

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

PUBLIC INTEREST LITIGATION NO. 141 OF 2017

H.G. Deshpande

... Petitioner.

V/s.

Union of India and Ors.

... Respondents.

Mr. Niranjan Kulkarni I/b. A.A. Garge for the Petitioner.

Mr. Y.S. Bhate a/w. Anand Singh for Respondents 1 and 2.

Ms. Nisha Mehra, AGP for Respondents 2 and 5.

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M. JAMDAR, J.***

DATE : 20 JUNE 2019.

P.C. :-

It is a case where the author of the Agricultural Debt Waiver and Debt Relief Scheme, 2008 slurred in giving effect to the intention of the Policy of the Government. The Scheme gave effect to the budget speech made by the Minister of Finance for the year 2008-09. The Scheme envisage waiver of debts owned by marginal and small farmers as also other farmers.

2. Marginal farmer was defined as one cultivating agricultural land upto 1 hectare. Small farmer was defined to mean a farmer cultivating land more than 1 hectare and upto 2 hectare. Other farmer was defined to mean a farmer cultivating land more than 2 hectare. Cultivation could be either as owner or tenant or share cropper.

3. The slurring by the draftsman was to writing “*2.5 acre*” after the “*1 hectare*” pertaining to marginal farmers “*5 acre*” after the expression “*1 hectare*” and upto “*2 hectare*” pertaining to small farmers and “*more than 5 acre*” after the expression “*2 hectare*” for other farmers. The two unit value do not match each other. 5 acre on a conversion equals 2.03 hectare. Meaning thereby, if the land holding has to be determined with reference to acre, those cultivating land upto 5 acre would be holding 2.03 hectare land. This would mean that if the unit value has to be computed in acre, those who were cultivating land upto 2.03 hectare would be small farmers and not other farmers.

4. A perusal of a scheme shows that the intent of the legislature was to determine the land holding with reference to the unit value hectare and not acre. The unit value acre appears to have been inserted by the draftsman to facilitate conversion and overlooking the fact that the conversion factor of 5 acre does not convert the land holding to 2 hectare. It converts the land holding to 2.03 hectare. Thus, relief prayed in the Petition cannot be granted. We declare that the policy as notified envisages determination of land holding with reference to the unit value hectare and not acre.

N.M. JAMDAR, J.

CHIEF JUSTICE