

# Tamil Nadu Debt Relief Rules, 1978

TAMILNADU

India

## Tamil Nadu Debt Relief Rules, 1978

### Act 42 of 1978

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Tamil Nadu Debt Relief Rules, 1978Published vide Notification No. SRO A-42 of 1978 - G. O. Ms. No. 54, Co-operation, dated 28th January, 1978Published in Part III. Section 1(a) the Tamil Nadu Government Gazette, dated the 1st March 1978 at Pages 108-111.In exercise of the powers conferred by section 27 of the Tamil Nadu Debt Relief Act, 1972, (Tamil Nadu Act 38 of 1972), the Governor of Tamil Nadu hereby makes the following rules:-

#### 1. Short title.

- These rules may be called the Tamil Nadu Debt Relief Rules, 1978.

#### 2. Definitions.

- In these rules, unless the context otherwise requires,-(a)"Act" means the Tamil Nadu Debt Relief Act, 1972 (Tamil Nadu Act 38 of 1972);(b)"Court" means the Courts which would have jurisdiction to entertain suits for the recovery of the debts as unsealed;(c)"Form" means a Form appended to these rules.

#### 3. Application for declaration of amount of debt.

(1)Where any debt, other than a decree-debt, is due by any person claiming to be entitled to the benefits of the Act in respect of such debt, the debtor or the creditor, may apply to the Court for a declaration as to the amount of the debt due by the debtor to the creditor:Provided that no such application shall be presented or be maintainable if any suit for the recovery of the debt is pending.(2)The provisions of sub-rule (1) shall also apply to any person claiming that his debt has been discharged by virtue of the provisions of the Act.

#### **4. Mode of application under rule 3.**

- Every application under rule 3 shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (Central Act V of 1908) for signing and verifying plaints.(2)There shall be affixed to every such application, whether by the debtor or by the creditor, a Court-fee stamp to the value of seventy-five paise.

#### **5. Contents of the application.**

(1)Every application under rule 3 shall contain the following particulars, namely:-(a)the name and address of the appellant;(b)the name and address of the creditor in respect of whose debt the application is prescribed;(c)the particulars of the debt in respect of which the declaration is claimed, including all matters necessary to invoke the jurisdiction of the Court to have the debt scaled down; and(d)the amount for which the applicant prays that the debt may be reduced.

#### **6. Rejection of application.**

- An application shall be rejected if it does not comply with any of the requirements of rule 5. The rejection of an application under this rule shall not preclude the applicant from presenting a fresh application.

#### **7. Applicant to be heard.**

(1)On receipt of an application under rule 3, the Court shall, unless it rejects it under rule 6, pass an order fixing a date for hearing the application.(2)Notice of the order under sub-rule (1) shall be served on the creditor and the debtor.

#### **8. Orders on application.**

(1)On the date originally fixed under rule 7 or on any subsequent date to which the hearing of the application may be adjourned by the Court, the Court shall, after taking such evidence or making such enquiry as it may consider necessary, pass such order on the application as it thinks fit.

#### **9. When application shall be dismissed.**

- If, at any time, while an application is pending in the Court, a suit is filed by the creditor for the recovery of the debt, which is the subject-matter of the application, the Court shall dismiss the application.

#### **10. Appeal.**

- The order of the Court declaring the amount of the debt under rule 8 shall be subject to first appeal and second appeal as if it were a decree in an original suit.

## **11. Annual rental value.**

- For the purpose of proviso (iii) to clause (3) of section 2 of the Act, the annual rental value of the land which is not appurtenant to any building or which is occupied by or appurtenant to huts, and whose assessment is not based on the annual rental value or on the capital value shall-(1)in case the land is situated in the City of [Chennai] [Substituted for the word 'Madras' by the Tamil Nadu Act 28 of 1996], be deemed to be the value in respect of which the assessment is fixed by the Commissioner of Corporation of [Chennai] [Substituted for the word 'Madras' by the Tamil Nadu Act 28 of 1996] under clause (b) of the proviso to section 102 of the [Chennai] [Substituted for the word 'Madras' by the Tamil Nadu Act 28 of 1996] City Municipal Corporation Act,' 1919, (Tamil Nadu Act IV of 1919) with reference to the extent of land;(2)in case the land is situated in the City of Madurai, be deemed to be the value in respect of which the assessment is fixed by the Commissioner of Corporation of Madurai under clause (b) of the proviso to section 123 of the Madurai City Municipal Corporation Act, 1971, with reference to the extent of land; and(3)in case the land is situated in any other part of the State of Tamil Nadu, other than the City of [Chennai] [Substituted for the word 'Madras' by the Tamil Nadu Act 28 of 1996] or of Madurai, five per cent of the capital value as determined by the Executive Authority of the local body concerned in the manner laid down in the rules framed under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), [Tamil Nadu Panchayats Act, 1958 (Tamil Nadu Act XXXV of 1958)] [This Act has been repealed and re-enacted as the Tamil Nadu Panchayats Act, 1994] and the [Cantonments Act, 1924 (Central Act 2 of 1924)] [This Act has been repealed and re-enacted as the Cantonment Act, 2003], as the case may be.

## **12. Determination of the portion of the principal amount secured by mortgage.**

- For the purposes of sub-section (7) of section 8 of the Act, the portion of the principal amount secured by the mortgagee which is attributable to the portion of the property in the possession of the mortgagee shall be such amount as determined by the Court taking into account the total extent and amount secured by the mortgage, the value of the extent of the property in the possession of the mortgagee and proportionate amount of the principal amount secured by such mortgage.

## **13. Mode of application under sections 14, 15, 16, 17, 18 and 19.**

- An application under sections 14, 15, 16, 17, 18, and 19 of the Act shall be in writing, shall specify the name and address of the applicant, the name and address of the respondent, a clear statement of the facts of the case and the nature of the relief prayed for, and shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908 (Central Act V of 1908).

## **14. Memorandum/Certificate granted to creditor.**

(1)A Memorandum granted to a creditor under section 24 of the Act shall be in Form A with such variations as circumstances may require.(2)A certificate granted to a creditor under section 25 of the Act shall be in Form B with such variations as circumstances may require.

## 15. Fee for an application under sections 24 and 25.

- Every application under section 24 or section 25 of the Act shall be in writing and shall specify the name and address of the applicant, the information required and the name and address of the person in respect of whom and the purpose for which, such information is required and shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908 (Central Act V of 1908). A single application may be made to cover all the taxes referred to in section 24 or section 25 of the Act and in respect of all the four half years mentioned in provisions (ii) and (iii) to clause (3) of section 2 of the Act.(2)Every application under section 24 of the Act shall bear a Court-fee stamp of the value of rupee one.(3)In respect of every application under section 25 of the Act, there shall be paid to the Municipality, the local Board or the Corporation of [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] or of Madurai, as the case may be, a fee of one rupee in cash for each half year in respect of which information is applied for.

## 16. Process fees for applications under sections 14, 15, 16, 17, 18 and 19.

- There shall be paid in respect of every application under sections 14, 15, 16, 17, 18, and 19 of the Act process fees in accordance with the scales prescribed in the Civil Rules of Practice and Circular Orders. Form A[See rule 14(1) of the Tamil Nadu Debt Relief Rules, 1978]Memorandum Granted by the Collector of Under Section 24 of the Tamil Nadu Debt Relief Act, 1972 (Tamil Nadu Act 38 of 1972)Read application from dated Thiru/Thirumathi of..... has been assessed to (1) income-tax [under .....] [This appropriate Act or Law under which assessment is made shall be entered here.] in the financial year ending.(2)Thiru/Thirumathi/Selvi.....is an agriculturist/is not an agriculturist.Signature of the Collector.Strike off portions not applicable. Form B[See rule 14(2) of Tamil Nadu Debt Relief Rules, 1978]Certificate Granted Under Section 25 of this Tamil Nadu Debt Relief Act, 1972 (Tamil Nadu Act XXXVIII of 1972)Read application form dated.....I, and, executive authority, if the Revenue officer or Commissioner of the Corporation of Madras/Madurai.MunicipalityBoard do hereby certify thatCantonmentThiruThirumathi has been assessed to Selvi.(1)Profession tax for the half-year ending.....on half yearly income of rupees.....derived from a profession other than agriculture [under .....] [This appropriate Act or Law under which assessment is made shall be entered here.](2)Property or house-tax in respect of buildings or lands other than agricultural land under.....and that the aggregate annual rental value of such buildings or lands is rupees.Signature of the authority granting the certificate.Strike off portions not applicable,