

GOVERNMENT



G A Z E T T E

(EXTRAORDINARY)

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LEGISLATIVE DEPARTMENT

Notification.

No. 1/L/75. — 8th September, 1975. — The following Act of the Sikkim Legislature having been assented to by the Governor on the 8th September 1975, is hereby published for general information.

Sikkim Act I of 1975.

The Sikkim Cultivators Protection

(Temporary Provisions) Act 1975.

[Passed by the Sikkim Lagislature]

ACT NO.1 OF 1975

THE SIKKIM CULTIVATORS PROTECTION

(TEMPORARY PROVISIONS) ACT 1975

AN

ACT

to make temporary provision for protection of cultivators against termination of cultivation of lands cultivated by them, for restoration of such lands in case of illegal termination, for limiting the liability of the cultivators and for other matters connected therewith.

WHEREAS it is expedient to make temporary provisions for protection of the cultivators against termination of their cultivation of lands cultivated by them, for restoration of such lands in case of illegal termination, for limiting the liability of the cultivators and for other matters connected therewith:

It is hereby enacted as follows:—

Short title, extent, commencement and duration : 1. (1) This Act may be called the Sikkim Cultivators Protection (Temporary Provisions) Act, 1975.

(2) It extends to the whole of Sikkim.

(3) It shall come into force at once and shall remain in force for a period of two years from the date of its commencement; but the State Government may, by notification in the Sikkim Government Gazette, extend the period of its duration for a further period not exceeding one year.

Definitions,

2. In this Act, unless there is anything repugnant in the subject or context.

(1) "Agriculture Year", means the year commencing from the first day of February:

(2) "Civil Court" does not include the High Court or the Supreme Court:

(3) "Cultivator" means a person who cultivates the land of another person on condition of payment of rent, in cash or in kind, or on condition of delivering or receiving share or any fixed quantity of the produce and includes a person who cultivates the land of another person on any terms and conditions except as a paid servant or hired labourer:

(4) "Owner" means a person whose land is cultivated by a cultivator:

(5) "Prescribed" means prescribed by rules made under this Act:

(6) "Prescribed Authority" means the District Officer within whose jurisdiction the land is situated and shall also include any other officer specially empowered by the State Government in this behalf.

Act to prevail over other laws, etc. and over-riding effect of the Act.

3. (1) The provisions of this Act and of any rules made thereunder shall have effect notwithstanding anything to the contrary contained in any other law or in any custom, usage, contract or instrument.

(2) Any law or custom or usage having the force of law in force immediately before the commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act.

(3) Any other law in force immediately before the commencement of this Act shall cease to have effect in so far it is inconsistent with any of the provisions contained in this Act.

Protection of Cultivators against termination of Cultivation and restoration of land.

4. (1) No owner shall be entitled to terminate the cultivation of his land by a cultivator except in execution of an order made by the prescribed authority on the ground that the cultivator has without any reasonable cause failed to cultivate the land.

(2) Any order of ejectment passed under the provisions of this Act shall be executed by the prescribed authority, but proper compensation as may be determined by the prescribed authority shall be paid by the owner to the cultivator for his share of the standing crops, if any.

(3) If any owner terminates or causes to be terminated the cultivation of any land by a cultivator in contravention of the provisions of this Act, the prescribed authority shall, on receipt of any application made by or on behalf of the cultivator and after giving the cultivator and the owner an opportunity of being heard and after making such inquiries as he may deem necessary, by order direct—

(a) in a case where such land has not been cultivated or has been cultivated by the owner or by any person on his behalf other than a cultivator, that the land be immediately restored to the cultivator and further that forty per cent of any produce of the land shall be forfeited to the State Government and the remaining sixty per cent of such produce shall be retained by the cultivator.

(b) in a case where such land has been cultivated by a new cultivator engaged by the owner, that the land be restored at the end of the cultivation season to the applicant cultivator and further that the new cultivator shall retain fifty per cent of the produce harvested before restoration and make over the remaining fifty per cent of such produce to the applicant cultivator.

*Limit of
liability of
Cultivators :*

5. For the cultivation of any land, no cultivator shall be required to pay or deliver to the owner and no owner shall be entitled to receive from the cultivator, more than half of the principal produce of the land or the price thereof, as the case may be, as rent or share or on any other account.

*Surrender or
abandonment :*

6. (1) If a cultivator:—

- (a) surrenders his right to cultivate in respect of land cultivated by him as a cultivator, or
- (b) abandons cultivation of such land, the owner of the land shall give information in writing of such surrender or abandonment to the prescribed authority.

(2) On receipt of such information the prescribed authority shall, after giving the cultivator and the owner an opportunity of being heard and making such inquiries as he may deem necessary, by order determine whether the cultivator voluntarily surrendered or abandoned his right of the cultivation in relation to such land.

(3) If the prescribed authority determines that the cultivator had not voluntarily surrendered or abandoned the cultivation of the land which was being cultivated by him as such and that he had been compelled by force or otherwise to surrender or abandon the cultivation of such land, the prescribed authorities shall restore the cultivator to the cultivation of the land.

(4) If the cultivator is not available or is not willing to be restored to the cultivation of such land, or if the prescribed authority determines that the cultivator had voluntarily surrendered or abandoned the cultivation of such land, the owner shall not resume personal cultivation of such land, but may, with the permission of the prescribed authority, have the land cultivated by another cultivator of the locality who is willing to cultivate the land as cultivator.

*Continuation of
right of
cultivation on
cultivator's
death.*

7. (1) Where a cultivator cultivating any land dies, the cultivation of such land may be continued for the remaining period of that agricultural year by the lawful heir of the cultivator and if such lawful heir continues the cultivation, he shall have all the rights and be subject to all the liabilities of a cultivator under this Act in respect of such remaining period.

(2) Where :—

- (a) no lawful heir of the cultivator is in a position to cultivate the land personally, or
- (b) the lawful heir omits or fails to take any steps for the continuation of the cultivation of the land within fifteen days from the date of the death of the cultivator, or if the agricultural operations in the neighbouring lands are not then in progress, within fifteen days from the date of commencement of such operation, the cultivation of the land may be continued by such person as may be nominated by the owner.

*Cultivator and
the owner to
receive their
share:*

8. (1) If a cultivator fails or omits or neglects to pay the rent or share or fixed quantity of the produce payable to the owner, the owner shall be entitled to recover such rent or produce due to him or its money value.

(2) If the produce of any land cultivated by a cultivator whether before or after it is harvested is taken away by the owner forcibly or otherwise, the cultivator shall be entitled to recover from such owner the share or quantity of the produce due to him or its money value.

9. Every dispute between a cultivator and the owner in respect of the following matter, namely :—

- (a) division or delivery of the produce or payment of rent,
- (b) recovery of rent, share or fixed quantity of the produce under the provisions of sub-section (1) or sub-section

*Jurisdiction to
decide certain
disputes :*

Appeal.

10. Appeal shall lie within the prescribed period to an Appellate Officer to be appointed by the state Government against any final order of the prescribed authority made under this Act, except where such order was made by the prescribed authority with the consent of the parties to the dispute.

Procedure and execution :

11. (1) The procedure to be followed by the prescribed authority or by the Appellate Officer shall be as may be prescribed.

(2) An order made by prescribed authority or the Appellate Officer shall be executed by the prescribed authority in such manner as may be prescribed.

Protection to persons.

12. No suit, prosecution or other legal proceedings shall lie against any persons for anything which is in good faith done or intended to be done under or in pursuance of the provisions of this Act, or the Sikkim Cultivators (Protection) Ordinance 1975.

Bar of Jurisdiction.

13. No order or other proceedings whatsoever under this Act shall be questioned in any Civil Court and no Civil Court shall entertain any suit or proceeding in respect of any matter for which provision is made in this Act.

Power to make rules.

14. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:—

- (a) the period within which the cultivator shall pay or deliver to the owner the rent, or share or fixed quantity of the produce to which the owner is entitled under this Act ;
- (b) the period within which an appeal shall lie under Section 10 to an Appellate Officer ;
- (c) the procedure to be followed by the prescribed authority or the Appellate Officer ;
- (d) the manner in which the final order by the prescribed authority or the Appellate Officer shall be executed ;
- (e) any other matter required to be prescribed under this Act.

Repeal and Savings :

15. (1) The Sikkim Cultivators (Protection) Ordinance 1975 is hereby repealed.

(2) Notwithstanding the repeal of the said Ordinance any proceeding or remedy in respect of any right, privilege, obligation or liability under the said Ordinance and relating to the period before such repeal may be instituted, continued or enforced as if the said Ordinance had been in force and had not been repealed.

BY ORDER OF THE GOVERNOR

P. K. PRADHAN,

Secretary to the
Government of Sikkim.