

**ANDHRA PRADESH (ANDHRA AREA) AGRICULTURISTS
RELIEF ACT, 1938**

4 of 1938

[22nd March, 1938]

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ANDHRA PRADESH (ANDHRA AREA) AGRICULTURISTS RELIEF ACT, 1938

4 of 1938

[22nd March, 1938]

An Act to provide for the relief of indebted agriculturists in the [Andhra area of the State of Andhra Pradesh WHEREAS it is expedient to provide for the relief of indebted agriculturists in the [Andhra area of the State of Andhra Pradesh]; it is hereby enacted as follows:

CHAPTER 1

Preliminary

1. Short title :-

This Act may be called the Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938

2. Extent :-

It extends to the whole of the Andhra area of the State of Andhra Pradesh

3. Definitions :-

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

(i) person means an individual and includes an undivided Hindu family; but does not include a body corporate, a charitable or religious institution or an unincorporated company or association;

(ii) agriculturist means a person who

(a) has a saleable interest in any agricultural or horticultural land in

the Andhra area of the State of Andhra Pradesh, not being land situated within a municipality or cantonment, which is assessed by the State Government to land revenue (which shall be deemed to include peshkash and quit rent), or which is held free of tax under a grant made, confirmed or recognized by Government; or

(b) holds an interest in such land under a land holder under the Andhra Pradesh(Andhra Area) Estates Land Act, 1908as tenant, ryot or under tenure holder; or

(c)[]

(d) holds a lease of such land from any person specified in sub clause (a), or (b) or is a sub lessee of such land; Provided that a person shall not be an agriculturist if he

(A) has in both the financial years ending 31st March, 1938 been assessed to income tax under the [Indian Income tax Act, 1922 or under the income tax laws of any part of India which, immediately before the 1st day of November 1956, was comprised in a Part B State or foreign Government; or

(B) has in all the four half years immediately preceding the 1st October, 1937 been assessed to profession tax on a half yearly income of more than six hundred rupees derived from a profession other than agriculture under [the Andhra Pradesh (Andhra Area) District Municipalities Act, 1920, the Cantonments Act, 1924, or any law governing municipal or local bodies in any other part of India or any foreign State in the continent of India or under the Andhra Pradesh (Andhra Area) District Boards Act, 1920 in a panchayat which was a union before the 26th August 1930; or

(C) has within the two years immediately preceding the 1st October 1937, been assessed to property or house tax in respect of buildings or lands other than agricultural lands, under the Andhra Pradesh (Andhra Area) District Municipalities Act, 1920 the Cantonment Act, 1924, or any law governing municipal or local bodies in any other part of India or under the Andhra Pradesh (Andhra Area) District Boards Act, 1920, in a panchayat which was a union before the 26th August, 1930, provided that the aggregate annual rental value of such buildings and lands, whether let out or in the occupation of the owner, is not less than Rs 600; or

(D) is a landholder of an estate under the Andhra Pradesh (Andhra Area) Estates Land Act, 1908, or of a share or portion thereof,

whether set off registered or not, in respect of which estate, share or portion any sum exceeding five hundred rupees is payable as peshkash, or any sum exceeding one hundred rupees is payable under one or more of the following heads, namely, quit rent, jodi, kattubadi, poruppu or other dues of a like nature Explanation: The annual rental value of any building or land for the purposes of proviso (C) shall -

(1) where the assessment is based on the annual rental value, be deemed to be such value;

(2) where the assessment is based on the capital value, R be deemed to be five per cent of the capital value; and

(3) in any other case, be deemed to be the value ascertained in the prescribed manner;

(iii) debt means any liability in cash or kind, whether secured or unsecured, due from an agriculturist, whether payable under a decree or order of a civil or revenue court or otherwise, but does not include rent as defined in clause (iv)

iii-a 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;

(iv) rent means rent as defined by the Andhra Pradesh (Andhra Area) Estates Land Act, 1908 or quit rent, jodi, kattubadi, poruppu or the like, payable to the landholder of an estate as defined by the Andhra Pradesh (Andhra Area) Estates Land Act, 1908, whether a decree or order of a civil or revenue court has been obtained therefor or not and includes interest payable thereon; but does not include costs incurred in respect of the recovery thereof through a civil court or revenue court or the share of the land cess recoverable by the landholder under section 88 of the Andhra Pradesh (Andhra Area) District Boards Act, 1920;

(v) creditor includes his heirs, legal representatives and assigns;

(vi) mortgagee includes his heirs, legal representatives and assigns

4. Certain debts and liabilities not to be affected :-

Nothing in this Act shall affect debts and liabilities of an agriculturist falling under the following lands -

- (a) any revenue, tax or cess payable to the State Government or any other sum due to them, by way of loan or otherwise;
- (b) any revenue, tax or cess payable to the Central Government or any other sum due to them, by way of loan or otherwise;
- (c) any tax or cess payable to any local authority or any other sum due to them, by way of loan or otherwise;
- (d) any debt contracted on the security of house property alone in a municipality, a cantonment, or a panchayat which was a union before the 26th August, 1930;
- (e) any liability in respect of any sum due to any co operative society, including a land mortgage bank, registered or deemed to be registered under the Andhra Pradesh (Andhra Area) Co operative Societies Act, 1932, or any debt due to any corporation formed in pursuance of an Act of Parliament of the United Kingdom or of any special Indian law or Royal Charter or Letters Patent;
- (f) any liability arising out of a breach of trust;
- (g) any liability in respect of maintenance whether under decree of court or otherwise;
- (h) any debt or debts due to a woman on the 1st October, 1937 provided that the value of the property owned by her on that date, including the principal amount of the debt or debts so due, did not exceed six thousand rupees;

Explanation : For the purpose of this clause, the house in which the creditor woman lived, or any furniture therein, or her household utensils, wearing apparel, jewellery, or such like personal belongings shall not be regarded as property

- (i) any wages due to an agricultural or other rural labourer:

Provided that where the liabilities mentioned in clause (e) arise by reason of an assignment to the co operative society, such assignment has taken place before the 1st October 1937 or is an assignment to such society of a loan granted by a co operative society

5. Special provision for undivided Hindu families, etc :-

Where an undivided Hindu family is assessed to the taxes specified in provisos (A), (B) and (C) to section 3 (ii), or falls within the category of persons specified in proviso (D) to the same section, no person who was a member of the family on the 1st October, 1937 shall be deemed to be an agriculturist for the purposes of this Act except section 13

6. Sons and descendants of non agriculturist members of Hindu families to be non agriculturists :-

Where in an undivided Hindu family which is an "agriculturist" within the meaning of section 3 (ii), any member of the family is not an agriculturist, then, notwithstanding anything contained in section 3 (ii), none of his sons and descendants in the male line shall be deemed to be an agriculturist for the purposes of sections 7 to 12 and 19 to 27 of this Act

CHAPTER 2

Scaling down of Debts and Future rate of Interest

7. Debts payable by agriculturists to be scaled down :-

Notwithstanding any law, custom, contract or decree of court to the contrary, all debts payable by an agriculturist at the commencement of this Act, shall be scaled down in accordance with the provisions of this Chapter No sum in excess of the amount as so scaled down shall be recoverable from him or from any land or interest in land belonging to him; nor shall his property be liable to be attached and sold or proceeded against in any manner in the execution of any decree against him in so far as such decree is for an amount in excess of the sum as scaled down under this Chapter

8. Provision for debts incurred before 1st October, 1932 :-

Debts incurred before the 1st October 1932 shall be scaled down in the manner mentioned hereunder, namely -

(1) All interest outstanding on the 1st October, 1937, in favour of any creditor of an agriculturist whether the same be payable under law, custom or contract or under a decree of court and whether the debt or other obligation has ripened into a decree or not, shall be deemed to be discharged, and only the principal or such portion thereof as may be outstanding shall be deemed to be the amount repayable by the agriculturist on that date

(2) Where an agriculturist has paid to any creditor twice the amount of the principal whether by way of principal or interest or

both, such debt including the principal, shall be deemed to be wholly discharged

(3) Where the sums repaid by way of principal or interest or both fall short of twice the amount of the principal, such amount only as would make up this shortage, or the principal amount or such portion of the principal amount as is outstanding, whichever is smaller, shall be repayable

(4) Subject to the provisions of sections 22 to 25, nothing contained in sub sections (1), (2) and (3) shall be deemed to require the creditor to refund any sum which has been paid to him, or to increase the liability of a debtor to pay any sum in excess of the amount which would have been payable by him if this Act had not been passed

Explanation I In determining the amount repayable by a debtor under this section, every payment made by him shall be credited towards the principal, unless he has expressly stated in writing that such payment shall be in reduction of interest

Explanation II Where the principal was borrowed in cash with an agreement to repay it in kind, the debtor shall, notwithstanding such agreement, be entitled to repay the debt in cash, after deducting the value of all payments made by him in kind, at the rate, if any, stipulated in such agreement, or if there is no such stipulation, at the market rate prevailing at the time of each payment

Explanation III Where a debt has been renewed or included in a fresh document executed before or after the commencement of this Act, whether by the same debtor or by his heirs, legal representatives or assigns or by any other person acting on his behalf or in his interest and whether in favour of the same creditor or of any other person acting on his behalf or in his interest, the principal originally advanced together with such sums, if any, as have been subsequently advanced as principal shall alone be treated as the principal sum repayable under this section

Explanation IV Where a debt has been split up, whether before or after commencement of this Act, among the heirs, legal representatives or assigns of a debtor or of a creditor and fresh documents have been executed in respect of the different portions of such debt, the provisions of this section shall continue to apply in respect of each of the different portions

9. Provision for debts incurred on or after 1st October 1932

:-

Debts incurred on or after the 1st October 1932 shall be scaled down in the manner mentioned hereunder, namely:

(1) Interest shall be calculated upto the commencement of this Act at the rate applicable to the debt under the law, custom, contract or decree of court under which it arises or at five per cent per annum simple interest, whichever is less and credit shall be given for all sums paid towards interest, and only such amount as is found outstanding, if any, for interest thus calculated shall be deemed payable together with the principal amount or such portion of it as is due :

Provided that any part of the debt which is found to be a renewal of a prior debt whether by the same debtor or by his heirs, legal representatives or assigns or by any other person acting on his behalf or in his interest and whether in favour of the same creditor or of any other person acting on his behalf or in his interest shall be deemed to be a debt contracted on the date on which such prior debt was incurred, and if such debt had been contracted prior to the 1st October, 1932, shall be dealt with under the provisions of section 8;

Provided further that where a debt had been split up, whether before or after the commencement of this Act, among the heirs, legal representatives or assigns of a debtor or of a creditor and fresh documents have been executed in respect of the different portions of such debt, the provisions of this section shall continue to apply in respect of each of the different portions

(2) Subject to the provisions of sections 22 to 25, nothing herein contained shall be deemed to require the creditor to refund any sum which has been paid to him or to increase the liability of the debtor to pay any sum in excess of the amount which would have been payable by him if this Act had not been passed

9A. Special provision in respect of usufructuary mortgages

:-

(1) This section applies to all mortgages executed at any time before the 30th September, 1947, and by virtue of which the mortgagee is in possession of the property mortgaged to him or any portion thereof

(a) where no rate of interest is stipulated for as due to the mortgagee, or

(b) where a rate of interest is stipulated for as due to the mortgagee in respect of the principal amount secured by the mortgage or any portion thereof, in addition to the usufruct from the property, or in respect of any other sum payable to the mortgagee by the mortgagor in his capacity as such Explanation (1) A mortgagee shall be deemed to be in possession of the property mortgaged to him or any portion thereof, notwithstanding that he has leased it to the mortgagor or any other person

(2) The mortgagor shall be entitled to redeem the whole of the property mortgaged, notwithstanding that the time, if any fixed in the mortgage deed for redeeming the mortgage has not arrived

(3) Where the mortgagee has been in possession of the whole of the property mortgaged to him for an aggregate period of less than thirty years, the mortgagor shall not be entitled to redeem the mortgage, unless he pays to the mortgagee -

(i) the difference between the principal amount secured by the mortgage and an amount bearing to the principal amount the same proportion as the period during which the mortgagee has been in possession bears to thirty years;

(ii) where any interest on the principal amount secured by the mortgage or any portion thereof has been stipulated for, in addition to the usufruct from the property, the arrears of such interest as scaled down under section 8 or 9 read with section 12, or under section 13, as the case may be; and

(iii) all other sums payable to the mortgagee by the mortgagor in his capacity as such, together with the interest, if any, due thereon

(4) Where the mortgagee has been in possession of only a portion of the property mortgaged to him for an aggregate period of less than thirty years, the mortgagor shall not be entitled to redeem the mortgage, unless he pays to the mortgagee -

(i) the difference between that portion of the principal amount secured by the mortgage which is attributable to the portion of the property in the possession of the mortgagee and an amount bearing to that portion of the principal amount, the same proportion as the period during which the mortgagee has been in

possession bears to thirty years;

(ii) Where any interest has been stipulated for in addition to the usufruct from the property, the arrears of interest on the portion of the principal amount referred to in clause(i) such arrears being scaled down under Sec 8 or 9 read with Sec 12 or under Sec 13, as the case may be;

(iii) the balance of the debt as scaled down under Sec 8 or 9 read with Sec 12, or under Sec 13, as the case may be; and

(iv) all other sums payable to the mortgagee by the mortgagor in his capacity as such, together with the interest, if any, due thereon

(5)

(a) Where the mortgagee has been in possession of the whole of the property mortgaged to him for an aggregate period of thirty years or more, then, notwithstanding anything contained in sections 8,9,12 and 13, the mortgage debt shall be deemed to have been wholly discharged with effect from the expiry of the period of thirty years or where such period expired before the commencement of the Andhra Pradesh (Andhra Area) Agriculturists Relief (Amendment) Act, 1948, with effect from the commencement of that Act,

(i) if no interest has been stipulated for on the principal amount secured by the mortgage or any portion thereof, in addition to the usufruct from the property;

(ii) where such interest has been stipulated for, if no arrears of interest are due from the mortgagor; and

(iii) if no other sums or interest thereon are due to the mortgagee by the mortgagor in his capacity as such

(b) Where the mortgagee has been in possession of the whole of the property mortgaged to him for an aggregate period of thirty years or more, then, in cases not governed by clause (a), the mortgagor shall not be entitled to redeem the mortgage unless he pays to the mortgagee -

(i) the arrears of interest stipulated for in addition to the usufruct from the property, as scaled down under section 8 or 9 read with section 12, or under section 13, as the case may be; and

(ii) all other sums due to the mortgagee by the mortgagor in his

capacity as such and referred to in sub clause (iii) of clause (a) together with any interest due thereon

(6) Where the mortgagee has been in possession of only a portion of the property mortgaged to him for an aggregate period of thirty years or more, the mortgagor shall not be entitled to redeem the mortgage unless he pays to the mortgagee -

(i) where, in addition to the usufruct from the property, any interest has been stipulated for, the arrears of interest on that portion of the principal amount secured by the mortgage which is attributable to the portion of the property in the possession of the mortgagee, such arrears being scaled down under section 8 or 9 read with section 12, or under section 13, as the case may be;

(ii) the balance of the debt not attributable to such portion of the property as scaled down under section 8 or 9 read with section 12, or under section 13, as the case may be;

(iii) all other sums payable to the mortgagee by the mortgagor in his capacity as such, together with the interest, if any, due thereon

(7) For the purposes of this section, the portion of the principal amount secured by the mortgage which is attributable to the portion of the property in the possession of the mortgagee shall be determined in the manner prescribed by rules made under this Act

(8) The mortgagor shall not be entitled to redeem a mortgage under sub section (2) or obtain possession of the mortgaged property by virtue of sub section (5) (a), unless he pays to the mortgagee the cost of the improvements, if any, effected by him to the mortgaged property

(9)

(a)

(i) Except in cases falling under sub section (5) (a), where the mortgaged property or, as the case may be, the portion thereof in the possession of the mortgagee has been leased back to the mortgagor by the mortgagee, the rent due to the mortgagee under the lease (after deducting from such rent any revenue, tax or cess paid or payable by the mortgagee in respect of the property) shall be deemed to be the interest on the mortgage debt or the portion thereof attributable to the portion of the property aforesaid and the provisions of section 8 or 9 read with section 12, or of section 13,

as the case may be, shall apply to the entire debt

(ii) Nothing contained in sub section (3) or sub section (4) shall apply to any debt falling under sub clause (i)

(b) In cases falling under sub section (5) (a), where the property has been leased back to the mortgagor by the mortgagee, nothing contained in that sub section shall affect the right of the mortgagee to recover any rents due to him under the lease for any period before the date on which the mortgage debt is deemed to have been wholly discharged by virtue of that sub section, if such rents have not become barred by limitation under any law for time being in force

(10) Nothing contained in this section, except sub sections (1) and (2), shall apply to any mortgage -

(i) [x x]

(ii) in respect of property situated in any area in the cases mentioned below: -

(a) Where during the period after the 30th September, 1937 and before the 30th January 1948, the equity of redemption in the property subject to the mortgage has devolved either wholly or in part on a person, by or, through a transfer inter vivos either from the original mortgagor or from a person deriving title from or through such mortgagor otherwise than by a transfer inter vivos , then, to the whole or such part, as the case may be

(b) Where, during the period aforesaid, the mortgagee or any of his successors in interest has transferred either wholly or in part the mortgagee s rights in the property bona fide and for valuable consideration, then, to the whole or such part, as the case may be: Provided that the transferee of a mortgage shall not be entitled to recover in respect of such mortgage, anything more than the value of the consideration for the transfer; but nothing herein contained shall, in cases where the property or portion thereof has been leased back to the mortgagor, affect the right of the transferee to recover the rents, if any, due under the lease, if such rents have not become barred by limitation under any law for the time being in force

(c) Where the mortgagee s interest in the property subject to the mortgage or any part of such interest belonged to or devolved on,

two or more persons and during the period aforesaid, a partition has taken place among such persons, then, to the whole or such part of the interest, as the case may be

(11) Where the equity of redemption in the property subject to the mortgage or any part of such interest belonged to or devolved on, two or more persons and any one of them or any person claiming under any one of them has, during the period referred to in sub section (10), clause (ii) (a), redeemed the entire mortgage, nothing contained in this section shall affect the rights or the reliefs to which the person redeeming the mortgage might be entitled to under any other law for the time being in force as against the other persons aforesaid

10. Exceptions :-

(1) The provisions of sections 8 and 9 shall not apply to any person who, though an agriculturist as defined in section 3 (ii), did not on the 1st October, 1937, hold an interest in, or a lease or sub lease of, any land as specified in that section

(2) Nothing contained in sections 8 and 9 shall affect 197

(i) any mortgage of the description referred to in sub section (1) of section 9A, except to the extent provided for in that section;

(ii) any liability for which a charge is provided under section 55, clause (4), sub clause (b) of the Transfer of Property Act; or

(iii) any liability in respect of any sum due to any public company as defined in the Indian Companies Act, 1913 or to any scheduled bank as defined by section 2 (e) of the Reserve Bank of India Act, 1934, if the interest payable in respect of the liability is not more than nine per cent per annum

11. Provision as to costs, etc in certain cases :-

Where debt payable by an agriculturist includes any sum decreed as costs by any court, or sums lawfully expended by a mortgagee or other person in order to preserve the property mortgaged, such sum or sums shall be recoverable in addition to the sum recoverable under the provisions of sections 8 and 9

12. Rate of interest payable by agriculturists on old loans :-

All debts which have been scaled down under the provisions of this Act shall, so far as any sum remains payable thereunder, carry from the date upto which they have been scaled down interest on the

principal amount due on that date at the rate previously applicable under law, custom, contract or otherwise;

Provided that it shall not in any case exceed 6 1/4 per cent per annum simple interest that is to say, one pie per rupee per mensem simple interest, or one anna per rupee per annum simple interest

13. Rate of interest payable by agriculturists on new loans

:-

In any proceeding for recovery of a debt, the court shall scale down all interest due on any debt incurred by an agriculturist after the commencement of this Act, so as not to exceed a sum calculated at 6 1/4 per cent per annum, simple interest, that is to say, one pie per rupee per mensem simple interest or one anna per rupee per annum simple interest;

Provided that the State Government may, by notification in the Official Gazette, alter and fix any other rate of interest from time to time Explanation For the purposes of this section the definition of agriculturist in section 3 (ii) shall be read as if -

(i) in proviso (A) to that section, for the expression " the financial years ending 31st March 1938", the expression" the financial years ending on the 31st March immediately preceding the date on which the debt is incurred" were substituted; and

(ii) in provisos (B) and (C) to that section, for the expression "the four half years immediately preceding the 1st October 1937," the expression "the * [four half years] ending on the 31st March or on the 30th September (whichever is latter) immediately preceding the date on which the debt is incurred" were substituted

13A. Rate of interest payable by certain persons on debts :-

Where a debt is incurred by a person who would be an agriculturist as defined in section 3 (ii) but for the operation of proviso (B) or proviso (C) to that section, the rate of interest applicable to the debt shall be the rate applicable to it under the law, custom, contract or decree of court under which the debt arises or the rate applicable to an agriculturist under section 13 whichever rate is less

14. Section of share of debt in particular cases:- Notwithstanding anything contained in section 3 (ii) and subject to the provisions of sections 5 and 6, where in a Hindu family, whether divided or undivided, some of the members liable in respect of a family debt are not agriculturists, while others are agriculturists the creditor

shall, notwithstanding any law to the contrary, be entitled to proceed -

(a) against the non agriculturist member or members and his or their share of the family property, to the extent only of his or their proportionate share of the debt; and

(b) against the agriculturist member or members and his or their share of the family property, to the extent only of his or their proportionate share of the debt which shall be scaled down in accordance with the provisions of this Act

CHAPTER 3

Arrears of Rent

15. Conditional discharge of arrears of rent due to land holders, etc :-

(1) All rent payable by an agriculturist to a land holder or an under tenure holder under the the Andhra Pradesh (Andhra Area) Estates Land Act, 1908 which has accrued for the fasli year 1345 and prior faslis and which is outstanding on the date of the commencement of this Act shall be deemed to be discharged whether the rent be due as such or whether a decree has been obtained therefor:

Provided that where the person liable to pay rent (hereinafter in this section referred to as tenant) does not, on or before the 30th September 1939, pay up all arrears of rent accrued in respect of any holding for faslis 1346 and 1347, the arrears of rent for fasli 1345 and prior faslis which were outstanding in respect of the same holding on the date of the commencement of this Act shall be deemed to be discharged only in the same proportion as the rent due for faslis 1346 and 1347 which is paid up by the ryot or tenant bears to the rent due for those two faslis:

Provided further that no tenant shall be entitled to the benefit of this section unless he shall have paid in respect of the holding, the rent due for fasli 1347 on or before 30th September 1938

Illustrations (a) A ryot or tenant is in arrear at the commencement of this Act in respect of rent for a particular holding for fasli 1345 and prior faslis in the sum of Rs 500 and is in arrear on that date in respect of rent for the same holding for faslis 1346 and 1347, the rent for each fasli being Rs 100 Within the 30th September 1938 he pays the rent for fasli 1347 and within 30th September 1939, he pays the rent for fasli 1346 The arrears of rent of Rs 500 which

were outstanding at the commencement of this Act will be deemed to be discharged.

(b) A sum of Rs 500 representing the arrears of rent in respect of a particular holding for fasli 1345 and prior faslis and the rents for faslis 1346 and 1347 for that holding are in arrear and outstanding at the commencement of this Act, the rent for each fasli being Rs 100 The ryot or tenant pays the landholder within 30th September, 1938 the rent for fasli 1347 but fails to pay within the 30th September 1939 any portion of the rent for fasli 1346 Only a sum of Rs 250 or one half of the rent of faslis prior to and inclusive of fasli 1345 will be deemed to be discharged.

(c) In the same case, the ryot or tenant does not pay the landholder within the 30th September 1938 the whole of the rent for fasli 1347 No portion of the arrears of the rent for fasli 1345 and prior faslis is discharged, and the ryot loses the benefit of this section .

(d) In the same case, the ryot or tenant pays the land holder within 30th September 1938 the rent for fasli 1347, but pays within 30th September 1939 only Rs 50, being half the rent for fasli 1346 He has thus paid Rs 150 out of Rs 200 being the rent of both the faslis 1346 and 1347, before 30th September 1939 A sum of Rs 375, or three fourths of the rent of faslis prior to and inclusive of fasli 1345 will be allowed to be discharged .

(2) Nothing contained in sub section (1) shall be deemed to effect a discharge of arrears of rent which accrued due for fasli 1345 if proceedings for the recovery of such arrears stood stayed by an Act of the Legislature or by an order of court or if such proceedings, if instituted, would have stood so stayed But the arrears of rent for fasli 1345 shall not be recoverable until the 30th September 1938 or if the rent for fasli 1347 is paid before that date, until the 30th September 1939.

(3) Notwithstanding anything to the contrary in any agreement or in section 64 of the Andhra Pradesh (Andhra Area) Estates Land Act, 1908, any payment of rent made by a tenant after the commencement of this Act shall be credited towards the rent due by him for fasli 1347 in the first instance and for fasli 1346 in the next instance, and not towards the rent due for any previous fasli .

(4) Every tenant shall be at liberty to pay into court any amount towards the rent due or claimed to be due by him for fasli 1347 or

1346 or both and thereupon the court shall, after notice to the landholder or under tenure holder, as the case may be, apply the provisions of this Act and determine whether the whole or only a portion of the rent for the faslis aforesaid has been paid by the tenant, and also the extent of the remaining liability, if any, of the tenant for rent under the provisions of this Act. Explanation : For the purposes of this sub section, court shall mean the Collector referred to in section 209 (1) of the Andhra Pradesh (Andhra Area) Estates Land Act, 1908,.

16. Landholder to be entitled to recover land cess and costs :-

Notwithstanding anything contained in this Chapter a landholder or an under tenure holder under the Andhra Pradesh (Andhra Area) Estates Land Act, 1908, shall be entitled to recover, in addition to any sum recoverable by him under section 15 -

(a) the land cess if any, paid by him and recoverable under section 88 of the Andhra Pradesh (Andhra Area) District Boards Act, 1920;

(b) the land revenue and water cess, if any, paid by him to the State Government which the tenant was bound to pay by virtue of any law, custom, contract or decree of court governing the tenancy; and

(c) the costs awarded to him in any decree for rent obtained by him

17. Extension of limitation for suits, etc :-

for rent in certain cases:- Notwithstanding anything contained in the the Andhra Pradesh (Andhra Area) Estates Land Act, 1908 or in any law of limitation or procedure in force for the time being, no suit or execution proceedings in respect of arrears of rent accrued for fasli 1345 or any prior fasli which, under the existing law, would become barred between the 1st October, 1937 and 30th September 1938, shall be so barred and the landholder or under tenure holder as the case may be, shall be entitled to file a suit or institute execution proceedings for recovery thereof, on or before the 31st December, 1938; and in cases where the rent due for fasli 1347 has been paid before the 30th September 1938, the period of limitation for any suit or execution proceedings for the recovery of any arrears of rent which, under the existing law, would become barred between the 1st October 1937 and the 30th September 1939, shall stand extended until the 31st December 1939:

Provided that where on the 31st December 1938 or the 31st December 1939 as the case may be, an application under sub section (4) of section 15 is pending in any court, the period of limitation prescribed by this section shall stand extended until the expiry of a period of two months from the date of the order on such application.

17A. Scaling down of interest on arrears of rent :-

In any suit or proceeding before a civil or revenue court involving a claim for arrears of rent payable by an agriculturist, including a claim to set off such arrears whatever be the period to which the arrears relate, the Court shall scale down all interest, if any, due on such arrears so as not to exceed a sum calculated at 5 E1 over 2 per cent per annum simple interest, notwithstanding anything to the contrary contained in any contract or custom;

Provided that the State Government may, by notification in the Official Gazette, alter and fix any other rate of interest from time to time

Explanation For the purposes of this section, the definition of agriculturist in section 3 (ii) shall be read as if -

(i) in proviso (A) to that section, for the expression "financial years ending 31st March 1938", the expression "financial years ending on the 31st March immediately preceding the date of institution of the suit or proceeding" were substituted; and

(ii) in provisos (B) and (C) to that section, for the words and figures immediately preceding the 1st October, 1937 , the words and figures ending on the 31st March or the 30th September (whichever is later) immediately preceding the date of institution of the suit or proceeding were substituted

CHAPTER 4

Procedure and Miscellaneous

18. Provision as to costs in certain cases :-

(1) Where a decree is passed against an agriculturist in a suit filed on or after the 1st October, 1937, the Court shall allow only such costs as would have been allowable if the suit had been filed for the amount of the debt as scaled down in accordance with the provisions of this Act, and where in any such case a decree has been passed before the commencement of this Act, the Court shall, on application by the agriculturist, amend the decree accordingly

(2) Nothing in sub section (1) shall apply to any suit instituted on or after the 1st October 1937 and before the commencement of this Act in respect of a claim which would be barred by limitation before the 1st April 1938

19. Amendment of certain decrees :-

(1) Where before the commencement of this Act, a court has passed a decree for the repayment of a debt, it shall, on the application of any judgment debtor who is an agriculturist or in respect of a Hindu joint family debt, on the application of any member of the family whether or not he is the judgment debtor or on the application of the decree holder, apply the provisions of this Act to such decree and shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, amend the decree accordingly or enter satisfaction, as the case may be :

Provided that all payments made or amounts recovered, whether before or after the commencement of this Act, in respect of any such decree shall first be applied in payment of all costs as originally decreed to the creditor

(2) The provisions of sub section (1) shall also apply to cases where, after the commencement of this Act, a court has passed a decree for the repayment of a debt payable at such commencement

19A. Application for the determination of the amount of debt due :-

(1) Where any debt incurred before the 22nd March 1938, other than a decree debt, is due by any person who claims that he was an agriculturist both on that date and on the 1st October 1937, the debtor or the creditor may apply to the court having jurisdiction for a declaration of the amount of the debt due by the debtor on the date of the application:

Provided that no such application shall be presented or be maintainable if a suit for the recovery of the debt is pending
Explanation (1) The court having jurisdiction under this section shall be the court which would have jurisdiction to entertain a suit for the recovery of the debt as unscaled

(2) The provisions of sub section (1) shall apply also to any person claiming to be such an agriculturist, who contends that any such debt due by him has been discharged

(3) All persons who would have been necessary parties to a suit for the recovery of the debt shall be impleaded as parties to the application under sub section (1) or under that sub section read with sub section (2)

(4) (a) When any such application is made, the Court shall first decide whether the debtor was such an agriculturist or not, and if it finds that he was such an agriculturist, pass an order declaring the amount due by him or declaring that the debt has been discharged, as the case may be (b) The Court shall dismiss the application if it finds that the debtor was not such an agriculturist

(5) At any time after passing an order under clause (a) of sub section (4), the Court shall on payment by the creditor of the court fee payable on a suit for the amount declared due to him, grant a decree to the creditor for such amount; Provided that the creditor may on his application be granted a decree for an amount less than that declared due to him on paying the appropriate court fee

(6) The Court may order that the court fee, if any, paid by the creditor under sub section (5) shall be paid by the debtor in addition to the amount decreed

(7) If the debtor pays into the Court the amount declared to be due under clause (a) of sub section (4) or the amount of decree granted under sub section (5) together with the costs, if any, ordered to be paid under sub section (6), the Court shall grant to the debtor a certificate that the debt has been discharged

(8) The procedure laid down in the Code of Civil Procedure, 1908, for the trial of suits, shall as far as may be, apply to applications under the section

(9) No court shall entertain a suit by the creditor for the recovery of a debt

(i) if an application has been made under sub section (1) in respect of such debt to a court having jurisdiction and is pending in such court; or

(ii) if a court having jurisdiction has passed an order under clause (a) of sub section (4) in respect of such debt

(10) In computing the period of limitation prescribed for a suit by the creditor for the recovery of a debt, the time, if any, during which the Court was prevented from entertaining the suit by virtue

of the provision contained in clause (i) of sub section (9) shall be excluded

20. Stay of execution proceedings :-

Every court executing a decree passed against a person entitled to the benefits of this Act, shall on application, stay the proceedings until the court which passed the decree has passed orders on an application made or to be made under section 19:

Provided that where within 60 days after the application for stay has been granted the judgment debtor does not apply to the court which passed the decree for relief under section 19 or where an application has been so made and is rejected, the decree shall be executed as it stands, notwithstanding anything contained in this Act to the contrary

Explanation The expression "the court which passed the decree" shall have the same meaning as in the Code of Civil Procedure, 1908.

21. Adjudications in insolvency :-

(1) Nothing contained in this Act shall apply to the debts payable by any person who has been adjudicated an insolvent, if prior to the coming into force of this Act, a dividend has been declared out of his assets .

(2) If a dividend has not been so declared, the Court shall, on application made by the insolvent debtor, the Official Assignee or Official Receiver in whom the property of such debtor has vested, or any other person interested, apply the provisions of this Act to the debts payable by the insolvent debtor if he would have been an agriculturist within the meaning of this Act but for his adjudication in insolvency .

(3) If the application aforesaid is not made by the Official Assignee or Official Receiver, he shall be impleaded as a party thereto .

22. Special provision in the case of certain sales of movable property :-

Where, in execution of any decree, any movable property of an agriculturist has been sold on or after the 1st October, 1937, any judgment debtor may apply to the court for an order that the provisions of section 8 or 9, as the case may be, and of sections 11 and 12 be applied to the decree, and the Court, shall, if satisfied

that the applicant is an agriculturist entitled to the benefits of those sections, apply the same and order the decree holder to refund any sum received by him on or after the 1st October, 1937 in excess of the amount to which he would have been entitled if the property had not been sold:

Provided that no such order shall be made without notice to the decree holder and without affording him an opportunity to be heard in the matter

23. Sales of immovable property to be set aside in certain cases :-

Where in execution of any decree any immovable property, in which an agriculturist had an interest, has been sold or foreclosed on or after the 1st October, 1937, then, notwithstanding anything contained in the Indian Limitation Act, 1908, or in the Code of Civil Procedure, 1908, and notwithstanding that the sale has been confirmed, any judgment debtor claiming to be an agriculturist entitled to the benefits of this Act, may apply to the Court within 90 days of the commencement of this Act to set aside the sale or foreclosure of the property, and the Court shall, if satisfied that the applicant is an agriculturist entitled to the benefits of this Act, order the sale or foreclosure to be set aside, and thereupon the sale or foreclosure shall be deemed not to have taken place at all;

Provided that no such order shall be made without notice to the decree holder, the auction purchaser, and other persons interested in such sale or foreclosure and without affording them an opportunity to be heard in the matter

23A. Power of Court to set aside sales of immovable property in certain cases :-

Where in execution of any decree, any immovable property, in which any person entitled to the benefits of the Andhra Pradesh (Andhra Area) Agriculturists Relief (Amendment) Act, 1948, had an interest, has been sold or foreclosed on or after the 30th September 1947, and the sale has not been confirmed before the commencement of the said Act, or ninety days have not elapsed from the confirmation of the sale or from the foreclosure, at such commencement, then notwithstanding anything contained in the Indian Limitation Act, 1903, or in the Code of Civil Procedure, 1908, and notwithstanding that the sale has been confirmed, any judgment debtor claiming to be entitled to the benefits of the said Act, may apply to the Court within ninety days of such

commencement or of the confirmation of sale which ever is later to set aside the sale or foreclosure of the property, and the Court shall, if satisfied that the applicant is a person entitled to the benefits of the said Act, order the sale or foreclosure to be set aside, and thereupon the sale or foreclosure shall be deemed not to have taken place at all:

Provided that no such order shall be made without notice to the decree holder, the auction purchaser, and other persons interested in such sale or foreclosure and without affording them an opportunity to be heard in the matter

23B. Modifications in the application of section 23A to certain cases :-

The provisions of section 23A shall apply to a judgment debtor claiming to be entitled to the benefits of the Andhra Pradesh (Andhra Area) Agriculturists Relief (Amendment) Act, 1950, subject to the modification that for the reference to the Andhra Pradesh (Andhra Area) Agriculturists Relief (Amendment) Act, 1947, a reference to the Andhra Pradesh (Andhra Area) Agriculturists Relief (Amendment) Act, 1950 and for the reference to the 30th September, 1947, a reference to the 25th April 1950 shall be substituted

24. Consequential provision on setting aside of sale :-

Where a sale is set aside under section 23, section 23A or Section 23B, a purchaser shall be entitled to an order for repayment of any purchase money paid by him against the person to whom it has been paid;

Provided that no poundage shall be payable in respect of any such sale and provided further that where poundage has been collected the court shall direct the same to be refunded

24A. Power of court to reject certain claims :-

If in any suit or proceeding for the recovery of a debt, the Court is satisfied that the claim therein is made in evasion of the provisions of this Act and that the document upon which the claim is based, although purporting to be executed by a different debtor or in favour of a different creditor, was in fact in renewal or part renewal of a prior debt to which the provisions of this Act would have applied, the Court shall disallow the costs:

Provided that where in any such suit or proceeding two or more distinct claims are made, the provisions of this section shall apply

se tely in respect of each such claim

25. Alienations by debtor :-

All alienations of immovable property made by an agriculturist debtor on or after the 1st October 1937 shall be invalid as against every creditor whose sale in execution or foreclosure decree has been set aside under section 23 or who became entitled to rateable distribution of the proceeds of such sale under section 73 of the Code of Civil Procedure, 1908

25A. Appeals :-

(1) An appeal shall lie from any of the following orders passed by a court under this Act, as if such order related to the execution, discharge or satisfaction of a decree within the meaning of section 47 of the Code of Civil Procedure, 1908:

(a) An order under sub section (1) of Section 18 amending or refusing to amend a decree;

(b) An order under section 19 amending or refusing to amend a decree or entering or refusing to enter satisfaction in respect of decree

(c) An order under clause (a) of sub section (4) of section 19A declaring the amount due to the creditor or declaring the debt to have been discharged;

(cc) An order under clause (b) of sub section (4) of section 19A dismissing the application on the ground that the debtor was not an agriculturist;

(d) An order under section 22 directing or refusing to direct the refund of any excess realized in execution of a decree; (e) An order under section 23, section 23A or section 23B setting aside or refusing to set aside any sale or foreclosure of immovable property;

(f) An order under section 24 directing or refusing to direct the repayment of any purchase money realised in execution of a decree

(2) From any order passed on an appeal presented to it under the provisions of sub section (1) by a court subordinate to the High Court, an appeal shall lie to the High Court on any of the grounds mentioned in sub section (1) of section 100 of the Code of Civil Procedure, 1908

26. District Collector to furnish information as to certain

facts :-

Any creditor may apply to the Collector of the District in which the creditor believes his debtor to have been or to be assessed to income tax in terms of proviso (A) to section 3 (ii) or to profession, property or house tax under the Cantonments Act, 1924, in terms of provisos (B) and (C) to that section, for information as to the above facts and the Collector shall thereupon ascertain such information and grant to such creditor a memorandum in the prescribed form as to whether the debtor has been so assessed to income tax or profession, property or house tax Such memorandum shall be received in every court as evidence of the facts stated therein

27. Executive authorities of local bodies to furnish information as to certain facts :-

Any creditor may apply to the executive authority of a municipality or the president of a local board for information as to whether his debtor was or is assessed to profession, property or house tax in terms of provisos (B) and (C) to section 3 (ii), and the executive authority, or president shall thereupon grant to such creditor, a certificate in the prescribed form as to whether the debtor named in the application has been so assessed to profession, property, or house tax Such certificate shall be received in every court as evidence of the facts stated therein

28. Power to make rules :-

(1) The State Government may make rules for carrying into effect the purposes of this Act

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules 197 (a) in regard to any matter which is required to be prescribed by this Act; (b) prescribing the form of and the fees to be paid in respect of, applications under this Act; and (c) for removing any difficulty in giving effect to the provisions of this Act

(3) All rules made under this section shall be consistent with the provisions of this Act They shall be published in the Official Gazette and upon such publication shall have effect as if enacted in this Act