THE RAJASTHAN

JAGIRDARS DEBT REDUCTION ACT, 1956

(Act No. 9 of 1957)

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THE RAJASTHAN JAGIRDARS DEBT REDUCTION ACT, 1956

[Act No. 9 of 1957]

[Received the assent of the President on the 21st day of February, 1957]

As amended subsequently by the following Rajasthan Acts:-

1. No. 1 of 1958;
2. No. 2 of 1959

An Act to provide for the scaling down of debts of 1[certain jagirdars]

Be it enacted by the Rajasthan State Legislature in the Seventh Year of the Republic of India as follows:-

1.Subs. by Rajasthan Act 1 of 1958.

1. Short title, extent and commencement.-

1) This Act may be called the Rajasthan Jagirdars Debt Reduction Act, 1956. 2) It extends to the whole of 1[the State of Rajasthan].

3) It shall come into force at once.

2. Defination.- In this Act, unless there is anything repugnant in the subject or context-

2[(a) "Abu area" means the territory comprised in Abu Road taluka of Banaskantha district in the State of Bombay as it existed immediately before the first day of November, 1956;

(aa) "Ajmer area" means the territory comprised in the State of Ajmer as it existed immediately before the first day of November 1956;]

[(c) "compensation" means compensation payable under the relevant Act for the resumption, acquisition or abolition of jagirs or for their vesting in the State and includes interim compensation, if any, so payable;]

(d) "Court of Wards." Means the Court of Wards constituted under section 5 of the Rajasthan Court of Wards Act, 1951 (Rajasthan Act XXVI of 1951), 4[or under the corresponding provision of any corresponding law in force in the Abu, Ajmer or Sunel area;]

(e) "debt" means an advance in cash or in kind and includes any transaction which is in substances a debt but does not include an advance a aforesaid made on or after the first day of January,1949 or a debt due to:-

i. The Central Government or Government of any State;
ii. A local authority;
iii. A Scheduled bank;
iv. A co-operative society; and
v. A wakf, trust or endowment for a charitable or religious purpose only; or
vi. A person, where the debt was advanced on his behalf by the Court of Wards;

(f) "decree" has the meaning assigned to it in the Code of Civil Procedure, 1908 (Act V of 1908);

(g) "decree to which Act applies" means a decree passed either before or after the commencement of this Act in a suit to which this Act applies:-`

1[(h) "Jagirdar" means-

i. when used in relation to territories of the pre- reorganization State of Rajasthan excluding the Sironj area, jagirdar as defined in clause (g) of

1. Substituted by Rajasthan Act 1 of 1958.
2.Subs. by Rajasthan Act 1 of 1958.
3.Subs. by Rajasthan Act 1 of 1958.
4.Substituted by Rajasthan Act 1 of 1958.

ii. section 2 of the Rajasthan Land Reforms and Resumption of Jagirs Act, 1952 (Rajasthan Act VI of 1952),

iii. When used in relation to the Abu area, a jagirdar as defined in clause (vii) of the (Bombay Act XXXIX of 1954),

iv. When used in relation to the Abu area, as intermediary as defined in clause (viii) of sub-section (1) of section 2 of the Ajmer Abolition of intermediaries and Land Reforms Act, 1955 (Ajmer Act III of 1955), and v. When used in relation to the Sunel area, a proprietor as defined in clause (a) of section 2 of the Madhya Bharat Zamindari Abolition Act, Samwat 2008 (Madhya Bharat Act 13 0f 1951); or a jagirdar as defined in clause (vi) of sub-section (1) of section 2 of the Madhya Bharat Abolition of Jagirs Act, Samwat 2008 (Madhya Bharat Act 28 of 1951);

(hh) "jagir land" means_

i. When used in relation to the territories of the pre-reorganization State of Rajasthan excluding the Sironj area, any jagir land as defined in clause (h) of section 2 of the Rajasthan Land Reforms and Resumption of Jagirs Act, 1952 (Rajasthan Act VI of 1952),

ii. When used in relation to the Abu area, any jagir village as defined in clause (viii) of section 2 of the Bombay Merged Territories and Areas (Jagir Abolition) Act,1953 (Bombay Act XXXIX of 1954),

iii. When used in relation to the Ajmer area, any estate as defined in clause (v) of sub-section (1) of section 2 of the Ajmer Abolition of Intermediaries and Land Reforms Act, 1955 (Ajmer Act III of 1955), and iv. When used in relation to the Sunel area, any village, mahal or land settles on zamindari system; or any jagir land as defined in clause (vii) of sub-section (1) of section 2 of the Madhya Bharat Abo-lition of Jagirs Act, Samwat 2008 (Madhya Bharat Act 28 of 1951)];

(i) "mortgage" with its cognate expression, has the meaning assigned to it in the Transfer of Property Act, 1882 (IV of 1882) and includes a charge as defined in section 100 of that Act;

(j) "mortgagor" includes where the right, title and interest of the mortgagor has passed by act of parties or operation of law in favor of another person or persons, such other person or persons;

(k) "rehabilitation grant" means rehabilitation grant, 1[if any payable under the relevant Act];

[(kk) "relevant Act" means-

1.Subs. by Rajasthan Act 1 of 1958.

(i) As aspects the territories of the pre-reorganisation State of Rajasthan excluding the Sironj area, the Rajasthan Land Reforms and Resumption of Jagirs Act, 1952 (Rajasthan Act VI of 1952),

(ii) As respects the Abu area, the Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 (Bombay Act XXXIX of 1954),

(iii) As respects the Ajmer area, the Ajmer Abolition of Intermediaries and Land Reforms Act, 1955 (Ajmer Act III of 1955), and

(iv) As respect the Sunel area, Madhya Bharat Zamindari Abolition Act, Samwat 2008 (Madhya Bharat Act 28 of 1951), as the case may be;]

(l) "Scheduled bank" has the meaning assigned to it in the Reserve Bank of India, 1934 (II of 1934);

(m) "secured debt" means a debt secured by mortgage of jagir land or jagir lands and other immovable property;

3[(mm) "Sironj area" means the territory comprised in the Sironj sub-division of Kota district in the State of Rajasthan as it existed immediately before the first day of November, 1956];

(mmm) "State" or "State of Rajasthan" means the State of Rajasthan as formed by section of the States Reorganization Act, 1956 (Central Act 37 of 1956)];

(n) "Suit to which this Act applies" means any suit or preceeding relating to a debt whether secured or otherwise; and

4[(nn) "Sunel area" means the territory comprised in the Suneltappa of Bhanpura tehsil of Mandsaur district in the State of Madhya Bharat as it existed immediately before the first day of November, 1956;]

(o) "word" has the meaning assigned to it by clause (vii) of section 4 of the Rajasthan Court of Wards Act, 1951 (Rajasthan Act XXVIII of 1951) 1[or under the corresponding provision of any corresponding law in force in the Abu, Ajmer or Sunel area.]

C O M M E N T A R Y

1. Constitutional validity of clause (e),- Portion excluding certain debt due to creditors mentioned in Cls.(i) to (vi) is invalid as infringing Art.14 of the Constitution. Rest of the section, however, valid, *State of Rajasthan v. Mukan Chand,* **AIR 1964 SC 1633.**

2. Clause (g) & S.3. Conditions for applicability.- Section 3 of the Act would be attracted if there is a decree to which the Act applies, that decree is being executed „"by

1. Substituted by Rajasthan Act 1 of 1958.
2. Subs. by Rajasthan Act 1 of 1958.
3. Subs. by Rajasthan Act 1 of 1958.
4. Substituted by Rajasthan Act 1 of 1958.

attachment and sale of the bonds"" ground to the judgment-debtor on account of the compensation or rehabilitation grant for his jagir land, and the decree is being executed in a court.

The expression „"decree to which this Act applies"" has been defined in clause (g) to mean „"a decree passed either before or after the commencement of this Act in a suit to which this Act applies."" Order of board of Revenue confirmed. Chandra Kant Rao u. *State of Rajasthan,* **ILR (1975) 25 RAJ 473.**

3. Reduction of secured debt at the time of passing decree.- (1) Notwithstanding anything in any law, agreement or document, in any suit to which Act applies relating to a secured debt, the court shall, after the amount due has been ascertained, but before passing a decree, proceed as hereinafter stated.

(2) (a) Where the mortgaged property consists exclusively of jagir lands and such lands have been *[resumed, abolished, acquired or ordered to vest in the State under the relevant Act], the court shall first ascertain whether the mortgagor had the right. Under the jagir law in force at the time the mortgage deed was executed, to mortgage the jagir land, or failing that. Whether specific permission for effecting the mortga competent authority, and whether

the mortgage was validly subsisting on the date of 2 [such resumption, abolition.Acquisition or vesting] of the jagir lands.

(b) If the mortgage was legally and properly made and was validly sub–sisting on the aforesaid date. The court shall reduce the amount due in accordance with the formula given in schedule 1.

(3)Where the mortgaged property consists partly of jagir lands as aforesaid and partly of property other than such lands, the court shall after taking action in accordance with the provisions of sub-clause (a) of sub-section (2) .proceed to distribute the amount due on the two properties separately in accordance with the principles contained in section 82 of the Transfer of property Act. 1882 (IV of 1882) as if they had been distinct right of ownership; and after the amount due has been so distributed, reduce the amount due on the Jagir lands in accordance with the formula given in Schedule 1.

C O M M E N T A R Y

Validity.-It is a valid provision. *Mukanchand v. Indersingh,* **1959 RLW 466=ILR. (1959) RAJ 547.**

4.Power to reduce secured debt after passing of decree:-(1)Notwithstanding anything in the Code of Civil Procedure. 1908 (V of 1908) or any other law. The court which passed a decree to which this Act applies relating to a secured debt shall, on the

1.Substituted by the Rajasthan Act 1 of 1958.
2.Substituted by Rajasthan Act No. 1 of 1958.

application either of the decree-holder or judgment-debtor, Proceed as hereinafter stated.

(2) Where the mortgaged property charged under the decree consists exclusively of jagir lands and such lands have been 1[resumed, abolished, acquired or ordered to vest in the state under the relevant Act], The court shall reduce the amount due in accordance with the formula given in schedule I.

(3) Where the mortgaged property charged under the decree consists partly of Jagir lands and partly of property other than jagir lands. The court shall determine the amount due on the first day of January. 1949 and distribute the same on the two properties separately in accordance with the principles contained in section 82 of the transfer of property Act. 1882 (IV of 1882). As if they had even properties belonging to two persons with separate and distinct right of ownership and after the amount due as respect the jagir lands has been so calculated. Reduce it in accordance with the formula given in schedule I.

5. Decree for reduced amount, - The court shall, after the amount due has been reduced under section 3, pass a decree-

(a) in cases falling under sub-section (2) of the said section. For the amount so reduced. And

(B) in cases falling under sub-section (3) of the said section for an amount which shall be equal to the aggregate of the amount due on the property other than jagir lands and the reduced amount found under the aforesaid sub section.

6. Satisfaction of the decree: -After the amount due has been reduced under and in accordance with the provision of section 4,the decree shall. To the extent of the reduction so effected, be deemed, for all purposes and on all occasions. To have been duly satisfied.

COMMENTARY

Validity,-It is a valid provision*Mura* *9 RLW 466= ILR **[1959]** **RAJ 547.**

7.Debt realizable from compensation money and rehabilitation grant.-

[1] Notwithstanding anything in any agreement, document or law for the time being in force, but subject to the provisions of sub-section [2] a decree relating to a debt, whether the debt is a secured debt or otherwise, passed in any suit to which this Act applies;-

1.Subs. by the Raj. Act 1 of 1958.

[a] shall, in so far as the compensation for the jagir lands of the judgment debtor is concerned, be executed only in accordance with the formula given in schedule ii, and

[b]shall be also executable, in addition to and without prejudice to every other remedy to which the decree-holder may be entitled under the decree or law for the time being in force, against the rehabilitation grant payable in respect of the jagir lands of the judgment-debtor, subject to the said formula.

[2] Notwithstanding anything in any law, the reduced amount found in the case of a mortgagor or judgment-debtor as the case maybe. Under section 3 or 4 as respect mortgaged jagir lands shall not be legally recoverable otherwise than out of the compensation and rehabilitation grant payable to such mortgagor or judgment –debtor in respect of such jagir lands.

COMMENTARY

Sub-section (2)-Validity- Sub-section (2) imposes reasonable restriction in the interest of general public on the rights of secured creditor and is valid. State of Rajasthan v. Mukan Chand, **AIR 1964 SC 1633.**

8. Execution of decree relating to unsecured debt against the bonds- where a decree to which this Act applies relating to other than a secured debt is execute by attachment and sale of 1[the bonds, if any, granted under the relevant Act]to the judgment – debtor on account of compensation or rehabilitation grant for his jagir lands. The court executing the decree shall, notwithstanding anything in any law. Entire satisfaction in accordance with the formula given in schedule III.

9. Maintenance allowance- The provision of this Act shall. Mutatis mutandis, apply to a suit or decree for recovery of arrears of maintenance allowance in which any jagir lands whether alone or along with other property are mortgaged or are otherwise charged under any law, Decree, agreement or document. As if the maintenance allowance were debt, and the whole of the immovable property so mortgaged or charged shall. For purposes of section 3 and be deemed to be mortgaged property.

10.Provisions of Usurious Loans Act, 1918, not be affected – The provisions of this Act shall be in addition to. And not in derogation of, the provisions of the Usurious loans Act.,1918(X of 1918) 1[of the Central Legislature as it stands adopted, or extended to any part of the state or the provisions of any other corresponding law in force in any part of the state.]

1.Subs. by the Raj. Act 1 of 1958.

11.Power to make rules – the state Government may, by notification in the 2[Official Gazette], make rules for the purpose of carring into effect the provisions of this Act. **12. Non-applicability of certain provisions of Act to Sunel area**:- No provision of this Act or of any rule made thereunder relating to or dealing with secured debts against a jagirdar shall apply to any proprietor of or in the Sunel area who may have been or may hereinafter be divested of his jagir land under the Madhya bharat Zamindari Abolition Act, Samwat 2008 (Madhya Bharat Act 13 of 1951).

13. Applicability of Rajasthan General Clauses Act –The provision of the Rajasthan General Clauses Act, 1955 (Rajasthan Act 8 of 1955) Shall, As far may be, apply mutatis mutandis to this Act.]

SCHEDULE I

Formula for the reduction of debt referred to in section 3 and 4.

X= D x 4/5

In the above formula .that

X stands for the reduced amount referred to in section 3 and 4 and D stands for the amount due referred to in sub-section (2) of (3) of section 3 and sub-section (2) and (3) of section 4.

SCHEDULE II

The Formula referred to in clauses (a) and (b) of sub-section (1) of section 7 is ---- 1.

Where T exceeds rupees 4,00,000

E= T x 75/100

2. Where T exceeds Rupees 2,00,000 but does not exceed rupees 4,00,000 E= T x 100/100

3. where T exceeds Rupees 1,00,000 but does not exceeds Rupees 2,00,000

E= T x55/00

1.Subs. by the Raj. Act 1 of 1958.

2.Subs. by Rajasthan Act 1 of 1958.

3.Ins. by Rajasthan Act 1 of 1958.

4. where T does not exceeds Rupees 1,00,000

E= T x 50/100

In this formula, T stands for the total amount of compensation for the jagir land plus the total amount of rehabilitation grant payable in respect of the jagir lands, and E stands for the maximum amount out of the aggregate of such compensation and rehabilitation grant against which a decree of the class referred to in sub-section [1] of section 7 or, if there are more than one such decree, all such decrees taken together may be executed.

[It is hereby declared that the amount left after deducting E from Tshall be deemed to be exempt from attachment, whether before or after judgment, and every install ent of T whether paid before or after the final determination thereof, shall also be so exempt to the extent of the portion thereof bearing to the amount of such installment the same ratio as the difference between T [whether determined or, if not determined, claimed] and E bears to such T.]

COMMENTARY

The amendment to schedule II by Rajasthan Act No. 2 of 1959 has not been made retrospective. This amendment is not applicable to case of attachment made prior to the amendment. **AIR 1963 RAJ 42=1963 RLW 47**

SCHEDULE III

[see section 3]

For every one rupee of the face value of the bond sold, satisfaction shall be entered for an amount which shall be 5/3 times thereof.

1.Ins. by Rajasthan Act 2 of 1958.