

Andhra Pradesh (Andhra Area) Agriculturists Relief Rules

ANDHRA PRADESH

India

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Rule

ANDHRA-PRADESH-ANDHRA-AREA-AGRICULTURISTS-RELIEF-RULES of 1938

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Andhra Pradesh (Andhra Area) Agriculturists Relief Rules Last Updated 15th January, 2020 In exercise of the powers conferred by clauses (a) and (b) of sub section (2) of section 28 of the Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938, the Government of Madras are hereby pleased to make the following rules:

1.

For the purposes of proviso (C) to clause (ii) of section 3 of the Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938, the annual rental value of any land which is not appurtenant to any building or which is occupied by or appurtenant to huts, and whose assessment is not based on the annual rental value or on the capital value shall be deemed to be 5 per cent of its capital value as determined by the Collector in the manner laid down in the rules under sub section (3) of section 81 of the Madras District Municipalities Act, 1920

2.

Any tenant desirous of paying into Court any amount towards the rent due or claimed to be due by him for Fasli 1347 or 1346 or both under sub section (4) of section 15 of the Act, shall present to the Court an application in writing for the purpose The application shall specify the name and address of the applicant, the amount of rent paid by him into Court, the fasli or faslis for which it is paid and the name of address of the landholder or under tenure holder to whom it is to be paid The application shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908 .

3.

Where a tenant has paid into Court an amount which he believed to be the full amount of the rent due in respect of the holding (i) for fasli 1347, on or before the 30th September, 1938 or (ii) for fasli 1346, on or before the 30th September, 1939; and it is subsequently found by the Court that owing to a bonafide mistake in calculating the price of paddy or other article payable as rent, or the interest on the rent, or otherwise, the amount actually paid fell short of the correct rent due for the fasli concerned as finally determined by the Court, the tenant shall be entitled to pay into Court the deficiency within fifteen days of the date on which the Court determined the correct rent; and such payment shall, for the purposes of the Act, be deemed to have been made on the date on which the original payment into the Court was made .

4.

An application under section 18, 19A, 20, 22 or 23 of the Act shall be in writing, shall specify the name and address of the applicant, the name and address of the respondent, a clear statement of the facts of the case and the nature of the relief prayed for and shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure.

5.

(1)Any debtor may apply to the executive authority of a municipality or the president of a district board for information as to whether such debtor was or is assessed to profession, property or house tax in terms of provisos (B) and (C) to section 3 (ii) of the Act and the executive authority, or president shall thereupon grant to such debtor a certificate in Form 8, appended to these rules, with such variation as circumstances may require as to whether he has been so assessed to profession, property or house tax Such certificate shall be received in every court as evidence of the facts stated therein .(2)An application under section 26 or 27 of the Act or sub rule (1) shall be in writing, shall specify the name and address of the person in respect of whom, and the purpose for which information is required, and shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908 A single application may be made to cover all the taxes referred in section 27 of the Act or in sub rule (1) in respect of all the four half years mentioned in provisos (B) and (C) to section 3 (ii) of the Act.(3)In respect of every application under section 27 of the Act or under sub rule (1), there shall be paid to the municipality or the district board, as the case may be, a fee of seventy five paise in cash for each half year in respect of which is applied for.

6.

There shall be affixed to every application under section 15 (4) read with rule 2, section 18, 19, 19A, 20, 22, 23 or 26 of the Act, a court fee stamp of the value of twenty five paise

7.

There shall be paid-(a)in respect of every application under sub section (4) of section 15 of the Act read with rule 2, process fees in accordance with the scale prescribed in item I of Appendix III to Order No 200 of the Standing Orders of the Board of Revenue; and(b)in respect of every application under section 18, 19, 19A, 20, 22 or 23 of the Act, process fees in accordance with the scales prescribed in the Civil Rules of Practice and Circular Orders.

8.

(1)A memorandum granted to a creditor under section 26 of the Act shall be in Form A appended to these rules with such variations as circumstances may require.(2)A certificate granted to a creditor under section 27 of the Act shall be in Form B, appended to these rules with such variations as circumstances may require

9.

(1)All suits and execution proceedings for the recovery from an agriculturist of the arrears of rent due from him to a landholder or an under tenure holder under the Andhra Pradesh (Andhra Area) Estates Land Act, 1908, [x x x x] which has accrued for the fasli year 1345 and prior faslis, whether solely or in combination with the arrears of rent which has accrued for fasli 1346 or 1347 or both, pending on the 21st June, 1938, or instituted thereafter, shall stand stayed until the 30th September, 1938, or if the rent for fasli 1347 is paid on or before the 30th September, 1938, until the 30th September, 1939:Provided that nothing in this sub rule shall be deemed to deprive the agriculturist of any remedy or relief which may be available to him in any such suit or proceeding.Explanation 1. - In this sub rule, the expression "execution proceeding" shall include the sale of an agriculturist s holding under the provisions of Chapter VI of the A P (AA) Estates Land, Act, 1908Explanation 2. - In this sub rule, the expression "fasli year" and "fasli" shall have the same meaning as in section 15 of the Act.(2)All suits and execution proceedings stayed under sub rule (1) shall after the 30th September, 1938, or the 30th September, 1939, as the case may be, proceed, subject to the provisions of the Act, form the stage which had been reached at the time when the were so stayed.

10.

Where a person in whose name an assessment to property or house tax has been made in terms of proviso (C) to section 3 (ii) of the Act, proves that he was not the owner of the property or house assessed, at any time during the period mentioned in the said proviso, such assessment shall not by itself have the effect of excluding such person from the category of agriculturist, as defined in said section.

11.

For the purpose of section 9A of the Act, the proportion between the principal amount secured by the mortgage and the proportion thereof which is attributable to the portion of the property in the possession of the mortgagee shall be the same as that between the market value of the entire mortgage property at the date of the mortgage and the market value of the property at that date.

Appendix Form B [See rule 5 (1) and 8 (2)]

Form B [See rule 5 (1) and 8 (2)]

Certificate granted under rule 5 (1) of the rules made under clauses (a) and (b) of section 28 of the Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938 (Act IV of 1938)

Certificate granted under section 27 of the Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938 (Act IV of 1938)

Read application from..... datedI,.....the executive authority ofMunicipality the president of Board, do hereby certify that Mr Mrs Miss ofhas been assessed to (1) Profession tax for the half year ending..... on a half year income ofrupees derived from a profession other than agriculture, under.....(2) Property or house tax in respect of buildings or lands other than agriculture lands under.....and that the aggregate annual rental value of such buildings or lands is.....rupees.

Rules Relating To Applications To Civil Courts For Scaling Down of Non Decreed Debts

In exercise of the powers conferred by sub section (1) and clauses (b) and (c) of sub section (2) of section 28 of the Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938 (Act IV of 1938), His Excellency the Governor of Madras is hereby pleased to make the following rules:

1. In these rules -

(a) Act means the Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938; (b) Court means the Court having jurisdiction under these rules; and (c) Expressions used in these rules but not defined herein shall have the same meanings as in the Act.

2.

(1) Where any debt, other than a decree debt, is due by any person claiming to be an agriculturist, entitled to the benefits of the Act in respect of such debt, the debtor or the creditor may apply to the court for a declaration as to the amount of the debt due by the debtor to the creditor: Provided that no such application shall be presented or be maintainable if any suit for the recovery of the debt be pending (2) The provisions of sub rule (1) shall also apply to any person claiming that his debt has been discharged by virtue of the provisions of the Act.

3.

(1) Every application under rule 2 shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints. (2) There shall be affixed to every such application whether by the debtor or by the creditor a court fee stamp of the value of seventy five paise. (3) There shall be paid in respect of every such application whether by the debtor or by the creditor, process fees in accordance with the scales prescribed in the Civil Rules of

Practice and Circular Orders.

4.

(1) Every application presented by a debtor shall contain the following particulars, namely: (a) the name and address of the applicant; (b) the name and address of the creditor in respect of whose debt the application is presented; (c) a statement that the debtor claims to be an agriculturist entitled to the benefits of the Act in respect of the debt of the creditor as against whom the application is presented; (d) the particulars of the debt in respect of which the declaration is claimed, including all matters necessary to invoke the jurisdiction of the Court to have the debt scaled down; and (e) the amount for which the applicant prays that the debt may be reduced. (2) The provisions of sub rule (1) shall apply mutatis mutandis to an application presented by a creditor.

5. The application shall be rejected if it does not comply with any of the requirements of rule 4.

The rejection of an application under this rule shall not preclude the applicant from presenting a fresh application.

6.

(1) On receipt of an application under rule 4, the Court shall, unless it rejects it under rule 5, pass an order fixing a date for hearing the application. (2) Notice of the order under sub rule (1) shall be served on the creditor and the debtor.

7. On the date originally fixed under rule 6 or on any subsequent date to which the application may be adjourned by the Court, the Court shall, after taking such evidence or making such enquiry as it may consider necessary, pass such order on the application as it thinks fit.

8. If, at any time, while an application is pending in the Court, a suit is filed by the creditor for the recovery of the debt which is the subject matter of the application, the Court shall dismiss the application.

9. The order of the Court declaring the amount of the debt under rule 7 shall be subject to appeal and second appeal as if it were a decree in an original suit.

10. The courts having jurisdiction under these rules shall be the courts which would have jurisdiction to entertain suits for the recovery of the debts as unscaled.