

The Tripura Agricultural Debtors Relief Act, 1975

TRIPURA

India

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Act 1 of 1976

- Published on 11 February 1976
- Commenced on 11 February 1976
- [This is the version of this document from 11 February 1976.]
- [Note: The original publication document is not available and this content could not be verified.]

The Tripura Agricultural Debtors Relief Act, 1975 Tripura Act No. 1 of 1976 Last Updated 18th February, 2020 Published in the Tripura Gazette, Extraordinary, Part III, No. 43, dated 11-2-1976. An Act to impose memorandum on recovery of debt and for matters connected therewith. Be it enacted by the Legislative Assembly of Tripura in the Twenty-sixth Year of the Republic of India as follows :

Chapter I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Tripura Agricultural Debtors Relief Act, 1975. (2) It extends to the whole of Tripura. (3) It shall be deemed to have come into force on and from the seventeenth day of September, 1975.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "agriculture" includes horticulture, forestry, the raising of annual or periodical crops or garden produce, dairy farming, poultry farming, livestock breeding, bees breeding, grazing, pisciculture and growing of fruits, vegetables and the like; (b) "Civil Court" means a Civil Court within the meaning of the Tripura (Courts) Order, 1950 and includes Nyaya Panchayats established under Section 42 of the United Provinces Panchayat Raj Act, 1947, as extended to Tripura, and includes also any court exercising appellate or revisional jurisdiction over Civil Court; (c) "Co-operative society" means a society registered under the provisions of the Tripura Co-operative Societies Act, 1974; (d) "debt" means any liability in cash or in kind secured or unsecured due from a debtor whether payable under a decree or order of any Civil Court or otherwise and includes subject to the Explanation to Section 4 mortgage money the payment of which is secured by the usufructuary mortgage of immovable property but does not

include-(i)Any sum due to the Government, a Co-operative Society, a local statutory authority, or the L.I.C., or a bank;Explanation. The word "Bank" means-(a)A Banking Company as defined in the Banking Regulation Act, 1949;(b)The State Bank of India constituted under the State Bank of India Act, 1955;(c)A Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;(d)A corresponding new bank constituted under the Banking (Acquisition and Transfer of Undertakings) Act, 1970;(e)The Agricultural Re-finance Corporation constituted under the Agricultural Re-finance Corporation Act, 1963;(f)Any other banking or financial institution notified by the State Government in the official Gazette;(ii)Land revenue or anything recoverable as an arrear of revenue; or(iii)Liability arising out of breach of trust, or law in respect of wages or remuneration, or in respect of maintenance of any rent due, or in respect of any property let out to a debtor;(e)"debtor" means an individual or an undivided Hindu family who is indebted and belongs to any of the following categories, namely : (i)marginal farmer,(ii)small farmer,(iii)share-cropper,(iv)landless labourer, and(v)rural artisan;(f)"farmer" means a person who is engaged in agriculture;(g)"landless labourer" means a person who does not hold any agricultural land and whose principal means of livelihood is manual labour on agricultural land;(h)"marginal farmer" in relation to a person not belonging to Scheduled Tribes means a farmer who owns land measuring not more than one hectare and in relation to a person belonging to a Scheduled Tribe means a farmer who owns land measuring not more than two hectares;(i)"rural artisan" means a person who does not hold any agricultural land and whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture or purpose ancillary thereto and also a person who normally earns his livelihood by practising a craft either by his own labour or by the labour of the members of his family in the rural area.(j)"share cropper" means a person who under the system generally known as adhi; barga; bhag or any other term cultivates the land of any person on condition of delivering a share of the produce of such land to that person;(k)"small farmer" in relation to a person not belonging to Scheduled Tribe means a farmer who owns land measuring more than one hectare but less than two hectares and in relation to a person belonging to Scheduled Tribe means a farmer who owns land measuring more than two hectares but less than four hectares;(l)"Official Gazette" means the Tripura Gazette;(m)"prescribed" means prescribed by rules.

Chapter II

Discharge of Debt and Consequences Thereof

3. Discharge of debt and consequences thereof.

- Notwithstanding anything contained in any other law for the time being in force or any contract or other instrument having force by virtue of any such law, and save as otherwise expressly provided in this Act, the consequences as hereinafter set forth shall, with effect from the date of commencement of this Act, ensure, namely : (a)every debt advanced before the commencement of this Act including the amount of interest, if any, payable by a debtor to a creditor shall be deemed to be wholly discharged;(b)no such debt due from the debtor shall be recoverable from him or from any movable or immovable property belonging to him, nor shall any such property be liable to be attached and sold or proceeded against in any manner in the execution of any decree or order relating to such

debt against him.(c)no civil court shall entertain any suit, appeal, or proceeding against a debtor for the recovery of any amount of such debt including interest if any :Provided that where a suit, appeal, or proceeding is instituted jointly against a debtor and any other person, nothing in this clause shall apply to the maintainability of a suit or proceeding in so far as it relates to such other person;(d)all such and proceedings (including appeals, revisions, attachment or execution proceedings) pending on the date of commencement of this Act for the recovery of any such debt against a debtor shall abate:Provided that nothing in this clause shall apply to a sale which has been confirmed before the commencement of this Act;(e)every debtor undergoing detention in a civil person in execution of any decree for money passed against him by a civil court in respect of any such debt shall be released;(f)every property pledged by a debtor shall, on the commencement of this Act, stand released in favour of such debtor, and the creditor shall be bound to return the same to the debtor forthwith.Explanation I. For the purpose of this Chapter debtor means a landless labourer, share cropper, marginal farmer, and rural artisan whose annual income does not exceed Rs. 2,400 per annum.Explanation II. Nothing in this section shall be construed to entitle any debtor to a refund of any part of a debt already re-paid by him or recovered for him before the commencement of this Act.

Chapter III

Moratorium

4. Moratorium.

(1)Notwithstanding anything contained in any other law for the time being in force in any contract or other instrument having force by virtue of an)' such law, every debt due from any debtor including the amount of interest, if any, payable on such debt, shall not be recoverable from him or from any movable or immovable property belonging to him nor shall any such property be liable to be attached or sold or be produced against in any manner in the execution of any decree or order relating to such debt, for a period of one year from the commencement of this Act.(2)The State Government may, by notification in the Official Gazette, extend the period referred to under sub-section (1) for another year.Explanation. For the purpose of this section the word "debt" does not include the mortgage money the payment of which is secured by the usufructuary mortgage of immovable property.

Chapter IV

Procedure for Settlement of Debts

5. Establishment of Tribunal.

- The State Government may, by notification in the Official Gazette, establish for any area specified therein a Tribunal consisting of a sole member who shall be a revenue officer not below the rank of Circle Officer having jurisdiction over that area.

6. Application for settlement of debt.

(1)A debtor or his creditor may make an application for the settlement of his debts to the Tribunal established for an area in which he ordinarily resides, within such time as may be prescribed by the Government.(2)Every application made under sub-section (1) shall be in writing in the prescribed form and shall be signed and verified in the prescribed manner.(3)Every such application shall contain the following particulars namely-(a)the name and address of the applicant;(b)the amount and particulars of all debts with the name and address of the creditor or debtors, as the case may be;(c)the particulars of debtor's properties both movable and immovable with estimated present marked value thereof, and of any pledge, hypothecation, mortgage, lien or charge as security subsisting thereon in the case of an application from a debtor, and particulars of debtor's such properties both movable and immovable as pledged, hypothecated or mortgaged to the creditor in the case of application from the creditor;(d)the particulars of the documents evidencing or proving the existence of the debt enumerated in the application;(e)the number and year of the suit or proceeding with the name of the Civil Court, if such suit or proceeding is pending before that Civil Court in respect of debts enumerated in the application.

7. Assignee from non-debtor not entitled to benefit of this Act.

- No application shall lie under Section 6 for settlement of any debt due from a debtor to whom such debt has been transferred or assigned by any person who is not himself a debtor.

8. Application for recording settlement.

(1)If any debtor and any or all of his creditors, before the making of any application under Section 6 arrive at a settlement in respect of any debt due by the debtor to the creditor, the debtor or any of the creditors may within thirty days from the date of such settlement make an application to the Tribunal for recording such settlement.(2)Every such application shall be in the prescribed form and shall be signed and verified in the prescribed manner.(3)On receipt of such application the Tribunal shall, after giving notice to the creditor, or the debtor, as the case may be, and after making such equity as it thinks fit, if it is satisfied that the settlement arrived at is bona fide and voluntary and is not made with intent to defeat or delay any of the creditors of the debtor, and is in the interest of the debtor, record such settlement and certify the same. Every such settlement so recorded and certified shall be binding upon the parties thereto and shall not be reopened.(4)After the Tribunal has recorded and certified a settlement under sub-section (3), the Tribunal shall call upon the debtor to make a declaration whether there are any other debts due by the debtor which are not included in the settlement. If the debtor makes a declaration that there are no such debts the Tribunal shall pass orders in terms of such settlement.(3)If the Tribunal is satisfied, after recording such settlement, that there are other debts, due from the debtor which are not included in the settlement, the Tribunal shall treat the application made under sub-section (1) as an application for settlement of debts under Section 6.

9. Settlement during pendency of proceedings before Tribunal.

- Notwithstanding anything contained in the preceding sections, if during the pendency of proceedings before the Tribunal or the Appellate Authority, as the case may be, a settlement is arrived at between a debtor and all his creditors and if the Tribunal or the Appellate Authority, as the case may be, is satisfied that the settlement has been made by the debtor voluntarily and is for his benefit, such Tribunal or Appellate Authority, as the case may be, may pass orders in terms of such settlement.

10. Consolidation of applications.

- Where two or more applications for settlement of debts under Section 6 are presented by or against the same debtor, all such applications shall be consolidated. Where such separate applications are presented by or against joint debtors, all such applications shall be heard together.

11. Service of notice on debtors and creditors to submit statement of debts.

- On receipt of the application under Section 6, the Tribunal shall-(a)give notice to the debtor (unless the debtor is himself an applicant) and to every creditor (other than the creditor who is himself an applicant) whose name and address are given in the application, and(b)cause the copies of the notice to be affixed on the notice board of the offices of Tribunal, Tahsildar and Gram Panchayat having jurisdiction over the respective areas in which the debtor and each of the creditors ordinarily reside;requiring the debtor and all creditors to submit a statement in the prescribed form within one month from the date of the service of the notice or affixation of the notice on the Notice board whichever is later :Provided that in the Tribunal is satisfied that the debtor or the creditor is for good and sufficient cause unable to comply with the notice within the time specified therein, it may extend the period for the submission of the statement.

12. Debts in respect of which no application for settlement is made to be void.

- Every debt due from debtor in respect of which no application has been made under Section 6 within the time prescribed under the said Section 6 or in respect of which no application for recording a settlement is made under Section 8 within the period specified in the said Section 8 and every debt due from such debtor in respect of which a statement is not submitted to the Tribunal by the creditor in compliance with the provisions of Section 11, shall be extinguished.

13. Duties of debtors and creditors.

(1)Every debtor by or against whom an application is made under Section 6 or who is a party to an application made under Section 8 shall produce all documents including books of accounts, submit to such examination in respect of his property and his creditors, and attend to such time before the Tribunal as may be required by the Tribunal.(2)It shall be the duty of every creditor to produce such

documents including the books of accounts, to submit to such examination and to supply such information in respect of the debt due to him by the debtor and the securities held by him as may be required by the Tribunal.

14. Powers of Tribunal to effect settlement and to decide disputes as to existence or amount of debt or assets.

(1)The Tribunal shall fix the date for hearing of the application under Section 6 on the date so fixed, shall call upon the applicant and all his creditors or debtors, as the case may be, to explain their respective cases regarding each debt and shall use its best endeavour to induce them to arrive at an amicable settlement, and if such settlement is arrived at, the Tribunal may pass orders in terms of such settlement.(2)If there is a dispute as to the existence or the amount of the debt, the Tribunal may decide the dispute and determine its amount after taking such evidence as it considers necessary :Provided that a decree of Civil Court relating to a debt shall be conclusive evidence as to the existence and amount of debt.

15. Maximum amount allowable in settlement of a debt and powers of Tribunal in respect thereof.

(1)In making settlement of debts by the Tribunal, no creditor shall be allowed a greater amount in satisfaction of both the principal and interest of a debt twice the amount of the principal and accordingly-(i)if in the course of proceedings before the Tribunal it is found that any of the creditors has received from his debtor twice or more than twice the amount of the principal in cash or in kind, the Tribunal shall pass the orders that the debt shall be deemed to have been fully discharged and shall declare that the debtor shall from the date of the order, be in lawful possession of the property secured for the debt that is deemed to have been discharged;(ii)if, in the course of such proceedings, it is found that with respect to any debt, the amount received in cash or in kind by the creditors is less than twice the amount of the principal, the Tribunal shall pass orders that only such amount as together with the amount already so received, will be equal to twice the amount of the principal, shall be repayable with respect to such debt.Illustrations(1)A has borrowed a sum of Rs. 100 which with interest has accumulated to Rs. 150. If A has repaid Rs. 120 he is liable to repay only Rs. 30.(2)A has borrowed a sum of Rs. 100 which with interest has accumulated to Rs. 250 and accordingly-(a)if A has repaid Rs. 200 or more his debt stands redeemed.(b)if A has repaid Rs. 160 he is liable to repay only Rs. 40 for redemption.(2)No creditor shall be allowed a higher rate of interest than the agreed rate of interest or the rate of interest as may be fixed by the State Government under Section 25 of the Bombay Money Lenders Act, 1946, as extended to the State of Tripura, whichever is less.

16. Appeal from order of Tribunal.

- Any person aggrieved by any order of the Tribunal under sub-Sections (3) and (4) of Section 8 and Section 9, 14 or 15, may within thirty days from the date of the order, appeal to the District Collector :Provided that no appeal shall lie against any order of the Tribunal if the amount of the claim is less

than rupees one thousand or such other sum as may be specified in that behalf by the State Government by a notification in the Official Gazette.(2)Subject to the provisions of Section 17 the decision of the Tribunal where no appeal is filed and the decision of the District Collector where an appeal is filed, shall be final and shall not be questioned in any court of law.

17. Revision.

- The Revenue Commissioner may within three months from the date of the order passed under this Act either suo moto or on application, call for and examine the record of any proceeding relating to such order for the purpose of satisfying himself as to the legality of property of the order and may pass such order thereon as he thinks fit.

18. Settlement outside this Act to be void.

- Every settlement of a debt due from a debtor to any creditor, which is not certified by the Tribunal under sub-section (3) of Section 8 or in respect of the settlement of which no order has been passed under sub-section (4) of Section 8, Section 9, 14 or 15 shall be void and shall not be recognised by any Civil court for any purpose whatsoever.

Chapter V

Miscellaneous

19. Tribunal to have certain powers of Civil Courts.

- Every Tribunal shall have for the purposes of this Act, all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 in relation to the following matters, namely:(a)summoning and enforcing the attendance of any person and examining him on oath;(b)requiring the discovery and production of any document;(c)taking evidence on affidavits;(d)requisitioning any public record from any court or office;(e)issuing commission for inspection of property or for examination of witnesses;(f)inspection of property.

20. The order of a Tribunal subject to appeal and revision shall have the effect of a decree of a Civil Court.

- Every order of the Tribunal recording settlement of debt under Section 8, 9, 14 or 15 subject to appeal and revision, shall be deemed to be a decree within the meaning of Clause (2) of Section 2 of the Code of Civil Procedure, 1908 and may be put to execution if necessary, through a Civil Court of competent jurisdiction.

21. Jurisdiction of Civil Courts barred.

- No Civil Court shall entertain any suit or proceeding against a debtor for the recovery of debt within the meaning of this Act or any portion thereof or any interest due thereon after the commencement of this Act.

22. Stay of pending suits or other proceedings and their disposal.

(1) If the Tribunal on receipt of the application under Section 6 or 8 finds that a suit or proceeding is pending before a Civil court in respect of such debts as enumerated in application under Section 6 or 8, it shall send intimation of such application to such Civil Court. (2) During the pendency of an application, appeal or revision before the Tribunal, District Collector or Revenue Commissioner, as the case may be, in relation to the settlement of any debt, any suit or proceedings before a Civil Court in respect of such debt, shall not be proceeded with until and unless the application, appeal or revision has disposed of. (3) After the final disposal of the application, appeal or revision, as the case may be, as referred to in sub-section (1), the Tribunal shall send a copy of the final order regarding the settlement of debt under this Act to the Civil Court before which the suit or proceeding in respect of such debt is pending and the Civil Court shall pass decree or order, as the case may be, in terms of the order of settlement of the debt which shall form part of the decree or order, as the case may be.

23. Penalty for molestation.

(1) Whoever molests, or abets the molestation of, a debtor for the recovery of a debt by him to a creditor shall, on conviction, be punishable with imprisonment of either description which may extend to one year or with fine which may extend to rupees two thousand or with both. Explanation. - For the purposes of this section a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing- (a) obstructs or uses violence to or intimidates such other person, or (b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him, in the use thereof, or (c) loiters near a house or other place where such other person resides or works, or carries on business, or happens to be, or does any act calculated to annoy or intimidate such other person, shall be deemed to molest such other person: Provided that a person who goes to such house or place in order merely to obtain or communicate information shall not be deemed to molest.

24. General provision regarding penalties.

- Whoever fails to comply with or acts in contravention of any provision of this Act or any rule made thereunder shall, if no specific penalty has been provided for in the Act, be punishable with imprisonment which may extend to one year or with fine which may extend to rupees two thousand or with the both.

25. Certain offences to be cognizable.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 offences punishable under this Act or any rule made thereunder shall be cognizable.

26. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the Government, any officer of the Government, a Tribunal or the District Collector or the Revenue Commissioner for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

27. Period of limitation.

- Notwithstanding anything contained in any other law for the time being in force, when the period of limitation is calculated for any suit, appeal, proceeding or application, or for execution of a decree, the period during which any person was debarred from instituting such suit, appeal or proceeding or making such application or executing such decree shall be excluded.

28. Remission of interest.

- A debtor shall not be liable to pay interest upon any loan during the period for which no suit, appeal, or proceeding could be instituted or application made for recovery of the loan or for execution Of a decree in relation thereto or for which a suit, appeal, application or proceeding for recovery of the loan was stayed.

29. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for-(a)the form of application to the Tribunal;(b)the form and manner of service of notices;(c)the fees payable on applications and appeals;(d)recording of evidence and marking of document by the Tribunal;(e)the registers to be maintained by the Tribunal;(f)the procedure to be followed in appeal and revisions under this Act;(g)verifying the sufficiency of the security offered for the grant of loans;(h)the manner of recovery of loans not other sums from defaulting debtors by the State Government on lines similar to provisions for recovery of arrears of land revenue;(i)any other matter which has to be or may be prescribed.(3)Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislative Assembly, while it is in session, for a total period of fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule by way of amendment or repeal, 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 repeal shall be without prejudice to the validity of anything previously done under

that rule.

30. Repeal and savings.

(1)The Tripura Agricultural Debtors Relief Ordinance, 1975 (Ordinance No. 2 of 1975) is hereby repealed.(2)Notwithstanding such repeal, anything done, any action taken, all modifications published, powers conferred, forms prescribed, orders rules and appointments made under the said Ordinance, shall be deemed respectively to have been done, taken, published, conferred, prescribed or made under the corresponding provisions of this Act as if this Act had come into force on the seventeenth day of September. 1975