



The Karnataka Debt Relief Act, 2018

Act 17 of 2019

Keyword(s):

Agriculture, Annual Income Creditor, Debtor, Debt, Family, Landless Agricultural Labourer, Small Farmer

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KARNATAKA ACT NO. 17 OF 2019
THE KARNATAKA DEBT RELIEF ACT, 2018

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STATEMENT OF OBJECTS AND REASONS

The small farmers, landless agricultural labourers and weaker sections of the people are facing crucial financial crisis due to floods and natural calamities in the State of Karnataka. Hence, the state Government considered it necessary to provide relief from indebtedness to small farmers, landless agricultural labourers and weaker sections of the people.

Hence, the Bill.

[L.A. Bill No.07 of 2018, File No. Samvyashae 21 Shasana 2018]
[entry 6,7 and13 of List III of the Seventh Schedule to the Constitution of India.]

[The Karnataka Debt Relief Bill, 2018 was repugnant to the provisions of the Indian Contract Act, 1872 (Central Act 09 of 1872) and the Code of Civil Procedure, 1908 (Central Act 05 of 1908) which are Central Laws in force. Therefore the Hon'ble Governor reserved the said Bill for the consideration of His Excellency, the President of India under Article 200 of the Constitution of India as required by clause (2) of Article 254]

KARNATAKA ACT NO. 17 OF 2019

(First Published in the Karnataka Gazette Extra-ordinary on the 23rd day of July, 2019)

THE KARNATAKA DEBT RELIEF ACT, 2018

(Received the assent of President on the 16th day of July, 2019)

An Act to provide relief from indebtedness to small farmers, landless agricultural labourers and weaker sections of the people in the State of Karnataka.

Whereas it is expedient to provide relief from indebtedness to small farmers, landless agricultural labourers and weaker sections of the people in the State of Karnataka and for the matters connected therewith or incidental thereto;

Be it enacted by the Karnataka State Legislature in the sixty -ninth year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Debt Relief Act, 2018.

(2) It shall come into force at once.

2. Definitions.- In this Act, unless the context otherwise requires, -

(1) 'agriculture' includes-,

- (i) aquaculture;
- (ii) horticulture;
- (iii) the raising of crops, grass or garden produce;
- (iv) dairy farming;
- (v) poultry farming;
- (vi) breeding of livestock;
- (vii) grazing; and
- (viii) Sericulture.

(2) "annual income" means the gross annual income during the period of twelve months immediately prior to the commencement of this Act;

(3) "Debt Relief Officer" means Assistant Commissioner of Revenue Department and includes any officer of the Revenue Department not below the rank of Tahsildar authorised by the state Government to exercise the powers of the Debt Relief Officer under this Act;

(4) "creditor" includes his heirs, legal representatives and assigns;

(5) "debt" means any liability in cash or in kind whether secured or unsecured and whether decreed or not and includes any interest due on such debt;

(6) "debtor" means a person who is,-

- (i) a landless agricultural labourer;
 - (ii) a person belonging to the weaker section of the people ; or
 - (iii) a small farmer;
- and from whom a debt is due;

(7) "family" in relation to a person means such person, the wife or husband, as the case may be, of such person, and their minor children;

(8) "landless agricultural labourer" means a person who, on the date of commencement of this Act, does not hold any land and whose principal means of livelihood is manual labour on land;

(9) "small farmer" means a person who on the date of commencement of this Act, holds whether as owner, or mortgagee with possession or partly in one capacity and partly in another not more than two units of land, the annual income from which does not exceed one lakh twenty thousand rupees and who has no income from any source other than agriculture;

Explanation.- Where a person holds more than one category of land referred to in clause (10), the extent of land held by him shall be determined according to the following formula namely:-

Two hectares of unirrigated land=one and one-fourth hectares of rainfed wet land=half hectare of land having facilities for growing one irrigated crop=half hectare of land used for growing plantation crops or grape or coconut or arecanut or for growing mulberry by irrigation=quarter hectare of land having perennial irrigation facilities or facilities for growing more than one irrigated crop in a year;

(10) "Unit" means,-

- (i) two hectares of unirrigated land; or
- (ii) one and one-fourth hectares of rainfed wet land; or
- (iii) half hectare of land having facilities for growing one irrigated crop or for growing plantation crops or grapes or coconut or arecanut or sugarcane or used for growing mulberry by irrigation; or
- (iv) quarter hectare of land having perennial irrigation facilities or facilities for growing more than one irrigated crop in a year.

Explanation.- In this clause 'plantation crop' means cardamom, coffee, rubber and tea;

(11) "weaker sections of the people" means persons not being small farmers or landless agricultural labourers, whose annual income from all sources does not exceed one lakh twenty thousand rupees.

3. Declaration.- In pursuance of Article 31C of constitution of India, it is hereby declared that the provisions of this Act are enacted for giving effect to the policy of the State towards securing the principles specified in clause (b) and (c) of Article 39 and Article 46 of the constitution of India.

4. Relief from indebtedness.- Notwithstanding anything contained in any law for the time being in force or in any contract or instrument having force by virtue of any law or otherwise and save as otherwise expressly provided in this Act, with effect from the date of commencement of this Act,-

- (a) every debt incurred by a debtor before the date of commencement of this Act and payable by him to his creditor on such date shall be deemed to be wholly discharged;
- (b) no Civil Court shall entertain any suit or other proceeding against the debtor or his surety for the recovery of any amount of such debt:

Provided that where any suit or other proceeding is instituted jointly against a debtor and some other person other than a surety, nothing in this section shall apply to the maintainability of such suit or proceeding in so far as it relates to such other person.

- (c) all suits and other proceedings including appeals, revisions, attachments or execution proceedings, pending on the date of commencement of this Act against any debtor or his surety for the recovery of any such debt shall abate:

Provided that nothing in this clause shall apply to the sale, in relation to any such debt, of:-

- (i) any movable property held through Court and concluded before the commencement of this Act;
- (ii) any immovable property held through Court and Confirmed before such commencement;
- (d) every debtor or his surety undergoing detention in a civil prison in execution of any decree passed against them by a Civil Court in respect of any such debt shall be released;
- (e) every movable property pledged by a debtor or his surety as a security for such debt shall stand released in favour of such debtor or his surety, as the case may be, and the creditor shall be bound to return the same to the debtor or his surety forthwith:
- (f) every mortgage executed by the debtor or his surety as security for such debt in favour of the creditor shall stand redeemed and the mortgaged property shall be released in favour of such debtor or his surety, as the case may be.

Explanation:- Nothing in this section shall be construed as entitling any debtor or his surety for refund of any part of any such debt repaid or interest paid by them or recovered from them before the commencement of this Act.

5. Creditors to file statement, etc.- (1) Every creditor referred to in clause (e) of section 4 shall within ninety days from the date of commencement of this Act, furnish to the Debt Relief officer having jurisdiction over the area where such creditor has his ordinary place of business a statement in the prescribed form containing such particulars as may be prescribed.

(2) A debtor referred to in clause (e) of section 4 may make an application in the prescribed Form to such Debt Relief officer for an order of return of the movable properties pledged by him or by his surety.

(3) On receipt of the statement under sub-section (1) or an application under sub-section (2) and after such enquiry as he considers necessary the Debt Relief officer, shall, by order, determine whether the debtor is entitled to relief under this Act and, if so, direct the creditor to produce on or before a date to be specified in the order, the document evidencing the debt of such debtor and the movable properties pledged by such debtor or his surety.

(4) Where the movable property pledged by the debtor is in the possession of a transferee of the creditor, the creditor shall redeem such property from such transferee and produce it on or before such date as may be specified in the order.

(5) Where the creditor produces the document and the movable property pledged as directed in the order under sub-section (3), the Debt Relief officer shall record an endorsement of discharge on such document and return the same or issue a certificate of discharge in the prescribed form along with the pledged articles to the debtor.

(6) If the creditor fails to produce the documents and the movable property pledged as directed in the order under sub-section (3), the Debt Relief officer shall, notwithstanding anything contained in any other law, but subject to sub-section (8) enter any premises of the creditor and search and seize the said documents and movable property and deliver the said documents and property to the debtor or to his surety, as the case may be, along with a certificate of discharge of such debt in the prescribed form.

(7) Pending determination of the question under sub-section (3), no creditor or the transferee of the creditor shall sell or pledge or otherwise transfer any movable property pledged by the debtor or his surety.

(8) The provisions of section 100 and section 165 of the Code of Criminal Procedure 1973, (Central Act 2 of 1974), relating to searches and seizure shall, so far as may be, apply to searches and seizure under sub-section (6).

(9) Every order of the Debt Relief Officer shall subject to any order in revision under section 15 shall be final.

6. Debtors to apply in certain cases.- (1) A debtor referred to in clause (f) of Section 3, may make an application within ninety days from the date of commencement of this Act to the Debt Relief Officer having jurisdiction over the area within which mortgaged property is situated for an order releasing the mortgaged property and for the grant of a certificate of redemption.

(2) (a) On receipt of such an application and after such enquiry as he considers necessary, the Debt Relief Officer shall pass an order releasing the mortgaged property and grant a certificate of redemption in the prescribed form which shall, notwithstanding anything contained in any law be admissible as evidence of such redemption in any proceeding before any court or other authority;

(b) The Debt Relief Officer shall also direct the creditor.-

(i) to deliver possession of the mortgaged property to the debtor on or before the dates specified in the order if the debtor is not already in possession of the mortgaged property; and

(ii) to produce on or before the date specified in the order, the mortgaged deed or other document and on such production, the Debt Relief Officer shall make an endorsement of redemption on the mortgage deed or other document and forward a copy of the said endorsement to the concerned Sub-Registrar who shall, notwithstanding anything contained in any other law, register the same.

(3) Pending orders under clause (a) of sub-section (2), no creditor shall transfer or otherwise assign his interest in or exercise his right of foreclosure in respect of the property mortgaged by the debtor or his surety.

(4) Every order of the Debt Relief Officer shall subject to any order in revision under section 15 shall be final.

7. Burden of proof, etc.- (1) If in any suit or other proceeding in a Court a question arises whether a party thereto is a debtor under this Act, the Court trying the suit or other proceeding shall frame a preliminary issue as to whether such person is not a debtor under this Act and shall decide it before other issues are considered.

(2) Notwithstanding anything in any law, in any suit or proceeding, the burden of proving that a person is not a debtor under this Act shall lie on the creditor.

8. Legal practitioners not to appear.- No legal practitioner shall be allowed to appear in any proceeding under this Act before the Debt Relief officer.

Explanation.- In this section the expression "Legal practitioner" shall have the meaning assigned to it in section 2 of the Advocates Act, 1961(Central Act 25 of 1961)

9. Penalty.- Any person failing to furnish the statement under section 5 or to comply with the order made or direction given under section 5 or section 6 or otherwise contravening the provisions of either of the said sections shall on conviction be punished with imprisonment for a term, which may extend to one year and with fine which may extend to one lakh rupees.

10. Offences by Companies.- (1) Where an offence under this Act has been committed by a Company, every person who, at the time the offence was committed was in charge of, and was

responsible to, the company for the conduct of the business of the Company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary, or other officer to the company, such director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section.-

- (a) "company" means any body corporate and includes a firm or other association of individuals and
- (b) "director" in relation to a firm, means a partner in the firm.

11. Certain debts and liabilities not to be affected.- Nothing in this Act shall apply to the following categories of debts and liabilities of a debtor, namely:-

- (a) any rent due in respect of any property including agricultural land let out to such debtor;
- (b) any amount recoverable as arrears of land revenue;
- (c) any revenue, tax or cess payable to the Central Government or the State Government or a local Authority under a decree of a Court or otherwise;
- (d) any liability out of breach of trust or any tortuous liability;
- (e) any liability in respect of wages, or remuneration due as salary or otherwise for services rendered;
- (f) any liability in respect of maintenance whether under a decree of a court or otherwise;
- (g) a debt due to,-
 - (i) the Central Government or any State Government;
 - (ii) any local authority;
 - (iii) a credit agency as defined in the Karnataka Agricultural Credit Operations Miscellaneous Provisions Act, 1974 (Karnataka Act 2 of 1975);
 - (iv) a Government company within the meaning of the Companies Act, 2013 (Central Act 18 of 2013);
 - (v) the Life Insurance Corporation of India;
 - (vi) a Co-operative society registered under the Karnataka Co-operative Societies Act, 1959(Karnataka Act 11 of 1959);
 - (vii) non banking financial institutions governed by the Reserve Bank of India Act, 1934 (Central Act 02 of 1934) and Microfinance institutions registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960), Trusts, Companies registered under section 8 of the Companies Act, 2013(Central Act 18 of 2013).;
 - (viii) a banking company, a corresponding new bank, the State Bank of India, a regional rural bank, a co-operative bank or a multi State co-operative bank as defined in the Banking Regulation Act, 1949 (Central Act 10 of 1949); and

- (ix) any other institution which the State Government may by notification, specify for the purposes of this clause.
- (h) any amount due by such debtor under a hire purchase agreement;
- (i) any debt which represents the price of property; whether movable or immovable purchased by such debtor;
- (j) any amount due by such debtor under a partition to another sharer;
- (k) any amount received by a debtor as advance for the delivery of goods at a future date;
- (l) any liability incurred or arising under any chit the bye-laws of which have been registered; and
- (m) any sum decreed as costs by any Court.

12. Procedure to be followed by the Debt Relief officer.- In enquiries under this Act, save as otherwise provided, the Debt Relief officer shall follow the same procedure as is specified for a summary enquiry under section 34 of the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964).

13. Act to have overriding effect.- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) 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 except in cases of the Prevention of Money Laundering Act, 2002 (Central Act 15 of 2003) and the Fugitive Economic Offenders Act, 2018 (Central Act 17 of 2018).

14. Power of the Debt Relief officer to declare transfer purporting to be a sale to be in the nature of mortgage.- (1) Any debtor may within one year from the date of commencement of this Act may, make an application to the concerned Debt Relief officer that any transfer of immovable property made by him or any other person through whom he inherited the immovable property was a transfer in the nature of a mortgage and the Debt Relief officer, may, after such enquiry as he deems fit, if satisfied that the circumstances connected with the transfer showed the transfer to be in the nature of a mortgage, then notwithstanding anything to the contrary contained in any law, custom or contract declare such transfer to be a mortgage.

(2) When the Debt Relief officer makes any such declaration, if the transfer was made prior to the date of the commencement of this Act, the debt covered under the transfer shall be deemed to be wholly discharged and the provision of sub-section (2) of section 6, shall *mutatis mutandis* apply for recording the redemption of the mortgage and delivering possession of the property.

(3) For the purpose of any enquiry under sub-section (1), the Debt Relief Officer may exercise all or any of the powers conferred on him under the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964) and shall follow such procedure as may be prescribed.

(4) The order of the Debt Relief Officer shall be subject to any order in revision under section 15 be final.

(5) Nothing in this section shall apply to,-

- (i) a transfer which has been finally adjudged to be a transfer, other than a mortgage, by a competent Court;
- (ii) any *bona fide* transferee for value without notice of the real nature of such transfer or his representative;
- (iii) any transfer made prior to 1st March, 1974;

- (iv) a transfer in respect of which a proceedings is pending under section 23 of the Karnataka Agricultural Debts Relief Act, 1966 (Karnataka Act 29 of 1966) and the provisions of the Karnataka Debt Relief Act, 1976 (Karnataka Act 25 of 1976) and the Karnataka Debt Relief Act, 1980(Karnataka Act 29 of 1980).

15. Revision by the Deputy Commissioner.- The Deputy commissioner may, on his own motion any time or on the application within thirty days from the date of receipt of order by the Debt Relief Officer by any person aggrieved by an order passed under sub-section (9) of section 5, sub-section (4) of section 6 and sub-section (4) of section 14, call for and examine the records of the proceedings leading to such order, for the purpose of satisfying himself as to the legality of such proceeding and may pass such orders with respect thereto as he thinks fit:

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard.

16. Savings.- (1) Nothing contained in this Act shall affect or shall be deemed to affect in any way the operation of the Karnataka Debt Relief Act, 1976 (Karnataka Act 25 of 1976)and the Karnataka Debt Relief Act, 1980(Karnataka Act 29 of 1980).

(2) Nothing contained in this Act shall affect any rights or privileges which a debtor is entitled to under any other law, contract, custom, or usage if such rights or privileges are more favourable to him than those to which he would be entitled to under this Act.

(3) Save as otherwise provided under sub-sections (1) and (2), the provisions of this Act shall be in addition to and not in derogation of any law for the time being in force.

17. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act which appear to it to be necessary or expedient for the purposes of removing the difficulty:

Provided that, no such order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

18. Power to make rules.- (1) The State Government may after previous publication by notification, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act, shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for total period of thirty 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 is so laid or the session immediately following both Houses agree in making any modification in the rules or both Houses agree that the rule should not be made, the rules 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.

By Order and in the name of the Governor of Karnataka,

K.DWARAKANATH BABU
Secretary to Government
Department of Parliamentary Affairs