

Tamil Nadu Debt Relief Act, 1982

TAMILNADU

India

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Act 50 of 1982

- Published on 30 September 1982
- Commenced on 30 September 1982
- [This is the version of this document from 30 September 1982.]
- [Note: The original publication document is not available and this content could not be verified.]

Tamil Nadu Debt Relief Act, 1982(Tamil Nadu Act 50 of 1982)Statement of Objects and Reasons - Tamil Nadu Debt Relief (Amendment) Act, 1982 (Tamil Nadu Act 45 of 1982). - The Government decided to enact a legislation to provide relief to the people in rural and urban areas who suffer from a heavy debt burden on account of the usurious practices of pawnbrokers, money lenders, and other non-institutional sources of credit. The debts due to such pawnbrokers, money-lenders and other non-institutional sources of credit incurred by those who are living in rural and urban areas and whose annual household income is no more than four thousand and eight hundred rupees will be deemed to be wholly discharged. Accordingly the Tamil Nadu Debt Relief Ordinance, 1982 (Tamil Nadu Ordinance 9 of 1982) was promulgated by the Governor.² The Bill seeks to replace the said Ordinance. Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 4th September 1982. Statement of Objects and Reasons - Tamil Nadu Debt Relief (Amendment) Act, 1984 (Tamil Nadu Act 1 of 1984). - The Tamil Nadu Debt Relief Act 1982 (Tamil Nadu Act 50 of 1982) provides for the relief of certain indebted persons in the State of Tamil Nadu from the usurious practices of pawnbrokers, money-lenders and Other non-institutional sources of credit and to give relief from the debts due to such pawnbrokers money lenders and other non-institutional sources of credit. Six month from the date of commencement of the Act was allowed to debtors to the applications for relief under the Act. When it was brought to the notice of the Government that people in rural areas were not fully aware of the time limit within which they have to make application, the time limit within which they have to make application, the time limit was extended up to 23rd February 1984. On review of the working of the Act, it is found that people in rural areas are still not aware of the time limit within which they have to make applications to the Tahsildars for seeking relief under the said Act. Accordingly, it has been decided to extend further the time limit up to twenty-four months from the date of commencement of the said Act, namely the 24th August 1982.² The Bill seeks to give effect to the above decision. Published in Part IV-Section I of the Tamil Nadu Government Gazette Extraordinary dated the 29th March 1984. Statement of Objects and Reasons - Tamil Nadu Debt Relief (Second Amendment) Act, 1984 (Tamil Nadu Act 31 of 1984). - The Tamil Nadu Debt Relief Act, 1982 (Tamil Nadu Act 50 of 1982) provides for the relief of certain indebted persons in the State of Tamil Nadu from the usurious practices of pawn brokers, money-lenders and other non-institutional sources of credit and to give relief from the debts due to

such pawn brokers money-lenders and other non-institutional sources of credit. Six months from the date of commencement of the Act was allowed to debtors to file applications for relief under the Act. When it was brought to the notice of the Government that people in rural areas were not fully aware of the time limit within, which they have to make application, the time limit was extended up to 23rd August 1984. On review of the working of the Act, it is found that people in rural areas are still not aware of the time limit within which they have to make applications to the Tahsildars for seeking relief under the said Act. Accordingly, it has been decided to extend further the time limit up to thirty months from the date of commencement of the said Act, namely the 24th August 1982. It has also been decided to empower the Tahsildars to give further time not exceeding three months instead of the present one month after the expiry of the time limit of thirty months, for making applications under the said Act.² The Bill seeks to give effect to the above decisions. Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 10th October 1984. Statement of Objects and Reasons - Tamil Nadu Debt Relief (Amendment) Act, 1985 (Tamil Nadu Act 21 of 1985). - The Tamil Nadu Debt Relief Act, 1982 (Tamil Nadu Act 50 of 1982) provides for the relief of certain indebted persons in the State of Tamil Nadu from the usurious practices of pawnbrokers, money-lenders and other non-institutional sources of credit and to give relief from the debts due to such pawnbrokers, money-lenders, and other non-institutional source of credit. In the first instance six months from the date of commencement of the said Act, namely, the 24th August 1982, were allowed to debtors to file applications for relief under the Act. When it was brought to the notice of the Government that people in rural areas were not fully aware of the time limit within which they have to make applications, the time limit was extended, from time to time, up to the 23rd August 1987. On a review of the working of the said Act, it is found that compared to the earlier debt relief Acts, the number of applications received under Tamil Nadu Act 50 of 1982 is very low. This shows that many people in rural areas, for whose benefit the Act is intended, are still not aware of the provisions of the Act and the time limit within which the debtors have to make applications to the Tahsildars for seeking relief under the said Act. In order that the benefits of the said Act may reach all persons eligible under the Act, it has been considered necessary to extend the time limit by a further period of one year beyond the 23rd August 1987.² The Bill seeks to achieve the above object. Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 16th March 1985. Statement of Objects and Reasons - Tamil Nadu Debt Relief (Amendment) Act, 1985 (Tamil Nadu Act 21 of 1988). - The Tamil Nadu Debt Relief Act, 1982 (Tamil Nadu Act 50 of 1982) provides for the relief of certain indebted person in the State of Tamil Nadu from the usurious practices of pawnbrokers, money-lenders and other non-institutional sources of credit and to give relief from the debts due to such pawnbrokers, money-lenders and other non-institutional sources of credit. Six months from the date of commencement of the Act was allowed to debtors to the applications for relief under the Act. When it was brought to the notice of the Government that people in rural areas were not fully aware of the time limit within which they have to make applications, the time limit was extended up to the 23rd August 1984. On review of the working of the Act, it was found that people in rural areas were not aware of the time limit within which they have to make applications to the Tahsildars for seeking relief under the said Act. It was, therefore, decided to extend further the time limit up to the 23rd February 1985, that is, thirty months from the date of commencement of the said Act, namely, the 24th August 1982. It was also decided to empower the Tahsildars to give further time not exceeding three months instead of one month after the expiry of the time limit of thirty months for making applications under the said Act.

Accordingly, the Tamil Nadu Debt Relief (Amendment) Ordinance, 1985 (Tamil Nadu Ordinance I of 1985) was promulgated by the Governor on the 30th January 1985 and published in the Tamil Nadu Government Gazette Extraordinary, dated the 31st January 1985.² It has also been decided to further extend the time limit for making applications to the Tahsildars for seeking relief under the Act of another period of six months beyond the 23rd February 1985.³ The Bill seeks to replace the said Ordinance by an Act of the Legislature and also to give effect to the above decision. Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 16th March 1985. Received the assent of the President on the 30th September 1982 and first published in the Tamil Nadu Government Gazette Extraordinary, dated the 5th October 1982. An Act further to amend the Tamil Nadu Debt Relief Act, 1976. Whereas it is expedient to provide relief to certain indebted persons in the State of Tamil Nadu from the usurious practices of pawn-brokers, money-lenders and other non-institutional sources of credit and to give relief from the debts due to such pawn-brokers, money-lenders and other non-institutional sources of credit; Be it enacted by the Legislature of the State of Tamil Nadu in the Thirty-third Year of the Republic of India as follows:

1. Short title, extent and commencement.

- This Act may be called the Tamil Nadu Debt Relief Act, 1982.⁽²⁾ It extends to the whole of the State of Tamil Nadu.⁽³⁾ It shall be deemed to have come into force on the 24th August 1982.

2. Declaration.

- It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution.

3. Definitions.

- In this Act, unless the context otherwise requires, - (a) "annual household income" means the aggregate of the gross annual income from all sources of all members of a family during the year ending on the 31st December 1981; (b) "creditor" means a person from or in respect of whom the debtor has borrowed or incurred a debt and includes the heir of such person; (c) "debt" means any liability in cash or in kind, whether secured or unsecured and whether decreed or not, but does not include arrears of taxes due to the Central Government or a State Government or a local authority; (d) "debtor" means any person from whom any debt is due and whose annual household income does not exceed four thousand and eight hundred rupees: Provided that a person shall not be deemed to be a debtor, if he or any member of his family - (i) has, in either of the two financial years, or in both the two financial years, immediately preceding the 1st day of April 1981 been assessed to income-tax under the Income-tax Act, 1961 (Central Act 43 of 1961) or under the income-tax law in force in any foreign country; or (ii) has, in either of the two financial years, or in both the two financial years, immediately preceding the 1st day of April 1981 been assessed to sales tax under the [Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959)] [This Act has been repealed and re-enacted as the Tamil Nadu Value Added Tax Act, 2006 (Tamil Nadu Act 36 of 2006).] or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956); or (iii) has, in any one or more within the four half years, or in all the four half years, immediately preceding the 1st October 1981 been

assessed to property or house tax in respect of buildings or lands other than agricultural lands, under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), the [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919), the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act 15 of 1971), the Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act 25 of 1981), the [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 (Tamil Nadu Act 21 of 1994)], the [Cantonments Act, 1924 (Central Act II of 1924)] [This Act has been repealed and re-enacted as the Cantonment Act, 2003] or any law governing municipal or local bodies in this State or in any other State or Union territory in India, provided that the aggregate annual rental value of such buildings and lands whether let out or in the occupation of the owner is not less than rupees one thousand and two hundred. Explanation. - The annual rental value of any building or land for the purposes of proviso (iii) shall-(1)where the assessment is based on the annual rental value, be deemed to be such value;(2)where the assessment is based on the capital value, be deemed to be five per cent of the capital value; and(3)in any other case, be deemed to be the value ascertained in the prescribed manner; or(iv)has, in any one or more within the four half years or in all the four half years immediately preceding the 1st October 1981, been assessed to profession tax on a half-yearly income of more than one thousand and two hundred rupees derived from a profession other than agriculture under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), the [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] City Municipal Corporation, Act, 1919 (Tamil Nadu Act IV of 1919), the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act 15 of 1971), the Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act 25 of 1981), the [Tamil Nadu Panchayats Act, 1958 (Tamil Nadu Act XXV of 1958)] [This Act has been repealed and re-enacted as the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994).], the [Cantonments Act, 1924 (Central Act II of 1924)] [This Act has been repealed and re-enacted as the Cantonment Act, 2003.] or any law governing municipal or local bodies in this State or in any other State or Union territory in India. Explanation. - Proviso (iv) shall apply only to a person whose annual household income exceeds four thousand and eight hundred rupees and such person shall not be deemed to be a debtor for the purposes of this Act; or(v)whether individually or jointly owns in this State or elsewhere agricultural lands exceeding ten acres of unirrigated lands or five acres of irrigated lands (whether irrigated from a Government source or a private source). Explanation. - Where any person owns both irrigated and unirrigated lands, for the purpose of calculating under proviso (v), the extent of lands owned by him, one acre of irrigated land shall be deemed to be equal to two acres of unirrigated lands; or(vi)whether individually or jointly owns in this State or elsewhere any other immovable property (other than agricultural lands) the market value of which exceeds twenty-five thousand rupees; or(vii)whether individually or jointly owns in this State or elsewhere both agricultural lands and other immovable property, the market value of both such agricultural lands and other immovable property exceeds twenty-five thousand rupees. Explanation. - For the purposes of provisos (vi) and (vii), the market value of the immovable property or both the agricultural lands and other immovable property, as the case may be, shall be estimated to be the price which, in the opinion of the authority prescribed in this behalf, such immovable property or both the agricultural lands and other immovable property, as the case may be, would have fetched if sold in the open market on the 24th August 1982;(e)"family" in

relation to a person, means the individual, the wife or husband, as the case may be, of such individual and their unmarried minor children. Explanation. - For the purpose of this clause, "minor" means a person who has not completed his or her age of eighteen years; (f) "interest" means any amount or other thing paid or payable in excess of the principal sum borrowed or pecuniary obligation incurred; or where anything has been borrowed in kind, in excess of what has been so borrowed, by whatsoever name such amount or this may be called, and whether the same is paid or payable entirely in kind or partly in cash and partly in kind and whether the same is expressly mentioned or not in the document or contract, if any; (g) "person" means an individual or a family; (h) "Tahsildar" includes a Deputy Tahsildar in independent charge of a taluk or sub-taluk and any other officer of the Revenue Department, not below the rank of a Deputy Tahsildar empowered by the State Government to exercise the powers and perform the functions of a Tahsildar under this Act; (i) "transferee of the creditor" means any person [including an institution referred to in clause (h) of section 13 to whom- (i) the creditor has pledged the movable property pledged to him by the debtor and includes any subsequent transferee to whom such transferee has pledged such movable property and also includes any person in possession of the property pledged; or (ii) the creditor has transferred or otherwise assigned his interest in the property mortgaged by the debtor and includes any subsequent transferee to whom such transferee has transferred or otherwise assigned his interest in the property' mortgaged and also includes any person in possession of the property mortgaged.

4. Relief from indebtedness.

- Notwithstanding anything contained in the Tamil Nadu Agriculturists Relief Act, 1938 (Tamil Nadu Act IV of 1938), the Tamil Nadu Pawnbrokers Act, 1943 (Tamil Nadu Act XXIII of 1943), the Tamil Nadu Money-lenders Act, 1957 (Tamil Nadu Act XXVI of 1957), the Tamil Nadu Debt Relief Act, 1972 (Tamil Nadu Act 38 of 1972), the Tamil Nadu Debt Relief Act, 1976 (President's Act 31 of 1976), the Tamil Nadu Debt Relief Act, 1979 (Tamil Nadu Act 40 of 1979), the Tamil Nadu Debt Relief Act, 1980 (Tamil Nadu Act 13 of 1980) or in any other law for the time being in force or in any contract or instrument having force by virtue of any such law and save as otherwise expressly provided in this Act, and in particular sub-section (2), with effect on and from the 24th August 1982, - (a) every debt advanced or incurred before the 24th August 1982 (including interest, if any) and payable by the debtor to the creditor shall be deemed to be wholly discharged; (b) no Civil Court shall entertain any suit or other proceeding against the debt or for the recovery of any amount of such debt (including interest, if any): Provided that where any suit or other proceeding is instituted jointly against the debtor and any other person, nothing in this section shall apply to the maintainability of such suit or proceeding insofar as it relates to such other person; (c) all suits and other proceedings (including appeals, revisions, attachments or execution proceedings) pending on the 24th August 1982 against any debtor for the recovery of any such debt (including interest, if any) shall abate: Provided that nothing in this clause shall apply to the sale, in respect of any such debt, of - (i) any movable property held and concluded before the 24th August 1982; (ii) any immovable property confirmed before such date; (d) every debtor undergoing detention in a civil prison in execution of any decree for money passed against him by a Civil Court in respect of any such debt (including interest, if any) shall be released; (e) every movable property pledged by a debtor shall stand released in favour of such debtor and the creditor shall be bound to return the same to the

debtor forthwith; (f) every mortgage executed by the debtor in favour of the creditor shall stand redeemed and the mortgaged property shall be released in favour of such debtor. Explanation. - Nothing in this section shall be construed as entitling any debtor for refund of any part of any debt repaid or interest paid already by him or recovered from him before the 24th August 1982. (2) Nothing contained in this Act shall apply to any debtor who is entitled to the benefits of the Tamil Nadu Debt Relief Act, 1976 (President's Act 31 of 1976) or the Tamil Nadu Debt Relief Act, 1980 (Tamil Nadu Act 13 of 1980) only insofar as any debt to which any of those Act applies, is concerned.

5. Debtors to make application for the return of the movable property pledged by them.

(1)(a) Every debtor referred to in clause (e) of sub-section (1) of section 4 shall make an application in such form and containing such particulars as may be prescribed to the Tahsildar having jurisdiction over the area where his creditor has his ordinary place of business for an order for the return of the movable property pledged by the debtor. (b) Every such application shall be, - (i) supported by an affidavit, which shall be in such form and be sworn or affirmed before such officer or authority as may be prescribed and which shall state that the debtor is entitled to relief under section 4; and (ii) accompanied by a certificate from the prescribed authority as to the annual household income of such debtor. (c) Every such application shall be made before the expiry of the period of eight months from the 24th August 1982: Provided that the Tahsildar may, in his discretion, allow further time not exceeding three months for making any such application, if he is satisfied that the debtor had sufficient cause for not making the application in time, but no application shall be made after the expiry of seven months from the 24th August 1982. (2)(a) On receipt of an application under sub-section (1), the Tahsildar, after giving a reasonable opportunity to the creditor concerned and the debtor to make their representations and if he is satisfied, - (i) that the debtor is entitled to relief under section 4, shall pass an order for the return of the movable property pledged by the debtor and direct the creditor to produce on or before the date specified in the order, the movable property pledged by such debtor with the creditor; or (ii) that the debtor is not entitled to relief under section 4, shall pass an order dismissing the application: Provided that the Tahsildar may, if he deems fit, hold a summary enquiry before passing an order under this sub-section. (b) An order under clause (a) shall be communicated to the creditor concerned and the debtor within such period as may be prescribed. (3)(a) The Tahsildar shall, as soon as may be, after the expiry of seven months from the 24th August 1982 publish in such form and in such manner as may be prescribed a list of debtors who have made applications under sub-section (1). (b) Upon publication under clause (a) of the list of debtors, it shall be lawful for the creditors to dispose of, in accordance with the provisions of the Tamil Nadu Pawn-brokers Act, 1943 (Tamil Nadu Act XXIII of 1943) or any other law for the time being in force relating to the sale of pledged articles, the movable properties pledged with the creditors by persons other than those whose names are published in the list referred to in clause (a). (c) Where the Tahsildar has passed an order under sub-section (2) dismissing any application, the creditor may, subject to the provisions of sub-section (3) of section 9, dispose of in accordance with the provisions of the Tamil Nadu Pawn-brokers Act, 1943 (Tamil Nadu Act XXIII of 1943) or any other law for the time being in force relating to the sale of pledged articles, the movable property for the return of which the said application was made. (d) Where any

debtor referred to in clause (e) of sub-section (1) of section 4, has not made any application in accordance with the provisions of, and within the time specified in, sub-section (1), then, such debtor shall not be entitled to relief under this Act. (4) Where the movable property pledged by the debtor is in the possession of any transferee of the creditor, the creditor shall redeem the said property from such transferee and produce it on or before the date specified in the order referred to in sub-section (2). (5) If the creditor fails to produce the movable property as directed in the order under sub-section (2), - (a) the Tahsildar may, with the previous approval of the Revenue Divisional Officer concerned, enter any premises of the creditor or of the transferee of the creditor [other than an institution referred to in clause (h) of section 13] search and seize the said property; and (b) where the movable property is in the possession of any of the institutions referred to in clause (h) of section 13, the Tahsildar shall, - (i) by an order, direct the said institution to deposit, on or before the date specified in the order, the movable property with the Tahsildar together with a statement specifying the amount due to the said institution in respect of the said property and simultaneously issue a certificate to the said institution to the effect that the amount due to the said institution in respect of the said property shall be recovered from the creditor as if it were an arrear of land revenue and paid to the said institution; and (ii) on the said institution depositing the said property with the Tahsildar, acknowledge in writing the receipt of the movable property and proceed to recover from the creditor such amount as is due to the said institution in respect of the said property as if it were an arrear of land revenue, and on such recovery, pay the same to the said institution. (6) After such production or recovery or deposit of the movable property pledged, the Tahsildar shall deliver the said property to the debtor. (7) Pending the passing of an order under sub-section (2) in respect of an application made under sub-section (1), no creditor or the transferee of the creditor shall sell or pledge or otherwise dispose of any movable property pledged by the debtor. (8) Notwithstanding anything contained in sub-section (5) or in the Tamil Nadu Pawn-brokers Act, 1943 (Tamil Nadu Act XXIII of 1943), the Tahsildar - (a) may, with the previous approval in writing of the Revenue Divisional Officer concerned, enter any premises of the creditor or of the transferee of the creditor [other than an institution referred to in clause (h) of section 13] and search and seize the movable properties pledged by debtors and arrange for their safe custody; (b) shall proceed to determine which of the movable properties so seized are to be released to the debtors and pass orders accordingly. (9) The Revenue Divisional Officer shall not give his approval under sub-section (5) and sub-section (8) unless he is of opinion that there is sufficient cause for effecting search and seizure. (10) The provisions of sections 100 and 165 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), relating to search and seizure shall, as far as may be, apply to searches and seizures under sub-sections (5) and (8).

6.

Notwithstanding anything contained in this Act or in any other law for the time being in force relating to the sale of pledged articles, where any debtor has pledged any movable property with the creditor, the creditor or the transferee of the creditor shall not sell or otherwise dispose of, in any manner whatsoever, any such movable property during the period up to and inclusive of the date of publication of the list of debtors under clause (a) of sub-section (3) of section 5 and in the case of debtors whose names are so published in the said list, the creditor or the transferee of the creditor shall not sell or otherwise dispose of, in any manner whatsoever, the movable properties pledged by

such debtors until final orders (including orders on appeal) are passed on the applications made by them.

7. Debtors to apply for release of mortgaged property.

(1)(a)Every debtor referred to in clause (f) of sub-section (1) of section 4 shall make an application in such form and containing such particulars as maybe prescribed to the Tahsildar having jurisdiction over the area within which such debtor ordinarily resides for an order releasing the mortgaged property and for the grant of a certificate of redemption.(b)Every such application shall be,-(i)supported by an affidavit, which shall be in such form and be sworn or affirmed before such officer or authority as may be prescribed and which shall state that the debtor is entitled to relief, under section 4; and(ii)accompanied by a certificate from the prescribed authority as to the annual household income of such debtor.(c)Every such application shall be made before the expiry of the period of six months from the 24th August 1982:Provided that the Tahsildar may, in his discretion, allow further time not exceeding three months for making any such application, if he is satisfied, that the debtor had sufficient cause for not making the application in time, but no application shall be made after the expiry of seven months from the 24th August 1982.(2)(a)On receipt of an application under sub-section (1), the Tahsildar, after giving a reasonable opportunity to the creditor concerned and the debtor to make their representations and if he is satisfied-(i)that the debtor is entitled to relief under section 4, shall pass an order releasing the mortgaged property and grant a certificate of redemption in the prescribed form which shall be admissible as evidence of such redemption in any proceeding before any Court or other authority; or(ii)that the debtor is not entitled to relief under section 4 shall pass an order dismissing the application:Provided that the Tahsildar may, if he deems fit, holds a summary enquiry before passing an order under this clause.(b)An order under this clause shall be communicated to the creditor concerned and the debtor within such period as may be prescribed.(3)(a)The Tahsildar shall, as soon as may be, after the expiry of seven months from the 24th August 1982, publish in such form and in such manner as may be prescribed a list of debtors who have made applications under sub-section (1).(b)Where any debtor referred to in clause (f) of sub-section (1) of section 4 has not made any application in accordance with the provisions of, and within the time specified in, sub-section (1), then, such debtor shall not be entitled to relief under this Act.(4)Pending orders under sub-section (2), no creditor or the transferee of the creditor shall transfer or otherwise assign his interest in, or exercise his right of foreclosure in respect of the property mortgaged by the debtor.(5)Where the mortgaged property has been transferred or any right therein has been assigned to any of the institutions referred to in clause (h) of section 13 by the creditor, the Tahsildar shall recover from the creditor such amount as is due to such institution in respect of the said mortgaged property, as if it were an arrear of land revenue, and shall pay the same to the said institution.

8. Finality of orders passed under this Act.

- Every order of the Tahsildar under section 5 or section 7 shall, subject to appeal under section 9, be final and shall not be called in question in any Court.

9. Appeal.

(1) Every person aggrieved by an order made by the Tahsildar under this Act within such period and in such manner as maybe prescribed, appeal to such authority as may be specified by the State Government in this behalf. (2) In deciding the appeal, the authority specified under sub-section (1) shall follow such procedure as may be prescribed and the decision of such authority on such appeal shall be final and shall not be called in question in any Court. (3) Pending disposal of an appeal under this section in respect of an order made by the Tahsildar, - (a) under section 5, any movable property pledged by any debtor who is a party to such appeal shall not be either returned or disposed of under this Act; and (b) under section 7, - (i) the Tahsildar shall not order the release of the mortgaged property or grant a certificate of redemption; and (ii) the creditor or the transferee of the creditor shall not transfer, or otherwise assign his interest in, or exercise his right of foreclosure in respect of the property mortgaged by the debtor.

10. Legal practitioner not to appear.

- No party to any proceeding under this Act shall be entitled to be represented by a legal practitioner. Explanation. - In this section, "legal practitioner" shall have the meaning assigned to it in section 2 of the Advocates Act, 1961 (Central Act 25 of 1961).

11. Penalty.

(1) Any person failing to comply with the order made or direction given under section 5 or section 6 or filing false affidavit under section 5 or section 7 or otherwise contravening the provisions of either of the said sections shall be liable to imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees. (2) Every offence punishable under sub-section (1) shall be cognizable. (3) Every offence punishable under sub-section (1) shall be tried in a summary way and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall as far as may be, apply to such trial.

12. Offences by companies.

(1) Where an offence under this Act has been committed by a company, every person who, at the time of the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager,

secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purpose of this section-(a)"company" means any body corporate and includes a firm or other association of individuals; and(b)"director" in relation to a firm, means a partner in the firm.

13. Certain debts and liabilities not to be affected.

- Nothing in this Act shall apply to the following categories of debts and liabilities of a debtor, namely:-(a)any rent due in respect of any property including agricultural land let out to a debtor;(b)any amount recoverable as arrears of land revenue;(c)(i)any revenue, tax or cess payable to the State Government or any other sum due to them, by way of loan or otherwise;(ii)any revenue, tax or cess payable to the Central Government or any other sum due to them, by way of loan or otherwise;(iii)any tax or cess payable to any local authority or any other sum due to them, by way of loan or otherwise;(d)any liability arising out of breach of trust or any tortious liability;(e)any liability in respect of wages or remuneration due as salary or otherwise for sendees rendered;(f)any liability in respect of maintenance whether under a decree of 'a Court or otherwise;(g)a debt due to-(i)the Central Government or any State Government,(ii)any local authority;(h)save as otherwise provided in this Act, any liability in respect of any sum due to-(i)(A)any banking company to which the Banking Regulation Act, 1949 (Central Act 10 of 1949) applies;(B)the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);(C)any subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959);(D)any corresponding new bank as defined in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings Act), 1970 (Central Act 5 of 1970);(E)any corresponding new bank as defined in clause (b) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980);(F)[the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 61 of 1981)] [Substituted by (Tamil Nadu Act 1 of 1984)];(G)any Regional Rural Bank established under the Regional Rural Banks Act, 1976 (Central Act 21 of 1976);(H)the Committee for the Administration of the Amalgamated Tamil Nadu Shares of the Post War Services Reconstruction Fund and Special Fund for Reconstruction and Rehabilitation of Ex-serviceman;(I)the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (Central Act 18 of 1964);(J)the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948 (Central Act XV of 1948);(K)the Industrial Credit and Investment Corporation of India;(L)the Industrial Reconstruction Bank of India established under the Industrial Reconstruction Bank of India Act,-1984 (Central Act 62'of 1984);(M)the State Financial Corporations established under the State Financial Corporations Act, 1951 (Central Act LXIII of 1951);(N)the Unit Trust of India established under Unit Trust of India Act, 1963 (Central Act 52 of 1963);(NN)The Export-Import Bank of India established under Export-Import Bank of India Act, 1981 (Central Act 28 of 1981);(O)any other financial institution notified in this behalf by the State Government in the Tamil Nadu Government Gazette;(ii)any Government company within the meaning of the Companies Act, 1956 (Central Act 1 of 1956);(i)any debt which represents the price of property' whether movable or immovable purchased by a debtor or any amount due under a hire purchase agreement;(iii)any company which is declared to be a Nidhi or Mutual Benefit Society under sub-section (1) of section 620-A of the

Companies Act, 1956 (Central Act 1 of 1956);(iv)any corporation owned or controlled by the Central Government or any State Government;(v)The Life Insurance Corporation of India;(vi)any co-operative society including a land development bank registered or deemed to be registered under the [Tamil Nadu Co-operative Societies Act, 1961 (Tamil Nadu Act 53 of 1961)] [Substituted by (Tamil Nadu Act 1 of 1984)];(j)any amount received by a debtor as advance for the delivery of goods at a future date;(k)any liability incurred or arising under any chit, the by-laws of which have been registered under the [Tamil Nadu Chit Funds Act, 1961 (Tamil Nadu Act 24 of 1961)] [This Act was impliedly repealed by the Chit funds Act];(l)any debt or debts payable on the 24th August 1982 to-(i)a widow; or(ii)a minor child both of whose parents are dead; or(iii)a minor child whose father is dead; or(iv)a female person whose marriage has been dissolved by a decree of divorce or has been declared null and void, or annulled by a decree of nullity:Provided that,-(a)the market value of the property owned by such widow, minor child or female person on the 24th August 1982, including the principal amount of the debt or debts so due, did not exceed twenty-five thousand rupees;(b)the right of such widow, minor child or female person to recover the debt or debts did not arise by reason of any assignment.Explanation. - For the purpose of clause (1), the market value of the property shall be estimated to be the price, which in the opinion of the authority prescribed in this behalf, such property would have fetched if sold in the open market on the 24th August 1982.

14. Power to make rules.

(1)The Government may make rules for carrying out all or any of the purposes of this Act.(2)(a)All rules made under this Act shall be published in the Tamil Nadu Government Gazette, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.(b)All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.(3)Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of [the Legislative Assembly] [Substituted for the word 'both Houses of the Legislature' by the Tamil Nadu Adaptation of Laws Order 1987], and if, before the expiry of the session in which it is so placed or the next session, [the Legislative assembly agrees] [Substituted for the word 'both Houses agree' by the Tamil Nadu Adaptation of Laws Order 1987] in making any modification in any such rule or notification or [the Legislative assembly agrees] [Substituted for the words 'both Houses agree' by the Tamil Nadu Adaptation of Laws Order, 1987] that the rule or notification should not be made or issued, the rule or notification 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 or notification.

15. Amendment of Tamil Nadu Act XXIII of 1943.

- In the Tamil Nadu Pawnbrokers Act 1943 (Tamil Nadu Act XXIII of 1943), in section 12-A, in sub-section (1), in clause (ii), after sub-clause (c), the following sub-clause shall be added, namely:-"(d) where any debtor to whom the provisions of the Tamil Nadu Debt Relief Act, 1982 (Tamil Nadu Act 50 of 1982) are applicable, has pledged any article with any pawn-broker, the pawn-broker shall not sell or otherwise dispose of, in any manner whatsoever, any such pledged

article during the period up to and inclusive of the date of publication of the list of debtors under clause (a) of sub-section (3) of section 5 of the said Act and, in the case of debtors whose names are so published in the said list, the pawn-broker shall not sell or otherwise dispose of, in any manner whatsoever, the articles pledged by such debtors until final orders (including orders on appeal) are passed on the application made by them."

16. Repeal and saving.

(1)The Tamil Nadu Debt Relief Ordinance, 1982 (Tamil Nadu Ordinance 9 of 1982) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.