

# Tamil Nadu Cultivating Tenants Protection Act, 1955

TAMILNADU

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### Act 25 of 1955

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Tamil Nadu Cultivating Tenants Protection Act, 1955 (Tamil Nadu Act 25 of 1955) Statement of Objects and Reasons - Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1973 (Tamil Nadu Act 6 of 1974). - According to sub-section (4) of section 3 of the Tamil Nadu Cultivating Tenants Protection Act, 1955 (Tamil Nadu Act XXV of 1955), the Revenue Divisional Officer shall, on an application made by the landlord, pass an order for eviction of the cultivating tenants on certain specified grounds. Under section 6-B of the Act, the orders of the Revenue Divisional Officer shall be liable to revision by the High Court. Under section 4(5) of the Act, the cultivating tenants are entitled to restoration of possession of the lands from which they were evicted and to hold them with all rights and subject to all the liabilities of a cultivating tenant. In *Mayilsami Gounder v. Ramamoorthy Chettiar* [1970] 1 MLJ 606, it has been held by the High Court that the scope of section 4(5) of the Tamil Nadu Cultivating Tenants Protection Act, 1955 does not extend to a case of eviction of the tenant under sub-section (4) of section 3. The High Court has also observed that notwithstanding the reversal of the eviction order, the tenant is unable to get restoration.<sup>2</sup> The Government consider that the cultivating tenant should normally get back possession of the land consequent on the reversal of the eviction proceedings. The Act as it stands now does not contain any provision to that effect. The Government have, therefore, decided to amend the Tamil Nadu Cultivating Tenants Protection Act, 1955 suitably so as to empower the High Court to pass orders of restoration where it sets aside in revision, the order of the eviction by the Revenue Divisional Officer.<sup>3</sup> The Bill seeks to achieve the above object. Published in Part IV-Section 3 of the Tamil Nadu Government Gazette Extraordinary, dated the 22nd November 1973. Statement of Objects and Reasons. - By the Tamil Nadu Cultivating Tenants Protection Act, 1955, the cultivating tenants have been given protection from eviction from the land cultivated by them except on specified grounds like non-payment of rent, neglect of cultivation, etc., as provided for in the Act. Subsequently, the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969 was enacted for the preparation and maintenance of a record of tenancies. This Act has been implemented throughout the State. As a further measure of agrarian reform, it is considered necessary to confer on the cultivating tenants the right to purchase the lands cultivated by them from their landowners. The Government have, therefore, decided to bring forth legislation for the above purpose. The Bill provides that a cultivating tenant shall be entitled to purchase the right, title and interest of the landowner in respect of the

land comprised in his holding as cultivating tenant subject to the condition that the total of the extent of land held by him as owner and as cultivating tenant shall not exceed five standard acres. The purchase price payable by a cultivating tenant for the purchase of the right, title and interest of the landowner is-(a) in case the price can be fixed by agreement the price paid in accordance with such agreement;(b) where no such agreement can be reached the aggregate of 12 times the fair rent in respect of the holding or part thereof to which the purchase relates plus one-half of the value of the structures, wells and pump-sets belonging to the landowner. As it may not be possible for the cultivating tenant to pay the entire purchase price in one lump sum, provision has been made for payment of the purchase price by the cultivating tenant in 12 equal annual instalments if the purchase price is Rs. 500 and above. Option has also been given to the cultivating tenant to pay the entire purchase price in one lump sum in which case he need pay only 75 per cent of the purchase price. In order to see that no hardship is caused to the small landowners, provision has been made that any landowner who is not liable to pay tax under the Tamil Nadu Agricultural Income-tax Act, 1955 or under the Indian Income-tax Act, 1961 (Central Act 43 of 1961) may resume from his cultivating tenant for personal cultivation a portion of the holding not exceeding one-half of the extent of land let out by the landowner to the cultivating tenant subject to the condition that the total of the extent of land held by him as owner and as cultivating tenant should not exceed five standard acres. The landowner can exercise his right of resumption only once. The other provisions mainly relate to the procedure to be followed for the implementation of the Bill when it becomes an Act. In the Tamil Nadu Agricultural Lands Record of Tenancy Rights Bill, 1968 (L.A. Bill No. 18 of 1968), a tenant was defined to include a sub-tenant if he contributes his own physical labour or that of any member of his family in the cultivation of such land-please see clause 2(8)(a)(i). The object was that the record of tenancy rights which is to be prepared and maintained under the said Bill when enacted into law should also contain particulars about the subtenant. The Select Committee which considered the Bill decided that a sub-tenant who contributes his own physical labour or that of any member of his family in the cultivation of such land should be treated as a sub-tenant for purposes of tenancy laws also and that suitable provisions should be made in this behalf. The Government have examined this suggestion and have decided that a sub-tenant who contributes his own physical labour or that of any member of his family in the cultivation of such land should be treated as a cultivating tenant for the purposes of the Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955), and the Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956 (Madras Act XXIV of 1956). For the purposes of the Madras Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Madras Act 57 of 1961), a sub-tenant who contributes his own physical labour or that of any member of his family in the cultivation of a land is already, treated as a cultivating tenant-see section 2(5)(ii)(c) of that Act. 2. The Bill seeks to achieve the above objects. Statement of Objects and Reasons. - The life of the Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955), is due to expire on the 26th September 1958. The question of giving relief to small land owners is now engaging the attention of the Government and they propose to undertake the necessary legislation very shortly. In the meantime, it has become necessary to extend the life of the Act up to and inclusive of the 31st December 1958. There is no provision now in the Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955), for the transfer of a petition from the Court of one Revenue Divisional Officer to that of another. As such, a provision is found to be necessary, it is proposed to empower the High Court to order suo motu or on representation from parties the transfer of cases from the file of one Revenue Divisional

Officer to that of another within the district. The Bill seeks to give effect to the above objects. Statement of Objects and Reasons. - Some of the Law Courts have held that the provisions of the Madras Cultivating Tenants Protection Act, 1955, cannot be applied to the tenancies of share cropping nature such as 'kaiyeru', 'matteru' and 'peiru' forms of tenancy. This mode of share cropping is widespread in Tiruchirappalli and Tirunelveli districts. Share cropping is widespread all over the State. If these forms of share cropping do not come under the purview of this Act, then, the object of giving security to tenants against eviction will not be fully achieved. In order to set right the defect in the principal Act, it has become necessary to amend the definition of 'cultivating tenant' so as to cover the different forms of tenancies prevailing in different parts of the State. As it is doubtful whether a 'cultivating sub-tenant' will be liable to be evicted by the landlord if the agreement between the landlord and the intermediary ceases for any reason on the ground that there is no privity of contract between the landlord and the sub-tenant, the proviso to the definition of the 'cultivating tenant' is considered necessary so as to protect 'cultivating sub-tenants' from being evicted by the landlord when the intermediary either by surrender or by collusion ceases his agreement with the landlord. Further, the object of the provisions of section 6-A has been defeated. In a number of civil suits, injunctions have been granted against tenants although they have claimed that they were cultivating tenants entitled to the benefits of this Act. The object is that the Civil Courts should not try a petition regarding protection against eviction under this Act. Litigant landlords take advantage of the term used in section 6-A, viz., 'if it is proved by affidavit or otherwise to deny (he benefit altogether. Hence, it is necessary to amend this section so that the cultivating tenants need not be dragged for prolonged civil litigation for establishing this right. The life of the Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955) will expire on 26th September 1963. As it will take some more time for the revision of the tenancy laws, which is now under the consideration of the Government, it has become necessary to extend the life of the Act for two more years.

2. The Bill seeks to give effect to the above object. Statement of Objects and Reasons. - By the Tamil Nadu Cultivating Tenants (Protection from Eviction) Act, 1966 (Tamil Nadu Act 11 of 1966), cultivating tenants were given protection from eviction on the ground of arrears of rent payable to the landlords or the public trusts, as the case may be. The Act remained in force up to and inclusive of the 19th April 1968. After the expiry of the above Act, cultivating tenants who had not paid the entire arrears outstanding on the 20th April 1968 were faced with eviction proceedings. Having regard to the economic condition of the cultivating tenants, it was considered that it might be difficult for them to clear off the arrears in one lump sum. The Government, therefore, enacted the Tamil Nadu Cultivating Tenants (Special Provisions) Act, 1968, enabling the tenants to pay the arrears accrued and outstanding on the 20th April 1968, in four equal annual instalments without interest on or before the 1st April 1969, the 1st April 1970, the 1st April 1971 and the 1st April 1972.

2. The cultivating tenants have to pay before the 1st April of every year one-fourth of the arrears of rent accrued up to the 20th April 1968 along with the rent due for each year subsequent to the 20th April 1968. It has been represented that the cultivating tenants have found it difficult to pay the arrears of rent as well as the rent due for each year as indicated above, with the result that they are in heavy arrears in respect of the rents payable. It has also been represented that the cultivating tenants have borrowed or added to their debts during the years of drought and that they are not in a position to pay arrears of rent due to their indebtedness and poor economic conditions. Due to default in the payment of arrears of rent, landlords have taken action against the cultivating tenants for eviction and for recovery of arrears of rent. It is considered that the cultivating tenants should be spared the

distractions and expenditure involved in such action in order to increase agricultural production. Further, as part of the agrarian reform it has been decided to give relief to the cultivating tenants from the burden of discharging arrears of rent outstanding on the 30th June 1971, subject to the condition that the cultivating tenants pay the rent due for the current fasli, namely, fasli 1381, within a period of six months from the date of the publication of the proposed Act.<sup>3</sup> Under section 3(4)(b) of the Tamil Nadu Cultivating Tenants Protection Act, 1955 (Tamil Nadu Act XXV of 1955), the Revenue Divisional Officer has jurisdiction to direct the cultivating tenant in order to avoid being evicted from his holding, to deposit all arrears of rent even though some portion of arrears of rent has become time barred—see in this connection the Division Bench decision of the Madras High Court in *Palaniswami v. Kandappa Gounder* ([1968] AIR 1968 Mad 96). It is considered that it will be harsh if the cultivating tenant is required to deposit even those arrears of rent which have become time barred. This opportunity has, therefore, been availed of to amend section 3(4)(b) aforesaid so as to provide that the Revenue Divisional Officer should not ask the cultivating tenant to deposit arrears of rent which have become time barred under the law of limitation. Similar amendment has been suggested to section 19 of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961.<sup>4</sup> The Bill seeks to achieve the above objects. Received the assent of the President on the 24th September 1955 and first published in the Fort St. George Gazette Extraordinary, dated 27th September 1955. An Act for the protection from eviction of cultivating tenants in certain areas in the [State of Tamil Nadu] [Substituted for the word 'State of Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.]. Whereas it is necessary to protect cultivating tenants in certain areas in the [State of Tamil Nadu] [Substituted for the word 'State of Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.] from unjust eviction; Be it enacted in the Sixth Year of the Republic of India as follows: -

## 1. Short title and extent.

(1) This Act may be called the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.] Cultivating Tenants Protection Act, 1955. (2) [It extends to the whole of the State of Tamil Nadu, other than the areas to which the Malabar Tenancy Act, 1929 ([Tamil Nadu] [Substituted for the Original sub-section (2) by section 2(a) of the by Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956 (Tamil Nadu Act XIV of 1956).] Act XIV of 1930), extends.] (3) [xxx] [This sub-section was omitted by section 3(ii) of the Tamil Nadu Cultivating Tenants Protection (Continuance) Act, 1965 (Tamil Nadu Act 8 of 1965).]

## 2. Definitions.

- In this Act, unless the context otherwise requires, - (a) [ "added territories" means the territories specified in the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act LVI of 1959);] [Clause (a) of section 2 was re-lettered as clause (aa) of that section and this clause was inserted by Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Added Territories) Act, 1963 (Tamil Nadu Act 33 of 1963).] (aa) [ "cultivating

tenant" - [This clause was substituted for clause (aa) as so re-lettered by section 2(i) of the by Tamil Nadu Cultivating Tenants Protection and Payment of Pair Rent (Amendment) Act, 1969 (Tamil Nadu Act 9 of 1969).](i)means a person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another, under a tenancy agreement, express or implied; and(ii)includes-(a)any such person who continues in possession of lire land after the determination of the tenancy agreement;(b)the heir of such person, if the heir contributes his own physical labour or that of any member of his family in the cultivation of such land;(c)a sub-tenant if he contributes his own physical labour or that of any member of his family in the cultivation of such land; or(d)any such sub-tenant who continues in possession of the land riot withstanding that the person who sublet the land to such sub-tenant ceases to have the right to possession of such land; but(iii)does not include a mere intermediary or his heir;Explanation. - A sub-tenant shall be deemed to be a cultivating tenant of the holding under the landlord if the lessor of such sub-tenant has ceased to be the tenant of such landlord;](b)"cultivation" means the use of lands for the purpose of agriculture or horticulture;(bb)[ "garden land" means any dry land irrigated by lifting water from wells or other sources;] [Inserted by section 3(2) of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956 (Tamil Nadu Act XIV of 1956).](c)"holding" means a parcel or parcels of a land held by a cultivating tenant;(d)"land" means land used for the purpose of agriculture or horticulture and includes any building, or any waste, vacant or forest land, appurtenant thereto, and any house-site belonging to the landlord and let to the cultivating tenant under the same agreement of tenancy;(e)"landlord", in relation to a holding or part thereof means the person entitled to evict the cultivating tenant from such holding or part;(ee)[ a person is said to carry on personal cultivation on a land when he contributes his own physical labour or that of the members of his family in the cultivation of that land;] [Inserted by section 3(3) of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956 (Tamil Nadu Act XIV of 1956).](f)"Revenue Divisional Officer" means the Revenue Divisional Officer in whose jurisdiction the holding in question or part thereof is situate or an officer of the Revenue Department not lower in rank than the Revenue Divisional Officer, empowered by the State Government in this behalf;(g)[ one acre of wet land shall be deemed to be equivalent to one and a half acres of garden land or three acres of dry land and any reference to acres of we I land shall be deemed to include a reference to dry or garden land reduced to their equivalent extent of wet land.] [Added by section 3(4) by the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956 (Tamil Nadu Act XIV of 1956).]

## **2A. [ Construction of certain expressions. [Inserted by section 20) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Amendment) Act 1961 (Tamil Nadu Act 32 of 1961) which was deemed to have come into force on the 2nd March 1960.]**

- [(1)] [In relation to the Shencottah taluk of the Tirunelveli district, the expressions 'the commencement of this Act,' 'the day this Act comes into force,' `the date of coming into force of the [Tamil Nadu] [Section 2-A was re-numbered as sub-section (1) of that section and sub-section (2) ivas added by section 3(H) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Added Territories) Act, 1963 (Tamil Nadu Act S3 of 1963).] Cultivating Tenants Protection (Amendment) Act, 1956', 'the day the Tamil Nadu Cultivating Tenants Protection

(Amendment) Act, 1956, comes into force' and the coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956 wherever they occur in this Act except in clause (a) of, and Explanation II to sub-section (2) and sub-section (3) of section 3 shall be construed as referring to the 2nd March 1960; and the expression '31st March, 1954' wherever it occurs in this Act, shall be construed as referring to 31st March 1959.](2)[ In relation to the added territories, the expressions 'the commencement of this Act, 'such commencement/ 'the day this Act comes into force,' 'the date of coming into force of the [Tamil Nadu] [Added by section 3(H) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Added Territories) Act, 1963 (Tamil Nadu Act 33 of 1963).] Cultivating Tenants Protection (Amendment) Act, 1956,' 'the day of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956, comes into force,' and 'the coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956' wherever they occur in this Act except in sub-section (1) of this section and clause (a) of, and Explanation II to, sub-section (2) of section 3 shall be construed as referring to the date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Added Territories) Act, 1963, is first published in the [Port St. George Gazette] [Now the Tamil Nadu Government Gazette.]].(3)[ In relation to Kanyakumari district, the expression 'the commencement of this Act, 'such commencement', 'the day this Act came into force', 'the date of coming into force of the [Tamil Nadu] [Added by section 2(i) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Kanyakumari District) Act. 1972 (Tamil Nadu Act 4 of 1976).] Cultivating Tenants Protection (Amendment) Act, 1956', 'the day the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.] Cultivating Tenants Protection (Amendment) Act, 1956' and the coming into force of the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969. as amended by the Tamil Nadu Adaptation of laws (Second Amendment) Order, 1969.] Cultivating Tenants (Amendment) Act, 1956', wherever they, occur in this Act except in sub-section (1) and (2) of this section and clause (a) of Explanation II to subsection (2) of section 3 shall be construed as referring to 'the date on which the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.] Cultivating Tenants Protection and Payment of Fair Rent (Extension to Kanyakumari District) Act, 1972, is first published in the Tamil Nadu Government Gazette.]]

### 3. Landlords not to evict cultivating tenants.

(1)Subject to the next succeeding sub-sections, no cultivating tenant shall be evicted from his holding or any part thereof, [x x x] [The words 'during the continuance of this Act' were, titled by section 4 of the Madras Cultivating Tenants Protection (Continuance) Act, 1965 (Tamil Nadu Act 8 of 1965).] by or at the instance of his landlord, whether in execution of a decree or order of a Court or otherwise.(2)Subject to the next succeeding sub-section, sub-section (1) shall not apply to a cultivating tenant -(a)[ who, in the areas where the Tanjore Tenants and Pannaiyal Protection Act, 1952 (Tamil Nadu Act XIV of 1952), was in force immediately before the date of coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956, if in arrear at the commencement of this Act, with respect to the rent payable to the landlord does not pay such rent within six weeks after such commencement or who in respect of rent payable to the landlord after

the commencement of this Act, does not pay such rent within a month after such rent becomes due; or [Substituted for the original clause (a) by section 4(a)(i) of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956 (Tamil Nadu Act XIV of 1956).](aa)who, in the other areas of the State of Tamil Nadu, if in arrear at the commencement of this Act, with respect to the rent payable to the landlord and accrued due subsequent to the 31st March, 1954, does not pay such rent within a month after such commencement, or who in respect of rent payable to the landlord after such commencement, does not pay such rent within a month after such rent becomes due; or](b)who has done any act or has been guilty of any negligence which is destructive of, or injurious to, the land or any crop thereon or has altogether ceased to cultivate the land; or(c)who has used the land for any purpose not being an agricultural or horticultural purpose; or(d)who has willfully denied the title of the landlord to the land.[Explanation I. [The original Explanation as renumbered as Explanation I and Explanation II was added by section 4(a)(ii) of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956 (Tamil Nadu Act XIV of 1956).] - A denial of the landlord's title under a bona fide mistake of fact is not wilful within the meaning of this clause.][Explanation II. [The original Explanation was renumbered, as Explanation and Explanation II was added by section 4(a)(iii) of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956 (Tamil Nadu Act XIV of 1956).] - In relation to areas where the Tanjore Panniyal Protection Act, 1952 ([Tamil Nadu] Act XIV of 1952) [was in force] [Substituted for the words and to areas where the South Kanara Cultivating Tenants Protection Act 1954 (Madras Act VI of 1954) it ere in force' by clause 3 of, and the Schedule to, the Madras Adaptation of Laws Order, 1957.] immediately before the date of coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956, the expression "commencement of this Act" wherever it occurs in this Act shall be construed as referring to the date aforesaid.][Explanation III. [Added by section 3(iii)(a) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Added Territories) Act, 1963 (Tamil Nadu Act 33 of 1963).] - In relation to the added territories, clause (aa) of this subsection shall have effect as if the following clause had been substituted, namely:-"(aa) who, if in arrear on the date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Added Territories) Act, 1963, is first published in the ([Fort St. George Gazette], with respect to the rent payable to the landlord and accrued due during a period of one month before such date does not pay such rent within a month after such date, or who in respect of rent payable to the landlord after such date, does not pay such rent within a month after such rent becomes due; or"]][Explanation IV. - In relation to Kanyakumari district, clauses (aa) of this sub-section shall have effect as if the following clause had been substituted, namely:-"(aa)who, if in arrear on the date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Kanyakumari District) Act, 1972, is first published in the Tamil Nadu Government Gazette with respect to the rent payable to the landlord and accrued due during a period of one month before such date does not pay such rent within a month after such date, or who in respect of rent payable to the landlord after such date, does not pay such rent within a month after such rent becomes due; or](3)(a)A cultivating tenant may deposit in Court the rent or, if the rent be payable in kind, its market value on the date of deposit, to the account of the landlord-(i)in the case of rent accrued due subsequent to the 31st March 1954, within a month after the commencement of this Act;(ii)in the case of rent accrued due after the commencement of this Act, within a month after the date on which the rent accrued due;(b)The Court shall cause\* notice of the deposit to be issued to the landlord and determine, after a summary enquiry, whether the amount deposited represents the correct amount

of rent due from the cultivating tenant. If the Court finds that any further sum is due, it shall allow the cultivating tenant such time as it may consider just and reasonable having regard to the relative circumstances of the landlord and the cultivating tenant for depositing such further sum inclusive of such costs as the Court may allow. If the Court adjudges that no further sum is due, or if the cultivating tenant deposits within the time allowed such further sum as is ordered by the Court, the cultivating tenant shall be deemed to have paid the rent within the period specified in the last foregoing sub-section. If, having to deposit a further sum, the cultivating tenant fails to do so within the time allowed by the Court, the landlord may evict the cultivating tenant as provided in sub-section (4).(c)The expression "Court" in this sub-section means the Court which passed the decree or order for eviction, or where there is no such decree or order, the Revenue Divisional Officer.[Explanation I. [Explanation was added by section 2(ii) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Amendment) Act, 1961 (Tamil Nadu Act 32 of 1961) which was deemed to have come into force on the 2nd March 1960.] - In relation to the Shencottah taluk of the Tirunelveli district, the expression 'commencement of this Act' wherever it occurs in clause (a) of this sub-section shall be construed as referring to the date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Amendment) Act, 1961, is first published in the Fort St. George Gazette] [Added by section 2(ii)(a) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Kanyakumari District) Act 1972 (Tamil Nadu Act 4 of 1976).][Explanation II. - In relation to the added territories, the expression 'rent accrued due subsequent to the 31st March 1954' occurring in sub-clause (i) of clause (a) of this sub-section shall be construed as referring to rent accrued due during a period of one month before the date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Added Territories) Act, 1963 is first published in the Fort St. George Gazette.] [The Explanation to sub-section (3) of section 3 was numbered as Explanation 1 and Explanation II was added by section 3(iii)(b) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Added Territories) Act, 1963 (Tamil Nadu Act 33 of 1963).][Explanation III. - In relation to the Kanyakumari district, the expression rent accrued due subject to the 31st March 1954' occurring in sub-clause .(i) of clause (a) of this of this sub-section shall be construed as referring to rent accrued due during a period of one month before the date on which the [Tamil Nadu] [This Explanation was added by section 2(ii)(b) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Kanyakumari District Act, 1972 (Tamil Nadu Act 4 of 1976).] Cultivating Tenants, Protection and Payment of Fair Rent (Extension to Kanyakumari district) Act, 1972, is first published in the Tamil Nadu Government Gazette].(4)(a)Every landlord seeking to evict a cultivating tenant falling under subsection (2) shall, whether or not there is an order or decree of a Court for the eviction of such cultivating tenant, make an application to the Revenue Divisional Officer and such application shall bear a Court-fee stamp of one rupee.(b)On receipt of such application, the Revenue Divisional Officer shall, after giving a reasonable opportunity to the landlord and the cultivating tenant to make their representations, hold a summary enquiry into the matter and pass an order either allowing the application or dismissing it and in a case falling under clause (a) or clause (aa) of sub-section (2) in which the tenant had not availed of the provisions contained in sub-section (3), the Revenue Divisional Officer may allow the cultivating tenant such time as he considers just and reasonable having regard to the relative circumstances of the landlord and the cultivating tenant for depositing the arrears of rent payable under this Act inclusive of such costs as he may direct. If the cultivating tenant deposits the sum as directed, he shall be deemed to



have paid the rent under sub-section (3)(b). If the cultivating tenant fails to deposit the sum as directed, the Revenue Divisional Officer shall pass an order for eviction.[Provided that the Revenue Divisional Officer shall not direct the cultivating tenant to deposit such arrears of rent as have become Time barred under any law of limitation for the time being in force.] [Proviso added by section 11 of the Tamil Nadu Cultivating Tenants Arrears of Rent (Relief) Act, 1972 (Tamil Nadu Act 21 of 1972)]

#### **4. Right to restoration of possession.**

(1)Every cultivating tenant who was in possession of any land on the 1st December 1953 and who is not in possession thereof at the commencement of this Act shall, on application to the Revenue Divisional Officer, be entitled to be restored to such possession on the same terms as those applicable to the possession of the land on the 1st December 1953.(2)Nothing in sub-section (1) shall be deemed to entitle any such cultivating tenant to restoration of possession-(i)if, on the day this Act comes into force, he is in possession, either as owner or as tenant or as both, of land exceeding the extent specified in the Explanation below or if he has been assessed to any sales-tax, profession-tax or income-tax under the respective laws relating to the levy of such taxes during 1953-54 or 1954-55; or(ii)if the landlord, after evicting such cultivating tenant from the land [has been carrying on personal cultivation on the land] [Substituted for the words 'has been cultivating the land by his own labour or by that of any other member of his family or hired labour under his supervision or control' by section 5(1) of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act 1956 (Tamil Nadu Act XIV of 1956).], provided as follows:(a)the total extent of land held by such landlord inclusive of the land, if any, held by him as tenant does not exceed the extent specified in the Explanation below; and(b)the landlord has not been assessed to any sales tax, profession-tax or income-tax under the respective laws relating to the levy of such taxes during 1953-54 or 1954-55; or(iii)if subsequent to the 1st December, 1953, the landlord has bona fide admitted some other cultivating tenant to the possession of land and such other tenant has cultivated the land before the commencement of this Act;Provided that where such other tenant is in possession, either as owner or as tenant or as both of any other land which exceeds the extent specified in the Explanation below and, the cultivating tenant who was evicted is not in possession of any land or is in possession of any other land which is less than the extent specified in the said Explanation, the cultivating tenant shall be entitled to restoration of possession.[Explanation. [Substituted for the original Explanation by section 5(3) of the by Tamil Nadu Cultivating Tenants Protection Amendment) Act, 1956 (Tamil Nadu Act XIV of 1956).] - The extent referred to in clauses (i) to (iii) above is 6-23 acres of wet land.](3)Every application to a Revenue Divisional Officer under sub-section (1) shall be made within thirty days from the commencement of this Act, and shall bear a court-fee stamp of one rupee;Provided that the application maybe received after the period of thirty days aforesaid, if the applicant satisfies the Revenue Divisional Officer that he had sufficient cause for not making the application within that period.(4)On receipt of an application under sub-section (3), the Revenue Divisional Officer shall, after giving a reasonable opportunity to the landlord and the cultivating tenant, if any, in possession of the land, to make their representations, hold a summary inquiry into the matter and pass an order either allowing the application, or dismissing it the Revenue Divisional Officer may impose such conditions as he may consider just and equitable including in regard to-(i)the payment by the applicant of any arrear of rent already due from him to the landlord, but

not exceeding in amount one year's rent, and(ii)the reimbursement by the applicant of the landlord or the other cultivating tenant in respect of the expenses incurred or the labour done by him during the period when the applicant was not in possession, on any crop which has not been harvested, if an agreement is not reached between the parties as regards is not reached between the parties as regards the rates and manner of such reimbursement.Explanation. - In lieu of imposing any condition relating to reimbursement as provided in clause (ii), the Revenue Divisional Officer may, in his discretion, postpone the restoration of the applicant to possession of the land, until any crop which is being grown thereon at the lime when the order is passed, has been harvested.(5)[ Any cultivating tenant who after the commencement of this Act has been evicted except under the provisions of sub-section (4) of section 3 shall be entitled to apply to the Revenue Divisional Officer within two months from the dale of such eviction or within two months from the date of coming into force of the Tamil Nadu Cultivating Tenants Protection ( Amendment) Act, 1956 (Tamil Nadu Act XIV of 1956) for the restoration to him of the possession of the lands from which he was evicted and to hold them with all the rights and subject to all the liabilities of a cultivating tenant. The provisions of sub-section (4) shall, so far as may be, apply to such an application.] [Added by section 5(3) of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956 (Tamil Nadu Act XIV of 1956).][Explanation [I. - In relation to the Shencottah taluk of the Tirunelveli district, the expressions '1st December, 1953' and '1953-54 or 1954-55 wherever they occur in this section shall be construed respectively as referring to '1st March, 1958' and '1957-58 or 1958-59'.] [Added by section 2(iii) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Amendment) Act, 1961 (Tamil Nadu Act 32 of 1961) which was deemed to have come into force on the 2nd March 1960.]] [Explanation II. - Nothing in sub-sections (1), (2) and (3) shall apply to the added territories.] [Numbered as Explanation I thereof and Explanation II was added by section 3(iv) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Added Territories) Act, 1963 (Tamil Nadu Act 33 of 1963).][Explanation III. - Nothing in sub-section (1), (2) and (3) shall apply to the Kanyakumari District.] [Added by section 2(iii) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension of Kanyakumari District) Act, 1972 (Tame Nadu Act 4 of 1976).]

#### **4A.**

[Section 4-A was omitted and was deemed to have been omitted with effect from the 5th July 1973 by section 2 of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1976 (President's Act 18 of 1976)].

#### **4AA. [ Special privileges for member of the Armed Forces. [Inserted by section 3(ii) of the Tamil Nadu Tenancy (Amendment) Act, 1965 (Tamil Nadu Act 9 of 1965).]**

(1)A cultivating tenant who is enrolled as a member of the Armed Forces, may, on or after such enrolment, sublet the lands held by him, as cultivating tenant.] [x x x] [The portion 'and the sub-tenant concerned shall, subject to the provisions of sub-section (2), be deemed to be a cultivating tenant for the purposes of this Act and of the Tamil Nadu Cultivating Tenants (Payment

of Fair Rent) Act, 1956 (Tamil Nadu Act XXIV of 1956), if such subtenant contributes his own physical labour or that of any member of his family in the cultivation of such land' was omitted by section 2(ii)(a) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Amendment) Act, 1969 (Tamil Nadu Act 9 of 1969).](2)A cultivating tenant who is enrolled as a member of the Armed Forces, on discharge or retirement from service or on being sent to Reserve, shall, on application for resumption made within the prescribed period to the Revenue Divisional Officer, be entitled to [resume possession of the land sublet by him under sub-section (1).] [This expression was substituted for the expression 'resume possession from the sub-tenant referred to in sub-section (1), of the land sublet by him under that sub-section' by section 2(ii)(b) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Amendment) Act, 1969 (Tamil Nadu Act 9 of 1969).](3)A landlord who is enrolled as a member of the Armed Forces shall, on discharge or retirement from service or on being sent to Reserve, be entitled to resume possession from any cultivating tenant for purposes of personal cultivation of that extent of land, which together with the extent of land, if any, already in his possession does not exceed the ceiling area which he is entitled to hold under the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws Second Amendment) Order, 1969.] Land Reforms (Fixation of Ceiling on Land) Act, 1961 ([Tamil Nadu] [Substituted and was deemed to have been substituted, with effect from the 5th July 1973, by section 3 of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1976 (President's Act is of 1976) for the following sub-section (4) inserted by section 3(ii) of the Tamil Nadu Tenancy (Amendment) Act, 1965 (by Tamil Nadu Act 9 of 1965). '(4) The provisions of sub-section (71 of section 4-A shall, as far may be, apply for the resumption of any land under sub-section (2) or sub-section (3) as they apply for the resumption of any land under sub section (1) of section 4-A.'] Act LVIII of 1961).(4)[ (a) Any person desiring to resume any land under sub-section (2) or, as the case may be, under sub-section (3) (hereinafter referred to in this sub-section referred to as the applicant) shall apply to the Revenue Divisional Officer and on receipt of such application, the Revenue Divisional Officer shall, after giving a reasonable opportunity to the applicant and person in possession of the land (hereinafter in this sub-section referred to as the possessor) to make their representations, hold a summary enquiry into the matter and pass an order directing possessor to put the applicant in possession of the land or dismissing the application.] [Substituted and was deemed to have been substituted, with effect from the 5th July 1973, sub-section 3 of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1976 (President's Act 18 of 1976) for the following sub-section (4) inserted be section 3(ii) of the Tamil Nadu Tenancy (Amendment) Act, 1965 (by Tamil Nadu Act 9 of 1965): '(4) The provisions of subsection (2) of section 4-A hall, as far may be. apply for the resumption of any land under sub-section (2) or sub-section (3) as they apply for the resumption of any land under section (1) of section 4-A.'](b)Where Revenue Divisional Officer passes an order under clause (a) directing the possessor to put the applicant in possession of the land, the revenue Divisional Officer may impose such conditions as he may consider just and equitable including condition in regard to the reimbursement by the applicant to the possessor in respect of the expenses incurred by the possessor or labour contributed by him on any crop which has not been harvested, if an agreement is not reached between the parties as regards the rate and manner of such reimbursement.Explanation. - In lieu of imposing any condition relating to reimbursement as provided in clause (b), the Revenue Divisional Officer may, in his discretion, postpone the restoration of the applicant to possession of the land, until any crop which is being

grown thereon, at the time when the order is passed, has been harvested.(5)Where a member of the Armed Forces dies while in service, the special privileges conferred by this section on such member shall be available to the widow of such member, or any person dependent upon such member immediately before his death.(6)The provisions of this section have effect notwithstanding anything inconsistent therewith contained in any other provision of this Act or of any other Act,Explanation. - For the purpose of this Act-(a)member of the Armed Forces shall have the same meaning as in clause (29) of section 3 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 7969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 7969.] Act LVIII of 1961);(b)a member of the Armed Forces who has been discharged or retired from service or who has been sent to Reserve is said to carry on personal cultivation on a land when contributes his own physical labour or that of the members of his family in the cultivation of that land; and(c)a member of the Armed Forces in service shall be deemed to carry on personal cultivation on a land if such land is cultivated by the members of his family or by his own servants or by hired labour, with his own or hired stock.

#### **4B. [ Execution of lease. [Inserted by section 6 of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 7 956 (Tamil Nadu Act XIV of 1956).]**

(1)In the case of even tenancy agreement entered into after the coming into force of the [Tamil Nadu] Cultivating Tenants Protection (Amendment) Act, 1956 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.] Act XIV of 1956) between a cultivating tenant and a landlord, a lease deed shall be executed in triplicate in the prescribed form, within a reasonable time after the commencement of such tenancy, specifying the name and description of the cultivating tenant, the name (if any) survey number, description and extent of the land leased out, and the terms of the tenancy and shall be signed both by the landlord or his agent and by the cultivating tenant. One of the three copies shall be kept by the landlord, one shall be kept by the cultivating tenant and the third shall be caused to be lodged in the Taluk office by the landlord or his agent within a fortnight of the date on which the cultivating tenant signs it:Provided that if the landlord or the cultivating tenant refuses or delays unreasonably to execute the lease deed, it shall be open to the cultivating tenant or the landlord, as the case may be, to lodge the deed in the Taluk Office with a declaration that the other party has refused or delayed unreasonably to execute it.(2)No stamp need be affixed to the lease deed.(3)In the case of any tenancy, if the landlord or his agent or the cultivating tenant refuses to sign or fails to lodge the lease deed in accordance with the provisions of sub-section (1), the Revenue Divisional Officer may impose on the landlord or the cultivating tenant, as the case may be, a penalty which may extend fifty rupees; and any penalty so imposed may be recovered as if it were an arrear of land revenue.]

#### **5.**

[xxx] [Section 5 was omitted by section 5 of the Tamil Nadu Cultivating Tenants Protection (Continuances) Act, 1965 Act, 1965 (Tamil Nadu Act 8 of 1965).]

## **6. Bar if jurisdiction of civil Courts.**

- No civil Court shall, except to the extent specified in section 3(3), have jurisdiction in respect of any matter which the Revenue Divisional Officer is empowered by or under this Act to determine and no injunction shall be granted by any Court in respect of any action taken or to be in pursuance of any power conferred by or under this Act.

### **6A. [ Transfer of certain suits to the Revenue Divisional Officer by civil Courts. [Sections 6-A and 6-B were inserted by section 7 of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956 (Tamil Nadu Act XIV of 1956).]**

- If in any suit before any Court for possession of, or injunction in relation to any land, it is proved by affidavit or otherwise that the defendant is a cultivating tenant entitled to the benefits of this Act, the Court shall not proceed with the trial of the suit but shall transfer it to the Revenue Divisional Officer who shall thereupon deal with and dispose of it as though it were an application under this Act and shall all the provisions of this Act shall apply to such an application and the applicant.]

### **6B. Revision by High Court.**

- The Revenue Divisional Officer shall be deemed to be a Court subordinate to the High Court for the purposes of section 115 of the Code of Civil Procedure, 1908 (Central Act V of 1908), and his orders shall be liable to revision by the High Court under the provisions of that section.

### **6BB. [ High Court to direct restoration in certain cases. [Inserted by section 2 of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1973 (Tamil Nadu Act 6 of 1974).]**

- Where any cultivating tenant has been evicted in execution of an order for eviction passed under sub-section (4) of section 3, and where such order for eviction is set aside in revision by the High Court; the High Court shall direct restoration to such cultivating tenant of the possession of lands from which he was evicted with all the rights and subject to all the liabilities of a cultivating tenant. The High Court may also impose such condition as may be imposed by the Revenue Divisional Officer under clause (ii) of sub-section (4) of section and the Explanation thereto.]

### **6C. [ Transfer of application or other proceeding by High Court. [Inserted by section 3 of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1958 (Tamil Nadu Act XIX of 1958).]**

(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the High Court may at any stage transfer any application or other proceeding under this Act pending before any Revenue

Divisional Officer in any district for disposal to any other Revenue Divisional Officer in the same district.](2)Where any application or other proceeding has been transferred under sub-section (1), the Revenue Divisional Officer who thereafter holds the inquiry may, subject to any special directions in the case of an order or transfer, either hold the inquiry de novo or proceed from the point at which the application or other proceeding stood when it was transferred.

## **7. Power to make rules.**

(1)The State Government may [x x x] [The words 'by notification in the Fort St. George Gazette' were omitted by section 2(v)(a) of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Amendment) Act, 1961 (Tamil Nadu Act 32 of 1961), which was deemed to have come into force on the 2nd March 1960.], make rules to carry out the purposes of this Act.(2)[ All rules made under this Act shall be published in the Fort St. George 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.] [Substituted for the original sub-section (2) by section 2 of the by Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Amendment) Act, 1961 (Tamil Nadu Act 32 of 1961) which-was deemed to have come into force on the 2nd March 1960.](3)Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of [the Legislative Assembly] [Substituted for the words '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 words 'both Houses agree' by the Tamil Nadu Adaptation of Laws Order, 1957.] in making any modification in any such rule or that the rule should not be made, the rule 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.

## **8. Act not to apply to lands used by Central Government, State Government etc.**

- Nothing contained in this shall apply to any land owned or taken on lease by:-(i)the Central Government or any state Government or any Local authority; or(ii)any company or corporation owned or controlled by the Central Government or any State government; or(iii)any university constituted by any law.