

ASSAM RURAL INDEBTEDNESS RELIEF ACT, 1975

12 of 1975

[30th October, 1975]

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An Act to provide for relief from rural indebtedness in the State of Assam Whereas it is expedient to provide for relief from rural indebtedness in Assam ; It is hereby enacted in the Twenty-sixth year of the Republic of India, as follows :

1. Short title and extent :-

(i) This Act may be called the Assam Rural Indebtedness Relief Act, 1975.

(ii) It extends to the whole of Assam.

2. Definitions :-

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

(a) "agriculture" includes horticulture ; pisciculture ; sericulture ;

dairy farming ; poultry farming, forestry ; piggery ; bee-keeping ; growing of fruits, vegetables and the like ; raising of crops, grass or garden produce ; keeping or breeding of livestock and grazing ;

(b) "artisan" means a person who does not hold either as owner or as mortgagee in possession or partly in either of the above capacities and partly in any of the other capacities agricultural land exceeding 2 bighas in area 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 includes a person who normally earns his livelihood by practising a craft either by his own labour or by the labour of the members of his family and whose annual income does not exceed eighteen hundred rupees ;

(c) "Bank" means

(i) A banking company as defined in the Banking Regulation Act, 1949 (10 of 1949),

(ii) The State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955),

(iii) A subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959),

(iv) A corresponding new bank as constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970),

(v) Any Banking institution notified by the Central Government under S. 51 of the Banking Regulation Act, 1949,

(vi) The Agricultural Refinance Corporation constituted under the Agricultural Finance Corporation Act, 1963,

(vii) The Assam Agro-Industries Development Corporation,

(viii) The Assam Co-operative Central Land Mortgage Bank Limited constituted under the Assam Co-operative Land Mortgage Bank Act, 1960 (Assam Act I of 1960),

(ix) The Co-operative Land Mortgage Banks registered under the Assam Co-operative Societies Act, 1949 and includes a Financial Corporation established under the State Financial Corporation Act, 1951 (Act LXIII of 1951),

(x) Any other Financial Institution which may be notified in this behalf by the State Government from time to time ;

(d) "Debt" means an advance, whether in cash or in kind on condition of repayment with or without interest and includes all other liabilities in cash or in kind incurred by a person and any bond bearing interest executed in respect of past liabilities and any transaction which is in substance a loan, whether secured or unsecured and payable presently or in future ; but does not include the following, namely :

(i) any claim to any share of the produce of land payable on account of land cultivated under the system known as adhi, barga or bhag,

(ii) any sum recoverable as arrears of land revenue under any law,

(iii) any sum recoverable as a public demand under the Bengal Public Demand Recovery Act, 1913 (Act III of 1913),

(iv) any sum or debt due to the Central Government or the State Government or a Government Company within the meaning of the Companies Act, 1956 (1 of 1956) or a bank or a Co-operative Society or a local or statutory authority or the Life Insurance Corporation of India or any society or association registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law relating to public, religious or charitable objects or any corporation owned or controlled by any State Government or the Government of India or a Government Company as defined in the Companies Act, 1956 (1 of 1956),

(v) any liability arising out of breach of trust or any tortious liability,

(vi) any liability in respect of maintenance whether under any decree of a Court or otherwise,

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

(viii) prices of goods purchased,

(ix) any rent in respect of building, land or other property let out,

(x) any amount due under a hire purchase agreement,

(xi) any debt due to a widow or to any minor ; provided that the

value of the property owned by such widow or minor at the time when the liability in her or his favour arose, including the principal amount of the debt so due, does not exceed ten thousand rupees ;

(e) "debtor" means a person who is under an obligation to repay any debt incurred by him and who belongs to any one of the following categories of persons, namely :

(i) marginal farmer,

(ii) landless agricultural labourer, and

(iii) artisan, and who is a resident outside an area included in a Corporation, Municipality, Town Committee, Cantonment or any other area notified by the State Government from time to time and shall include the heirs, legal representatives and assigns of any such debtors ;

(f) "landless agricultural labourer" means a person who does not hold agricultural land exceeding three Bighas whether as tenant or as mortgagee in possession or partly in one of the above capacities and partly in any of the other capacities and whose principal means of livelihood is manual labour on agricultural land ;

(g) "money lender" means a persons who advances loan as defined in the "Assam Money Lenders Act, 1934 (AssamAct 4 of 1934) and shall include the legal representatives and the successor-in-interest whether by inheritance, assignment or otherwise of the person who advanced the loan and includes a person who follows any one or more of the following agricultural occupations in the capacity of a labourer on hire or exchange, whether paid in cash or in kind or partly in cash and partly in kind :

(i) farming, including cultivation and tillage of soil, etc.;

(ii) dairy farming ;

(iii) production, cultivation, growing and harvesting of any horticultural commodity ;

(iv) raising of livestock, bees or poultry ; and

(v) any practice performed on a farm as incidental to or in conjunction with farm operation (including any forestry or timbering operations) and operation for market and delivery to storage or to market or to carriage for transportation of farm products ;

(h) "prescribed" means prescribed by rules framed under this Act;

(i) "scheduled debtor" means a landless agricultural labourer or an artisan belonging to a Scheduled Caste or Scheduled Tribe specified in Orders passed by the President under Cl. (1) of Art. 341 or Cl. (1) of Art. 342 of the Constitution of India, as the case may be, who is ordinarily resident in a rural area within the State of Assam and is a debtor ;

(j) "marginal farmer" means a farmer who does not hold whether as owner, or as tenant or as mortgagee in possession or partly in one of the above capacities and partly in any other of the above capacities agricultural land exceeding eight Bighas and who earns his livelihood through agriculture.

3. Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary :-

(1) every debt including any interest accruing thereon incurred by a scheduled debtor before the commencement of this Act thereon shall be deemed to be wholly discharged on the commencement of this Act;

(2) for a period of one year from the date of commencement of this Act

(a) no civil court or any other authority shall entertain or try any suit, application or proceeding against a debtor for the recovery of any debt incurred by him or for the recovery of any interest accruing thereon ;

(b) all suits, applications or proceedings for the recovery of any debt incurred by any debtor or for the recovery of any interest accruing thereon pending before any civil court or any other authority on the date of commencement of this Act shall stand stayed ; and

(c) no decree or order of a civil court or of any other authority for the recovery of any debt or for the recovery of any interest accruing thereon which was passed before the commencement of this Act shall be executed ;

(3) the State Government may, by a notification published in the official Gazette extend the period referred to in sub-S. (2) above by a further period of one year ;

(4) nothing in the preceding sub-sections shall apply to any debt incurred jointly by a debtor and other person so far as the recovery from the other person is concerned.

4. Extension of period of limitation :-

Notwithstanding anything contained in any other law for the time being in force, in calculating the period of limitation for any suit, proceeding or application, or for execution of a decree or order the period during which any person was debarred from instituting such suit or proceeding or making such application or executing such decree or order shall be excluded.

5. Remission of interest :-

Notwithstanding anything contained in any law for the time being in force or in any agreement, contract, decree or order of any court or other authority, for the period during which no suit or proceeding could be instituted or application made for recovery of the debt or any interest accruing thereon or for execution of a decree in relation thereto or for whose recovery a suit, application or proceeding stood stayed, the debtor shall not be liable to pay any interest on the debt.

Explanation. For the purpose of Ss. 3, 4 and this section "suit," or "application" or "proceeding" shall include "appeal".

6. . :-

(1) Any debt incurred by a debtor by delivering possession of any land under any mortgage, shall on the expiry of a period of five years from the date when the debt was incurred, be deemed to have been wholly discharged.

(2) Every person who is in possession under a mortgage of any land belonging to a debtor, whether the mortgage is from the debtor himself or from any mortgagee or sub-mortgagee from him, shall, if demanded by the debtor before the expiry of 5 years or on expiry of 5 years from the date on which the debt was incurred, put back the debtor in possession of the land within a period of 30 days from the date of demand or expiry of 5 years, as the case may be.

(3) Every movable property pledged by a debtor shall, on the date of coming into force of this Act, stand released in favour of such debtor and the pledgee shall return the same to the debtor forthwith.

(4) When any person is required to put back the debtor in possession of any immovable or movable property under sub-Ss. (2) and (3) above, then notwithstanding anything in this Act, the debt shall subject to the provisions of S. 3 and interest thereon shall, subject to the provisions of S. 5, at the maximum rate admissible under the Assam Money Lenders Act, 1934 (Assam Act 4 of 1934), be payable.

7. Any money lender violating any of the provisions of sub-Ss :-

(2) and (3) of S. 6 of this Act shall on conviction be punished with imprisonment of either description which may extend to one month or with fine which may extend to five hundred rupees or with both.

8. Ban on transfer by debtor :-

Notwithstanding anything in any law for the time being in force, no debtor shall transfer any immovable property or any interest therein after the commencement of this Act and all such transfers made by a debtor after such commencement but before complete discharge of all his debts shall be null and void :

Provided that a debtor may be permitted to transfer the whole or any part of his immovable property by an officer appointed either generally or specifically by the Government from time to time and such terms and conditions as may be prescribed.

9. Sale with a condition for re-purchase to be void :-

(1) Notwithstanding anything to the contrary in any law for the the time being in force or in any contract, where in any deed of sale in respect of any immovable property of a debtor there is any provision to re-purchase the property within any stipulated period on payment of any spscified amount and such period has not expired on the date of commencement of this Act, then the transaction shall be deemed to be a mortgage and the consideration for the sale shall be deemed to be the consideration for the mortgage.

(2) When a transaction is held to be a mortgage under the preceding sub-section, the consideration for the mortgage shall bear, subject to the provision of S. 5, interest thereon at the maximum rate admissible under the Assam Money Lenders Act, 1934.

(3) When a transaction is held to be a mortgage under sub-S. (1)

of S. 9 above, provisions of sub-Ss. (1) and (2) of S. 6 shall be applicable to such a mortgage.

(4) Any person violating the provision of the preceding sub-section, shall on conviction, be punished with imprisonment of either description which may extend to one month or with fine which may extend to five hundred rupees or with both.

10. Providing the real nature of transaction :-

(1) Notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force when any transaction whether reduced to writing or not purports to be a transfer of any property of a debtor and to which the debtor is a party and the transaction was effected within a period of 5 years before the date of commencement of this Act but the transaction was really in respect of a debt and not for transfer of any property, the debtor who is a party to the transaction may, by an application filed within a period of one year from the date of such commencement before such authority as may be prescribed, ask for a declaration that the transaction was not a sale but a transaction in respect of a debt only and the authority may after such enquiry as may be prescribed either allow the petition making the declaration asked for fixing the principal amount of the debt or reject the application.

(2) Notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force when any transaction, whether reduced to writing or not, is purported to be a transaction of debt for any particular amount but the transaction was really in respect of a debt for any other amount other than the amount mentioned in the transaction, the debtor who is a party to the transaction may, by an application filed within a period of one year from the date of such commencement before such authority as may be prescribed, ask for a declaration that the transaction was for any amount other than that mentioned in the transaction and the authority may after such enquiry as may be prescribed either allow the petition making the declaration asked for fixing the principal amount of the debt or reject the application.

(3) Any person aggrieved by an order passed under the preceding sub-Ss. (1) and (2) may file an appeal against the order to the appellate authority prescribed within a period of 90 days from the date of order.

(4) In computing the period mentioned in the preceding sub-section the time taken for obtaining a copy of the order shall be excluded.

(5) An order passed under sub-S. (1) or sub-S. (2) when no appeal is filed under sub-S. (3) and the order passed under sub-S. (3) in an appeal filed against an order passed under sub-S. (1) or (2) shall be final,

(6) Where a transaction is held to be a transaction of debt under sub-Ss. (1) and (2) and the amount of such debt is fixed, subject to the provision of Ss. 3 and 5 interest at the maximum rate prescribed under the Assam Money-Lenders Act shall be payable thereon.

(7) When a transaction purported to be a sale is held under sub-S. (1) to be not really a transaction of sale and the person in whose favour the purported transaction was made in possession of the immovable property either by himself or by any member of his family or through any body else than the debtor whose property was purported to be sold, shall be, within a period of 30 days from the date of the final order under sub-S. (5) above put back in possession of the land.

(8) Any person violating the provisions of preceding sub-section shall, on conviction, be punished with imprisonment of either description which may extend to one month or with fine which may extend to five hundred rupees or with both.

11. Power to make rules :-

(1) The State Government may frame rules for carrying out the purposes and objects of this Act and such rules may provide for penalty not exceeding two hundred rupees for the breach of any of the rules.

(2) All rules framed under the Act shall unless they are expressed to come into force on a particular day, come into force on the date on which they are published in the official Gazette.

(3) Every rule made under this section shall, as soon as may be, after it is made, be placed before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one or in two successive sessions, and if, before the expiry of the session in which it is so placed or the sessions immediately following, the Assam Legislative Assembly agree in

making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, 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.