



The Puducherry Relief from Indebtedness Act, 1987

Act 7 of 1989

Keyword(s):

Annual Household Income, Creditor, Debt

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THE PUDUCHERRY RELIEF FROM INDEBTEDNESS ACT, 1987
(Act No. 7 of 1989)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement
 2. Definitions
 3. Discharge of Debt
 4. Reconveyance of property
 5. Constitution of Tribunals
 6. Appointment of appellate authorities
 7. Powers of Tribunal and appellate authority
 8. Legal practitioners not to appear before Tribunals and appellate authorities
 9. Burden of proof
 10. Bar of jurisdiction of Civil Courts
 11. Act to override other laws, contracts, etc.
 12. Power to make rules
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(Act No. 7 of 1989)

(24-6-1989)

AN
ACT

to provide relief from indebtedness to certain persons in the Union territory of Puducherry.

BE it enacted by the Legislative Assembly of Puducherry in the Thirty-eighth Year of the Republic of India as follows: --

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Relief from Indebtedness Act, 1987.
- (2) It extends to the whole of the Union territory of Puducherry.
- * (3) It shall come into force at once.

Definitions

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

(1) "annul household income" means the aggregate of the gross income from all sources of all the members of a family during the year ending on the 31st December, 1986;

(2) "appellate authority" means an appellate authority appointed under section 6;

(3) "creditor" means a person from or in respect of whom the debtor has borrowed or incurred a debt and includes the heirs, legal representatives and assignees of such person;

(4) "debt" means any liability in cash or kind, whether secured or unsecured due from or incurred by a debtor on or before the date of the commencement of this Act, whether payable under a contract or under a decree or order of any court, or otherwise, and subsisting on that date, but does not include ---

* This Act has come into force w.e.f 24-6-1989.

- (a) any sum payable to -
- (i) the Government of Union territory of Puducherry or the Government of India or the Government of any other State or Union territory in India or any local authority; or
 - (ii) a banking company as defined in the Banking Regulation Act, 1949 (Central Act No. 10 of 1949); or
 - (iii) scheduled banks as defined in the Reserve Bank of India Act, 1934 (Central Act 2 of 1934); or
 - (iv) the State Bank of India as constituted under the State Bank of India Act, 1955 (Central Act No. 23 of 1955); or
 - (v) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act No. 38 of 1959); or
 - (vi) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act No. 5 of 1970); or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act No. 40 of 1980); or
 - (vii) the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (Central Act No. 18 of 1964); or
 - (viii) a Regional Rural Bank established under the Regional Rural Banks Act, 1976 (Central Act No. 21 of 1976); or
 - (ix) the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (Central Act No. 28 of 1981); or
 - (x) the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948 (Central Act No. 15 of 1948); or
 - (xi) the State Financial Corporations established under the State Financial Corporations Act, 1951 (Central Act No. 63 of 1951); or
 - (xii) the Industrial Reconstruction Bank of India established under the Industrial Reconstruction Bank of India Act, 1984 (Central Act No. 62 of 1984); or
 - (xiii) the Agricultural Finance Corporation Limited a company incorporated under the Companies Act, 1956 (Central Act No. 1 of 1956); or
 - (xiv) a Co-operative Bank as defined in clause (cci) of section 5 read with section 56 of the Banking Regulation Act, 1949 (Central Act No. 10 of 1949), and Land Development Bank or as the case may be, Land Mortgage Bank registered under any law relating to co-operative societies for the time being in force in any State; or
 - (xv) a corporation owned or controlled by the Government or the Government of any other State or Union territory or the Government of India or a Government company as defined in the Companies Act, 1956 (Central Act No. 1 of 1956); or
 - (xvi) the Puducherry Housing Board constituted under the Puducherry Housing Board Act, 1973 (Act No. 7 of 1974); or
 - (xvii) any co-operative society including a Land Mortgage Bank, registered or deemed to be registered under the Puducherry Co-operative Societies Act, 1972 (Act No. 7 of 1973); or

(b) any liability incurred or arising under any chit, the bye-laws or the agreement of which has been registered under the Puducherry Chit Funds Act, 1966 (Act No. 18 of 1996), or the Chit Funds Act, 1982 (Central Act No. 40 of 1982); or

(c) any sum advanced for the purposes of Agriculture or Rural Development by any institution receiving financial assistance from the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (Central Act No. 61 of 1981); or

(d) any sum payable to any other financial institution notified in this behalf by the Government in the Official Gazette; or

(e) any sum payable to any charitable endowment vested in any Treasurer of Charitable Endowments, appointed under section 3 of the Charitable Endowments Act, 1890 (Central Act No. 6 of 1890); or

(f) any liability arising out of a breach of trust or any tortious liability; or

(g) any liability in respect of maintenance, whether under a decree of court or otherwise; or

(h) any liability in respect of wages or remuneration due as salary or otherwise for services rendered; or

(i) any debt which represents the price of property, whether movable or immovable, purchased by a debtor or any amount due under a hire purchase agreement; or

(j) any liability for which a charge is provided under sub-clause (b) of clause (4) of section 55 of the Transfer of Property Act, 1882 (Central Act No. 4 of 1882); or

(k) any rent due in respect of any property including agricultural land let out to a debtor; or

(l) any amount received by a debtor as advance for the delivery of goods at a future date; or

(m) any debt or debts payable on the date of the commencement of this Act to —

(i) a widow; or

(ii) a minor child both of whose parents are dead; or

(iii) a minor child whose father is dead; or

(iv) a female person whose marriage has been dissolved by a decree of divorce or has been declared null and void, or annulled by a decree of nullity:

Provided that, —

(A) the market value of the property owned by such widow, minor child or female person on the date of such commencement, including the principal amount of the debt or debts so due, did not exceed twenty-five thousand rupees;

(B) the right of such widow, minor child or female person to recover the debt or debts did not arise by reason of any assignment.

Explanation. – For the purpose of this clause, the market value of the property shall be estimated to be the price, which in the opinion of the authority prescribed in this behalf, such property would have fetched if sold in the open market on the date of the commencement of this Act;

(n) any amount due on account of any goods to a financier who financed the purchase of such goods and whose principal business is to finance the purchase of goods.

Explanation - I. – For the purpose of this clause, —

(i) the liability of a surety who is a debtor shall be deemed to be a debt within the meaning of this Act, notwithstanding that the principal debtor is not a debtor for the purposes of this Act;

(ii) where a debt has been split up in any manner whatsoever, whether before or after the commencement of this Act and fresh documents have been executed in respect of different portions of the debt, each such different portion shall be a debt.

Explanation - II. – Where the debt is a liability in kind, the value of the commodity shall be commuted at the market rate prevailing on the date on which the debt was incurred;

(5) "debtor" means any person from whom any debt is due and whose annual household income does not exceed four thousand and eight hundred rupees:

Provided that a person shall not be deemed to be a debtor, if he or any member of his family —

(i) has, in either of the two financial years, or in both the two financial years immediately preceding the 1st day of April, 1987, been assessed to income-tax under the Income Tax Act, 1961 (Central Act No. 43 of 1961), or under the income-tax law in force in any foreign country; or

(ii) has, in either of the two financial years, or in both the two financial years immediately preceding the 1st day of April, 1987, been assessed to sales tax under the Puducherry General Sales Tax Act, 1967 (Act No. 6 of 1967), or under the Central Sales Tax Act, 1956 (Central Act No. 74 of 1956); or

(iii) has, in any one or more within the four half years, or in all the four half years, immediately preceding the commencement of this Act, been assessed to property or house-tax in respect of buildings or lands other than agricultural lands, under the Puducherry Municipalities Act, 1973 (Act No. 9 of 1973), and the Puducherry Village and Commune Panchayats Act, 1973 (Act No. 10 of 1973), or any law governing municipal or local bodies in any other State or Union territory in India, provided that the aggregate annual rental value of such buildings and lands whether let out or in the occupation of the owner is not less than one thousand and two hundred rupees.

Explanation. – The annual rental value of any building or land for the purposes of proviso (iii) shall, –

(1) where the assessment is based on the annual rental value, be deemed to be such value;

(2) where the assessment is based on the capital value, be deemed to be five per cent of the capital value; and

(3) in any other case, be deemed to be the value ascertained in the prescribed manner; or

(iv) has, in any one or more within the four half years, or in all the four half years, immediately preceding the commencement of this Act, been assessed to profession tax on a half yearly income of more than one thousand and two hundred rupees derived from a profession other than agriculture under the Puducherry Municipalities Act, 1973 (Act No. 9 of 1973), and the Puducherry Village and Commune Panchayats Act, 1973 (Act No. 10 of 1973), or any law governing municipal or local bodies in any other State or Union territory in India.

Explanation. – Proviso (iv) shall apply only to a person whose annual household income exceeds four thousand and eight hundred rupees and such person shall not be deemed to be a debtor for the purposes of this Act; or

(v) whether individually or jointly owns in the Union territory of Puducherry or elsewhere agricultural lands exceeding ten acres of unirrigated lands or five acres of irrigated lands (whether irrigated from the Government source or a private source).

Explanation. – Where any person owns both irrigated and unirrigated lands, for the purpose of calculating under proviso (v), the extent of lands owned by him, one acre of irrigated land shall be deemed to be equal to two acres of unirrigated land; or

(vi) whether individually or jointly owns in the Union territory of Puducherry or elsewhere any other immovable property (other than agricultural lands), the market value of which exceeds twenty-five thousand rupees; or

(vii) whether individually or jointly owns in the Union territory of Puducherry or elsewhere both agricultural lands and other immovable property, the market value of both such agricultural lands and other immovable property exceeds twenty-five thousand rupees.

Explanation. – For the purposes of provisos (vi) and (vii), the market value of the immovable property or both the agricultural lands and other immovable property, as the case may be, shall be estimated to be the price, which, in the opinion of the authority authorised in this behalf, such immovable property or both the agricultural lands and other immovable property, as the case may be, would have fetched if sold in the open market on the date of commencement of this Act;

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

Explanation. – For the purpose of this clause, "minor" means a person who has not completed the age of eighteen years;

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

(8) "interest" means any amount or other thing paid or payable in excess of the principal amount borrowed or pecuniary obligation incurred; or where anything has been borrowed in kind, in excess of what has been so borrowed, by whatever name such amount or thing may be called, and whether the same is paid or payable entirely in cash or entirely in kind or partly in cash and partly in kind and whether the same is expressly mentioned or not in the document or contract, if any;

(9) "pay" with its grammatical variations, includes deliver;

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

(11) "principal amount" means the amount originally advanced together with such sum, if any, as has been subsequently advanced, notwithstanding any stipulation to treat any interest as principal and notwithstanding that the debt has been removed or included in a fresh document, whether by the same debtor or by his heirs, legal representatives or assigns or by any other person acting on his behalf or in his interest, and whether in favour of the same creditor or his heirs, legal representatives or assigns or of any other person acting on his behalf or in his interest;

(12) "Tribunal" means a Tribunal constituted under section 5.

Discharge of Debt

3.(1) Notwithstanding anything contained in the Puducherry Pawn Brokers Act, 1966 (Act No. 11 of 1966), the Puducherry Money Lenders Act, 1970 (Act No. 26 of 1970) and the Tamil Nadu Debt Relief Act, 1976 (President's Act No. 31 of 1976), as extended to the Union territory of Puducherry or in any other law for the time being in force or in

any contract or other instruments having force by virtue of any such law, or in any decree or order of Court and save as otherwise expressly provided in this Act, and in particular sub-section (2) with effect from the commencement of this Act,-

(a) every debt advanced or incurred before the date of commencement of this Act (including interest, if any) and payable by the debtor to the creditor shall be deemed to be wholly discharged;

(b) no Civil Court shall entertain any suit or other proceeding against the debtor for the recovery of any amount of such debt (including interest, if any):

Provided that where any suit or other proceeding is instituted jointly against the debtor and any other person, 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 for the recovery of any such debt (including interest, if any), shall abate:

Provided that nothing in this clause shall apply to -

- (i) the sale of any movable property held and concluded before the commencement of this Act;
- (ii) the sale of any immovable property confirmed before such commencement;

(d) every debtor undergoing detention in a civil prison in execution of any decree for money passed against him by a Civil Court in respect of any such debt (including interest, in any), shall be released;

(e) every movable property pledged by a debtor shall stand released in favour of such debtor and the creditor shall be bound to return the same to the debtor forthwith;

(f) every mortgage executed by the debtor in favour of the creditor shall stand redeemed and the mortgaged property shall be released in favour of such debtor.

Explanation. - I. In this section, the term "suit" shall not include a claim to a set-off made in a suit instituted by a debtor.

Explanation. - II. For the purposes of this section, a suit in which a decree in respect of a debt is prayed for shall be deemed to be a suit for the recovery of the debt notwithstanding that other reliefs are prayed for in such suit, and a decree shall be

deemed to be a decree in respect of a debt notwithstanding that other reliefs are granted in such decree:

Provided that a suit or decree for possession of land shall not be deemed to be a suit for recovery of or a decree in respect of a debt by reason merely of mesne profits being also prayed for or included in such suit or decree.

Explanation. - III. Nothing in this section shall debar a decree holder from enforcing reliefs other than in respect of a debt where the decree contains independent reliefs.

Explanation. - IV. Nothing in this section shall be construed as entitling any debtor to the refund of any part of any debt or interest thereon already repaid by him or recovered from him before the commencement of this Act.

(2) Nothing contained in this Act shall apply to any debtor who is entitled to the benefit of the Tamil Nadu Debt Relief Act, 1976 (President's Act No. 31 of 1976), as extended to the Union territory of Puducherry only in so far as any debt to which that Act applies, is concerned.

Reconveyance of property

4. (1) (a) Any debtor entitled to the delivery of possession of any property under clause (e) or clause (f) of sub-section (1) of section 3 or any other person on behalf of such debtor may make an application in such form and containing such particulars as may be prescribed to the Tribunal having jurisdiction over the area within six months from the commencement of this Act or within such further period as may be notified by the Government in this behalf, for such delivery of possession.

(b) Every such application shall be --

- (i) supported by an affidavit which shall be in such form and be sworn or affirmed before such officer or authority as may be prescribed and which shall state that the debtor is entitled to relief under section 3; and
- (ii) accompanied by a certificate from the prescribed authority as to the annual household income of such debtor.

(c) where any debtor referred to in clause (e) or clause (f) of sub-section (1) of section 3 or any other person on behalf of such debtor, has not made any application in accordance with the provisions of, and within the time specified in this sub-section, then, such debtor shall not be entitled to relief under this Act.

(2) On receipt of an application under sub-section (1), the Tribunal shall make necessary inquiries in respect of such application and if it is satisfied that the applicant or the person on whose behalf the application has been made is entitled to the delivery of possession of such property mentioned in the application, it shall, by order, direct the person in possession of such property to deliver possession thereof to the applicant or to the person on whose behalf the application has been made, within a period of thirty days from the date of service of the order:

Provided that no order under this sub-section shall be made unless the person in possession of the property has been given a reasonable opportunity of being heard.

(3) Every order made under sub-section (2) shall be served on the person for whom it is intended, --

(a) by delivering or tendering it to that person; or

(b) if it cannot be delivered or tendered to that person, by delivering or tendering it to any officer of such person or any adult member of the family of such person or by affixing a copy thereof on the outer door or some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or

(c) failing service by any of these means, by registered post.

(4) Any person aggrieved by an order of the Tribunal under sub-section (2) may, within a period of thirty days from the date of service of the order, prefer an appeal to the appellate authority, having jurisdiction over the area and in such manner as may be prescribed and in deciding the appeal, the appellate authority shall follow such procedure as may be prescribed and the decision of the appellate authority on such appeal shall be final and shall not be called in question in any court of law:

Provided that before taking a decision on the appeal, the appellate authority shall give the opposite party an opportunity of being heard.

(5) Where an order under sub-section (2) has not been complied with, and --

(a) an appeal has not been preferred within the time allowed for such appeal;

or

(b) an appeal having been preferred, has been dismissed,

the Tribunal shall cause the property to which the order relates to be delivered to the debtor by putting him in possession of that property.

Constitution of Tribunals

5. (1) The Government may, by notification in the Official Gazette, constitute for, such area as may be specified therein a Tribunal for the purpose of performing the functions of a Tribunal under this Act.

(2) A Tribunal shall consist of a sole member who shall be an officer not below the rank of Deputy Tahsildar appointed by the Government.

Appointment of appellate authorities

6. (1) The Government may, by notification in the Official Gazette, appoint for such area as may be specified therein an appellate authority for the purposes of this Act.

(2) An appellate authority shall be an officer not below the rank of Deputy Collector.

Powers of Tribunal and appellate authority

7. (1) Every Tribunal and every appellate authority shall have the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908), in respect of 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) any other matter which may be prescribed.

(2) The decisions of the Tribunals and the appellate authorities under this Act shall have the force of a decree of a Civil Court.

Legal practitioners not to appear before Tribunals and appellate authorities

8. Notwithstanding anything contained in any law for the time being in force, no legal practitioner shall be allowed to appear in any proceedings before a Tribunal or an appellate authority under this Act.

Burden of proof

9. Notwithstanding anything contained in any law for the time being in force, in any suit or other proceedings, the burden of proving that a debtor is not entitled to protection under the provisions of this Act shall be on the creditor.

Bar of jurisdiction of Civil Courts

10. No Civil Court shall have jurisdiction to decide or deal with any question or to determine any matter which is, by or under the Act, required to be decided or dealt with, or to be determined, by the Tribunal or the appellate authority.

Act to override other laws, contracts, etc.

11. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force or any custom, usage or contract, or any decree or order of a court, tribunal or other authority.

Power to make rules

12.(1) The Government may, by notification in the Official Gazette, make rules for carrying 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 the Legislative Assembly 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 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.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.7 OF 1989

The question of bringing a comprehensive legislation providing relief from debt burden to various categories of people was engaging the attention of this Administration. After extensive study and careful examination of the debt relief laws prevalent in the neighbouring States, it has been proposed to provide total discharge of debt to debtors whose annual income does not exceed rupees four thousand and eight hundred.

The Bill seeks to achieve the above object.
