

THE ANDHRA PRADESH AGRICULTURAL INDEBTEDNESS (RELIEF)
ACT, 1977

ACT No. 7 OF 1977

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THE ANDHRA PRADESH AGRICULTURAL INDEBTEDNESS (RELIEF)
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ACT No. 7 OF 1977

[29th April, 1977]

AN ACT TO PROVIDE RELIEF FROM INDEBTEDNESS TO AGRICULTURAL LABOURERS, RURAL ARTISANS AND SMALL FARMERS IN THE STATE OF ANDHRA PRADESH AND FOR MATTERS CONNECTED THEREWITH.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Twenty-eighth Year of the Republic of India as follows: -

CHAPTER-1
PRELIMINARY

1. Short title, extent and commencement- (1) This Act may be called the Andhra Pradesh Agricultural Indebtedness (Relief) Act, 1977.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall be deemed to have come into force on the 29th December, 1976.

2. Declaration- It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in Article 46 of the Constitution.

3. Definitions- In this Act, unless the context otherwise requires, -

(a) ' agriculture' with its grammatical variations and cognate expressions includes,-

(i) horticulture;

(ii) the raising of crops (including plantation crops), grass or garden produce;

(iii) dairy farming;

(iv) poultry farming;

(v) breeding of livestock and bees;

(vi) grazing;

but does not include the cutting of wood only;

(b) 'agricultural labourer' means a person who does not hold any agricultural land and whose principal means of livelihood is by manual labour on agricultural land, in the capacity of a labourer on hire or on exchange, whether paid in cash or in kind or partly in cash and partly in kind;

(c) 'agricultural land' means land used for purposes of agriculture and which is assessed by the Government to land revenue, but not being land appurtenant to a residential building situate within a Municipality or Cantonment;

(d) 'annual household income' means the aggregate of the annual income from all sources of all the members of a family;

(e) 'appellate tribunal' means the Appellate Tribunal constituted under sub-section (2) of section 8;

(f) 'bank' means a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949, (Central Act, 10 of 1949) and includes the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, (Central Act 38 of 1959), a corresponding new bank as specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970), the Agricultural Refinance and Development Corporation established under the Agricultural Refinance and Development Corporation Act 1963, (Central Act 10 of 1963), a Regional Rural Bank established under the Regional Rural Banks Act, 1976 (Central Act 21 of 1976), any banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949, (Central Act 10 of 1949), and any other financial institution which may be notified in this behalf by the State Government;

(g) 'co-operative society' means a co-operative society including an agricultural development bank registered or deemed to be registered under the Andhra Pradesh Co-operative Societies Act, 1964 (Act 7 of 1964);

(h) 'creditor' means a person from or in respect of whom the debtor has borrowed or incurred a debt and includes his heirs, legal representatives and assigns;

(i) 'debt' includes any liability owing to a creditor in cash or in kind, whether secured or unsecured payable under a decree or order of a civil court or otherwise and subsisting at the commencement of this Act, but does not include,-

(i) a debt due to the Central Government or any State Government or any local authority or a co-operative society or a bank, including arrears of taxes due to the Central Government or a State Government, or a local authority;

(ii) a debt due to any Government company within the meaning of section 617 of the Companies Act, 1956 (Central Act 1 of 1956);

(iii) a debt due to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (Central Act 3 of 1956), or to any other corporation established

by or under any law for the time being in force and owned or controlled by the Central Government or any State Government;

(iv) any rent due in respect of any property including an agricultural land let out to a debtor;

(v) any liability arising out of breach of trust or any tortuous liability;

(vi) any liability in respect of wages or remuneration due as salary or otherwise for services rendered;

(vii) any liability in respect of maintenance whether under a decree of a civil court or otherwise;

(viii) any debt which represents the price of any goods or property whether movable or immovable purchased by a debtor or any amount due under a hire purchase agreement;

(ix) any advance of money given to a debtor by a person as the price of goods or property to be sold later on by the debtor;

(x) any sum recoverable as arrears of land revenue;

(xi) any sum payable to any religious, charitable or educational institution including wakf of a public nature;

(xii) any debt contracted by a debtor from a person who is an agricultural labourer, a rural artisan or a small farmer;`

(j) 'debtor' means an agricultural labourer, a rural artisan or a small farmer, who has borrowed or incurred any debt before the commencement of this Act;

(k) 'dry land' means land registered as dry, manawari, asmantari, baghat or garden land, or special rate dry land, in the land revenue accounts of the Government or assessed as such; and includes any other agricultural land excluding wet land;

(l) 'family' in relation to a person, means the individual, the wife or husband, as the case may be, of such individual and their unmarried minor children;

Explanation - For the purpose of this clause 'minor' means a person who has not completed his or her age of eighteen years:

(m) 'Government' means the State Government;

(n) 'interest' means any amount or other thing paid or payable in excess of the principal sum borrowed or pecuniary obligation incurred, or where anything has been borrowed in kind, in excess of what has been so borrowed, by whatsoever name such amount or thing may be called, and whether the same is paid or payable entirely in cash or entirely in kind or partly in cash and partly in kind and whether the same is expressly mentioned or not in the document or contract, if any;

(o) 'notification' means a notification published in the Andhra Pradesh Gazette; and the word 'notified' shall be construed accordingly;

(p) 'person' means an individual or a family;

(q) 'prescribed' means prescribed by rules made by the Government under this Act;

(r) 'rural artisan' means a person who does not hold any agricultural land and whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture or purposes ancillary thereto and ¹[includes a fisherman and any person] who normally earns his livelihood by practising a craft either by his own labour or by the labour of all or any of the members of his family in rural area;

(s) 'scheduled tribes' shall have the meaning assigned to it in clause (25) of Article 366 of the Constitution;

(t) 'small farmer' means a person whose principal means of livelihood is income derived from agricultural land and who holds and personally cultivates, or who cultivates as a tenant or sharecropper or mortgagee with possession, agricultural land which does not exceed in extent,-

(i) in the case of persons other than the members of the Scheduled Tribes, one hectare, if it is wet, or two hectares, if it is dry;

(ii) in the case of members of the Scheduled Tribes, two hectares, if it wet, or four hectares, if it is dry but does not include any person whose annual household income, other than from agriculture exceeds one thousand and two hundred rupees in any two years within three years immediately preceding the commencement of this Act.

Explanation- For the purposes of computing the extent of land under this clause, one hectare of wet land shall be deemed to be equal to two hectares of dry land;

(u) 'Tahsildar' includes a Deputy Tahsildar in independent charge of a taluk or sub-taluk and any other officer of the Revenue Department not below the rank of a Deputy Tahsildar empowered by the Government to exercise the powers and perform the functions of a Tahsildar under this Act;

(v) 'transferee of the creditor' includes any subsequent transferee or an assignee or any person in possession of the property pledged or mortgaged;

(w) 'Tribunal' means a tribunal constituted under sub section (1) of section 8;

¹ . The words "includes a fisherman and any person" substituted by Act No. 29 of 1984, s.2 the words shall be deemed always to have been substituted.

(x) 'wet land' means land registered as wet, single crop wet, double crop wet, compounded double crop wet or special rate wet land, in the land revenue accounts of the Government or assessed as such.

CHAPTER II RELIEF FROM INDEBTEDNESS

4. Discharge of debts and relief to debtors - (1) Notwithstanding anything in the Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938 (Act 4 of 1938), the Andhra Pradesh (Telangana Area) Money Lenders Act, 1349F (Act 5 of 1349F), the Andhra Pradesh (Andhra Area) Pawn-brokers Act, 1943 (Act 23 of 1943), the Andhra Pradesh (Telangana Area) Agricultural Debtors' Relief Act, 1956 (Act 16 of 1956), the Andhra Pradesh (Scheduled Area) Money Lenders Regulation, 1960 (Regulation 1 of 1960), the Andhra Pradesh Indebted Agriculturists, Landless Labourers and Artisans (Temporary Relief) Act, 1976 (Act 24 of 1976) or any other law for the time being in force or any contract or other instrument having the force of law and save as otherwise provided in this Act with effect on and from the commencement of this Act, every debt, including interest, if any, owing to any creditor by an agricultural labourer, a rural artisan or a small farmer shall be deemed to be wholly discharged.

(2) (a) No Civil Court shall entertain any suit or other proceeding against the debtor for the recovery of any amount of the debt, including interest, if any, which is deemed to be discharged under sub-section (1):

Provided that where any suit or other proceedings is instituted jointly against the debtor and any other person, nothing in this sub-section shall apply to the maintainability of such suit or proceeding in so far as it relates to such other person.

(b) All suits and other proceedings including appeals, revisions, attachments or execution proceedings pending at the commencement of this Act against any debtor for the recovery of any such debt, including interest, if any, shall abate:

Provided that nothing in this clause shall apply to the sale, in respect of any such debt, of-

(i) any movable property held and concluded before the commencement of this Act;

(ii) any immovable property, confirmed before such commencement.

(c) Every debtor undergoing detention in a civil prison in execution of any decree for money passed against him by a Civil Court in respect of any such debt, including interest, if any, shall be released.

(3) (a) Every movable property pledged by a debtor whose debt is deemed to be discharged under sub-section (1), shall stand released in favour of such debtor and the creditor shall be bound to deliver the same to the debtor forthwith.

(b) Every mortgage executed by such debtor in favour of the creditor shall stand redeemed and the mortgaged property shall be released in favour of such debtor.

Explanation:- Nothing in this section shall be construed as entitling any debtor for refund of any part of any debt repaid or interest paid already by him or recovered from him before the commencement of this Act.

5. Creditors to file statement in cases of property pledged- (1) Every creditor referred to in clause (a) of sub section (3) of section 4 shall, within such period as may be prescribed, furnish to the Tribunal having jurisdiction over the area where such creditor has his ordinary place of business, a statement in such form as may be prescribed containing the names of all persons who have pledged movable property with him, the nature and description of such property, the amount advanced and due as on the commencement of this Act, the rate of interest and such other particulars as may be prescribed.

(2) A debtor referred to in clause (a) of sub section (3) of section 4 may also make an application to the Tribunal having jurisdiction over the area where his creditor has his ordinary place of business for an order for the delivery of the movable property pledged by the debtor.

(3) On receipt of a statement under sub-section (1) or an application under sub-section (2), and after such enquiry conducted in the manner prescribed, the Tribunal shall, by order, determine:-

(i) where a statement has been furnished by the creditor under sub-section (1), which of the persons who have pledged movable property with him are entitled to relief under section 4, and

(ii) where an application has been made by the debtor under sub-section (2), whether the debtor is entitled to relief under section 4,

And direct the creditor to produce on or before the date specified in the order the movable property pledged by such person or debtor.

(4) Where the movable property pledged by the debtor is in the possession of any transferee of the creditor, the creditor shall redeem the said property from such transferee and produce it on or before the date specified in the order referred to in sub-section (3).

(5) If the creditor fails to produce the movable property as directed in the order under sub-section (3),-

(a) the Tribunal may enter any premises of the creditor or of the transferee of the creditor and search and seize the said property; and

(b) where the movable property is in the possession of any bank, the Tribunal shall-

(i) by an order, direct the bank to deposit on or before the date specified in the order, the movable property with the Tribunal together with a statement specifying the amount due to the bank in respect of the said property and simultaneously issue a certificate to the bank to the effect that the amount due to the bank in respect of the said property shall be recovered from the

creditor as if it were an arrear of land revenue and paid to the bank, and

(ii) on the bank depositing the said property with the Tribunal acknowledge in writing the receipt of the movable property and proceed to recover from the creditor such amount as is due to the bank in respect of the said property as if it were an arrear of land revenue and on such recovery pay the same to the bank.

(6) After such production or recovery or deposit of the movable property pledged the Tribunal shall deliver the said property to the debtor.

(7) Pending determination of the question under sub section (3) no creditor or the transferee of the creditor shall sell or pledge or otherwise dispose of any movable property pledged by the debtor.

(8) Notwithstanding anything in the Andhra Pradesh (Telangana Area) Money Lenders Act, 1349F. (Act 5 of 1349F.), the Andhra Pradesh (Andhra Area) Pawn-brokers Act, 1943 (Act 23 of 1943) or the Andhra Pradesh (Scheduled Areas) Money lenders Regulation, 1960 (Regulation 1 of 1960) or any other corresponding law for the time being in force, the Tribunal,-

(a) may enter any premises of the creditor or of the transferee of the creditor and search and seize the movable properties pledge by debtors and arrange for their safe custody;

(b) shall proceed to determine which of the movable properties so seized are to be released to the debtor and pass orders accordingly.

(9) The provisions of sections 100 and 165 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) relating to search and seizure shall so far as may be, apply to searches and seizures under sub sections (5) and (8).

6. Debtors to apply in certain cases- (1) A debtor referred to in clause (b) of sub section (3) of section 4 may make an application to the Tribunal having jurisdiction over the area within which such debtor ordinarily resides, for an order releasing the mortgaged property and for the grant of a certificate of redemption.

(2) (a) On receipt of such application and after such enquiry conducted in the manner prescribed, the Tribunal shall pass an order releasing the mortgaged property and grant a certificate of redemption in the prescribed form which shall be admissible as evidence of such redemption in any proceeding before any court or other authority.

(b) The Tribunal shall also direct the creditor or the transferee of the creditor-

(i) to deliver possession of the mortgaged property to the debtor on or before the date specified in the order, if the debtor is not already in possession of the mortgaged property; and

(ii) to produce on or before the date specified in the order, the mortgage deed or other document and the Tribunal shall make

an endorsement of redemption on the mortgage deed or other document.

(3) Pending orders under sub-section (2), no creditor or the transferee of the creditor shall transfer or otherwise assign his interest in, or exercise his right of foreclosure in respect of the property mortgaged by the debtor.

(4) Where the mortgaged property has been transferred or any right therein has been assigned to any bank by the creditor, the Tribunal shall recover from the creditor such amount as is due to such bank in respect of the said mortgaged property, as if it were an arrear of land revenue, and shall pay the same to the bank.

7. Appeals- Any person aggrieved by any order or decision made by the Tribunal under section 5 or section 6 may within sixty days from the date of communication of the order or decision to him appeal to the Appellate Tribunal subject to payment of such fees as may be prescribed.

CHAPTER III MISCELLANEOUS

8. Constitution of Tribunals and Appellate Tribunals- (1)(a) The Government may, by notification constitute as many Tribunals as may be necessary for the purposes of this Act and shall specify in such notification, the jurisdiction of each such Tribunal.

(b) Each Tribunal constituted under clause (a) shall consist of a single member who shall be a Tahsildar.

(2) (a) The Government may, by notification constitute as many Appellate Tribunals as may be necessary for the purposes of this Act and shall specify in such notification the jurisdiction of each such Appellate Tribunal.

(b) Each Appellate Tribunal constituted under clause (a) shall consist of a single member who shall be an officer not below the rank of a Collector.

9. Powers of Tribunals and Appellate Tribunals- (1) The Tribunal and the Appellate Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for summoning and enforcing the attendance of any person and examining him on oath and for requiring production of any document.

(2) In any proceedings under this Act any party may be represented by an agent authorised in writing, except by a legal practitioner as defined in section 2 of the Advocates Act, 1961 (Central Act 25 of 1961).

(3) The procedure to be followed by the Tribunal or the Appellate Tribunal in any proceedings before it, shall, subject to the provisions of this Act, be in accordance with such rules as may be prescribed.

10. Execution of order or decision of Tribunals and Appellate Tribunals- The order or decision of the Tribunal or the Appellate Tribunal made under this Act shall be executed by the Civil Court having jurisdiction as if it were a decree or order of that Court.

11. Penalty- (1) Any person failing to furnish the statement under section 5 or to comply with the order made or direction given under that section or section 6 or otherwise contravening the provisions of either of the said sections shall be punished with imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees.

(2) Every offence punishable under sub-section (1) shall be cognizable.

(3) Every offence punishable under sub-section (1) shall be tried in a summary way and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall, as far as may be, apply to such trial.

12. Offences by companies- (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation :- For the purpose of this section,-

(a) "company" means any body corporate and includes from or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

13. Burden of proof- In any suit or proceeding, the burden of proving that the debtor is not entitled to the protection of this Act shall, notwithstanding anything in any law for the time being in force, lie on the creditor.

14. Bar of jurisdiction of Civil Courts- (1) No Civil Court shall have jurisdiction in respect of any matter which the Tribunal or the Appellate Tribunal is empowered by or under this Act to determine.

(2) No order passed or proceeding taken by any officer or authority under this Act shall be called in question in any court of Law.

15. Protection of action taken in good faith- No suit, prosecution or other legal proceeding shall lie against any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

16. Power to make rules- (1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act shall immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session in the session immediately following, for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or in the annulment of rule, the rule shall, from the date on which the modification or annulment is notified have effect only in such modified form or shall stand annulled, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

17. Effect of other laws- Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of any other law for the time being in force.

18. Power to remove difficulties- (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order published in the Andhra Pradesh Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

(2) Every order passed under sub section (1) shall be laid before each House of the State Legislature.

19. Repeal of Ordinance 25 of 1976- The Andhra Pradesh Agricultural Indebtedness (Relief) Ordinance, 1976 is hereby repealed.