

Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974

RAJASTHAN

India

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Act 22 of 1974

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Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974 Rajasthan Act 22 of 1974, No. F.2(34) vidhi/74, dated 21.9.1974 (Published in Rajasthan Gazette Ex.-ord. Part IV(A), dated 21.9.1974, pages 135 to 161). Received the assent of the Governor on the 21.9.1974.

021.

An Act to make provisions to facilitate adequate flow of credit for agricultural production and development through banks and other institutional credit agencies and for matters connected therewith and/or incidental thereto. Be it enacted by the Rajasthan State legislature in the Twenty fifth year of the Republic of India, as follows:

Object and Reasons

Chapter I

Preliminary

1. Short title and extent.

(1) This Act may be called the Rajasthan Agricultural Credit Operation (Removal of Difficulties) Act, 1974. (2) It shall extend to the whole state of Rajasthan.

2. Definitions.

In this Act unless the context 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, soil conservation and land development measures, raising and harvesting of crops, horticulture, forestry, planting and farming and cattle breeding, 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 [landless labourers, rural artisans] [Inserted by Rajasthan Act No. 9 of 1985 (w.e.f. 8.5.1985)] and other categories of persons engaged in similar activities including marketing of agricultural product, 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)"Agra Industries Corporation" means the Rajasthan State Agra Industries Corporation;(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)The Agricultural Refinance Corporation constituted under the Agricultural Refinance Corporation Act, 1963;(vi)The Agro Industries Corporation as defined in subsection (c);(vii)Agricultural Finance Corporation Limited; a company incorporated under the Indian Companies Act, 1956; and(viii)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 [Rajasthan Co-operative Societies Act, 1965] [Rajasthan co-operative societies Act, 1965 Repealed by Rajasthan Co-operative Societies Act, 2001 (Now see the New Act, 2001] The object of which is to provide financial assistance as defined in clause (f) on this section to its members and includes a cooperative land development bank;(f)"Financial Assistance" For the purpose of this Act means assistance granted by way of loans, advances guarantee or other wise for agricultural purpose; and(g)words and expression defined in the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955) shall, wherever used herein be construed to have the meanings assigned to them by this Act.

Chapter II

Milts of Agriculturists to Alienate Land/interest In Land in Favour of Banks.

3. Removal of restrictions on alienation.

Notwithstanding anything contained in any law for the time being in force 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 for the purpose of obtaining financial assistance from that bank.

4. State Government may by notification, vest agriculturists not having alienable rights.

Notwithstanding anything contained in any law for the time being in force, the State Government

may, by notification in the Official Gazette, vest tenants of khudkasht, sub-tenants, holders of fragment, bhoodan holders and grantees of agricultural land under the Rajasthan Government Grants Act, 1961 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 for the purpose of obtaining financial assistance from that bank without any restrictions or subject to such restrictions as may be specified in the notification.

Chapter III

Charges and Mortgages in Favour of Banks and their Priorities

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 interest 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 any thing to the contrary in the [Rajasthan Co-operative societies Act, 1965] [Rajasthan Co-operative Societies Act, 1965 Reapealed by Rajasthan Co-operative Societies Act, 2001(Now see the New Act, 2011).] 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 movables charged to that bank to the extent of the agriculturists interest therein and appropriate the 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.

(1) 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 by 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.

7. Removal of disabilities in creation of charges and mortgages.

Notwithstanding anything to the contrary contained in the [Rajasthan Co-operative Societies, Act, 1965] [Rajasthan Co-Operative Societies, Act 1965 Repealed by Rajasthan co-operative Societies Act, 2001 (Now see the new Act 2001).] or any other law for the time being in force and notwithstanding that any land or interest therein stands already charged or mortgaged to a Cooperative Society, it shall be lawful for an agriculturist to create a 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 charges and mortgages in favour of government, a bank and a Co-operative Society.

(1) Notwithstanding anything to the contrary in any law for time being in force. (a) No Charge or mortgage created on any land or interest therein after the commencement of this Act, in favour of Government or a Co-operative Society shall have priority over a charge or mortgage on such land or interest created by an agriculturist in favour of a bank as security for financial assistance given to the agriculturist by the bank after the commencement of this Act, and prior to the charge or mortgage in favour of Government or the Co-operative Society; and (b) any charge or mortgage created on any land or interest therein in favour of a bank in respect of financial assistance given to an agriculturist by that bank shall have priority over any other charge or mortgage that may have been created over such land or interest in favour of any person other than Government, a Co-operative Society or any other bank, prior to the date on which the charge or mortgage was created in favour of the bank. (2) Where different charges or mortgages over the same land or interest therein have been created by an agriculturist in favour of Government, a Co-operative Society or a bank or more than one bank, any such charge or mortgage created as security for financial assistance given by Government, Co-operative Society or the bank or banks by way of term loan for development purposes shall have priority over the other charges or mortgages created in favour of government, Co-operative Society or any of the banks provided prior notice or any such financial assistance by way of term loan for development purpose had been given to such Government, Co-operative Society or bank and such Government, Co-operative Society or bank has concurred in such financial assistance, and where more than one such charge or mortgage is as security for financial assistance given by way of term loan, the charges or mortgages by way of security, for term loan for development purposes will rank for priority in accordance with the dates of their creation. Explanation. For the purposes of this section, "Term loan for development purpose" shall mean financial assistance which would generally lead to improvement of agriculture and/or building up of assets in agriculture but shall not include financial assistance for meeting working capital expenses/seasonal agricultural operation and marketing of crops. (3) Nothing in this section shall apply to borrowings only from one or more Co-operative Societies including land mortgage Banks.

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 sub-section (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 that 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 banks sends to the Sub-Registrar within the local limits of whose jurisdiction the whole or any part or the property charged or mortgaged the situate, within the time stipulated by the State Government for this purpose, by registered post acknowledgement due, a copy 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 his 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 on mortgage in its favour. The Tehsildar or the other revenue official shall make a note of the particulars of the charge or mortgage in the record of Rights relating to the land over which the charge or mortgage has been created.

11. Restriction 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 a charge or mortgage on any 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)Ane lease granted or tenancy rights created in contravention of this section shall be void.

Chapter IV

Recovery of Dues of Banks

12. Removal of bar to attachment and sale by process of court.

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

13. Recovery of dues of a bank through a prescribed authority.

(1) Notwithstanding anything contained in any law for the time being in force, 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 or any agriculturist or his heir or legal representative, directing the payment of any sum due to the bank on account of financial assistance availed of by the agriculturist, by the sale of any land or interest therein or any other immovable property, upon which the payment of such money is charged or mortgaged: Provided that no order shall be made by the prescribed authority under this sub-section for the sale of any interest therein or any other immovable property upon which the payment of money is charged or mortgaged as the case may be, unless the agriculturist or the heir or legal representative of the agriculturist, as the case may be, has been given an opportunity of being heard and has been served with a notice by the prescribed authority calling upon him to pay the amount due and default has been made in payment thereof for three months after the determination of liabilities by such authority. (2) Every order passed by the prescribed authority in terms of sub-section (1) shall be deemed to be a decree of a Civil Court and shall be executed by him in the same manner as a decree of such court. Explanation. For the purpose of exercising powers conferred by this sub-section the prescribed authority shall be deemed to be a Civil Court. (3) Nothing in this section shall debar a bank from seeking to enforce its rights in any other manner under any other law for the time being in force.

14. Right of 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 purchase for a price which is sufficient to pay to the bank the money 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 of it 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 sub-section (1) pending sale thereof as indicated in sub-section (2), the period of lease shall not exceed one year at a time and the leases 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 sub-section (2) shall be in favour of persons as may be prescribed by the State Government under section 30 of this Act and shall be subject to any provisions of any law in force which may place restriction on purchase of land by non agriculturists or selling for acquisition of land or by a person not belonging to a Scheduled Caste or Scheduled Tribe or fragmentation of land.

15. Exemption to Banks from restriction on acquisition of land in exercise 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 banks 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.

Chapter V

Financing of Co-Operative Societies by Banks

16.

[.....] [Delete by Act No. 9 of 1985 (w.e.f. 8.5.1985).]

17. bank eligible to become member of a Co-operative Society.

Notwithstanding anything contained in the [Rajasthan Co-operative Societies Act, 1965] [Rajasthan co-operative Societies Act, 1965 Repealed by Rajasthan Co-operative Societies Act, 2001 (Now see the New Act, 2001).] 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.

18. Power of Co-operative Societies to borrow from banks.

Notwithstanding anything contained in the [Rajasthan Co-operative Societies, Act, 1965] [Rajasthan co-operative Societies Act, 1965 Repealed by Rajasthan Co-operative Societies Act, 2001 (Now see the New Act, 2001).], it shall be lawful for any Co-operative Society to borrow from a bank.

19. Inspection of books of a Co-operative 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 of 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 undertaking 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 Cooperative 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.

20. 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 disputes regarding the disciplinary action taken by the society or its committee against a paid employee of the society, shall be referred by either of the parties to the dispute to the Registrar of Co-operative Societies whose decision shall be final.

21. 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 20 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 matter is referred under the foregoing sub-section for decision to the Registrar's nominee and 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 20, 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 questions 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 Registrar's order suspending proceedings, the Registrar shall take action as is provided in subsection (1).

22. 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.

23. Decision of Registrar or his nominee or Board of Nominees.

When the Dispute is referred for a 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, and the 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.

24. Recovery of money awarded.

Every award given by the Registrar or the Registrar's nominee or the board of nominees under section 23, 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.

25. Power 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 moneys due by them, the Bank may direct the committee of such society to proceed against such members by taking action under the [Rajasthan Cooperative Societies Act, 1965] [Rajasthan Co-operative Societies Act, 1965 Repealed by Rajasthan co-operative Societies Act, 2001 (Now see the new Act, 2001).]. (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 receipt of such direction from the bank, the bank itself may proceed against such defaulting members in which event, the provision of the [Rajasthan Co-operative Societies, Act, 1965] [Rajasthan Co-operative Societies Act, 1965 Repealed by Rajasthan co-operative Societies Act, 2001 (Now see the new Act, 2001).], the rules and the bye laws made there under 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 moneys 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.

26. Audit, inspection and enquiry reports of societies to be available to banks.

The Registrar of Co-operative Societies shall draw the attention of the Bank financing a Co-operative Society to the defects noticed in every audit or enquiry or inspection of such society conducted as per provisions of the [Rajasthan Cooperative Societies act, 1965] [Rajasthan Co-operative Societies Act, 1965 Repealed by Rajasthan co-operative Societies Act, 2001 (Now see the new Act, 2001).], and shall also supply a copy each of such audit, enquiry or inspection report if demanded, in writing by the bank.

Chapter VI

Miscellaneous

27. Exemption from legislation relating to money lending and agriculturists debt relief.

No laws for the time being in force dealing with money lending or agriculturists debt relief shall apply the financial assistance availed of by an agriculturist from a bank.

28. Mortgages excluded 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 an agricultural purpose shall be binding on every member of such joint Hindu family.(2)Where a mortgage executed in favour of 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 member (Whether such members have attained majority or not) thereof the burden of proving the same shall lie on the party alleging it.

29. Modified application of section 8 of Act 32 of 1956.

Section 8 of the Hindu minority and Guardianship Act, 1956 shall apply to mortgages in favour of a bank subject to the modification that reference to the court there in shall be construed as reference to the Collector or his nominee and the appeal against the order the Collector or his nominee shall lie to the Board of Revenue.

30. power of State Government to make rules.

The State Government may make Rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act and all such rules shall be published in the Official Gazette.

31. Repeal and Savings.

(1) The Rajasthan Agricultural Credit Operations (Removal of Difficulties) Ordinance, 1974 (Ordinance No. 13 of 1974) is hereby repealed.(2)Notwithstanding the repeal of the said Ordinance anything done or any action taken under it, shall be deemed to have been done or taken under this Act.

Schedule

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 section 6 (1) of the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974 that I..... own/have interest as a tenant in the land specified below, and I hereby create a charge on the said land/interest as a tenant 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 may make and for all future assistance, if any, which the bank may make to me together with interest and cost and expenses thereon.

Name of village	Name of Tehsil	Name of district	Khasra No.	Area	Share of Declarant	Boundaries South, North, West, East	Assessment	Approximate value	Encumbrances, if any	Rupees	Paisa	Nature	Amount

Acres/ Acres/
Bighas Bighas

In witness whereof, I Shri..... hereunder set my hand this..... day of..... in the year..... 200..... and.....Signature of declarant.WitnessSigned and delivered by the above named in the presence of :

1.

.....

2.

.....Attested byForwarded 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.....BankPlace.....Forwarded with compliments to the Tehsildar with a request to included the particulars of the charge..... created under the declaration in the record of Rights and to return to the Bank of its record,Sub-Registrar,..... TehsilPlace.....Returned with compliments to the manager/Agent..... Bank,..... place. The Charge created under the declaration is duly included in the Record of Rights on the day of..... 200.....Tehsildar.