down that an application for settlement under section 8 of the Act can be entertained by the Debt Settlement Officer only if the debt has first been determined by the civil Court.

5. For the reasons stated above, the impugned order dated August 23, 1978, of the Collector Bhiwani, (Annexure P. 2), is hereby quashed. Since the order of the Debt Settlement Commissioner (Annexure P. 1), had been set aside only on the point of jurisdiction and the appeal was not heard on merit, the case is sent back to the Collector, Bhiwani, for deciding the appeal against Annexure P. 1 on merits after issuing notice to the parties. No order as to costs.

H.S.B.