

The Rajasthan Affected Areas (Suspension of Proceedings) Act, 1952

RAJASTHAN

India

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Act 21 of 1952

- Published on 5 July 1952
- Commenced on 5 July 1952
- [This is the version of this document from 5 July 1952.]
- [Note: The original publication document is not available and this content could not be verified.]

The Rajasthan Affected Areas (Suspension of Proceedings) Act, 1952 Act No. 21 of 1952 (Received the assent of the President on the 10th day of June, 1952) [Published in the Rajasthan Gazette (Raj-patra) No. 60, Part IV-A, dated 5.7.1952.] An Act to provide for the suspension of certain proceedings in [area affected with famine or scarcity.] [Substituted by Section 3 of Rajasthan Act No. VIII of 1953, Published in Rajasthan Gazette No. 212, dated 23.3.1953.] Be it enacted by the Rajasthan State Legislature as follows:-

1. Short title and extent.

(1) This Act may be called the Rajasthan [Affected Areas] [Substituted by Section 2 of Rajasthan Act No. VIII of 1953, Published in Rajasthan Gazette No. 212, dated 23.3.1953.] (Suspension of Proceedings) Act, 1952. (2) [It extends to the whole of the State of Rajasthan.] [Substituted by item No. 18 of the Schedule of Rajasthan Act No. 27 of 1957, Published in the Rajasthan Gazette Part IV-A, Extraordinary dated 13.8.1957.]

2. Interpretation.

(1) In this Act unless the context otherwise requires:- (a) "agriculturists" means a person who by himself or by his servants or tenants earns his livelihood wholly or principally by agriculture or by cattle breeding within the limits of [the State of Rajasthan] [Substituted by section 4 of Rajasthan Act No. 27 of 1957, Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 13.8.1957.]; Explanation I. - A person who temporarily ceases to earn his livelihood by agriculture, or cattle breeding or who is prevented from so earning his livelihood by reason of old age or bodily infirmity or necessary absence on account of service in the Armed Forces of the Union does not cease to be an agriculturist within the meaning of this definition, but a mortgagee of lands in the

occupation of an agriculturist, is not an agriculturist. Explanation II. - In the case of co-owners or co-tenants or members of a joint family, such of them only as ordinarily engage themselves personally in agriculture or cattle breeding shall be deemed to be agriculturists within the meaning of this definition, provided that in the case of a joint family, the family as a whole and not the individual members thereof not so engaging themselves, shall also be regarded as an agriculturist. (b) "court" means a civil or a revenue court; (c) [affected area means any area affected with famine or scarcity] [Substituted by section 4 of Rajasthan Act No. VIII of 1953, Published in the Rajasthan Gazette, No. 212, dated 23.3.1953.] in respect of which a declaration has been made under section 3 and is subsisting; (d) "Notification" means notification published in the Rajasthan Gazette; (e) "prescribed period" means the period fixed under section 4 and includes every extension thereof; (f) "proceeding" means any proceeding in a court started on a plaint, petition - of appeal application or otherwise; (g) [x x x] [Omitted by item No. 18 of the Schedule of the Rajasthan Act No. 27 of 1957, Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 13.8.1957.] (2) [x x x] [Omitted by item No. 18 of the Schedule of the Rajasthan Act No. 27 of 1957, Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 13.8.1957.]

3. Power to declare famine affected areas.

- The State Government may by notification declare any area or areas to be affected with famine [or scarcity] [Inserted by section 5 of Rajasthan Act No. VIII of 1953, Published in the Rajasthan Gazette, No. 212 dated, 23.3.1953.] and thereupon the provisions of this Act shall apply to such area or areas for the period fixed under section 4.

4. Power to fix prescribed period.

(1) Upon the issue of a notification under section 3 in respect of any area, the State Government shall by the same or another notification fix the period for which the provisions contained in Sections 5 to 10 shall remain in force in such area, and may likewise extend from time to time, the period so fixed. (2) On the termination of the prescribed period for any area, the declaration in respect thereof made under section 3, shall be deemed to be discharged and such area shall cease to be [an affected area.] [Substituted by section 6 of Rajasthan Act No. VIII of 1953, Published in the Rajasthan Gazette, No. 212, dated 23.3.1953.]

5. Stay of certain proceedings.

(1) All proceedings in execution of any decree for money, all proceedings for making final any preliminary decree for foreclosure or sale in enforcement of a mortgage and all proceedings in execution of any final decree for foreclosure of sale in enforcement of a mortgage passed by any Court in any [x x x] [Deleted by section 7(a) of Rajasthan Act No. VIII of 1953, Published in Rajasthan Gazette No. 212, dated 23.3.1953.] affected area on the basis of any liability incurred before the issue of a notification under section 3 in respect of that area, in which the judgment-debtor or one of the judgment-debtors is an agriculturist, shall be stayed during the prescribed period. (2) Where proceedings in execution of any decree have been stayed under sub-section (1), all attachments of growing crops, agricultural produce live stock and other movable

property of a perishable nature made in execution of such decree and subsisting on the date on which the stay order is passed shall be deemed to be withdrawn.(3)All proceedings under the Provincial Insolvency Act, 1920 (V of 1920), against an agriculturist pending in any court in [an affected area] [Inserted by Section 5 of Rajasthan Act No.VIII of 1953, Published in Rajasthan Gazette No. 212, dated 23.3.1953.] on the date of the issue of a notification under section 3 in respect of that area shall be stayed during the prescribed period.(4)All suits for money and for foreclosure or sale in enforcement of a mortgage against an agriculturist, and all appeals from decrees or orders passed in such suits, pending in any court, in [an affected area] [Substituted by section 7(b) of Rajasthan Act No. VIII of 1953, Published in Rajasthan Gazette No. 212, dated 23.3.1953.] on the date of the issue of a notification under section 3 in respect of that area; shall be stayed during the prescribed period.

6. Instalment decrees.

- Where any decree referred to in sub-section (1) of section 5 is payable by instalments and any instalment payable thereunder falls due within the prescribed period in [an affected area] [Substituted by section 8 of Rajasthan Act No. VIII of 1953, Published in Rajasthan Gazette No. 212, dated 23.3.1953.] then, notwithstanding anything contained in such decree-(i)failure to pay such instalment on the due date shall not be deemed to be a default,(ii)no instalment shall be deemed to have fallen due during the prescribed period,(iii)the unpaid instalments shall be payable after the expiry of the prescribed period on the same dates and with the same intervals as are provided in the decree, and(iv)the decree shall be deemed to have been amended accordingly.

7. Institution of certain proceedings suspended.

(1)No suit for money and no suit for foreclosure or sale in enforcement of a mortgage against an agriculturist nor any appeal from any decree or order passed in any such suit, shall be instituted during the prescribed period in any Court in [an affected area.] [Substituted by section 8 of Rajasthan Act No. VIII of 1953, Published in Rajasthan Gazette No. 212, dated 23.3.1953.](2)No application for execution of any decree referred to in sub-section (1) of section 5 or for making final any preliminary decree for foreclosure or sale referred to therein, shall be entertained by any Court in [an affected area] [Substituted by Section 7(b) of Rajasthan Act No. VIII of 1953, Published in Rajasthan Gazette No. 212, dated 23.3.1953.] during the prescribed period.

8. Computation of the period of limitation.

(1)The prescribed period shall be excluded in computing the period of limitation prescribed by the Indian Limitation Act, 1908 (IX of 1908), or any other law for the time being in force for suits, appeals and applications referred to in section 7.(2)In computing the period of twelve years prescribed in section 48 of the Code of Civil Procedure, 1908 (V of 1908), for an application for execution of any decree referred to in sub-section (1) of section 5 or in sub-section (2) of section 7, the prescribed period shall be excluded.

9. Restrictions on transfer.

- Every transfer of immovable property or of any interest therein made by an agriculturist in [an affected area] [Substituted by Section 7(b) of Rajasthan Act No. VIII of 1953, Published in Rajasthan Gazette No. 212, dated 23.3.1953.] who is a judgment-debtor of any decree referred to in sub-section (1) of section 5, during the prescribed period, shall be void as against the holder of such decree.

10. Payment of certain decrees.

- Nothing contained in this Act, shall:-(a)prevent any decree holder from accepting any payment under a decree or making any adjustment thereof voluntarily made by the judgment debtor,(b)apply to decree for money arising out of claims relating to trusts or for maintenance or for profits in favour of a co-tenant or a co-owner or for damages for tort or for contribution between co-tenants of agricultural land, or(c)apply to a mortgage decree sought to be executed by the sale of the mortgage property in the hands of a subsequent transferee who has taken the transfer subject to the mortgage on the basis of which such decree has been obtained.