

The M.P. Temporary Postponement of Execution of Decrees Act, 1958

MADHYA PRADESH

India

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Act 22 of 1958

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The M.P. Temporary Postponement of Execution of Decrees Act, 1958(M.P. Act No. 22 of 1958)[Dated 25th July, 1958]Received the assent of the President on the 25th July, 1958; assent first published in the Madhya Pradesh Gazette on the 8th August, 1958.An Act to provide for the temporary postponement of execution of certain decrees of Civil Courts against agriculturists.Be it enacted by the Madhya Pradesh Legislature in the Ninth Year of the Republic of India as follows :

1. Short title and extent.

(1)This Act may be called the Madhya Pradesh Temporary Postponement of Execution of Decrees Act, 1958.(2)It extends to the whole of Madhya Pradesh.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,-(a)"Agriculturist" means a person who holds land for agricultural purposes and who earns his livelihood wholly or mainly from agriculture;(b)"Civil Court" includes a Court of Small Causes;(c)"Decree for money " means a decree for payment of money passed by Civil Court, a Panchayat or a Nyaya Panchayat;(d)"Notification" means a notification issued under Section 3 of this Act.

3. Power of State Government to apply provisions of this Act to any, area by notification.

(1)Whenever it appears to the State Government that scarcity conditions are prevalent in any area due to crop failure and it is necessary to take measures to give immediate relief to the agriculturists in such area, it may, by notification, specify-(a)the area so affected;(b)the date where from it is

proposed to give relief to agriculturists in such area; and(c)the date up to which the notification shall remain in force.(2)On publication of the notification under sub-section (1) the provisions of Sections 4 to 10 shall apply to such area with effect from the date specified under clause (b) thereof till the date such notification remains in force.

4. Stay of proceedings in the case of certain decrees.

(1)All proceedings in execution of any decree for money, or proceedings for making final any preliminary' decree for foreclosure or sale, or proceedings in execution of any final decree for sale, passed by a Civil Court on the basis of a liability incurred before the date specified in the notification in which a judgment debtor or defendant, as the case may be, is on such date an agriculturist shall be stayed against such judgment-debtor or defendant, on an application made by him in this behalf during the period the said notification remains in force.,(2)All attachments of growing crops, agricultural produce, livestock and other movable property of a perishable nature made in execution of decrees for money the execution of which has been stayed under sub-section (1) and existing on the date on which the stay order is passed shall be withdrawn.(3)Any judgment-debtor or defendant who is an agriculturist, may, notwithstanding that no proceedings of the nature referred to in sub-section (1) are pending against him, make an application for stay under that sub-section.(4)Every stay order passed by the Court under this section shall relate back to the date of the application for stay filed by the judgment-debtor or defendant, as the case may be, and the proceedings shall for all purposes of this Act be deemed to have been stayed with effect from such date.

5. Release of persons in detention in civil prison.

(1)On the date specified in the notification under Section 3 every agriculturist in detention in a civil prison in execution of any decree for money passed against him by a Civil Court shall be released.(2)No agriculturist shall in any case be liable to arrest or detention in a civil prison in execution of any such decree as is referred to in sub-section (1) during the period the notification remains in force.

6. Relief against default in payment of instalments.

(1)Where a decree for payment of the decretal amount by instalments contains a clause that in default of one or more instalments the whole amount shall become due at once, then notwithstanding anything in such clause, non-payment of any instalment falling due during the period in which the proceedings in execution remain stayed under this Act, shall not be deemed to be a default for the purposes of that clause.(2)If the judgment-debtor pays the instalments so falling due within twelve months after the expiry' of the notification then such instalments shall be deemed to have been paid on the due date.

7. Computation of time for execution.

- In computing the period of twelve years prescribed by Section 48 of the Code of Civil Procedure, 1908 (V of 1908), the period during which proceedings are stayed under this Act shall be excluded.

8. Payment of certain decrees.

- Nothing herein contained shall-(a)apply to decrees for money arising out of claims relating to trusts or for maintenance or for profits in favour of a co-tenant or co-owner, or for mesne profits or for damages for tort, or for contribution between co-tenants of agricultural land; or(b)apply to a mortgage decree against property in hands of a subsequent transferee who has undertaken to satisfy the mortgage on the basis of which such decree has been obtained; or(c)apply to decisions of the Registrar, awards of arbitrators or orders of liquidators, made under any law relating to Cooperative Societies for the time being in force in the area specified in the notification or the rules made thereunder.

9. Transfers by agriculturists to be voidable.

- Every transfer of property made by an agriculturist against whom proceedings in execution have been stayed under this Act shall be voidable at the option of any creditor whose claim against such agriculturist is defeated or delayed.

10. Act not applicable to executions in certain suits.

- Nothing in this Act shall apply to anything done in execution of a decree passed in a suit for a sum payable under a settlement or sub-settlement or payable by a thekedar or farmer of proprietary rights or for the share of proprietary profits between lambardars and co-sharers, or by a proprietor to recover from a Malik Makbuza the assessment on a Malik Makbuza plot payable through a proprietor under sub-section (3) of Section 84 of the repealed Central Provinces Land Revenue Act, 1917 (II of 1917).