Supreme Court of India
State Bank Of Travancore vs Mohammed Mohammed Khan on 21 August, 1981
Equivalent citations: 1981 AIR 1744, 1982 SCR (1) 338
Author: Y Chandrachud
Bench: Chandrachud, Y.V. ((Cj)

PETITIONER:
STATE BANK OF TRAVANCORE

Vs.

RESPONDENT:
MOHAMMED MOHAMMED KHAN

DATE OF JUDGMENT21/08/1981

BENCH:
CHANDRACHUD, Y.V. ((CJ)
BENCH:
CHANDRACHUD, Y.V. ((CJ)
SEN, A.P. (J)
ERADI, V. BALAKRISHNA (J)

CITATION:
1981 AIR 1744 1982 SCR (1) 338
1981 SCC (4) 82 1981 SCALE (3)1253
CITATOR INFO :
RF 1986 SC1499 (16)

ACT:
Kerala Agriculturists. Debt Relief Act (Act 11) 1970-Whether a debt owed by an Agriculturist falls within the purview of section 2(4).

HEADNOTE:
The respondent had an overdraft account with the Erattupetta Branch of the Kottayam orient Bank Ltd. at the foot of which he owed a sum of over Rs. 3000/- to the Bank. The said Bank which was a 'Banking Company' as defined in the Banking Regulation Act, 1949, was amalgamated with the appellant Bank with effect from June 17, 1961. The appellant Bank filed a suit (O,S, 28 of 1963) in the Sub-Court, Meenachil, against the respondent for recovery of the amount due from him in the overdraft Account with the Kottayam orient Bank, the right to recover which had come to be vested in the appellant as a result of the scheme of amalgamation. The suit was decreed in favour of the appellant but when it took out execution proceedings in the Sub-Court, Kottayam, the respondent filed an application under section 8 of the Kerala Agriculturists' Debt Relief

Act claiming that being an agriculturist within the meaning of that Act, he was entitled to the benefit of its provisions including those relating to the scaling down of debts. The learned Subordinate Judge dismissed the application holding: (i) that the respondent was not entitled to the benefit of the provisions regarding scaling down of the debt because the debt, having been once owed by him to the Kottayam orient Bank Ltd. which was a Banking Company as defined in the Banking Regulation Act, 1949, was outside the purview of section S of the Act which provided for the scaling down of debts owed by agriculturists; and (ii) that he was only entitled to the benefit of the proviso to section 2(4) (l) of the Act under which the amount could be repaid in eight half yearly instalments

The Revision Application preferred by the respondent was referred to the Full Bench of the High Court. It was contended on behalf of the appellant Bank that the debt owed to it by the respondent was excluded from the operation of the Act by reason of section 2(4) (a) (ii) and section 2 (4) (1) of the Act. By its judgment dated February 1, 1978 the High Court rejected that contention, allowed the Revision Application and held that the respondent was entitled to all the relevant benefits of the Act, including the benefit of scaling down of the debt and hence the appeal by special leave.

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Dismissing the appeal, the Court

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HELD: 1:1. The appellant Bank will not be entitled to the benefit of the exclusion contained in section 2 (4) (a) (ii) of the Kerala Agriculturists' Debt Relief Act, 1970 in view of clause (B) of the proviso to the section and the respondent's claim to the benefits of the Act will remain unaffected by that provision. [345H, 346 A]

1: 2. The respondent is admittedly an agriculturist and he owes a sum of money to the appellant Bank under a decree passed in its favour by the Sub-Court, Meenachil, in O.S. No. 28 of 1963. The liability which the respondent owes to the appellant Bank is, therefore a "debt" within the meaning of section 2 (4) of the Act. [344 F-G]

However, since the appellant Bank, namely, the State Bank of Travancore, . is a subsidiary bank within the meaning of section 2 (k) of theState Bank of India (Subsidiary Banks) Act, 1959 and also as contemplated by sub-clause (ii) of clause (a) of section 2(4) of the Act, the decretal amount payable by the respondent to the appellant Bank will not be a debt within the meaning of section 2(4) of the Act. [345 C-D]

1: 3. By reason of clause (B) of the proviso to section 2 (4) (a) (ii) of the Act, which proviso is in the nature of an exception to the exceptions contained in the said section the amount payable to a subsidiary bank is not to be regarded as a debt within the meaning of the Act, only if

the right of the subsidiary bank to recover the amount did not arise by reason of any transfer effected by operation of law subsequent to July 1, 1957. Here, the notification containing the scheme of amalgamation was published on May 16. 1961. Thus, the right of the appellant Bank, though is a subsidiary Bank, to recover the amount from the respondent arose by reason of a transfer effected by operation of law, namely, the scheme of amalgamation, which came into effect after July 1, 1957. [345 D-E, G]

2: l. The State Bank of Travancore, is not a 'company' properly so called. It is a subsidiary bank. It was established by the Central Government in accordance with The Act of 1959 and is not a 'company and, therefore not a banking company. Therefore, the decretal debt which the respondent is liable to pay to the appellant is not owed to a "banking company". It was indeed not owed to any "banking company" at all on July 14, 1970 being the date on which the Act came into force. [346 G-H, 347 A]

3: 1. The exclusion provided for in clause (I) of section 2 (4) of the Act can be availed of, if the debt is due to a banking company at the time of the commencement of the Act. [352 D-E]

3: 2. The object of the Act is to relieve agricultural indebtedness. In order to achieve that object, the legislature conferred certain benefits on agricultural debtors but, while doing so, it excluded a class of debts from the operation of the Act, namely, debts of the description mentioned in clauses (a) to (n) of section 2 (4). One class of debts taken out from the operation of the Act is debts owed to banking companies, as specified in clause (1). The reason for this exception being that, unlike money lenders who

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exploit needy agriculturists and impose upon them harsh and onerous terms while granting loans to them, representative institutions, like banks and banking companies, are governed be their rules and regulations which do not change from debtor to debtor and which, if anything, are intended to benefit the weaker sections of society. [348 A-C]

3: 3. Relief to agricultural debtors who have suffered the oppression of private money-lenders, has to be the guiding star which must illumine and inform the interpretation of the beneficient provisions of the Act. When clause (1) speaks of a debt due "before the commencement" of the Act to a banking company, it does undoubtedly mean what it says, namely, that the debt must have been due to a banking company before the commencement of the Act. But it means something more: that the debt must also be due to a banking company at the commencement of the Act. Reading into the clause the word "at" which is not there, is the only rational manner by which meaning and content could be given to it, so as to further the object of the Act. [349 B-E]

Further clause (I) speaks of a debt due before the commencement of the Act, what it truly means to convey is not that the debt should have been due to a banking company at some point of time before the commencement of the Act, but that it must be a debt which was incurred from a banking company before the commencement of the Act. [349 E-F]

Thus, the application of clause (I) is subject to these conditions: (i) The debt must have been incurred from a banking company; (ii) the debt must have been so incurred before the commencement of the Act; and (iii) the debt must be due to a banking company on the date of the commencement of the Act. These are cumulative conditions and unless each one of them is satisfied, clause (I) will not be attracted and the exclusion provided for therein will not be available as an answer to the relief sought by the debtor in terms of the Act. [349G-H, 350 A]

3: 4. Section 2 (4) which defines a "debt" had to provide that debt means a liability due from or incurred by an agriculturist "on or before the commencement" of the Act. It could not be that liabilities incurred before the commencement of the Act would be "debts" even though they are not due on the date of commencement of the Act. The words "on or before the commencement" of the Act are used in the context of liabilities "due from or incurred" by an agrieculturist. For similar reasons, clause (j) had to use the expression "at the commencement" of the Act, the subject matter of that clause being debts due to widows. The benefit of the exclusion provided for in clause (j) could only be given to widows to whom debts were due "at the commencement" of the Act. The legislature could not have given that benefit in respect of debts which were due before but not at the commencement of the Act. Thus, the language used in the two provisions is suited to the particular subject matter with which those provisions deal and is apposite to the context in which that language is used.
[350 C-F]

3:5. The object of the Act being to confer certain benefits on agricultural debtors, the legislature would be under an obligation, while excepting a certain category of debts from the operation of the Act, to make a classification which will answer the test of article 14. Debts incurred from banking companies and
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due to such companies at the commencement of the Act would fall into a separate and distinct class, the classification bearing a nexus with the object of the Act. If debts incurred from private money-lenders are brought within the terms of clause (I) on the theory that the right to recover the debt had passed on to a banking company sometime before the commencement of the Act, the clause would be unconstitutional for the reason that it accords a different treatment to a category of debts without a valid basis and without the classification having a nexus with the object of

the Act. [350G-H, 357A-B]
State of Rajasthan v. Mukanchand [1964] 6 SCR 903; Fatehchand Himmatlal v. State of Maharashtra, [1977] 2 SCR 828, applied.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1376 of 1978.

(Appeal by special leave from the judgment and order dated the 1st February, 1978 of the Kerala High Court in M.F.A. No. 53 of 1977) L.N. Sinha, Attorney General, J. M. Joseph, K John and Shri Narain for the Appellant. D C.S. Vaidlyanathan, (A.C.), for the Respondent. The Judgment of the Court was delivered by CHANDRACHUD, C.J. The question which arises in this appeal by special leave is whether a debt owed by the respondent, an agriculturist, to the appellant-The State Bank of Travancore-falls within the purview of the Kerala Agriculturists' Debt Relief Act, 11 of 1970, hereinafter called 'the Act'.

The respondent had an overdraft Account with the Erattupetta Branch of the Kottayam Orient Bank Ltd., at the foot of which he owed a sum of over Rs. 3000/- to the Bank. The said Bank which was a 'Banking Company' as defined in the Banking Regulation Act, 1949, was amalgamated with the appellant Bank with effect from June 17, 1961 in pursuance of a scheme of amalgamation prepared by the Reserve Bank of India in exercise of the powers conferred by section 45 (4) of the Banking Regulation Act and sanctioned by the Central Government under sub-section (7) of section 45. Upon the amalgamation, all assets and liabilities of the Kottayam Orient Bank stood transferred to the appellant Bank. The notification containing the scheme of amalgamation was published in the Gazette of India Extra-ordinary dated May 16, 1961 .

The appellant filed a suit (O.S. No. 28 of 1963) in the Sub Court, Meenachil, against the respondent for recovery of the amount due from him in the overdraft Account with the Kottayam Orient Bank, the right to recover which had come to be vested in the appellant as a result of the aforesaid scheme of amalgamation. That suit was decreed in favour of the appellant, but when it took out execution proceedings in the Sub-Court, Kottayam, the respondent filed a petition under section 8 of the Act seeking amendment of the decree in terms of the provisions of the Act. The respondent claimed that he was an agriculturist within the meaning of the Act and was therefore entitled to the benefit of its provisions, including those relating to the scaling down of debts. The learned Subordinate Judge assumed, what was evidently not controverted, that the respondent was an agriculturist. But the learned Judge held that the respondent was not entitled to the benefit of the provision regarding scaling down of the debt because the debt, having been once owed by him to the Kottayam Orient Bank Ltd., which was a 'Banking Company as defined in the Banking Regulation Act, 1949, was outside the purview of section 5 of the Act which provided for the scaling down of debts owed by agriculturists. According to the learned Judge, the respondent was only entitled to the benefit of the proviso to section 2 (4) (l) of the Act under which the amount could be repaid in eight half-yearly instalments. Since the relief which the respondent had asked for was that his debt should be scaled down and since he was held not entitled to that relief, his application was dismissed by the learned

Judge.

The respondent preferred an appeal to the High Court of Kerala, the maintainability of which was challenged by the appellant on the ground that no appeal lay against the order passed by the Subordinate Judge on the application filed by the respondent under section 8 of the Act. The High Court accepted the preliminary objection but granted permission to the respondent to convert the appeal into a Civil Revision Application and dealt with it as such. In view of the general importance of the questions involved in the matter, the revision application was referred by a Division Bench to the Full Bench.

It was contended in the High Court on behalf of the appellant, Bank that the debt owed to it by the respondent was excluded from the operation of the Act by reason of section 2 (4) (a)

(ii) and section 2 (4) (1) of the Act. By its judgment dated February 1, 1978 the High Court rejected that contention, allowed the Revision Application and held that the respondent was entitled to all the relevant benefits of the Act, including the benefit scaling down of the debt. The Bank questions the correctness of that judgment in this appeal.

Section 8 of the Act provides, in so far as is material, that where, before the commencement of the Act, a court has passed a decree for, the repayment of a debt, it shall, on the application of a judgment-debtor, who is an agriculturist, apply the provisions of the Act to such a decree and shall amend the decree accordingly. It is in pursuance of this section that the respondent applied to the executing Court for amendment of the decree. Section 4(1) of the Act provides that notwithstanding anything contained hl any law or contract or in a decree of any court, but subject to the provisions of sub-section (5), an agriculturist may discharge his debts in the manner specified in sub-sections (2) and (3). Sub-section (2) of section 4 provides that if any debt is repaid in seventeen equal half yearly instalments together with interest at the rates specified in section 5, the whole debt shall be deemed to be discharged. Sub-section (3) specifies the period within which the instalments have to be paid. The respondent claims the benefit of the provision contained in section 4 (1) of the Act.

In order to decide whether the respondent is entitled to the relief claimed by him, it would be necessary to consider the provisions of sections 2 (1) and 2 (4) of the Act. The short title of the Act shows that it was passed in order to give relief to indebted agriculturists in the State of Kerala. The State Legislature felt the necessity of passing the Act because, the Kerala Agriculturists' Debt Relief Act, 31 of 1958, conferred benefits on agricultural debtors in respect of debts incurred by them before July 14, 1958 only. The Statement of objects and Reasons of the Act slows that the agricultural indebtedness amongst the poorer sections of the community showed an upward trend after July 14, 1958 owing to various economic factors. A more comprehensive legislation was therefore introduced by the State Legislature in the shape of the present Act in substitution of the Act of 1958. The Act came into force on July 14, 1970.

Section 2 (1) of the Act which defines an "agriculturist" need not be reproduced because it was common ground at all stages bet-

ween the parties that the respondent is an agriculturist within the meaning of the definition in section 2 (1).

Section 2 (4) of the Act, in so far as is material for our purposes, reads thus:

"Section 2 (4):"debt" means any liability in cash or kind, whether secured or unsecured, due from or incurred by an agriculturist on or before the commencement of this Act, whether payable under a contract, or under a decree or order of any court, or otherwise, but does not include:-

(a) any sum payable to:-

(i) the Government of Kerala or the Government of India or the Government of any other State or Union territory or any local authority; or

(ii) the Reserve Bank of India or the State Bank of India or any subsidiary bank within the meaning of clause (k) of section 2 of the State Bank of India (Subsidiary Act, 1959, or the Travancore Credit Bank (in liquidation) constituted under the Travancore Credit Bank Act, IV of 1113:

Provided that the right of the bank to recover the sum did not arise by reason of:-

(A) any assignment made or (B) any transfer effected by operation of law, subsequent to the 1st day of July, 1957".

As stated above, the respondent is admittedly an agriculturist and he owes a sum of money to the appellant Bank under a decree passed in its favour by the Sub-Court, Meenacil, in O.S. No. 28 of 1963. The liability which the respondent owes to the appellant Bank is therefore a "debt" within the meaning of section 2 (4) of the Act. But certain liabilities are excluded from the ambit of the definition of "Debt". The liabilities which are thus excluded from the definition of debt are specified in clauses (a) to (n) of section 2 (4). We are concerned in this appeal with the liabilities specified in clause (a) (ii) and clause (1) of section 2 (4), which are excluded from the operation of clause 2 (4). We will first consider the implications of the exclusion provided for in sub-clause

(ii) of clause (a) of section 2 (4). Under the aforesaid sub-clause, any sum payable to a subsidiary bank within the meaning of section 2 (k) of the State Bank of India (Subsidiary Banks) Act, 1959, is excluded from the definition of "debt". Section 2 (k) of the Act of 1959 defines a "subsidiary bank" to mean any new bank, including the Hyderabad Bank and the Saurashtra Bank. The expression "new bank" is defined in section 2 (f) of the Act of 1959 to mean any of the banks constituted under section 3. Section 3 provides that with effect from such date, as the Central Government may specify, there shall be constituted the new banks specified in the section. Clause (f) of section 3 mentions the State Bank of Travancore amongst the new banks which may be constituted under section 3. It is thus clear that the appellant Bank, namely, the State Bank of Travancore, is a subsidiary bank as contemplated by sub- clause (ii) of clause (a) of section 2 (4) of the Act. If the matter were to rest there, the decretal amount payable by the respondent to the appellant Bank will not be a debt within the meaning of section 2 (4) of the Act, since the appellant is a subsidiary bank

within the meaning of section 2 (k) of the State Bank of India (Subsidiary Banks) Act, 1959. But by reason of clause (B) of the proviso to section 2 (4) (a) (ii) of the Act, the amount payable to a subsidiary bank is not to be regarded as a debt within the meaning of the Act, only if the right of the subsidiary bank to recover the amount did not arise by reason of any transfer effected by operation of law subsequent to July 1, 1957. The proviso is thus in the nature of an exception to the exceptions contained in section 2 (4) (a) (ii) of the Act.

The respondent initially owed a sum exceeding Rs. 3000/- to the Erattupetta Branch of the Kottayam Orient Bank Ltd. which was amalgamated with the appellant Bank with effect from June 17, 1961 pursuant to an amalgamation scheme prepared by the Reserve Bank of India. All the rights, assets and liabilities of the Kottayam Orient Bank were transferred to the appellant Bank as a result of the amalgamation. The notification containing the scheme of amalgamation was published on May 16, 1961. Thus, the right of the appellant Bank, though it is a subsidiary Bank, to recover the amount from the respondent arose by reason of a transfer effected by operation of law, namely, the scheme of amalgamation, which came into effect after July 1, 1957. Since clause (B) of the proviso to section 2 (4) (a) (ii) is attracted, the appellant Bank will not be entitled to the benefit of the exclusion contained in section 2 (4) (a)

(ii) of the Act and the respondents claim to the benefits of the Act will remain unaffected by that provision.

That makes it necessary to consider the question whether the appellant Bank can get the advantage of any of the other exclusionary clauses (a) to (n) of section 2 (4) of the Act. The only other clause of section 2 (4) which is relied upon by the appellant in this behalf is clause (1), according to which the word 'debt' as defined in section 2 (4) will not include:-

> "any debt exceeding three thousand rupees borrowed under a single transaction and due before the commencement of this Act to any banking company; (emphasis supplied) Provided that in the case of any debt exceeding three thousand rupees borrowed under a single transaction and due before the commencement of this Act to any banking company, any agriculturist debtor shall be entitled to repay such debt in eight equal half- yearly instalments as provided in sub-section (3) of section 4, but the provisions of section 5 shall not apply to such debt."

The question for consideration is whether the amount which the respondent is liable to pay under the decree was "due before the commencement of the Act to any Banking Company".

Turning first to the question whether the appellant Bank is a banking company, the learned Subordinate Judge assumed that it is, but no attempt was made to sustain that finding in the High Court. Shri Abdul Khader, who appears on behalf of the appellant conceded before us that it is not a banking company. The concession is rightly made, since according to section 2(2) of the Act, 'Banking Company' means a banking company as defined in the Banking Regulation Act, 1949. Section S(c) of the Act of 1949 defines a banking company to mean any Company which transacts the business of banking in India (subject to the provision contained in the Explanation to the

section). Thus, in order that a bank may be a banking company, it is in the first place necessary that it must be a "company". The State Bank of Travancore, which is the appellant before us, is not a 'company' properly so called. It is a subsidiary bank which falls within the definition of section 2(k) of the State Bank of India (Subsidiary Banks) Act, 1959. It was established by the Central Government in accordance with the Act of 1959 and is not a 'company' and therefore, not a banking company. It must follow that the decretal debt which the respondent is liable to pay to the appellant is not owed to a banking company. It was indeed not owed to any banking company at all on July 14, 1970, being the date on which the Act came into force. It may be recalled that the respondent owed a certain sum exceeding three thousand rupees to the Kottayam Orient Bank Ltd., a banking company, on an overdraft account. That Bank was amalgamated with the appellant Bank with effect from May 16, 1961, as a result of which the latter acquired the right to recover the amount from the respondent. It filed Suit No. 28 of 1963 to recover that amount and obtained a decree against the respondent.

lt is precisely this small conspectus of facts, namely, that the amount was at one time owed to a banking company but was not owed to a banking company at the commencement of the Act, which raises the question as regards the true interpretation of clause (1) of section 2 (4).

The fact that the amount which the respondent owes to the appellant was not owed to a banking company on the date on which the Act came into force, the appellant not being a banking company, does not provide a final solution to the problem under consideration. The reason for this is that clause (1) of section 2(4) speaks of a debt "due before the commencement" of the Act to any banking company, thereby purporting to make the state of affairs existing before the commencement of the Act decisive of the application of that clause. The contention of the learned Attorney General, who led the argument on behalf of the appellant, is that the respondent owed the debt before the commencement of the Act to a banking company and, therefore, the appellant is entitled to claim the benefit of the exclusion provided for in clause (1). The argument is that, for the purposes of clause (1), it does not matter to whom the debt is owed on the date of the commencement of the Act: what matters is to whom the debt was owed before the commencement of the Act.

The learned Attorney General is apparently justified in making this submission which rests on the plain language of clause (1) of section 2(4), the plain, grammatical meaning of the words of the statute being generally a safe guide to their interpretation. But having considered the submission in its diverse implications, we find ourselves unable to accept it.

In order to judge the validity of the submission made by the Attorney General, one must of necessity have regard to the object and purpose of the Act. The object of the Act is to relieve agricultural indebtedness. In order to achieve that object, the legislature conferred certain benefits on agricultural debtors but, while doing so, it excluded a class of debts from the operation of the Act, namely, debts of the description mentioned in clauses (a) to (n) of section 2(4). One class of debts taken out from the operation of the Act is debts owed to banking companies, as specified in clause (1). The reason for this exception is obvious. It is notorious that money lenders exploit needy agriculturists and impose upon them harsh and onerous terms while granting loans to them. But that charge does not hold true in the case of representative institutions, like banks and banking

companies. They are governed by their rules and regulations which do not change from debtor to debtor and which, if any thing, are intended to benefit the weaker sections of society. It is for this reason that debts owing to such creditors are excepted from the operation of the Act.

A necessary implication and an inevitable consequence of the Attorney General's argument is that in order to attract the application of clause (1) of section 2 (4), it is enough to show that the debt was, at some time before the commencement of the Act, owed to a banking company; it does not matter whether it was in its inception owed to a private money-lender and, equally so, whether it was owed to such a money-lender on the date of the commencement of the Act. This argument, if accepted, will defeat the very object of the Act. The sole test which assumes relevance according to that argument is whether the debt was owed, at any time before the commencement of the Act, to a banking company. It means that it is enough for the purpose of attracting clause (1) that, at some time in the past, may be in a chain of transfers, the right to recover the debt was vested in a banking company. A simple illustration will elucidate the point. If a private money-lender had initially granted a loan to an agricultural debtor on usurious terms but the right to recover that debt came to be vested in a banking company some time before the commencement of the Act, the debtor will not be able to avail himself of the benefit of the provisions of the Act because, at some point of time before the commencement of the Act, the debt was owed to a banking company. And this would be so irrespective of whether the banking company continues to be entitled to recover the debt on the date of the commencement of the Act. Even if it assigns its right to a private individual, the debtor will be debarred from claiming the benefit of the Act because, what is of decisive importance, according to the Attorney General's argument is the fact whether, some time before the commencement of the Act, the debt was due to a banking company. We do not think the Legislature could have intended to produce such a startling result.

The plain language of the clause, if interpreted so plainly, will frustrate rather than further the object of the Act. Relief to agricultural debtors, who have suffered the oppression of private moneylenders, has to be the guiding star which must illumine and inform the interpretation of the beneficent provisions of the Act. When clause (1) speaks of a debt due "before the commencement" of the Act to a banking company, it does undoubtedly mean what it says, namely, that the debt must have been due to a banking company before the commencement of the Act. But it means something more: that the debt must also be due to a banking company at the commencement of the Act. We quite see that we are reading into the clause the word "at" which is not there because, whereas it speaks of a debt due "before" the commencement of the Act, we are reading the clause as relating to a debt which was due "at" and "before" the commencement of the Act to any banking company. We would have normally hesitated to fashion the clause by so restructuring it but we see no escape from that course, since that is the only rational manner by which we can give meaning and content to it, so as to further the object of the Act.

There is one more aspect of the matter which needs to be amplified and it is this: When clause (1) speaks of a debt due before the commencement of the Act, what it truly means to convey is not that the debt should have been due to a banking company at some point of time before the commencement of the Act, but that it must be a debt which was incurred from a banking company before the commencement of the Act.

Thus, the application of clause (1) is subject to these conditions: (i) The debt must have been incurred from a banking company; (ii) the debt must have been so incurred before the commencement of the Act, and (iii) the debt must be due to a banking company on the date of the commencement of the Act. These are cumulative conditions and unless each one of them is satisfied, clause (1) will not be attracted and the exclusion provided for there-

in will not be available as an answer to the relief sought by the debtor in terms of the Act.

Our attention was drawn by the Attorney General to the provisions of sections 2 (4) and 2 (4) (j) of the Act the former using the expression "on or before the commencement" of the Act and the latter "at the commencement" of the Act. Relying upon the different phraseology used in these two provisions and in clause (1) inter se, he urged that the legislature has chosen its words carefully and that when it intended to make the state of affairs existing "at" the commencement of the Act relevant, it has said so. We are not impressed by this submission. Section 2 (4) which defines a "debt" had to provide that debt means a liability due from or incurred by an agriculturist "on or before the commencement" of the Act. It could not be that liabilities incurred before the commencement of the Act would be "debts" even though they are not due on the date of commencement of the Act. The words "on or before the commencement" of the Act are used in the context of liabilities "due from or incurred" by an agriculturist. For similar reasons, clause

(j) had to use the expression "at the commencement" of the Act, the subject matter of that clause being debts due to widows. The benefit of the exclusion provided for in clause

(j) could only be given to widows to whom debts were due "at the commencement" of the Act. The legislature could not have given that benefit in respect of debts which were due before but not at the commencement of the Act. Thus, the language used in the two provisionals on which the learned Attorney General relies is suited to the particular subject matter with which those provisions deal and is apposite to the context in which that language is used. We have given to the provision of clause (1) an interpretation which, while giving effect to the intention of the legislature in the light of the object of the Act, brings out the true meaning of the provision contained in that clause. The literal construction will create an anomalous situation and lead to absurdidities and injustice. That construction has therefore to be avoided.

Any other interpretation of clause (1) will make it vulnerable to a constitutional challenge on the ground of infraction of the guarantee of equality. The object of the Act being to confer certain benefits on agricultural debtors, the legislature would be under an obligation, while excepting a certain category of debts from the operation of the Act, to make a classification which will answer the test of article 14. Debts incurred from banking companies and due to such companies at the commencement of the Act would fall into a separate and distinct class, the classification bearing a nexus with A the object of the Act. If debts incurred from private money-lenders are brought within the terms of clause (1) on the theory that the right to recover the debt had passed on to a banking company sometime before the commencement of the Act, the clause would be unconstitutional for the reason that it accords a different treatment to a category of debts without a valid basis and without the classification having a nexus with the object of the Act.

In State of Rajasthan v. Mukanchand section 2 (e) of Jagirdar's Debt Reduction Act, 1937 was held invalid on the ground that it infringed Article 14 of the Constitution. The object of that Act was to reduce the debts secured on jagir lands which had been resumed under the provisions of the Rajasthan Land Reforms and Resumption of Jagirs Act. The Jagirdar's capacity to pay debts had been reduced by the resumption of his lands and the object of the Act was to ameliorate his condition. It was held that no intelligible principle underlies the exempted category of debts mentioned in section 2(e) since the fact that the debts were owed to a government or to a local authority or similar other bodies, had no real relationship with the object sought to be achieved by the Act. In Fatehand Himmatlal v. Slate of Maharashtra, in which the constitutionality of the Maharashtra Debt Relief Act, 1976 was challenged, it was held by this Court that the exemption granted by the statute to credit institutions and banks was reasonable because liabilities due to Government, local authorities and other credit institutions were not tainted by the view of the debtor's exploitation. Fatehchand would be an authority for the proposition that clause (1), in the manner interpreted by us, does not violate Article 14 of the Constitution.

Shri Vaidyanathan, who appears on behalf of the respondent, contended that the claim made by the appellant Bank falls squarely under section 2 (4) (a) (ii) of the Act and that if the appellant is not entitled to the benefit of the specific provision contained therein, it is impermissible to consider whether it can claim the benefit of some other exclusionary clause like clause (1). Counsel is right to the extent that the appellant is not entitled to claim the benefit of the provision contained in section 2 (4)(a)(ii) because of Proviso B to that section. The simple reason in support of this conclusion is that the right of the appellant to recover the debt arose by reason of a transfer effected by operation of law subsequent to July 1, 1957. We have already dealt with that aspect of the matter. But we are not inclined to accept the submission that if a particular case falls under a specific clause of section 2 (4) which is found to be inapplicable, the creditor is debarred from claiming the benefit of any of the other clauses (a) to (n). The object of the exclusionary clauses is to take category of debts from out of the operation of the Act and there is no reason why, if a specific clause is inapplicable, the creditor cannot seek the benefit of the other clauses. The exclusionary clauses, together, are certainly exhaustive of the categories of excepted debts but to make those clauses mutually exclusive will be to impair unduly the efficacy of the very object of taking away a certain class of debts from the operation of the Act. We are not therefore, inclined to accept the submission made by the learned counsel that section 2 (4)

(a) (ii) is exhaustive of all circumstances in which a subsidiary bank can claim the benefit of the exceptions to section 2 (4).

For these reasons we affirm the view of the High Court that the exclusion provided for in clause (1) of section 2 (4) of the Act can be availed of if the debt is due to a banking company at the time of the commencement of the Act. We have already indicated that the other condition which must be satisfied in order that clause (1) may apply is that the debt must have been incurred from a banking company before the commencement of the Act.

For these reasons we dismiss the appeal. Appellant will pay the costs of the respondent throughout.

S.R. Appeal dismissed.