

ANDHRA PRADESH (ANDHRA AREA) TENANCY ACT, 1956

12 of 1956

[]

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Maximum rent payable by cultivating tenants
4. Agreement regarding form of tenancy etc.
5. Agreement as to rent
6. Determination of fair rent
7. Deposit of rent during pendency of proceeding for the fixation of fair rent
8. Remission of rent
9. Interest on arrears of rent
10. Rights of cultivating tenants
11. Change in the ownership of the land
12. Resumption of possession of land leased by landlord for his personal cultivation
13. Termination of tenancy
14. Surrender of holding by cultivating tenant
15. Cultivating tenants, right to first purchase the land leased to him
16. Adjudication of disputes and appeal
17. Act to over-ride contracts and other laws
18. Savings
19. Power to make rules
20. Power to remove difficulties
21. Repeal and savings

ANDHRA PRADESH (ANDHRA AREA) TENANCY ACT, 1956

12 of 1956

[]

STATEMENT OF OBJECTS AND REASONS 1. In July, 1956, the Andhra Cultivating Tenants Protection Ordinance, 1956 was promulgated with a view to protecting the tenants who were then in possession from unjust eviction. The Ordinance will cease to operate at the expiration of six weeks from the commencement of the present session of the Legislative Assembly. The Government

have therefore decided to undertake legislation for replacing the Ordinance by an Act of the Legislature providing for more permanent measures of tenancy reform. 2. The Bill provides for the regulation of the rent payable by the tenant to the landlord, the prescription of a minimum period for agricultural leases and other incidental matters. 3. Following the recommendations of the Land Reforms Committee, maximum rates of rent ranging from 28-1/3 percent to 50 percent of the gross produce have been specified for different classes of land and different crops. While the tenant will bear all the cultivation expenses, the landlord will be liable to pay all dues normally payable to the Government and local bodies. Subject to the maxima aforesaid, it shall be open to the landlord and the tenant to agree between themselves as to the rent payable. Notwithstanding such agreement, however, it shall be open to either party to get the fair rent determined by the appropriate authority. The bill also provides for the remission of rent in cases where there has been a total or partial failure of crops due to widespread calamities such as cyclone, drought or flood. 4. In accordance with the recommendations of the Andhra Land Reforms Committee, the bill provides that the minimum period of all future agricultural leases shall be 6 years. All tenancies subsisting on the date of promulgation of the Ordinance and protected by such Ordinance, and all tenancies subsequently entered into upto the date on which the provisions of this bill come into force will, however, continue for a period of three years only from the commencement of the current agricultural year, or until their expiry in the normal course, whichever is later. The bill also provides that in the event of a change in the ownership of the land during the currency of a lease, the tenant shall be entitled to continue the tenancy on the same terms and conditions for the unexpired portion of the lease, and that, if a cultivating tenant dies, his widow and his lineal heirs shall have the option to continue the tenancy for the unexpired portion of the lease on the same terms and conditions on which the deceased tenant was holding. Provision is also made for the termination of the tenancy and eviction of tenants during the currency of a lease in case where, among others, the tenant has failed to pay the rent due, or has misused the land.

1. Short title, extent and commencement :-

(1) This Act may be called the Andhra Pradesh (Andhra Area) Tenancy Act, 1956.

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

(3) It shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires:-

(a) "agricultural year" means the year commencing on the 1st day of June or such other date as may be notified by the Government in the Andhra Pradesh Gazette in respect of any locality having regard to the usage or custom of the locality in respect of the commencement of agricultural operations therein.

(b) (Omitted)

(c) "cultivating tenant" means a person who cultivates by his own labour or by that of any other member of his family or by hired labour under his supervision and control, any land belonging to another under a tenancy agreement, express or implied, but does not include a mere intermediary;

(d) "Government" means the State Government;

(e) "holding" means a parcel of land held by a cultivating tenant;

(f) "landlord" means the owner of a holding or part thereof who is entitled to evict the cultivating tenant from such holding or part, and includes the heirs, assignees, legal representatives of such owner, or person deriving rights through him ;

(g) "paid" includes in the case of any commodity "delivered".

(gg) "personal cultivation" means cultivation of land by a person on his own account--

(i) by his own labour or by the labour of any member of his family;
or

(ii) by servants on wages payable in cash or in kind or both but not in crop-share, or hired labour, under his personal supervision or under the personal supervision of any member of his family; and the expression "cultivate personally" shall be construed accordingly;

(h) "plantation crop" means tea, coffee, rubber, casuarina and such other crop as may be notified by the Government in the Andhra Pradesh Gazette for the purposes of this Act.

(i) "prescribed" means prescribed by rules made under this Act.

(j) "Special Officer" means any judicial officer not below the rank of a District Munsiff appointed by the Government in consultation with the High Court, to perform the functions of a Special Officer under the Act.

3. Maximum rent payable by cultivating tenants :-

(1) The maximum rates of rent payable by a cultivating tenant to a landlord, expressed in terms of proportion of gross produce, shall be--

(i) in the case of every crop grown on any irrigable land, other than the land irrigated by baling of water-30 per cent of the gross produce.

(ii) in the case of every crop grown on and other land including unirrigable land-25 per cent of the gross produce.

Explanation:- The rates mentioned above shall apply to all crops grown on the land, but the cultivating tenant shall be entitled to take the straw in its entirety. and the landlord shall be liable to pay all dues payable to the Government and local authorities, in respect of the land including the water-rate, if any, charged in respect therefor;

Provided that where the irrigation is irregular the cultivating tenant shall be liable to pay the excess water rate charged therefor.

4. Agreement regarding form of tenancy etc. :-

Every landlord and his cultivating tenant shall come to an agreement in regard to the form of tenancy, and in particular as to whether the rent shall be paid in the form of a share in the produce or in the form of a fixed rent in kind, or in the form of a fixed rent in cash such agreement shall not be liable to be altered except by mutual agreement of the parties.

5. Agreement as to rent :-

The cultivating tenant and the landlord may agree among themselves in regard to the quantum of rent payable for a holding subject to the maximum rent specified in Section 3. The rent so agreed (hereinafter referred to as "agreed rent"), whether it is in pursuance of an agreement made between the parties, before or after the commencement of this Act, shall, subject to the provisions of Section 6 be the rent payable for the holding.

6. Determination of fair rent :-

(1) Notwithstanding any agreement between the landlord and the cultivating tenant for the payment of an agreed rent, either party may, at any time, apply to the Special Officer for the fixation of fair rent for the holding:

Provided that where any order determining the fair rent has been made after the commencement of the Andhra Pradesh (Andhra Area) Tenancy (Amendment) Act, 1974, in respect of any holding, no application shall be made for the determination of fair rent for that holding while such order is in force.

(2) On receipt of such application, the Special Officer shall, after making an inquiry in the manner prescribed, determine the fair rent, having regard to the following factors, namely--

(a) the rental values of the lands used for similar purposes in the locality;

(b) the profits of agriculture on similar lands in the locality;

(c) the prices of crops and commodities in the locality;

(d) rates of wages of agricultural labour prevailing in the locality;

(e) the improvements made to the land by the landlord or the cultivating tenants;

(f) the assessment payable in respect of the land; and

(g) such other factors as may be prescribed.

(3) In determining the fair rent, the Special Officer shall presume, until the contrary is proved, that the agreed rent payable in respect of the holding is the fair rent.

(4) The fair rent determined by the Special Officer shall not exceed the maximum rent specified in Section 3.

(5) The order determining the fair rent shall take effect from the commencement of the agricultural year in which the application for the determination of fair rent is made, and shall be in force for a period of six agricultural years.

7. Deposit of rent during pendency of proceeding for the fixation of fair rent :-

During the pendency of proceedings before the Special Officer for

the determination of fair rent, the tenant shall deposit, and continue to deposit, the agreed rent on the due date, as if no application has been made for the determination of fair rent. After the fair rent is determined by the Special Officer, the amount due to the landlord shall be paid to him, and the balance if any, refunded to the cultivating tenant. If the fair rent determined exceeds the rent deposited, the cultivating tenant shall be required to deposit the balance within a period of fifteen days from the date of receipt of such requisition.

8. Remission of rent :-

Where there has been a total or partial failure of crops in any year due to widespread calamities such as cyclone, draught or flood, the cultivating tenant may make an application to the Special Officer, for the remission of rent due by him and the Special Officer, shall, after making an inquiry, in the manner prescribed, order such remission of rent as he may consider just in the circumstances of the case. Every such application shall be made at least fifteen days before the crop is cut and removed, and a copy of such application shall also be served on the landlord by the cultivating tenant.

Explanation:- Any neglect or failure on the part of the cultivating tenant to raise any crop, shall not disentitle the landlord to the collection of the rent due.

9. Interest on arrears of rent :-

Arrears of rent shall bear interest at the rate of 5 1/2 per cent or at such other rate as may be fixed by the Government, from time to time, under Sec.13 of the Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938.

10. Rights of cultivating tenants :-

(1) Every lease subsisting at the commencement of the Andhra Pradesh (Andhra Area) Tenancy (Amendment) Act, 1974, shall be deemed to be in perpetuity.

(2) Every lease entered into between a landlord and his cultivating tenant on or after the commencement of the Andhra Pradesh (Andhra Area) Tenancy (Amendment) Act, 1974, shall be for a minimum period of six years. Every such lease shall be in writing and shall specify the holding, its extent and the rent payable therefor with such other particulars as may be prescribed. The stamp and registration charges for every such lease shall be borne by landlord and the cultivating tenant in equal shares.

(3) On the expiration of the period of lease referred to in sub-section (2) every such lease shall be renewable successively for a further minimum period of six years at a time. Every such renewal shall be governed by the same terms and conditions as under the original lease and be subject to the provisions of Sections 3 and 6.

(4) Notwithstanding anything in any law for the time being in force, or any custom, decree or contract to the contrary, it shall be lawful for a cultivating tenant to mortgage, or create a charge on, his interest in the land in favour of the Government, a co-operative society including a land mortgage bank, or any other institution, in consideration of a loan advanced to him by the Government, Co-operative Society or institution, as the case may be, under the relevant law relating to the grant of loans to agriculturists for the time being in force in the State; and without prejudice to any other remedy open to the Government, Co-operative Society or institution, in the event of the cultivating tenant making a default in payment of such loan in accordance with the terms on which it was advanced, it shall be lawful for the Government Co-operative Society or institution, as the case may be, to cause his interest in the land to be sold, and the proceeds thereof to be applied in payment of such loan.

(5) All rights of a cultivating tenant under this section shall, subject to the provisions of Sections 12 and 13, be heritable.

Explanation I :- For the purpose of construing the term "heritable" in this section, the following persons only shall be deemed to be heirs of a cultivating tenant, namely :-

(a) his legitimate lineal descendants by blood or adoption;

(b) in the absence of any such descendants, his widow for so long as she does not re-marry:

Provided that where there is more than one heir, the heirs shall be entitled to sub-divide the interest in the holding according to their shares.

Explanation II :- If a cultivating tenant dies without leaving by heir as aforesaid, all his rights shall be extinguished.

11. Change in the ownership of the land :-

In the event of a change in the ownership of any land the cultivating tenant shall be entitled to continue the tenancy on the

same terms and conditions as before:

Provided that in the case of a land held by a Court, the tenancy shall terminate on the expiry of the agricultural year in which the land ceases to be under the management of such receiver.

12. Resumption of possession of land leased by landlord for his personal cultivation :-

(1) Notwithstanding anything in Section 10 a landlord who in good faith requires for his personal cultivation any land leased by him to a cultivating tenant shall be entitled to resume possession of the land, so however, that the total extent of the land, held by the landlord under his personal cultivation after such resumption does not exceed two thirds of the ceiling area as defined in Clause (c) of Section 3 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (Act 1 of 1973):

Provided that such right of resumption shall be limited to an extent which shall, after such resumption leave, with the cultivating tenant all area which is not less than one-half of the land held by him under lease prior to such resumption.

Explanation :- In determining the total extent of land held by a land-lord under his personal cultivation, any transfer of land under his personal cultivation made on or after the 14th March, 1970 shall be disregarded and the land so transferred shall be deemed to be held under his personal cultivation.

(2) The right of resumption of land for personal cultivation under sub-section

(1) may be exercised--

(a) in the case of a lease subsisting at the commencement of the Andhra Pradesh (Andhra Area) Tenancy (Amendment) Act, 1974 by making an application in this behalf to the Special Officer within a period of six months from the date of such commencement;

(b) in the case of a lease entered into on or after the commencement the Andhra Pradesh (Andhra Area) Tenancy (Amendment) Act, 1974, at the end of the period of such lease or where such lease has been renewed at the end of the period of such renewed lease, by giving to the cultivating tenant and the Special Officer at least four months notice expiring with the period of the lease or renewed lease, as the case may be:

Provided that in the case of a minor, a person suffering from physical or mental disability, a person serving in the Armed Forces of the Union and a widow, the right of resumption under Clause (a) or Clause (b) may also be exercised at any time--

(i) in the case of a minor, within a period of six months from the date of his attaining majority;

(ii) in the case of person suffering from physical or mental disability within a period of six months after such disability has ceased;

(iii) in the case of person serving in the Armed Forces of the Union within a period of six months from the date of termination of his service in the Armed Forces; and

(iv) In the case of a widow, within a period of six months from the date of her re-marriage:

Provided further that the right of resumption under this section shall not be exercised more than once in respect of the holding of a cultivating tenant.

(3) Where a landlord who has resumed possession of any land for personal cultivation under this section fails to cultivate the land so resumed personally, within a period of one year from the date of such resumption, or having commenced personal cultivation within that period, discontinues such cultivation for a continuous period of not less than one year within a period of six years from the date, the Special Officer shall, on an application made by the cultivating tenant who was in possession of the land at the time of such resumption and after making enquiry, restore to the cultivating tenant, as soon as may be, the possession of the land and on such restoration such cultivating tenant shall hold such land with the same rights and on the same terms and conditions as before the resumption, subject to the provisions of Sections 3 and 6.

Explanation :- Where a cultivating tenant has died after the resumption of the land, an application for restoration under this sub-section may be made by any of his heirs referred to in Explanation-1 under Section 10".

13. Termination of tenancy :-

Notwithstanding anything contained in Sections 10, 11 and 12, no landlord shall be entitled to terminate the tenancy and evict his cultivating tenant except by an application made in that behalf to

the Special Officer and unless such cultivating tenant--

(a) has failed to pay the rent due by him within a period of one month from the date stipulated in the lease deed, or in the absence of such stipulation, within a period of one month from the date on which the rent is due according to the usage of the locality; and in case the rent is payable in the form of a share in the produce, has failed to deliver the produce at the time of harvest; or

(b) has done any act or has been guilty of any neglect, which is destructive of, or permanently injurious to the land; or

(c) has sub-let the land; or

(d) has violated any of the conditions of the tenancy regarding the uses to which the land may be put; or

(e) has wilfully denied the landlord's title to the land; or

(f) has failed to comply with any order passed or direction issued by the Special Officer or the District Judge under this Act.

14. Surrender of holding by cultivating tenant :-

(1) A cultivating tenant may terminate his tenancy and surrender his holding at the end of any agricultural year after giving to the landlord and the Special Officer at least three months' notice expiring with the end of such agricultural year; and the surrender of such holding shall take effect only after it is accepted by the Special Officer on being satisfied, after making such inquiry as he thinks fit, that such surrender is voluntary and genuine:

Provided that where any holding is cultivated jointly by joint tenants or members or a Hindu undivided family, unless the surrender is made by all of them, it shall be ineffective in respect of such joint tenants or members as have not joined in the notice for surrender.

(2) No tenant shall surrender a part of his holding only.

15. Cultivating tenants, right to first purchase the land leased to him :-

(1) Any landlord intending to sell the land leased to a cultivating tenant shall first give notice to such cultivating tenant, of his intention to sell such land, and requiring him to exercise his option to purchase the land. The particulars to be specified in the notice

and the time within which the option shall be exercised by cultivating tenant shall be such as may be prescribed.

(2) If the cultivating tenant exercises his option to purchase the land there is an agreement between the landlord and his cultivating tenant in regard to the price payable, the landlord shall sell the land to such cultivating tenant in accordance with such agreement.

(3) Where the cultivating tenant exercises his option to purchase the land; but there is no agreement in regard to the price payable, the landlord or the cultivating tenant may apply to the Special Officer for the determination of reasonable price of such land; and the Special Officer shall, after giving notice to the landlord, and the cultivating tenant and after making such inquiry as he thinks fit, determine the reasonable price;

Provided that the reasonable price so determined shall not exceed five times the fair rent, if any fixed after the commencement of the Andhra Pradesh (Andhra Area) Tenancy (Amendment) Act, 1974 and in force in respect of that land; or where no such fair rent has been fixed or is in force, five times the fair rent that would have been so fixed, has an application been made for determination of such rent on the date of giving of notice under sub-section (1).

(4) The reasonable price determined under sub-section (3) shall be payable in ten equal annual instalments in such manner as may be prescribed; and the sale shall be deemed to have become effective on the payment of the first instalment and land shall be deemed to be the security for the payment of the balance of the instalments.

(5) If the cultivating tenant fails to exercise his option to purchase the land or fails to pay the first instalment of the reasonable price, the landlord shall be entitled to sell the land to any other person.

Provided that where the land is not sold to any other person within a period of two years from the date of notice given under sub-section (1), the landlord shall not sell the land thereafter without giving a fresh option under this section to the cultivating tenant to purchase the land.

(6) Any sale of the land by the landlord in contravention of this section shall be voidable to the option of the cultivating tenant.

16. Adjudication of disputes and appeal :-

(1) Any dispute arising under this Act, between a landlord and a

cultivating tenant in relation to a matter not otherwise decided by the Special Officer under the provisions of this Act, shall, on application by the landlord or the cultivating tenant, as the case may be, be decided by the Special Officer after making an enquiry in the manner prescribed;

Provided that nothing in this sub-section shall apply with respect to any matter pertaining to the fixation of reasonable rent, or the determination of other terms and conditions of the lease relating to the said reasonable rent, under Clause (e) of sub-section (1) of Section 74 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966 (Act 17 of 1966).

(2) Against any order passed by the Special Officer under this Act an appeal shall lie to the District Judge having jurisdiction, within thirty days of the passing of the order; and the decision of the District Judge on such appeal shall be final.

17. Act to over-ride contracts and other laws :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any pre-existing law, custom, usage, agreement or decree or order of a Court.

18. Savings :-

(1) Nothing contained in this Act shall apply

(a) to lands in which plantation crops are raised;

(b) to orchards, where the tenancy is for the enjoyment only of the usufruct of the trees;

(c) to lands owned by the Central Government or the State Government; and

(d) to lands leased for grazing purposes.

(e) to lands held by any Corporation established by or under a Central or Provincial or State Act, or any Government Company as defined in Section 617 of the Companies Act, 1956 or any Port Trust.

(2) The provisions of Sections 3, 4, 5, 6 and 7 shall not apply to any lease of land belonging to or given or endowed for the purpose of any charitable or religious institution or endowment, falling within the scope of sub-section (1) of Section 74 of the Andhra Pradesh Charitable and Hindu Religious Institutions and

Endowments Act, 1966 (Act 17 of 1966), but the provisions of other Sections of this Act, shall apply to every lease subject to the following modifications, namely :-

(i) the word "rent" in relation to such land shall be construed as rent in force at the commencement of the Andhra Pradesh (Andhra Area) Tenancy (Amendment) Act, 1974; and where reasonable rent has been fixed under Clause (e) of the said sub-section (1) of Section 74, the word 'rent' shall be construed as the reasonable rent so fixed; and

(ii) in sub-section (3) of Section 10 and in sub-section (3) of Section 12, for the expression "subject to the provisions of Section 3 and 6" the expression "subject to the provisions of Clause (e) of the said sub-section (1) of Section 74" shall be substituted.

19. Power to make rules :-

(1) The Government may, by notification in the Andhra Pradesh Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for--

(a) the procedure to be followed in making inquiries and hearing appeals under this Act;

(b) the manner of service of any notice issued under this Act;

(c) the execution or enforcement of orders or decisions passed under this Act;

(3) All rules made under this section shall, as soon as may be, after they are made, be placed on the table of the Legislative Assembly and shall be subject to such modifications, whether by way of repeal or amendment, as the Legislative Assembly may make within fourteen days thereafter during the session in which they are so laid.

20. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act the Government may make such orders; not inconsistent with the said provisions, as may appear to them to be necessary or expedient for the purpose of removing the difficulty.

21. Repeal and savings :-

The Andhra Cultivating Tenants Protection Ordinance, 1956

(Andhra Ordinance 1 of 1956) is hereby repealed:

Provided that such repeal shall not affect the previous operation of the said Ordinance, and subject thereto, anything done or any action taken in the exercise of any power conferred by or under the Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by under this Act, as if this Act were in force on the day on which such thing was done or action was taken.