

# **The M.P. Samaj Ke Kamjor Vargon Ke Krishi Bhumi Dharakon Ka Udhar Dene walon Ke Bhumi Hadapane Sambandhi Kuchakron Se Paritran Tatha Mukti Adhiniyam, 1976**

MADHYA PRADESH

India

## **The M.P. Samaj Ke Kamjor Vargon Ke Krishi Bhumi Dharakon Ka Udhar Dene walon Ke Bhumi Hadapane Sambandhi Kuchakron Se Paritran Tatha Mukti Adhiniyam, 1976**

### **Act 3 of 1977**

- Published on 22 January 1977
- Commenced on 22 January 1977
- [This is the version of this document from 22 January 1977.]
- [Note: The original publication document is not available and this content could not be verified.]

The M.P. Samaj Ke Kamjor Vargon Ke Krishi Bhumi Dharakon Ka Udhar Dene walon Ke Bhumi Hadapane Sambandhi Kuchakron Se Paritran Tatha Mukti Adhiniyam, 1976(M.P. Act No. 3 of 1977)[Dated 22nd January, 1977]Received the assent of the President on the 22nd January, 1977 assent first published in the Madhya Pradesh Gazette (Extraordinary), dated the 31st January, 1977.An Act to better economic condition of holders of agricultural land in the weaker sections of the people by providing further relief from agricultural indebtedness by nullifying the land grabbing designs resorted to in many a form by lenders of money while and after extending credit to them and matters connected therewith.Whereas a holder of agricultural land in the weaker sections of the people is quite often compelled to seek loan from private money lending agencies to meet his various obligations of urgent nature;And whereas such private agencies seldom if ever advance loan to him without security of land, his only wherewithal;And whereas due to ignorance of niceties of law or urgency of financial need or both, he falls an easy prey to them scarcely realising the legal consequences arising out of the documents which he executes or which they got executed from him accordingly byway of security for the loan;And where it is necessary to relieve the holders of agricultural land in the weaker sections of the people from such exploitation by nullifying such past transactions of loan as also to put a stop to such transactions.Be it enacted by the Madhya Pradesh Legislature in the Twenty-seventh Year of the Republic of India as follows :-

## **1. Short title and commencement.**

(1) This Act may be called the Madhya Pradesh Samaj Ke Kamjor Vargon Ke Krishi-Bhumi Dharkakon Ka Udhar Dene Walon Ke Bhumi Iiadapane Sambandhi Kuchakron Se Paritrان तथा Mukti Adhiniyam, 1976. (2) It shall be deemed to have come into force on the 1st day of January, 1971.

## **2. Definitions.**

- In this Act, unless the context otherwise requires, - (a) "appointed day" means the 1st day of January, 1971; (b) "Code" means the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959); (c) "holder of agricultural land" in the weaker sections of the people means a holder of land used for purposes of Agriculture not exceeding eight hectares of unirrigated land or four hectares of irrigated land within the State whether as a Bhumiswami or an occupancy tenant or a Government lessee either in any one or all of the capacities together within the meaning of the Code. Explanation :- One hectare of irrigated land shall be equal to two hectares of unirrigated land and vice versa. (d) "lender of money" means a person advancing loan to a holder of agricultural land, whether registered under the Madhya Pradesh Money Lenders Act, 1934 (No. 13 of 1934) or not; (e) "principal money" in relation to a transaction of loan to which a holder of agricultural land is a party means actual sum advanced by way of loan in any of the modes specified in clause (1); (f) "prohibited transaction of loan" means a transaction in which a lender of money advances loan to a holder of agricultural land against security of his interest in land, whether at the time of advancing the loan or at any time thereafter during the currency of the loan in any of the following modes, namely :- (i) agreement to sell land with or without delivery of possession; (ii) outright sale of land with or without delivery of possession accompanied by separate agreement to re-sell it; (iii) outright sale of land with or without delivery of possession with a distinct oral understanding that the sale shall not be acted upon if the loan is re-paid; (iv) outright sale of land with or without delivery of possession with a condition incorporated in the sale deed to re-sell it on re-payment of the loan; (v) transaction in any modes other than those specified in clauses (i) to (iv) affecting interest in land including a fraudulent transaction or a transaction designed to defeat the provisions of any law regulating money lending or interest, for the time being in force, and includes all those transactions in which a lender of money has after the appointed day but on or before the date of publication of this Act in the Gazette, obtained possession of land of the holder of agricultural land through Court or by force or otherwise or obtained a decree for such possession to wards satisfaction of loan; (g) words and expressions used but not defined in this Act and defined in the Code or the Transfer of Property Act, 1882 (No. IV of 1882) shall have the meaning respectively assigned to them in the Code or that Act, as the case may be.

## **3. Act to override other laws.**

- The provisions of this Act and any rules made thereunder shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law or any custom, usage or agreement or decree or order of a Court or other authority.

#### **4. All prohibited transactions of loan to be subject to protection and relief under this Act.**

- It is hereby declared that all claims in relation to a prohibited transaction of loan subsisting on the appointed day or entered into thereafter but on or before the date of publication of this Act in the Gazette shall, notwithstanding anything contained in the Code or any other enactment for the time being in force or any decree or order, if any, of any Court or authority be subject to protection and relief in accordance with the provisions of this Act.

#### **5. Application for protection and seeking relief under this Act.**

- A holder of agricultural land who is a party to any transaction of loan subsisting on the appointed day or entered into thereafter may apply to the Sub-Divisional Officer within such time, and in such form and manner as may be prescribed for protection and relief under this Act.

#### **6. Enquiry by Sub-Divisional Officer.**

(1)The Sub-Divisional Officer may, on his own motion in any transaction of loan and shall, on receipt of an application under Section 5 in the transaction of loan referred to therein, make preliminary enquiry as he may in the circumstances of the case deem fit, to ascertain whether the transaction of loan is a prohibited transaction of loan and on being satisfied that Section 4 applies to such transaction, he shall, after recording his opinion therefor, proceed to conduct an enquiry into such transaction in the manner hereinafter provided.(2)The Sub-Divisional Officer shall by a notice served on the parties to the prohibited transaction of loan call upon them to place all relevant facts and documents before him at such place, on such date and at such time as may be specified in the notice.(3)The Sub-Divisional Officer shall at the place and on the date and time specified in the notice, afford an opportunity to the parties of being heard in person and may, if necessary, examine all of the parties interested in land to elucidate information relevant to the transaction of loan.(4)During the enquiry the Sub-Divisional Officer shall, for the purpose of ascertaining the true nature of transaction of loan, try to collect, as far as may be, information with respect to the following facts, namely :-(i)the amount of principal money;(ii)the market value of the land at the time of the transaction;(iii)adequacy of the amount of principal money as consideration for sale in the context of then market value under clause (ii);(iv)whether the consideration shown in the document was paid in whole or in part privately or before the Sub-Registrar;(v)whether possession of the land was actually delivered to the lender of money as per recitals in the said document. If not, when and in what manner the lender of money obtained possession of the land;(vi)what were the terms of the actual agreement between the lender of money and the holder of agricultural land including the rate of interest;(vii)the extent of urgency for the loan and the availability of other sources to the holder of agricultural land to obtain the same;(viii)payment, if any, made by the holder of agricultural land to the lender of money towards the loan;(ix)whether the lender of money is registered money lender or not;(x)any other surrounding circumstances which the Sub-Divisional Officer may deem fit to consider.

## **7. Setting aside sale and restoration of possession of land or affording other relief.**

(1) If after the enquiry, the Sub-Divisional Officer is satisfied that—(i) the transaction of loan is not a prohibited transaction of loan he shall dismiss the application or close the proceedings; (ii) the transaction of loan in substance is a prohibited transaction of loan he shall declare such transaction to be void and shall—(a) pass an order setting aside the transfer of land to the lender of money and consequently restoring the possession of land to the holder of agricultural land, or (b) where in his opinion it is not feasible to restore the possession of land, pass order directing the lender of money to pay the difference of price under sub-section (2), and (c) pass such other consequential orders as may be necessary : Provided that nothing in this clause shall prejudice the right of the lender of money to enforce his right to recover the loan advanced by him to the holder of agricultural land under such transaction by due process of law within a period of three months from the date of final declaration of prohibited transaction of loan void notwithstanding anything contained in the Limitation Act, 1963 (No. 36 of 1963). (2) Where for any reason whatsoever to be recorded in writing it is not possible to restore such land to the holder of agricultural land, he shall fix the price of such land, in such manner as may be prescribed, which it would have fetched at the time of transfer and order the lender of money to pay the difference, if any, between the price so fixed and the amount actually advanced to the holder of agricultural land together with interest at the current bank rate for the period upto the date of payment, within a period of six months. (3) If any order is passed under sub-section (2), the Sub-Divisional Officer may also determine in such manner as may be prescribed, the net income which has accrued to the lender of money during the period land remained with him and order the lender of money to pay the same to the holder of agricultural land within a period of 30 days. (4) If the lender of money fails to deliver the possession of the land to the holder of agricultural land consequent on the setting aside the transfer under clause (ii) of sub-section (1), he shall be deemed to be in unauthorised possession of such land from the date of setting aside of the transfer and the provisions of Section 248 of the Code shall mutatis mutandis apply thereto as they apply to the unauthorised possession of Government land. (5) If the lender of money fails to pay—(i) the difference of price ordered to be paid under sub-section (2); or (ii) the net income determined under sub-section (3), within the time specified in sub-section (2) or sub-section (3), as the case may be, the same shall be recoverable as an arrear of land revenue and the amount so recovered shall be paid to the holder of agricultural land.

## **8. Appeal.**

- Any person aggrieved by an order of the Sub-Divisional Officer under Section 7 may, within 30 days of the date of passing of such order, appeal to the Collector in such form and manner and accompanied by such fee as may be prescribed : Provided that in computing the period aforesaid time requisite for obtaining a copy of the order appealed against shall be excluded.

## **9. Finality of order.**

- Save as otherwise expressly provided in this Act every order made by the Collector in appeal or of a

Sub-Divisional Officer, shall, if no appeal is filed, be final and shall not be called in question, in any Court, Tribunal or Authority by way of an appeal or revision or in any original suit, application or execution proceedings.

## **10. Bar of Legal Practitioner.**

- No legal practitioner shall appear on behalf of any party interested in any proceeding under this Act.

## **11. Pending proceedings to be decided in accordance with this Act.**

- Any proceeding pending in a Court of law in relation to land which can be a subject matter of enquiry by the Sub-Divisional Officer under this Act shall, on the publication of this Act in the Gazette, be decided by the Court in accordance with the provisions of this Act, notwithstanding anything to the contrary contained in any law for the time being in force.

## **12. Lender of money not to enter into prohibited transaction of loan.**

(1)Notwithstanding anything contained in any enactment for the time being in force, no lender of money shall, on and from the date of publication of this Act in the Gazette, enter into a prohibited transaction of loan with a holder of agricultural land.(2)Any prohibited transaction of loan entered into in contravention of the provisions of sub-section (1) shall be absolutely null and void and no Court shall entertain any application or suit to enforce any claim of lender of money arising out of prohibited transaction of loan.

## **13. Enquiries and proceedings to be judicial proceedings.**

- All enquiries and proceedings before the Sub-Divisional Officer, or the Collector shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Indian Penal Code, 1860 (XLV of 1860) and for the purposes of Section 196 thereof.

## **14. Bar of jurisdiction of Civil Courts.**

- Subject to provisions of Section 11, no Civil Court shall have any jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Sub-Divisional Officer or the Collector.

## **15. Transfer of land which is subject matter of prohibited transaction of loan to be null and void.**

- [(1)] [Renumbered by M.P. Act No. 29 of 1988.] Notwithstanding anything contained in any law for the time being in force where a tender of money transfers any land, which may be a subject matter of a prohibited transaction of loan, by way of sale, gift, exchange, lease or otherwise, such

transfer shall be deemed to have been made to defeat the provisions of this Act and be null and void.(2)[ If any question arises as to whether a transaction is prohibited transaction of loan to which the provisions of sub-section (1) apply, the holder of agricultural land who is a party to such transaction shall apply to the Sub-Divisional Officer : (i) where such transaction was entered into after the 31st January, 1977 but prior to the commencement of the Madhya Pradesh Samaj Ke Kamjor Vargon Ke Krishi Bhumi Dharakon Ka Udhhar Dene Walon Ke Bhumi Hadapane Sambandhi Kuchakron Se Paritran Tatha Mukti (Sanshodhan) Adhiniyam, 1988 within 5 years of such commencement; and (ii) where such transaction is entered into after the commencement of the said Act within 6 years of the date of such transaction in the form and manner prescribed under Section 5. The provisions of Section 17 of the Limitation Act, 1963 (No. 36 of 1963) shall apply for computing limitation under this sub-section.(3)The Sub-Divisional Officer may, on his own motion or on receipt of the application under sub-section (2) proceed to deal with the matter as if it were an action taken on his own motion under Section 6 or an application under Section 5 as the case may be and the provisions of this Act shall so far as may be apply thereto as they apply to an action taken on his own motion under Section 6 or to an application under Section 5.] [Inserted by M.P. Act No. 29 of 1988.]

## **16. Power to remove difficulty.**

- If any doubt or difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, make such provisions, not inconsistent with the purposes of this Act, as appear to them to be necessary or expedient for removing the doubt or difficulty.

## **17. Protection of action taken under this Act.**

(1)No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.(2)No suit or other legal proceedings shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered, by virtue of any provisions of this Act, or for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

## **18. Power to make rules.**

(1)The State Government may, by notification, make rules to give effect to the provisions of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matter, namely :-(i)the time within which and form and manner in which application shall be made under Section 5;(ii)the manner in which the price of land shall be fixed under sub-section (3) of Section 7;(iii)the manner in which net income may be determined under subsection (3) of Section 7;(iv)the form and manner in which an appeal shall be made under Section 8 and the fee with which such appeal shall be accompanied;(v)any other matter which has to be or may be prescribed.(3)All rules made under this Act shall be laid on the table of the Legislative Assembly.