

Tripura Agricultural Credit Operations Act, 1976

9 of 1976

[29 April 1976]

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SCHEDULE 1 :- SCHEDULE I

Tripura Agricultural Credit Operations Act, 1976

9 of 1976

[29 April 1976]

AN ACT to make provisions to facilitateadequate flow of credit for agricultural production and development through banks and other institutional credit agencies and for matters connected therewith and incidental thereto. BE it enacted by the Legislative Assembly of Tripura in the Twentyseventh Year of the Republic of India as follows :--

1. Short Title Extent And Commencement :-

(1) This Act may be called the Tripura Agricultural Credit Operations Act, 1976.

(2) It shall extend to the whole of Tripura.

(3) It shall come into force from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf and different dates may be appointed for different provisions of the Act and for different areas of the State.

2. Definition :-

In this Act, unless otherwise requires,--

- (a) "agriculture" and "agricultural purpose" shall include making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, raising and harvesting of crops, horticulture, forestry, planting and farming and cattle breeding, animal husbandry, dairy farming, seed farming, pisciculture, apiculture, sericulture, piggery, poultry farming and such other activities as are generally carried on by agriculturists, dairy farmers, cattle breeders, poultry farmers and other categories of persons engaged in similar activities including marketing of agricultural products, their storage and transport and the acquisition of implements and machinery in connection with any such activity ;
- (b) "agriculturist" means a person who is engaged in agriculture ;
- (c) "Agro-Industries Corporation" means a company or other body corporate, one of the principal objectives of which is to undertake

activities connected with or intended for the development of agriculture and not less than fifty-one percent of the paid-up share capital of which is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Government ;

(d) "bank" means --

(i) a banking company as defined in the Banking Regulation Act, 1949 ;

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

(iii) a Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 ;

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

(v) any banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 ;

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

(vii) the Agro-Industries Corporation as defined in clause (c) ;

(viii) Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 ; and

(ix) any other financial institution notified by the State Government in the Official Gazette as a bank for the purpose of this Act ;

(e) "co-operative society" means a co-operative society registered or deemed to be registered under the Tripura Cooperative Societies Act, 1974 the object of which is to provide financial assistance as defined in clause (f) of this section to its members and includes a co-operative land mortgage/ development bank ; and

(f) "financial assistance" for the purpose of this Act means assistance granted by way of loans, advances, guarantee or otherwise for agricultural purpose.

3. Definition. Removal Of Restriction On Alienation :-

Notwithstanding anything contained in any law for the time being in force or any custom or tradition, it shall be lawful for an agriculturist whose rights of alienation of land or of any interest therein are restricted to alienate the land or his interest therein, including by creation of a charge or mortgage on such land or interest in favour of a bank or a Co-operative Society for the purpose of obtaining financial assistance.

4. State Government May, By Notification, Vest

Agriculturists Not Having A Alienable Rights With Such Rights :-

Notwithstanding anything contained in any law for the time being in force, the State Government may, by notification in the Official Gazette, vest any class or classes of agriculturists not having rights of alienation in land or any interest therein, with rights of alienation including the right to create a charge or mortgage on such land or interest in favour of a bank or a Co-operative Society for the purpose of obtaining financial assistance without any restrictions, or subject to such restrictions as may be specified in the notification.

5. Charge On Crop And Other Movable Property In Favour Of A Bank :-

(1) It shall be lawful for an agriculturist to create a charge on the movable property owned by him or on the crops raised by him, standing or otherwise or other produce from land cultivated by him, to the extent of his interests therein, in favour of a bank, to secure financial assistance from that bank, notwithstanding that he may not be owner of the land on and from which the crop is raised.

(2) Notwithstanding anything to the contrary in the Tripura Cooperative Societies Act, 1974, or any other law for the time being in force no charge in respect of financial assistance extended by a co-operative society to an agriculturist shall have priority over a charge on the crops raised by him, standing or otherwise, or any other movable property in respect of any financial assistance given to him by a bank, provided the financial assistance made by the bank is prior in point of time to that of the financial assistance extended by the co-operative society.

(3) A bank may distrain and sell through an official of the State Government, designated in this behalf by the State Government, the crop or other produce or other movable charged to that bank to the extent of agriculturists interest therein and appropriate proceeds of such sale towards all moneys due to the bank from that agriculturist.

6. Creation Of Charge On Land In Favour Of A Bank By Declaration :-

Where an agriculturist creates a charge on land, or any other immovable property which he owns or in which he has an interest in respect of any financial assistance given to him by a bank, he

may make a declaration on the lines of the form set out in the Schedule hereto or as near thereto as circumstances permit, declaring that thereby he creates, in favour of the bank a charge on such land or his interest therein, or other immovable property as the case may be, to secure the financial assistance given to him by the Bank.

(2) A declaration made under sub-section (1) may be varied from time to time by the agriculturist with the consent of the bank in whose favour the declaration has been made. Such variation shall take effect from such date on which the variation, if it had been an original declaration, would have effect under section 9.

(3) For the removal of doubts it is hereby cleared that no duty under the Indian Stamp Act, 1899 or fee under the Registration Act, 1908 shall be payable on a declaration referred to in this section.

7. Removal Of Disability In Creation Of Charges And Mortgages :-

Notwithstanding anything to the contrary contained in the Tripura Co-operative Societies Act, 1974, or any other law for the time being in force and notwithstanding that any land or interest therein stands already charged or mortgaged or mortgaged to a co-operative society, it shall be lawful for an agriculturist to create charge or mortgage on such land or interest therein in favour of a bank as security for any financial assistance given to the agriculturist by that bank.

8. Priority Of Mortgages And Charges :-

(1) Notwithstanding anything contained in any other law for the time being in force, where different mortgages or charges have been executed by an agriculturist in respect of same land both in favour of a bank and in favour of any person then the mortgage or charge executed in favour of a bank shall have priority over the mortgage or charge in favour of such person irrespective of the fact whether the mortgage or charge in favour of the bank was executed before or after the date of the mortgage or charge in favour of such person.

Explanation.- In this sub-section the word "person" shall not include the State Government or any co-operative society.

(2) Where in respect of the same land different mortgages or charges have been executed by an agriculturist in favour of,--

(i) the State Government,

(ii) a co-operative society, and

(iii) one or more banks, such mortgages or charges shall rank for priority in accordance with the respective dates of their execution.

(3) Notwithstanding anything contained in any other law for the time being in force, where different mortgages or charges have been executed by an agriculturist in respect of the same land for obtaining crop loan from one bank and a subsequent term loan from another bank then the mortgage or charge in relation to the subsequent term loan shall have priority over the mortgage or charge in relation to the crop loan provided the mortgage or charge in relation to such term loan was executed with the knowledge and consent of the bank providing the crop loan.

Explanation.- For the purpose of this section "crop loan" means a loan advanced to an agriculturist for the purpose of financing seasonal agricultural operation or the marketing of crop and is recoverable within fifteen months from the date of advancement of such loan and the words "term loan" means a loan advanced to an agriculturist for meeting outlay relating to the replacement or maintenance of wasting assets including machineries or for capital investment designed to increase the crop output and is repayable within any period exceeding fifteen months but not exceeding twenty years.

9. Registration Of Charge And Mortgage In Favour Of Banks

:-

(1) Notwithstanding anything contained in the Registration Act, 1908, a charge in respect of which a declaration has been made under subsection (1) of section 6, or in respect of which a variation has been made under sub-section (2) of that section, or a mortgage executed by an agriculturist in favour of a bank in respect of financial assistance given by the bank, shall be deemed to have been duly registered in accordance with the provisions of that Act with effect from the date of such charge, variation or mortgage as the case may be, provided that the bank sends to the Sub-Registrar within the local limit of whose jurisdiction the whole or any part of the property charged or mortgaged is situate, within the time stipulated by the State Government for this purpose, by registered post acknowledgement due, of the document creating such charge, variation or mortgage duly certified to be a true copy by an employee of the bank authorised to sign on its behalf.

(2) The Sub-Registrar receiving the declaration in respect of a charge or variation or a mortgage referred to in sub-section (1) shall, as immediately as practicable on receipt thereof, record, in a register to be maintained in this behalf, the fact of the receipt of such declaration, variation or mortgage for registration.

10. Noting Of Charge Or Mortgage Created In Favour Of A Bank In The Record Of-Rights :-

Whenever a charge or a mortgage on land or interest therein is created in favour of a bank by an agriculturist, the bank may give intimation to the Tehsildar or such other revenue official as may be designated in this behalf by the State Government, of the particulars of the charge or mortgage in its favour. The Tehsildar or the other revenue official shall make a note of the particulars of charge or mortgage in the Record-of-rights relating to the land over which the charge or mortgage has been created.

11. Restrictions On Creation Of Tenancy By An Agriculturist Borrower :-

(1) Notwithstanding anything contained in any law for the time being in force, an agriculturist who has availed himself of financial assistance from a bank by creating of charge or mortgage on land or interest therein, shall not, so long as the financial assistance continues to be outstanding, lease or create any tenancy rights on such land or interest therein without prior permission in writing of the bank if he has not already leased or created tenancy rights thereon at the time of availing of the financial assistance from the bank.

(2) Any lease granted or tenancy rights created in contravention of this section shall be void.

12. Removal Of Bar To Attachment And Sale By Process Of Court :-

Nothing in any law shall prevent in any manner a bank from causing any land or any interest therein charged or mortgaged to it by an agriculturist to secure any financial assistance, to be attached and sold through a civil court and applying the proceeds of such sale towards all moneys due to it from that agriculturist including the cost and expenses as may be awarded by the Court :

Provided that no decree or order shall be passed by any court for

the attachment and sale of any homestead land or any interest therein of an agriculturist belonging to a Schedule Tribe nor any such land or interest therein be sold in execution of a decree or order,

Explanation.- In this section "homestead" shall have the same meaning as in clause (b) of section 133 of the Tripura Land Revenue and Land Reforms Act, 1960.

13. Recovery Of Dues Of A Bank Through A Prescribed Authority :-

(1) An official of the State Government notified by the State Government as the prescribed authority for the purpose of this section may, on the application of a bank, make an order on any agriculturist or his heir or legal representative, directing the payment of sum due to the bank on account of financial assistance availed of by the agriculturist, by the sale of any land or any interest therein upon which the payment of such money is charged or mortgaged :

Provided that no order shall be made by the prescribed authority under this section for the sale of any land or any interest therein or any other immovable property upon which the payment of money is charged or mortgaged unless the agriculturist or the heir or legal representative of the agriculturist, as the case may be, has been served with a notice by the prescribed authority calling upon him to pay the amounts due.

(2) Every order passed by the prescribed authority in terms of subsection (1) shall be deemed to be a decree of a civil court and shall be -executed in the same manner as a decree of such court.

(3) Nothing in this section shall debar a bank from seeking to enforce its rights in any other manner open to it under any other law for the time being in force.

14. Right Of A Bank To Acquire And Dispose Of Immovable Property :-

(1) Notwithstanding anything contained in any law for the time being in force, a bank shall have power to itself acquire agricultural land or interest therein or any other immovable property which has been charged or mortgaged to it by an agriculturist in respect of any financial assistance availed of by him, provided the said land or interest therein or any other immovable property has been sought to be sold by public auction and no person has offered to purchase

it for a price which is sufficient to pay to the bank moneys due to it.

(2) A bank which acquires land or interest therein or any other immovable property in exercise of the power vested in it under sub-section (1) shall dispose it of by sale, within a period to be specified by the State Government in this behalf.

(3) If the bank has to lease out any land acquired by it under subsection (1), pending sale thereof as indicated in sub-section (2) the period of lease shall not exceed one year at a time and the lease shall not acquire any interest in that property notwithstanding any provisions to the contrary in any other law for the time being in force.

(4) A sale by a bank of land or interest therein in terms of this section shall be subject to any provisions of any law in force which may place restriction on purchase of land by non-belonging to a particular tribe or scheduled caste or fragmentation of land.

15. Exemption To Banks From Restrictions On Acquisition Of Land In Excess Of Ceiling :-

Nothing in any law for the time being in force placing a ceiling or limit on the holding of land shall apply to a bank acquiring land in terms of section 14 and holding such land till such time the bank is in a position to sell the land in the manner provided in section 14 or otherwise, at a price which is adequate to cover its dues.

16. Bank Eligible To Become Member Of A Co-Operative Society :-

Notwithstanding anything contained in the Tripura Co-operative Societies Act, 1974, or any law for the time being in force, it shall be lawful for a bank to become a member of a co-operative society.

17. Powers Of Cooperative Societies To Borrow From Banks :-

Notwithstanding anything contained in the Tripura Co-operative Societies Act, 1974, it shall be lawful for any co-operative society to borrow from a bank.

18. Inspection Of Books Of A Cooperative Society By A Bank :-

(1) A bank shall have the right to inspect the books of any co-

operative society which has either applied to the bank for financial assistance or is indebted to the bank on account of financial assistance granted earlier.

(2) The inspection may be carried out by an Officer or any other member of the paid staff of the bank with the previous sanction in writing of the Registrar of Co-operative Societies.

(3) The Officer or any other member of the paid staff of the bank, undertakings such inspection, shall, at all reasonable times, have access to the books of accounts, documents, securities, cash and other properties belonging to or in the custody of the co-operative society inspected by him, and shall also be supplied by such society such information, statements and returns as may be required by him to assess the financial condition of the society and the safety of financial assistance to be made to the society or already made to it.

19. Disputes Between A Bank And A Co-Operative Society :-

(1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, management or the business of a co-operative society, between a bank financing a co-operative society and the co-operative society, so financed, other than dispute regarding the disciplinary action taken by the society or its committee against a paid employee of the society, shall be Co-operative Societies for decision.

(2) Where any question arises whether, for purpose of the foregoing sub-section, a matter referred to for decision is a dispute or not, the question shall be decided by the Registrar of Co-operative Societies whose decision shall be final.

20. Settlement Of Disputes :-

(1) If the Registrar is satisfied that any matter referred to him or brought to his notice is a dispute within the meaning of section 19, the Registrar shall decide the dispute himself or refer it for disposal to a nominee or a Board of nominees appointed by him.

(2) Where any dispute is referred under the foregoing sub-section for decision to the Registrars nominee or Board of nominees, the Registrar may at any time, for reasons to be recorded in writing, withdraw such dispute from his nominee or Board of nominees and may decide the dispute himself or refer it again for decision to any other nominee or Board of nominees appointed by him.

(3) Notwithstanding anything contained in section 19, the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute

if the question at issue between a co-operative society and a bank is one involving complicated question of law and fact, until the question has been tried by a regular suit instituted by one of the parties to the dispute. If any such suit is not instituted within two months from the Registrars order suspending proceeding, the Registrar shall take action as is provided in sub-section (1).

21. Procedure For Hearing Of Disputes :-

The Registrar or his nominee or Board of nominees hearing a dispute under the last preceding section shall hear the dispute in the manner that may be prescribed by the Registrar in this behalf.

22. Decision Of Registrar Or His Nominee Or Board Of Nominees :-

When the dispute is referred for decision, the Registrar or his nominee or the Board of nominees may, after giving a reasonable opportunity to the parties to the dispute to be heard make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings and fees, expenses payable to the Registrar or his nominee or as the case may be, to the Board of nominees. Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute by the Registrar and shall, subject to appeal or review or revision by the Co-operative Tribunal of the State, be binding on the parties to the dispute.

23. Recovery Of Money Awarded :-

Every award given by the Registrar or the Registrars nominee or the Board of nominees under section 22, shall , if not carried out, on a certificate signed by the Registrar, be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court.

24. Powers Of A Bank To Proceed Against Defaulting Members Of A Co-Operative Society :-

(1) If a co-operative society is unable to pay its debts to a bank from which it has borrowed, by reason of its members defaulting in the payment of the money due by them, the bank may direct committee of such society to proceed against such members by taking action under the Tripura Co-operative Societies Act, 1974.

(2) If the committee of the Co-operative Society fails to proceed against its defaulting members within a period of ninety days from the date of such direction from the bank, the bank itself may proceed against such defaulting members in which event, the provisions of the Tripura Co-operative Societies Act, 1974, the rules and the bye-laws made thereunder shall apply as if all references to the society or its committee in the said provisions, rules and bye-laws were references to the bank.

(3) Where a bank has obtained a decree or award against a co-operative society indebted to it, the bank may proceed to recover such money firstly from the assets of the co-operative society and secondly from the members of the co-operative society to the extent of their debts due to the society.

25. Audit, Inspection And Inquiry Reports Of Societies To Be Available To Banks :-

The Registrar of Co-operative Societies shall draw the attention of the bank advancing co-operative to the defects noticed in every audit or inquiry or inspection of such society conducted as per provisions of the Tripura Cooperative Societies Act, 1974, and shall also supply a copy each of such audit, inquiry or inspection report if demanded, in writing, by the bank.

26. Exemption From Legislations Relating To Money Lending And Agriculturists Debt Relief :-

Nothing in any law for the time being in force dealing with money lending or agriculturists debt relief shall apply to financial assistance availed of by an agriculturist from a bank.

27. Mortgage Executed By Managers Of Joint Hindu Families :-

(1) Notwithstanding anything contained in any law for the time being in force, mortgages executed after the commencement of this Act by the manager of a Joint Hindu family in favour of a bank for securing financial assistance for agricultural purpose shall be binding on every member of such Joint Hindu family.

(2) Where a mortgage executed in favour of a bank is called in question on the ground that it was executed by the manager of a Joint Hindu family for a purpose not binding on the members (whether such members have attained majority or not) thereof, the

burden of proving the same shall lie on the party alleging it.

28. Section 28 :-

29. Power To Make Rules :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made by the State Government under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid the Legislative Assembly agree in making any modification in the rule or the 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.

30. Repeal And Savings Ordinance No. 3 Of 1976 :-

(1) The Tripura Agricultural Credit Operations Ordinance, 1976 is hereby repeated.

(2) Notwithstanding such repeal, anything done, any action taken, all notifications published, powers conferred, forms prescribed, orders, rules and appointments made the said Ordinance, shall be deemed, respectively to have been done, taken, published, conferred, prescribed or made under the corresponding provisions of this Act.

SCHEDULE 1

SCHEDULE I

Declaration under section 6(1)

I, (aged
..... years) residing at
.....being desirous of availing
myself of financial assistance from the Bank make this
declaration as required by the section 6(1) of the Tripura Agricultural Credit
Operations Act, 1976, that I, own/have
interests as a uner-raiyat in the land specified below, and I hereby create a charge
on the said land/interest in land in favour of the bank for securing the financial
assistance which the bank may make and for all future assistance, if any, which the
bank make to me together with interest and costs and expenses thereon.

Name of village Area . Name of. Sub-Division. Name of District.

Khatian No Boundaries Area

Plot No. Plot share South East North West Hect. Area area

Land Revenue , and cess Approximate value Encumbrances, if any Remarks f any
Rs. paise Nature Amount

I n witness whereof, I, Shrihereunder set my hand
this.....day of in the year one
thousand nine hundred

and

Witnesses

Signed and delivered by the above named in the presence of :--

(1)

(2)

Signature of declarant

Attested by

Forwarded with compliments to the Village Officer with a request to include the
particulars of the charges created under the declaration in the Record-
of-rights and to return to the bank for its record.

Manager/Agent.

.....Bank

Returned with compliments to the Manager/Agent Bank. The
charge created under the declaration is duly included in the Record of Rights on the
..... day of 19

Village Officer.

Forwarded with compliments to the Sub-Registrar with a request to record the
particulars of the charge created under the declaration in his
office.

Manager/Agent.

..... Bank....

Place.....

Returned with compliments to the Manager/Agent.....Bank. The
charge under the declaration is duly recorded.

Sub-Registrar.