



The Pondicherry Cultivating Tenants Protection Act, 1970

Act 9 of 1971

Keyword(s):

Cultivating Tenant, Cultivation, Garden Land, Holding, Land, Landlord, Revenue Court, Wet Land

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THE PONDICHERRY CULTIVATING TENANTS PROTECTION ACT, 1970

(No. 9 of 1971)

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**THE PONDICHERRY CULTIVATING TENANTS
PROTECTION ACT, 1970**

(Act No. 9 of 1971)

30th March, 1971.

AN ACT

for the protection from eviction of cultivating tenants and matters incidental thereto in certain areas in the Union territory of Pondicherry.

BE it enacted by the Legislative Assembly of Pondicherry in the Twenty-first Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Pondicherry Cultivating Tenants Protection Act, 1970.

(2) It extends to the regions known as Pondicherry, Karaikal and Yanam in the Union territory of Pondicherry.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Provided that different dates may be appointed for different provisions of this Act or for different areas and any reference in any such provision to the commencement of this Act shall be construed, in relation to any area, as a reference to the coming into force of that provision in such area.

Definitions.

2. In this Act, unless the context otherwise requires—

(a) "cultivating tenant" means a person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another, under an agreement express or implied on condition of paying rent therefor in cash or in kind or delivering or receiving a share of the produce and includes—

(i) any such person who continues in possession of the land after the determination of the agreement ;

1. The Act came into force in Pondicherry, Karaikal and Yanam regions on the 10th day of April 1971 *vide* Notification No. 6896/70/E, dated 10th April 1971.

(ii) the heir of such person, if the heir contributes his own physical labour or that of any member of his family in the cultivation of such land ;

(iii) a sub-tenant if he contributes his own physical labour or that of any member of his family in the cultivation of such land ;

(iv) any such sub-tenant who continues in possession of the land notwithstanding that the person who sublet the land to such sub-tenant ceases to have the right to possession of such land ; and

(v) a person who cultivates the land on payment of waram ;
but does not include a mere intermediary or his heir ;

(b) "cultivation" means the use of lands for the purpose of agriculture or horticulture and a person is said to carry on personal cultivation on a land when he contributes his own physical labour or that of the members of his family in the cultivation of that land ;

(c) "garden land" means dry land irrigated by lifting water from wells or other sources ;

(d) "Government" means the Administrator appointed by the President under article 239 of the Constitution ;

(e) "holding" means a parcel or parcels of land held by a cultivating tenant ;

(f) "land" means land used for the purpose of agriculture or horticulture and includes any building, or any waste,

vacant or forest land, appurtenant thereto, and any house-site belonging to the landlord and let to the cultivating tenant under the same agreement of tenancy;

¹ [(g) "landlord" in relation to a holding or part thereof means the person entitled to receive the rent due in respect of such holding or part;]

(h) "prescribed" means prescribed by rules made under this Act;

(i) "Revenue Court" means the Revenue Court constituted by notification in the Official Gazette by the Government; and

(j) "Wet land" means land registered as such in the revenue accounts.

Explanation.—One hectare of wet land shall be deemed to be equivalent to one and a half hectares of garden land or three hectares of dry land and any reference to hectares of wet land shall be deemed to include a reference to dry or garden land reduced to their equivalent extent of wet land.

² [Act not to apply in certain cases.

2-A. Nothing in this Act shall apply, to—

(i) leases or tenancies of lands belonging to or vested in the Government of the Union territory of Pondicherry, the Central Government, a State Government, a local authority, or a corporation owned or controlled by any of the said Governments, or authority; or

1. Substituted by Act 9 of 1972, section 2, with effect from 10-4-1971.

2. Inserted by Act 9 of 1972, section 3, with effect from 10-4-1971.

(ii) leases or tenancies of lands created by the Administrator General or the Official Trustee or an Official Receiver or officer appointed by a Court under the provisions of any law, or by any person holding under or deriving title from any of the Officers aforesaid.]

Landlords not to evict cultivating tenants.

3. (1) Notwithstanding anything to the contrary in any law, custom, usage or contract or any decree or order of court, no cultivating tenant shall be evicted from his holding or any part thereof, by or at the instance of his landlord except as provided in this section.

(2) Subject to the next succeeding sub-section, sub-section (1) shall not apply to a cultivating tenant—

(a) who, in the areas where the Karaikal Tenants Protection Order, 1960 was in force immediately before the commencement of this Act, if in arrear at such commencement with respect to the rent payable to the landlord does not pay such rent within such time as may be prescribed or who in respect of rent payable to the landlord after the commencement of this Act, does not pay such rent within a month after such rent becomes due ; or

(b) who, in the other areas, if in arrear at the commencement of this Act, with respect to the rent payable to the landlord and accrued due subsequent to 31st March, 1970, does not pay such rent within such time as may be prescribed, or who in respect of rent payable to the landlord after the commencement of this Act, does not pay such rent within a month after such rent becomes due ; or

(c) who has done any act or has been guilty of any negligence which is destructive of, or injurious to, the land or any crop thereon or has altogether ceased to cultivate the land; or who has used the land for any purpose not being an agricultural or horticultural purpose; or

(d) who has wilfully denied the title of the landlord to the land;

Explanation.—A denial of the landlord's title under a bona fide mistake of fact is not wilful within the meaning of this clause.

(3) (a) A cultivating tenant may deposit in Court the rent or, if the rent be payable in kind, its market value on the date of deposit, to the account of the landlord—

(i) in the case of rent accrued due subsequent to the 31st March, 1970 within such time as may be prescribed;

(ii) in the case of rent accrued due after the commencement of this Act, within a month after the date on which the rent accrued due.

(b) (i) The court shall cause notice of the deposit to be issued to the landlord and determine, after a summary inquiry, whether the amount deposited represent the correct amount of rent due from the cultivating tenant and if the Court finds that any further sum is due, it shall allow the cultivating tenants 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 court may allow.

(ii) If the Court 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 Court, the cultivating tenant shall be deemed to have paid the rent within the period specified in the last foregoing sub-section.

(iii) If, having been ordered to deposit a further sum, the cultivating tenant fails to do so within the time so allowed by the Court, the landlord may evict the cultivating tenant as provided in sub-section (4).

Explanation.—The expression "Court" in this sub-section means the Court which passed the decree or order for eviction or where there is no such decree or order, the Revenue Court.

(4) (a) Every landlord seeking to evict a cultivating tenant falling under sub-section (2) 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 Revenue Court and such application shall bear a court-fee stamp of one rupee.

(b) (i) On receipt of such application, the Revenue Court shall, after giving a reasonable opportunity to the landlord and the cultivating tenant to make their representations, hold a summary inquiry into the matter and pass an order either allowing the application or dismissing it and in a case falling under clause (a) or (b) of sub-section (2) in which the tenant had not availed of the provisions contained in sub-section (3), the Revenue Court may allow the cultivating tenant such

time as he considers just and reasonable having regard to the relative circumstances of the landlord and the cultivating tenant for depositing the arrears of rent payable under this Act inclusive of such costs as he may direct.

(ii) If the cultivating tenant deposits the sum as directed he shall be deemed to have paid the rent under clause (b) of sub-section (3) and if the cultivating tenant fails to deposit the sum as directed, the Revenue Court shall pass an order for eviction.

Right to restoration of possession.

4. (1) Every cultivating tenant who was in possession of any land on the 1st December, 1969 and who is not in possession thereof at the commencement of this Act shall, on application to the Revenue Court, be entitled to be restored to such possession on the same terms as those applicable to the possession of the land on the 1st December, 1969.

(2) Nothing in sub-section (1) shall be deemed to entitle any such cultivating tenant to restoration of possession—

(i) If, at the commencement of this Act, he is in possession, either as owner or as tenant or as both, of land exceeding the extent specified in the Explanation below or if he has been assessed to any sales tax, profession-tax or income-tax under the respective laws relating to the levy of such taxes during 1967-68 or 1968-69; or

(ii) If the landlord, after evicting such cultivating tenant from the land has been carrying on personal cultivation on the land provided as follows:—

(a) the total extent of land held by such landlord inclusive of the land, if any, held by him as a tenant does not exceed the extent specified in the Explanation below; and

(b) the landlord has not been assessed to any sales tax, profession-tax or income-tax under the respective laws relating to the levy of such taxes during 1967-68 or 1968-69; or

(iii) If subsequent to the 1st December, 1969 the landlord has bona fide admitted some other cultivating tenant to the possession of the land and such other tenant has cultivated the land before the commencement of this Act:

Provided that where such other tenant is in possession, either as owner or as tenant or as both of any other land which exceeds the extent specified in the Explanation below and the cultivating tenant who was evicted is not in possession of any land or is in possession of any other land which is less than the extent specified in the said Explanation, the cultivating tenant shall be entitled to restoration of possession.

Explanation.—The extent referred to in clauses (i) to (iii) above is $2 \frac{2}{3}$ hectares of wet land.

(3) Every application to the Revenue Court under sub-section (1), shall be made within such time as may be prescribed and shall bear a court-fee stamp of one rupee:

Provided that the application may be received after the prescribed period, if the applicant satisfies the Revenue Court that he had sufficient cause for not making the application within that period.

(4) On receipt of an application under sub-section (3), the Revenue Court shall, after giving a reasonable opportunity to the landlord and the cultivating tenant, if any, in possession of

the land, to make their representations, hold a summary inquiry into the matter and pass an order either allowing the application or dismissing it and in passing an order allowing the application, the Revenue Court may impose such conditions as it may consider just and equitable including conditions in regard to—

(i) the payment by the applicant of any arrear of rent already due from him to the landlord, but not exceeding one year's rent, and

(ii) the reimbursement by the applicant of the landlord or the other cultivating tenant in respect of the expenses incurred or the labour done by him during the period when the applicant was not in possession, on any crop which has not been harvested, if an agreement is not reached between the parties as regards the rates and manner of such reimbursement.

Explanation.—In lieu of imposing any condition in relation to reimbursement as provided in clause (ii), the Revenue Court may, in its discretion, postpone the restoration of the applicant to possession of the land, until any crop which is being grown thereon at the time when the order is passed, has been harvested.

(5) Any cultivating tenant who after the commencement of this Act has been evicted except under the provisions of subsection (4) of section 3 shall be entitled to apply to the Revenue Court within two months from the date of such eviction for the restoration to him of the possession of the lands from which he was evicted and to hold them with all the rights

and subject to all the liabilities of a cultivator, the provisions of sub-section (4) shall apply to the application to such an application.

Right of certain landlord to resume land

5. (1) Notwithstanding anything contained in any other provision of this Act but subject to the provisions of clause (a) a landlord shall be entitled to resume possession of land of a cultivating tenant for purposes of personal cultivation of land not exceeding one-half of the extent of land specified in the order of the cultivating tenant.

(2) (i) Any landlord desiring to resume any land under sub-section (1) shall apply to the Revenue Court and in the course of such application, the Revenue Court shall give the cultivating tenant a reasonable opportunity to the landlord and the cultivating tenant in possession of the land to make their respective statements and to conduct a summary inquiry into the matter and pass an order directing the cultivating tenant to put the land in possession of the landlord specified therein or discontinue the application.

¹ [Provided that no application under this clause shall be entertained by the Revenue Court if it is presented after the expiry of six months from the date of publication of the Pondicherry Cultivating Tenants Protection (Amendment) Act, 1972 in the Official Gazette.]

(ii) In passing an order under clause (i) directing the cultivating tenant to put the land in possession of the landlord, the Revenue Court may impose such conditions as it may think fit.

1. Inserted by Act 9 of 1972, section 4, with effect from 20.12.1972.

just and equitable including conditions in regard to the reimbursement, by the landlord, of the cultivating tenant in respect of the expenses incurred by him or the labour contributed by him on any crop which has not been harvested, if an agreement is not reached between the parties as regards the rates and manner of such reimbursement.

Explanation.—In lieu of imposing any condition relating to reimbursement as provided above, the Revenue Court may, in its discretion, postpone the restoration of the applicant to possession of the land, until any crop which is being grown thereon at the time when the order is passed, has been harvested.

(3) Any cultivating tenant from whom any land is sought to be resumed by the landlord for purposes of personal cultivation, may offer to pay to the landlord in respect of the extent of the land which the landlord is entitled to resume for personal cultivation, the rent at the rate which was payable to him before the commencement of this Act and the Revenue Court shall thereupon pass an order notwithstanding any provision in any other law for the time being in force permitting him to continue in possession on payment of such rent and the cultivating tenant shall continue to cultivate that land, as long as he pays rent accordingly.

(4) Nothing in sub-section (1) shall be deemed to entitle any landlord to resume possession if at the commencement of this Act, he owns land exceeding $5\frac{1}{2}$ hectares of wet land or he has been assessed to any sales tax, profession-tax or income-tax under the laws relating to the levy of such taxes during

1967-68 or 1968-69, nor shall sub-section (1) be deemed to confer on the landlord a right to resume possession of a greater extent than that which along with the extent he is already in possession of either as owner or as a cultivating tenant or as both would make up an extent of two hectares of wet land.

(5) No person who is not entitled to resume possession under this section at the commencement of this Act shall be deemed to be so entitled by reason of any subsequent change in this circumstances.

(6) If any landlord who has resumed possession of any land under the provisions of this section does not carry on personal cultivation on the land within a year of such resumption or allows the land to lie fallow for more than a year, or has so resumed under-fraudulent misrepresentation, the cultivating tenant from whom the land had been resumed shall, on application to the Revenue Court, be entitled to be restored to possession of that land and to hold it with all the rights and subject to all the liabilities of a cultivating tenant, and the provisions of sub-section (4) of section 4 shall, so far as may be apply to such an application.

(7) Nothing contained in this section shall apply to a holding to which the Karaikal Tenants Protection Order, 1960, as in force immediately before the commencement of this Act, was applicable.

Special privileges for members of the Armed Forces.

6. (1) A cultivating tenant who is enrolled as a member of the Armed Forces, may, on or after such enrolment, sublet the lands held by him as a cultivating tenant.

(2) A cultivating tenant who is enrolled as a member of the Armed Forces, on discharge or retirement from service or on being sent to Reserve, shall, on application for resumption made within the prescribed period to the Revenue Court, be entitled to resume possession of the land sublet by him under sub-section (1).

(3) A landlord who is enrolled as a member of the Armed Forces shall, on discharge or retirement from service or on being sent to Reserve, be entitled to resume from any cultivating tenant possession of land which he had leased out on or after such enrolment for purposes of personal cultivation.

(4) The provisions of sub-section (2) of section 5 shall, as far as may be, apply for the resumption of any land under sub-section (2) or sub-section (3) as they apply for the resumption of any land under sub-section (1) of section 5.

(5) Where a member of the Armed Forces dies while in service, the special privileges conferred by this section on such member shall be available to the widow of such member, or any person dependent upon such member immediately before his death.

(6) The provisions of this section shall have effect notwithstanding anything inconsistent therewith contained in any other provision of this Act or of any other Act and the restrictions imposed on resumption of land in section 5 shall not apply to resumption under sub-sections (2) and (3).

(7) If a question arises whether any person is a member of the Armed Forces or not such question shall be decided by the Government and the decision of the Government thereon shall be final.

Explanation.—For the purposes of this Act,—

(a) a "member of the Armed Forces" means—

- (i) a person in the service of the Air Force, Army or Navy of the Union of India and includes a seaman;
- (ii) a member of the Armed Forces who has been discharged or retired from service or who has been sent to Reserve is said to carry on personal cultivation on a land when he contributes his own physical labour or that of the members of his family in the cultivation of that land; and

(b) a member of the Armed Forces in service shall be deemed to carry on personal cultivation on a land if such land is cultivated by the members of his family or by his own servants or by hired labour, with his own or hired stock.

Execution of lease.

7. (1) In the case of every tenancy agreement entered into after the coming into force of this Act between a cultivating tenant and a landlord, a lease deed shall be executed in triplicate in the prescribed form, within a reasonable time after the commencement of such tenancy, specifying the name and description of the cultivating tenant, the name (if any), survey number, description and extent of the land leased out, and the terms of the tenancy; and shall be signed both by the landlord or his agent and by the cultivating tenant. One of the three copies shall be kept by the landlord, one shall be kept by the cultivating tenant and the third shall be caused to be lodged in the Taluk Office or Sub-Taluk Office, as the case may be, by the landlord or his agent within a fortnight of the date on which the cultivating tenant signs it:

Provided that if the landlord or the cultivating tenant refuses or delays unreasonably to execute the lease deed, it shall be open to the cultivating tenant or the landlord, as the case may be, to lodge the deed in the Taluk Office or the Sub-Taluk Office, as the case may be, with a declaration that the other party has refused or delayed unreasonably to execute it.

(2) No stamp need be affixed to the lease deed.

(3) In the case of any tenancy, if the landlord or his agent or the cultivating tenant refuses to sign or fails to lodge the lease deed in accordance with the provisions of sub-section (1), the Revenue Court may impose on the landlord or the cultivating tenant, as the case may be, a penalty which may extend to fifty rupees; and any penalty so imposed may be recovered as if it were an arrear of land revenue.

Bar of jurisdiction of Civil Courts

8. No Civil Court shall, except to the extent specified in sub-section (3) of section 3, have jurisdiction in respect of any matter which the Revenue Court is empowered by or under this Act to determine and no injunction shall be granted by any Court in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Transfer of certain suits to the Revenue Court by Civil Courts.

9. If in any suit before any court for possession of or injunction in relation to any land, it is proved by affidavit or otherwise that the defendant is a cultivating tenant entitled to the benefits of this Act, the Court shall not proceed with

the trail of the suit but shall transfer it to the Revenue Court which shall thereupon deal with and dispose of it as though it were an application under this Act and all the provisions of this Act shall apply to such an application and the applicant.

Revision by the High Court.

10. The Revenue Court shall be deemed to be a Court subordinate to the High Court for the purposes of section 115 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908), and its orders shall be liable to revision by the High Court under the provisions of that section.

Transfer of application or other proceeding by High Court.

11. (1) On the application of any of the parties and after notice to the parties and after hearing such of them as desired to be heard, of its own motion without such notice, the High Court may, at any stage, transfer any application or other proceeding under this Act pending before any Revenue Court for disposal to any other Revenue Court.

(2) Where any application or other proceeding has been transferred under sub-section (1), the Revenue Court which thereafter holds the enquiry may, subject to any special directions in the case of an order of transfer, either hold the inquiry *de novo* or proceed from the point at which the said application or other proceedings stood when it was transferred.

Surrenders.

12. (1) No surrender of land made by a cultivating tenant after the commencement of this Act shall be valid unless it is made in such manner as may be prescribed.

(2) Where a surrender of land is made under sub-section (1) the rights of the cultivating tenant shall vest in the Government and the Government may assume the management of the land or settle another cultivating tenant thereon.

(3) Where the management of the land is assumed under sub-section (2) the Government shall be liable to pay to the landlord fair rent payable under the Pondicherry Cultivating Tenants (Payment of Fair Rent) Act, 1970 and the liability of the cultivating tenant who has surrendered his holding to pay the rent to the landlord in respect of that land shall cease from the date ¹[on which the management of the land is assumed by the Government.]

Provided that nothing contained in this sub-section shall affect the liability of such tenant to pay rent in respect of any period before such date.

(4) Where in pursuance of surrender under sub-section (1), another cultivating tenant has been settled by the Government, ¹[the cultivating tenant so settled by the Government shall] with effect on and from the date on which he was so settled, pay to the landlord fair rent as payable under the Pondicherry Cultivating Tenants (Payment of Fair Rent) Act, 1970.

1. Substituted by Act 9 of 1972, section 5, with effect from 10-4-1971.

Abandonment by cultivating tenant.

13. (1) No landlord shall enter on any land which has been abandoned by a cultivating tenant.

(2) If a cultivating tenant abandons his tenancy and ceases to cultivate his holding either by himself or by some other person, the landlord of such tenancy shall, within thirty days of such abandonment, inform the Government in writing that the cultivating tenant has abandoned such tenancy and the Government shall, on receipt of such intimation, forthwith take possession of the land appertaining to such tenancy.

(3) The Government shall pay to the landlord fair rent payable under the Pondicherry Cultivating Tenants (Payment of Fair Rent) Act, 1970, for the land possessed by that Government under sub-section (2) from the date on which the Government takes possession of such land.

(4) The Government may settle any other cultivating tenant on any land possession of which has been taken under sub-section (2).

(5) The cultivating tenant settled under sub-section (4) shall pay the fair rent as payable under the Pondicherry Cultivating Tenants (Payment of Fair Rent) Act, 1970, directly to the landlord and the Government's liability under sub-section (3) with regard to the payment of fair rent for such land shall, on and from the date on which the cultivating tenant has been settled on the land, cease.

Landlord to take possession in specified cases

14. No landlord shall obtain possession of any land held by a cultivating tenant at the commencement of this Act, except where such tenant is evicted under section 3 or where the land is surrendered or abandoned by a cultivating tenant under section 12 or section 13, as the case may be.

Penalty.

15. Whoever contravenes the provisions of section 13 shall, on conviction, be punishable with fine which may extend to two hundred and fifty rupees and the possession of the land shall be restored to the cultivating tenant.

Power to make rules.

16. (1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) All rules made under this Act shall, as soon as may be after they are made, be laid before the Legislative Assembly of Pondicherry while it is in session for a total period of fourteen days, which may be comprised in one session or in two 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 or decides that any such rule should not be made, that 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.

Repeal and saving.

17. (1) As from the commencement of this Act, the Karaikal Tenants Protection Order, 1960 (hereinafter referred to as the said order), is hereby repealed.

(2) Nothing in sub-section (1) shall affect—

(a) the previous operation of the said order or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said order; or

(c) any penalty, incurred in respect of any offence committed against the said order; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability or penalty as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, may be imposed as if this Act had not been passed.