

Tamil Nadu Cultivating Tenants (Special Provisions) Act, 1968

TAMILNADU

India

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Act 16 of 1968

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Tamil Nadu Cultivating Tenants (Special Provisions) Act, 1968(Tamil Nadu Act 16 of 1968)An Act to make special provisions in respect of certain arrears of rent payable by cultivating tenants.Whereas by 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 from Eviction) Act, 1966 (Tamil Nadu Act 11 of 1966), cultivating tenants in the State were given protection from eviction on the ground of arrears of rent;And Whereas the said Act was in force only up to and inclusive of the 19th April 1968;And Whereas after the expiration of the said Act, it will be difficult for the cultivating tenants to pay in one lump sum, the entire arrears outstanding on the 20th April, 1968;And Whereas it is considered necessary to enable the cultivating tenants to pay such arrears in easy instalments;Be it enacted by the Legislature of 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.] in the Nineteenth Year of the Republic of India as follows:

1. Short title and commencement.

(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 (Special Provisions) Act, 1968.(2)It shall be deemed to have come into force on the 20th April 1968.

2. Definitions.

- In this Act, unless the context otherwise requires-(a)"cultivating tenant" means-(i)a cultivating tenant as defined in clause (aa) of section 2 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 Protection Act, 1955 ([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 XXV of 1955); or (ii) a cultivating tenant as defined in clause (5) of section 2 of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Tamil Nadu Act 57 of 1961); and includes a cultivating verumpattamdar as defined in sub-clause (b) of clause (29) of section 3 of the Malabar Tenancy Act, 1929 ([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 1930); (b) "landlord" means a landlord as defined in clause (e) of section 2 of the Tenants Protection Act and includes- (i) a public trust as defined in clause (22) of section 2 of the Public Trusts Act; and (ii) a landlord as defined in clause (19) of section 3 of the Malabar Tenancy Act; (c) "Malabar Tenancy Act" means the Malabar Tenancy Act, 1929 ([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 1930); (d) "Public Trusts Act" means the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 ([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 LVII of 1961); (e) "Tenants Protection Act" means 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 ([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 XXV of 1955); (f) all other words and expressions used, but not defined in this Act and defined in the Tenants Protection Act or in the Public Trusts Act or in the Malabar Tenancy Act shall have the same meaning as in the Tenants Protection Act or in the Public Trusts Act or in the Malabar Tenancy Act, as the case may be.

3. Cultivating tenant not to be evicted on the ground of arrear of rent for the period prior to 20th April 1968.

- Except as otherwise provided in this Act, - (i) no application under the Tenants Protection Act or under Chapter III of the Public Trusts Act shall be made by or at the instance of a landlord for the eviction of a cultivating tenant from his holding or any part thereof on the ground that the cultivating tenant is in arrear with respect to the rent which accrued due to the landlord before, and is outstanding on, the 20th April 1968; (ii) no suit shall be filed by or at the instance of a landlord for the eviction of a cultivating verumpattamdar from his holding or any part thereof on the ground that the cultivating verumpattamdar is in arrear with respect to the rent which accrued due to the landlord before, and is outstanding on, the 20th April 1968; (iii) no cultivating tenant shall be evicted from his holding or any part thereof by or at the instance of the landlord, whether in execution of a decree or order of a Court or otherwise, on the ground that the cultivating tenant is in arrear with respect to the rent which accrued due to the landlord before, and is outstanding on, the 20th April 1968.

4. Payment in instalments of arrears of rent for the period prior to 20th April 1968.

(1) Any cultivating tenant shall be entitled to pay the total amount of arrears of rent which accrued due to a landlord before, and is outstanding on, the 20th April 1968 in four equal annual instalments without interest on or before the 1st April of each of the four years following the 20th April 1968. (2) Where in respect of a decree for the arrears of rent mentioned in sub-section (1) passed before the 20th April 1968, a cultivating tenant fails to make anyone of the payments specified in sub-section (1), the decree holder shall be entitled to execute the decree in respect of the instalment which is in default. (3) In any suit pending on the 20th April 1968 for the recovery of the arrears of rent mentioned in sub-section (1), the Court shall pass a decree for the payment of such instalments as would become payable under the provisions of subsection (1). (4) In any suit instituted on or after the 20th April 1968 for the recovery of the arrears of rent mentioned in sub-section (1), the Court shall pass a decree for the payment of such instalments as would become payable under the provisions of sub-section (1). (5) Nothing contained in this Act shall bar the Court from passing a decree or making an order in an application for execution of the decree under such terms and conditions as may be more favourable to the cultivating tenant than those provided for in this section either of its own motion upon a consideration of all the circumstances of the case or upon an agreement between the parties. (6) The provisions of sub-section (1) shall, for the purposes of execution, be deemed to be a subsequent order of Court within the meaning of the entry in the third column against Article 136 of the Schedule to the Limitation Act, 1963 (Central Act 36 of 1963).

5. Deposit of instalment of arrears of rent.

(1) A cultivating tenant may, on or before the 1st April of each of the four years following the 20th April 1968, deposit before the competent authority any of the instalments of rent due under sub-section (1) of section 4, and if the rent be payable in kind, the market value of the instalment on the date of deposit, to the account of the landlord. (2) The competent authority 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 the instalment of the rent due from the cultivating tenant. If the competent authority 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 competent authority may allow. If the competent authority 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 competent authority, the cultivating tenant shall be deemed to have paid the instalment of rent within the due date. If, having to deposit a further sum, the cultivating tenant fails to do so within the time allowed by the competent authority, the landlord may evict the cultivating tenant as provided in section 6.

6. Landlord may evict a cultivating tenant for default in payment of instalment.

(1)Any landlord may evict any cultivating tenant-(a)who has failed to pay any of the instalments of rent under sub-section (1) of section 4; or(b)who, having deposited the instalment of rent before the competent authority under sub-section (1) of section 5, has failed to deposit further sum, if any, within the time allowed by the competent authority under sub-section (2) of section 5.(2)Any landlord seeking to evict a cultivating tenant falling under sub-section (1) 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 competent authority.(3)On receipt of such application, the competent authority 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) of sub-section (1), the competent authority may allow the cultivating tenant such time as it considers just and reasonable having regard to the relative circumstances of the landlord and the cultivating tenant for depositing the instalment due inclusive of such costs as it may direct. If the cultivating tenant deposits the sum as directed, he shall be deemed to have paid the instalment of rent within the due date. If the cultivating tenant fails to deposit the sum as directed, the competent authority shall pass an order for eviction.Explanation. - For the purposes of this section and sections 5, 7 and 12, "competent authority" means-(a)in relation to a cultivating tenant as defined in the Tenants Protection Act, and in relation to a cultivating verumpattamdar as defined in the Malabar Tenancy Act, 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; and(b)in relation to a cultivating tenant as defined in the Public Trusts Act, the authorized officer.

7. Revision by the District Court.

- The District Court may call for and examine the record of any competent authority in respect of any proceeding under this Act to satisfy itself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed thereon, and if in any case it appears to the District Court that any such proceeding, decision or order should be modified, annulled or reversed or remitted for re-consideration, it may pass orders accordingly:Provided that the District Court shall not pass any order prejudicial to any party unless he has been given a reasonable opportunity of being heard.Explanation. - For the purposes of this section, "District Court" shall mean-(i)in the City of [Chennai] [Substituted for the word 'Madras' by Tamil Nadu Act 28 of 1996.], the City Civil Court; and(ii)in any other area, the Principal Civil Court of original jurisdiction.

8. Arrears barred by limitation not to be revived.

- Nothing in this Act shall be construed as reviving any claim for arrears of rent for any period before the 20th April 1968 if such claim is barred by limitation on the said date under any law for the time being in force.Explanation. - In computing the period of limitation in respect of any claim for arrears of rent for any period before the 20th April 1968, the period commencing on the 20th April 1966 and ending with the 19th April 1968 shall be excluded.

9. Act to override other laws, contract, etc.

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Tenants Protection Act, the Public Trusts Act or in the Malabar Tenancy Act, or in any other law for the time being in force, or any custom, usage or contract, or decree or order of a Court or other authority.

10. Indemnity.

- No suit, prosecution or other legal proceeding shall lie against the Revenue Divisional Officer, authorized officer or any other authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

11. Bar of jurisdiction of Civil Courts.

- Excepts as otherwise provided in this Act, no Civil Court shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with by the Revenue Divisional Officer, the authorized officer or other authority.

12. Power to make rules.

(1)The Government may make rules to carry 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 procedure to be followed by the competent authority;(b)the fees to be paid in respect of applications under this Act.(3)All rules made under this section shall be published in the [Fort St. George Gazette] [Now Tamil Nadu Government 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.(4)Every rule made under this section 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 in making any modification in any such rule or the Legislative Assembly agrees 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.

13. Repeals.

- The Tamil Nadu Cultivating Tenants (Protection from Eviction) Act, 1966 (Tamil Nadu Act 11 of 1966) and the Tamil Nadu Cultivating Tenants (Special Provisions) Ordinance, 1968 (Tamil Nadu Ordinance 2 of 1968) are hereby repealed.