

## **Uttar Pradesh Debt Redemption Act, 1940**

**13 of 1940**

**[21 December 1940]**

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**SCHEDULE 1 :- THE FIRST SCHEDULE**

**SCHEDULE 2 :- THE SECOND SCHEDULE**

**Uttar Pradesh Debt Redemption Act, 1940**

**13 of 1940**

**[21 December 1940]**

An Act to provide for further relief from indebtedness to agriculturists and workmen Whereas it is expedient to provide for further relief from indebtedness to agriculturists and workmen in the United Provinces; And whereas by the Proclamation, dated the third day of November, 1939, promulgated under section 93 of the Government of India Act, 1935, the Governor of the United Provinces has assumed to himself all powers vested by or under the aforesaid Act in the Provincial Legislature; 1. This Act was made by the Governor in exercise of the powers assumed by him by the Proclamation, dated Nove. 3, 1939, issued under section 93 of the G. of I. Act, 1935. It was re-enacted and continued by section 2 and Sch. of U.P. Act XIII of 1948 [Received the assent of the Governor General on December 21, 1940, and was published in the United Provinces Government Gazette, on December 28, 1940]. 2. See Gaz, Extra, dated Nove. 3, 1939.

**CHAPTER 1 PRELIMINARY**

**1. Short Title, Extent And Commencement :-**

(1) This Act may be called the Debt Redemption Act, 1940.

(2) It extends to the whole of [Uttar Pradesh]<sup>1</sup> except the Jaunsar Bawar pargana of the Dehra Dun district and the portion of the Mirzapur district South of the Kaimur Range.

(3) It shall come into force on such date as the Governor may, by notification in the official Gazette, appoint.

1. Substituted by A.O. 1950 for "(the United Provinces)".

**2. Interpretation :-**

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

(1) subject to the provisions of the following sub-sections, all works and expressions which are defined or explained in the United Provinces Land Revenue Act, 1901, or the United Provinces Tenancy Act, 1939, shall have the meanings assigned to them therein;

(2) "agricultural produce" means the agricultural produce of an agriculturist raised by him or by his servants or by labour hired by him and includes crops, whether standing or gathered, and the fruit and flowers or trees and plants;

(3) "agriculturist" means a proprietor of a mahal or of a share in or portion of a mahal or a tenant:

Provided that no such proprietor or tenant shall be deemed to be an agriculturist if--

(a) the aggregate of the rent, if any, and of ten times the local rate, if any, payable by him exceeds one thousand rupees, or

(b) he is assessed to income-tax under the Indian Income Tax Act, 1922 or under the income-tax law of an Indian State:

Provided further that no person shall be deemed to be a proprietor or tenant merely by reason of his having acquired proprietary or tenancy rights, otherwise than by inheritance or survivorship, after the first day of June, 1940.

Explanation I.--Where a proprietor or a tenant has a subsisting interest in land, but by reason of a temporary transfer does not for the time being pay the rent or local rate payable in respect of that land, such rent or local rate shall, for the purposes of this sub-section, be deemed to be payable by him.

Explanation II.--If on account of a fall in the price of agricultural produce a temporary remission has been made in the land revenue payable by a proprietor or in the rent payable by a tenant, the local rate payable by such proprietor shall, for the purposes of this sub-section be deemed to have been reduced in the same proportion as the land revenue and the rent payable by such tenant shall be deemed to be the rent as reduced by such temporary remission in rent.

(4) "bank" means a company which carries on the business of banking and was before the first day of June, 1940, registered under any of the enactments relating to companies for the time being in force [in India or]<sup>1</sup> in the United Kingdom or in any of the colonies or dependencies thereof [\* \* \*]<sup>2</sup> or incorporated by an Act of Parliament [of the United Kingdom]<sup>3</sup> or by Royal Charter or Letters Patent or by [Central Act]<sup>4</sup>;

(5) "co-operative society" means a society registered or deemed to be registered under the provisions of the Co-operative Societies

Act, 1912;

(6) "decree to which this Act applies" means a decree passed either before or after the commencement of this Act in a suit to which this Act applies ;

(7) "interest" means the return to be made over and above what was actually advanced, whether the same is charged or sought to be recovered specially by way of interest, or usufruct or service to be rendered or otherwise ;

(8) "land" means land in a mahal in [Uttar Pradesh]<sup>5</sup> but docs not include land occupied by buildings or appurtenant thereto or land within the limit of any municipality, cantonment or notified area;

(9) "loan" means an advance in cash or kind made before the first day of June, 1940; recoverable from an agriculturist or a workman or from any such person and other persons jointly or from the property of an agriculturist or workman and includes any transaction which in substance amounts to such advance, but docs not includes an advance to the liability for the repayment of which has by a contract with the borrower or his heir or successor by sale in execution of a decree been transferred to another person or an advance by the Central or [State Government]<sup>6</sup> or by a local authority authorized by the [State Government]<sup>6</sup> to make advances or by a co-operative society or by a scheduled bank:

Provided that an advance recoverable from an agriculturist or from an agriculturist and other persons jointly shall not be deemed to be a loan for the purpose of this Act unless such advance was made to an agriculturist or to an agriculturist and other persons jointly.

7[(10) "local rate" means the rate, which under the United Provinces Local Rates Act, 1914, is payable by or recoverable from an agriculturist possessing heritable and transferable rights];

(11) "prescribed" means prescribed by this Act or by rules made thereunder;

(12) "principal" means the amount originally advanced;

(13) "proprietor" includes a superior proprietor and an inferior proprietor but does not include a mortgagee or in Agra a superior proprietor to whom the provisions of section 77 of the United Provinces Land Revenue Act, 1901, apply;

(14) "rent" does not include sayar;

(15) "scheduled bank" means any bank included at the commencement of this Act in the Second Schedule to the Reserve Bank of India Act, 1934 ;

(16) "secured loan" means a loan the repayment of which has been secured by a mortgage of or charge on specific property, or by a

pledge;

(17) "suit to which this Act applies" means any suit or proceeding relating to a loan, but does not include proceedings under the provisions of the United Provinces Encumbered Estates Act, 1934 ;

(18) "tenant" includes a person entered in the register maintained under the provisions of clause (b) or clause (c) of section 32 of the United Provinces Land Revenue Act, 1901, a rent-free grantee, a grantee at a favourable rate of rent and a subtenant but does not include grove-holder or a thekadar;

(19) "unsecured loan" means a loan which is not a secured loan;

(20) "workman" means a person who is not a proprietor or a tenant and--

(a) who earned wages within the meaning of sub-section (vi) of section 2 of the Payment of Wages Act, 1936, within the twelve months preceding the first day of June, 1940, which did not exceed Rs. 600 in the said twelve months and did not exceed Rs. 60 in any such month, or

( b ) who does not ordinarily reside within a municipality, cantonment or notified area and who belongs to one of the classes specified in the first Schedule.

1. Inserted by the A.O. 1950.

2. The words in British India or in any "Indian State" omitted by ibid.

3. Inserted by ibid.

4. Substituted by ibid for the "Central Legislature".

5. Substituted by the A.O. 1950 for "the United Provinces".

6. Substituted by the A.O. 1950 for "Provl. Govt."

7. Substituted by Section 2 of U.P. Act VI of 1942, made by the Governor in exercise of the powers assumed by him under Section 93 of the G. of I Act, 1953, for the following;

" local rate means the rate payable by, recoverable from, a proprietor under the provisions of the U.P. Local Rates Act, 1914. It was re-enacted and contained by Section 2 and Sch. of U.P. Act XIII of 1948."

### **3. Explanation :-**

For the purposes of tins Act--

(a) in any proceeding relating to an advance, pending when this Act comes into force or instituted thereafter, the status of the debtor who is a party to such proceedings shall be deemed to be the status which he had, at the commencement of the Act, or on

the date of the institution of the proceedings, as the case may be;

(b) rent which has been remitted or suspended either in whole or in part, on account of a failure of the crop shall be deemed to be payable in the year in which it was so remitted or suspended;

(c) local rate in respect of which a notification of exemption has been issued under the provisions of section 15 of the United Provinces Local Rates Act, 1914, shall be deemed to be payable;

(d) a joint proprietor or a joint tenant shall be deemed to be the proprietor or tenant of so much of the joint property or joint tenancy, not being the property or tenancy, as the case may be, of a joint Hindu family, as appertains to his share;

(e) where the aggregate of the rent and ten times the local rate, if any, payable by a joint Hindu family--

(i) does not exceed one thousand rupees, such family and every member of it shall be deemed to be an agriculturist;

(ii) exceeds one thousand rupees, a member of such family shall be deemed to be an agriculturist only if the aggregate of the rent and ten times the local rate payable in respect of his share and the shares of his male lineal ascendants and descendants in the joint family property, does not exceed one thousand rupees:

Provided that no joint Hindu family or any member of it shall be deemed to be an agriculturist if such family or member is assessed to income-tax, or in the case of a member of such family is the aggregate of the rent and ten times the local rate payable in respect of such members shares and the shares of his male lineal ascendants and descendants in the joint family property and in respect of his self-acquired property, if any, exceeds one thousand rupees;

(f) a loan shall not be deemed to be due jointly from an agriculturist or workman and another person if such other persons liability in connection with such loan is that of a surety and such person and such agriculturist or workman shall not be deemed to be joint debtors.

#### **4. Cases In Which Provisions Of The Act Shall Not Apply :-**

(1) The provisions of this Act shall not apply to a suit for the recovery of a loan from an agriculturist where the creditor declares in accordance with the provisions of sub-section

(2) that if a decree is passed in his favour either for the whole or part of the claim such decree shall not be executed against the land, agricultural produce or person of such agriculturist.(2) The

declaration mentioned in sub-section (1) shall in the case of a suit pending at the commencement of this Act, be made at any time before the decision of the suit and in the case of a suit instituted after the commencement of this Act, in the plaint.

(3) No decree recoverable from an agriculturist shall be amended under the provisions of this Act if the creditor declares that such decree shall not be executed against the land, agricultural produce or person of such agriculturist:

Provided that no such declaration shall be made in a suit or proceeding relating to a loan recoverable from an agriculturist who also belongs to one of the classes specified in clause (a) or clause (b) of sub-section (20) of section 2:

Provided further that where in a suit decided after the commencement of this Act the creditor has an opportunity of making the declaration required by sub-section (3) no declaration shall, in proceedings for the execution of a decree obtained by the creditor in such suit be made by the decree-holder under sub-section (3):

Provided also that no declaration shall be made under sub-section (3) where the creditor has already applied for execution against the land, agricultural produce or person of such agriculturist.

(4) Where a declaration has been made under the provisions of this section no order shall be made for the execution of the decree against the land, agricultural produce or person of agriculturist in respect of whom the declaration made or his heir or successor, and the court shall record a direction to this effect in the decree.

## **CHAPTER 2 SUITS AND DECREE ON LOANS**

### **5. Separate Trials :-**

Where causes of action in respect of a loan and in respect to an advance in cash or kind made on or after the first day of June, 1940, have been joined in one suit, the court shall order separate trials in respect of the claim based on such loan and in respect of that based on such advance.

### **6. Forum Of Suits :-**

Notwithstanding anything contained in any other enactment for the time being in force, every suit to which this Act applies shall be instituted in a court within the local limits of the jurisdiction of which --

- (a) the defendant or, if there are more than one, any of the defendants ordinarily resides; or
- (b) in case the defendant or, if there are more than one, all the defendants, reside without the limits of [Uttar Pradesh]<sup>1</sup>;
- (i) the holding of the land of the defendant or, if there are more than one, of any of the defendants situate; or
- (ii) the defendant or, if there are more than one, any of the defendants carries on the trade or profession by virtue of which he is a workman.

1. Substituted by the A.O. 1950 for the "United Provinces".

## **7. Debtors Right To Sue :-**

Notwithstanding the terms of any contract regarding the date or dates on which a loan shall become due, a suit to which this Act applies for the redemption of a mortgage or for accounts may be instituted by a debtor at any time after the commencement of this Act.

## **8. Amendment Of Decrees :-**

(1) Notwithstanding the provisions of any decree or of any law for the time being in force, an agriculturist or a workman liable to pay the amount due under a decree to which this Act applies passed before the commencement of this Act, may apply to the civil court which passes the decree or to which the execution of the decree has been transferred, for the amendment of the decree by reduction according to the provisions of this Act of the amount due under it, and on receipt of such application the court shall, after notice to the opposite party, calculate the amount due from the applicant in accordance with the provisions of sections 9 and 10 and shall amend the decree accordingly:

Provided that if the decree was passed by a court outside Uttar Pradesh, it shall not be executed against the land or agricultural produce or person of the judgment-debtor unless the decree-holder agrees to an amendment of the decree in accordance with the provisions of this Act.

(2) A decree amended under the provision of sub-section (1) shall be deemed to bear the date of the original decree.

(3) In amending a decree under the provisions of this section the court shall accept the findings on which the decree was based except in so far as they are inconsistent with the provisions of section 9.



## **9. Accounting And Determination Of The Amount Due :-**

(1) In a suit to which this Act applies or in amending a decree under the provisions of section 8, the court shall, notwithstanding anything to the contrary in any law, decree or contract or in any agreement purporting to close past transactions, determine the principal and take into account all sums paid by or on behalf of the debtor and in the case of a mortgage with possession, the net profits realized by the mortgagee or which with the exercise of ordinary diligence might have been realized by him, and shall determine the amount, if any due by the debtor in accordance with the provisions of the following sub-sections:

Provided that for the purpose of determining the principal, the court shall treat as principal any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract in the course of the transaction before the first day of January, 1917, but shall treat as interest any accumulated interest which has been converted as aforesaid any such statement, settlement or contract made on or after that date.

(2) The amount due by the debtor shall not exceed the amount that would have been due if the rate of interest had been, in the case of a secured loan, four and a half per cent per annum simple interest, and in the case of an unsecured loan six per cent per annum simple interest.

(3) The amount due by the debtor as interest shall not exceed the amount of the principal outstanding on the date on which the amount due by the debtor is determined.

(4) Nothing in this section shall entitle the debtor to a refund of any sum already paid by him.

## **10. Rate Of Interest On Decrees :-**

(1) Notwithstanding anything contained in section 34 of the Code of Civil Procedure, 1908, the Court shall not order future interest on the aggregate sum adjudged in a decree to which this Act applies or in a decree amended under the provisions of this Act, at a rate exceeding three per cent per annum simple interest.

(2) If in a decree to be amended under the provisions of this Act a higher rate of future interest has been allowed by the court passing the decree such rate shall, with effect from the date of the decree, be reduced to a rate permitted by the provisions of sub-section (1) and the decree shall be amended accordingly.

(3) When a decree is executed by the grant of a mortgage under the second proviso to sub-section (1) of section 17, then notwithstanding a different rate in the decree, the rate of interest shall from the date when such mortgage is granted, be deemed to be three per cent, per annum.

### **11. Apportionment Of Loans :-**

In any proceedings relating to a loan due jointly from several persons any of whom is an agriculturist or a workman the court shall apportion the loan between the joint debtors and the provisions of this Act shall apply only to that part of the loan which is apportioned to the joint debtor who is an agriculturist or a workman.

### **12. Suits Against Sureties :-**

Nothing in this Act shall prevent the institution of a suit for the recovery of a loan against a surety jointly with the debtor or separately, as the case may be, but no decree shall be passed in such suit against a surety for an amount in excess of that for which a decree would have been passed against the agriculturist or workman from whom the loan is recoverable.

## **CHAPTER 3 EXECUTION OF DECREES**

### **13. Exemption And Extensions :-**

(1) The provisions of this chapter shall not apply to the execution of a decree based on a loan advanced by a bank.

(2) The provisions of sections 16 and 17 shall not apply to the hill pattis of the Kumaun Division.

(3) In areas to which the Bundelkhand Alienation of Land Act, 1903, extends the provisions of section 16 to (19)<sup>1</sup> shall not apply to the land of a member of a tribe which by virtue of notification issued under section 4 of that Act is deemed to be an agricultural tribe for the purpose of that Act:

2[Provided that in such areas a member of such tribe who has made an application under Section 4 of the United Provinces Encumbered Estates Act, 1934, shall, notwithstanding the provisions of section 39 of that Act, be entitled to the benefit of section 19 as if this sub-section did not bar the application of the provisions of section 17 to this land].

(4) For the purposes of sections 16 to 19 the expressions

"agriculturist," "loan" and "decree to which this Act applies" shall be interpreted as if the first proviso to sub-section (3) of section 2 were omitted.

1. Substituted for 19 by section 2 (a) of U.P. Act VI of 1941.
2. Inserted by section 2 (b) *ibid*.

#### **14. Attachment Of Agricultural Produce Restricted :-**

Notwithstanding anything in the Code of Civil Procedure, 1908, not more than one-third of the agricultural produce of a judgment-debtor shall be liable to attachment in execution of any decree to which this Act applies.

#### **15. Limitation For Execution Of Decree Against Agricultural Produce :-**

(1) Notwithstanding anything in the Code of Civil Procedure, 1908, no order shall be made for the execution of a decree to which this Act applies against the agricultural produce of a judgment-debtor after the expiration of six years, in the case of such decrees passed before the commencement of this Act, from the date of such commencement, and in the case such decrees passed after the commencement of this Act, from the date of the decree, or where the decree directs any payment of money to be made at a certain date or at recurring intervals, from the date of default in making the payment in respect of which the decree-holder seeks to execute the decree:

Provided that nothing in this sub-section shall be deemed to authorize the execution of a decree to which this Act applies against the agricultural produce of a judgment-debtor if such execution would have been barred by the provisions of section 6 of the United Provinces Agriculturists Relief Act, 1934, had the said section been in force at the date of such execution.

(2) Nothing in this section shall be deemed to extend the period of limitation for an application for the execution of a decree.

#### **16. Execution Of Decree Against Land :-**

(1) Notwithstanding anything in the Code of Civil Procedure (Act V of 1908), when the land of an agriculturist is sought to be sold in execution of a decree to which this Act applies the court executing the decree shall proceed in accordance with the provisions of the following sub-sections:

Provided that if any time before such land is transferred in accordance with the provisions of this section, such agriculturists applies in writing to the court executing the decree stating that he desires to have the land put to sale, the court shall sell it in accordance with the provisions of the Code of Civil Procedure, 1908.

(2) Where such decree is based on a loan made before the first day of January, 1931 or where it is based on series of transactions any of which took place before that date, the court shall, in accordance with rules made by the 1[State Government] determine the annual value of such land in the agricultural year 1337 Fasli and in the agricultural year in which the decree is sought to be executed by sale and shall calculate the value of such land multiplying whichever of these annual value is the greater by the prescribed multiple.

(3) In the case of any other decree to which this Act applies the court shall in accordance with rules made by the 1[State Government] determine the annual value of such land in the year in which the decree is sought to be executed by sale and shall calculate the value of such land by multiplying the annual value by the prescribed multiple.

(4) If the value so determined is less than or equal to the amount of such decree together with the proportionate amount of any prior encumbrance, the court shall transfer such land to the decree holder.

(5) If the value so determined is greater than the amount or such decree together with proportionate amount of any prior encumbrance, the court shall determine the portion of such land the value of which determined in accordance with the provisions of sub-section (2), or sub-section (3) is equal to the amount of the decree together with the proportionate amount of such prior encumbrance and shall transfer such portion to the decree-holder.

(6) When land is transferred under the provisions of this section the decree shall be deemed to be satisfied up to the value of such land as determined under the provisions of this section and all the rights of the agriculturist in such land shall be deemed to have been sold to the decree-holder.

1. Substituted by the AO 1950 for "Provincial Government".

## **17. Protection Of Certain Land From Sale Or Transfer :-**

(1) Notwithstanding anything contained in section 16 or in any other law for the time being in force--

(a) the land of an agriculturist, the local rate payable by whom or recoverable from whom does not exceed twenty-five rupees per annum, shall not be sold or otherwise transferred in execution of a decree to which this Act applies, nor shall a final decree for foreclosure be passed in respect of such land, and

(b) in the case of any other agriculturist--

(i) only so much of his land may be sold or otherwise transferred in execution of a decree to which this Act applies, or

(ii) a final decree for foreclosure may be passed in respect of only so much of his land, as would, after such sale or transfer or foreclosure leave with him land the local rate payable in respect of which would be at least rupees twenty-five per annum :

Provided that in the permanently settled areas of the Benaras Division and the Azamgarh District the local rate on the agriculturists land shall, for the purpose of this section, be deemed to be twice the local rate actually payable on it:

1[Provided further that in Oudh the local rate recoverable from an under-proprietor shall, for the purposes of this section, be deemed to be the local rate payable by the superior proprietor in respect of the land held by the under-proprietor as such]:

Provided [also]<sup>2</sup> that the court may execute a decree to which this Act applies by granting to the decree holder a self-liquidating usufructuary mortgage, for a period of not more than twenty years, of such land as is protected from sale, transfer or foreclosure by the provisions of this section :

Provided also that when a mortgage has been granted under the provisions of this section the same land shall not be mortgaged in execution of any other decree to which this Act applies against the same debtor or his heir or successor if the term of the mortgage together with the terms or term of previous mortgage or mortgages exceed twenty years.

(2) The form, terms and conditions of a mortgage granted under the second proviso to sub-section (1) and the amount to be paid by the debtor at any time for the redemption of such mortgage shall be such as may be prescribed.

1. Inserted by section 3 of U.P. Act VI of 1942 made by the Governor in exercise of the powers assumed by him under section 93 of the Government of India Act, 1935. It was re-enacted and continued by U.P. Act XIII of 1948.

2. Substituted for "further" by U.P. Act No. VI of 1942, Under Rule 2 (b) of the rules made under the U.P. Debt Redemption Act protected land has been defined as land which, by the provisions of

section 17 of the Act is protected from permanent alienation in execution of a decree.

### **18. Produce Where Several Decrees Are Executed Simultaneously :-**

Where several persons holding decrees to which this Act applies move the court, before it has granted a mortgage-under section 17, for execution of their decrees by grant of a mortgage of land protected under that section, the court shall, subject to the provisions of that section, observe the following principles in executing the decrees:

(a) If any such decree is based on a loan the payment of which is already secured by a mortgage of the whole or part of the land so protected (hereinafter described as a secured decree) the holder of such decree shall first be granted a mortgage of the protected land already mortgaged to him, and the holder of a decree based on an unsecured loan (hereinafter described as an unsecured decree) shall be granted a mortgage of the remaining protected land, if any.

(b) Where there are more than one secured decrees and also unsecured decrees--

(i) and different portions of the protected land are mortgaged in the secured decrees, the holder of each decree shall be granted a mortgage of the portion which is already mortgaged to him ;

(ii) and the same protected land is mortgaged in more than one decree, mortgages shall be granted to the holders of such decrees in order of their priority;

(iii) and if after grant of mortgages under sub-clauses (i) and (ii) there remains any protected land free from such mortgages the holders of the unsecured decrees shall be granted mortgages thereof.

(c) As among persons holding unsecured decrees, such persons shall each be granted simultaneously mortgages of rateable shares of the land in such manner as may be prescribed.

### **19. Application To U. P. Encumbered Estates Act, 1934 :-**

The land of an agriculturist which by the provisions of clauses (a) and (b) of sub-section (1) of section 17, would be protected from sale in execution of a decree to which this Act applies shall in proceedings under the United Provinces Encumbered Estates Act, 1934, be deemed to be protected land as defined in that Act.

**20. Court To Grant Certificates Of Transfer Or Mortgage In Case Of Transfer Or Mortgage, As The Case May Be, Of Debtors Property In Execution Of Decree :-**

(1) When land is transferred in accordance with the provisions of sections 16 such transfer shall for the purposes of section 89 of the Indian Registration Act, 1908, be deemed to be sale of immovable property. The court shall, grant a certificate of transfer for which the decree-holder shall pay stamp duty according to the valuation of the land so transferred.

(2) When a decree is executed by the grant of a mortgage under the provisions of the second proviso to sub-section (1) of section 17, the court shall grant a certificate of mortgage with such particulars as may be prescribed and shall follow the procedure laid down in sub-section (2) of section 89 of the Indian Registration Act, 1908, as if such certificate was a certificate of sale of immovable property and the registering officer shall file the copy of the certificate in his Book No.1. Such certificate of mortgage shall be exempt from stamp duty.

**21. Decree On The Basis Of A First Mortgage To Be Satisfied By The Sale Of Mortgaged Property :-**

Notwithstanding anything contained in rule 6 or rule 8-A of Order XXXIV of the first Schedule of the Code of Civil Procedure, 1908, where in a suit based on a loan secured by a first mortgage a decree for sale has been executed and the net proceeds of the sale of mortgaged property are found insufficient to pay the amount due to the plaintiff or to the defendant, as the case may be, no decree shall be passed for the balance due to such plaintiff or defendant, as the case may be, and if any decree for such balance has been passed before the commencement of this Act, it shall be deemed to have been satisfied.

**22. Trees Protected From Sale :-**

No decree to which this Act applies shall be executed by the transfer of trees belonging to an agriculturist unless the land on which such trees stand is also transferred :

Provided that nothing in this section shall be deemed to prohibit the execution of a decree by the sale of the interest of a grove-holder.

### **23. Decree To Be Executed By Arrest And Detention Of Judgment-Debtor :-**

No decree to which this Act applies shall be executed by the arrest and detention of the Judgment-debtor unless the court is satisfied that such debtor has alienated or removed or concealed any of his property with the intention to defeat or delay the execution of such decree.

### **CHAPTER 4 MISCELLANEOUS**

### **24. Application Of The Code Of Civil Procedure, 1908 :-**

The provisions of the Code of Civil Procedure, 1908, save in so far as they are inconsistent with the provisions of this Act, shall apply to all proceedings under this Act.

### **25. Jurisdiction Of Panchayat Barred :-**

(1) Notwithstanding anything in the United Provinces Village Panchayat Act, 1920, no suit to which this Act applies shall be instituted before a panchayat established under the provisions of that Act and if at the commencement of this Act any such suit is pending before a panchayat so established, it shall forthwith be transferred to the court which, but for such panchayat, would have jurisdiction.

(2) The provisions of section 8 shall apply to decrees passed by a panchayat so established as if for the words "Civil Court which passed the decree or to which the execution of the decree has been transferred", in that section, the words "Court of the Tahsildar" were substituted.

### **26. Power To Make Rules :-**

The 1[State Government] may make rules consistent with this Act for carrying out the purposes of this Act.

1. Substituted by the AO 1950 for "Provincial Government".

### **27. Repeals And Amendments :-**

(1) The enactments mentioned in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

(2) In section 33 of the United Provinces Agriculturists Relief Act, 1934--



- (a) in sub-section (2) for the words "follow the provisions of Chapter IV of this Act and the provisions of the Usurious Loans Act. 1918," the words "allow only such interest as may be permissible under the law applicable to the agriculturist debtor" shall be substituted; and
- (b) sub-section (4) shall be omitted.

### **SCHEDULE 1**

#### THE FIRST SCHEDULE

[See sub-section (20) of section 2]

Agricultural labourers bangle-makers, barbers, basket-makers, blacksmiths, boatmen, carders, carpenters, copper-smiths, cow-herds, dairy-men fishers, general labourers, goatherds, hunters, leather-workers, masons, midwives, potters, scavengers, stone-cutters, tailors, tanners, washer-men, watchment, water-carriers, weavers or other servants of the village community; or any similar class of persons which the 1[State Government] may, by notification in the official Gazette, from time to time include in this Schedule.

1. Substituted by A.O. 1950.

### **SCHEDULE 2**

#### THE SECOND SCHEDULE

(See section 27)

Year	No.	Short title	Extent of repeal
1934	XXVII	The United Provinces Agriculturists Relief Act, 1934.	(a) Sections 3 to 8, 28 to 31, 37, 38, 40 to 42 and Schedule I to Schedule V, except in their application to advances made before the first day of June, 1940, not being loans as defined in this Act.
			(b) Sections 9 to 27, except in their application to mortgages made before the commencement of this Act.
1937	X	The United Provinces Temporary postponement of execution of Decrees Act, 1937.	The whole.