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In re Irene Rita BUSHEY and Harlan George BUSHEY, Debtors.

Bankruptcy No. 91-10754.

United States Bankruptcy Court. D. Vermont.

April 6, 1992.

FINDINGS AND ORDER DENYING DEBTORS' CLAIM OF EXEMPTION IN COWS AS "TOOLS OF THE

TRADE"

FRANCIS G. CONRAD, Bankruptcy Judge.

*1 UPON CONSIDERATION of the claim of exemptions by Harlan and Irene Bushey in the value of 55 cows, 2 calves and 1 bull, the purported total value claimed exempt being in the amount of \$24,565.00; such claim of exemption having been made pursuant to Title 12, Section 2740(2), in an amount of \$9,050.00, as "Tools of the Trade" of the debtors; objection to such claim of exemptions in certain cows as presumably tools of the trade having been filed by the Caledonia National Bank; such matter having come before the Court on Hearing, Noticed in accordance with Bankruptcy Rule 2002; having been adjourned from March 11, 1992 to March 16, 1992; the debtors being present with their Attorney, Michael Palmer, Esq., and the Caledonia National Bank being present through its Agent, Stewart Gates, and through its Attorney, Raymond J. Obuchowski, Esq.; and the Court having fully reviewed the matter, and; upon submission of Memorandum filed by the parties, makes the following findings and conclusions of law:

THE COURT FINDS:

1. The Vermont Legislature, in the enactment of Sections 8 through 14 of Section 2740 of Title 12, has made specific recognition of cows and livestock for purposes of exemption from attachment and execution;
2. Sections 8 through 14 evidence an intent by the Vermont Legislature not to include cows in the category of Tools of the Trade;

3. Tools are to be considered either vis-a-vis capital assets or non-capital assets;
4. The Legislature in enacting a limit of \$5,000.00, did have an intent that tools of the trade are to be smaller items, and not capital items;
5. A cow, by its very nature, is a capital asset, not a tool of the trade.

Based upon the findings aforesaid, the Court CONCLUDES:

1. That a cow is not a tool of the trade, as defined by 12 V.S.A. Section 2740(2). The tools of the artisan are not necessarily tools of the farmer.

Upon the findings and conclusions aforesaid:

IT IS ORDERED that the objection of the Caledonia National Bank to the debtors' claim of exemptions in cows as tools of the trade pursuant to 12 V.S.A. Section 2740(2) is SUSTAINED and that the debtors' claim of exemption is DENIED.

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