THE RAJASTHAN SCHEDULED DEBTORS (LIQUIDATION OF INDEBTEDNESS) ACT, 1976

(Act. No. 23 of 1976)

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THE RAJASTHAN SCHEDULED DEBTORS (LIQUIDATION OF INDEBTEDNESS) ACT, 1976

(Act No. 23 of 1976)

[Received the assent of the President on the 5th day of April. 1976]

An Act to provide for the liquidation of indebtedness of marginal farmers, agricultural labourers and rural artisans in Rajasthan.

Be it enacted by the Rajasthan State Legislature in the Twenty-seventh year of the Republic of India as follows: -

1. Short title, extent and comaircemenit.-(1).This Act may be called the Rajasthan Scheduled Debtors (Liquidation of indebtedness) Act, 1976.
(2) It shall extend to the whole of the State of Rajasthan. (3) It shall come into force at once.

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

(a) "Agricultural labourer" means a person who follows any one or more of the following agricultural occupations in the capacity of a labourer on hire or exchange, whether paid in cash or in kind or partly in cash and partly in kind and whose annual household income from ail sources does not exceed Rs. 2400/- a year:—

(i) farming including cultivation and tillage of soil:

(ii) dairy farming:

(iii) production, cultivation, growing and harvesting of any horticultural commodity;

(iv) raising of livestock, bees or poultry; and

(v) any practice performed on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations) and preparation for market and delivery to storage or to market or to carriage for transpor-tation of farm products;

(b) "agriculturist" means a person who earns his livelihood wholly or mainly. from:— (i) agriculture, or

(ii) rent from agricultural land, in case he belongs to any of the categories of persons mentioned in clauses (a) to (h) of sub-section (1) of Section 46 of the Rajasthan Tenancy Act. 1955 (Rajasthan Act 3 of 1955);

(c) "civil court" includes,—

(i) any court exercising jurisdiction under the Provincial Insolvency Act, 1920 as adapted by the Rajasthan Adaptation of Central Laws Ordinance, 1950 (Ordinance No. IV of 1950);

(ii) A Panchayat established under the Rajasthan Panchayat Act, 1953 (Rajasthan Act XX (of 1953) and a nyaya up-samiti constituted under Section 27-B of the said Act;

(iii) a court of small cause as defined in clause (1) of Section 4 of the Rajasthan Small Cause Courts Ordinance, 1950 (Ordinance No. VIII of 1950);

(iv) A debt relief court established under Section 3 of the Rajas-than Relief of Agricultural Indebtedness Act. 1957 (Rajas-than Act 2;.; of 1957); and

(v) any other court exercising appellate or revisional jurisdic-tion over the decision of a civil court;

(d) "co-operative society" means a society registered or deemed to be registered under the provisions of the Rajasthan Co- operative Societies Act. 1965 (Rajasthan Act 13 of 1965):

(e) "debt" includes all liabilities owing to a creditor in cash or kind, secured or unsecured, payable under a decree or order of a a civil court or otherwise and subsisting on the date of commencement" of this Act whether due or not due;

(f) "marginal farmer" means an agriculturist who holds land as a Khatedar or Ghair Khatedar tenant and cultivates it personally and also a person who cultivates land as a sub-tenant or share cropper and which, in area, does not exceed the limits specified below:-

(i) 0.33 hectare land under assured irrigation capable of growing atleast two crops in a year;

(ii) 0,50 hectare land under assured irrigation capable of growing atleast one crop in a year;

(iii) I hectare barani land in fertile zone, semi –fertile zone or hilly zone.,

(iv) 2.67 hectares land in semi-desert zone; and

(v) 3.67 hectares land in desert zone;

Explanation I. - Where land is held by co-tenants or by members of joint Hindu family, the area of land held by each co-tenant or each member of joint Hindu family, shall, for the purpose of this clause, be deemed to be the extent of land which would have been allotted to such co-tenant or such member of joint Hindu family if such land had been divided or partitioned, as the case may be, on the date of the commen-cement of this Act.

II.- Land irrigated by well shall not be deemed to fall under sub-clause (i) or sub-clause (ii) but shall be deemed to fall under sub-clause (iii);

(g) "proceeding" means any proceeding in a civil court started on a plaint, petition of appeal, application or otherwise;

(h) "rural area' means an area which does not fall within a municipality:

(i) "rural artisan" means a person whose principal means of livelihood is production or repair of traditional tools. implements and other articles or things used for agriculture or for purposes ancillary thereto, and also a person who normally earns his livelihood by practising a craft either by his own labour or by the labour of the members of his family in a rural area and whose annual household income from all sources does not exceed Rs. 2400/- a year;

(j) "Scheduled debtor" means an agricultural labourer, a marginal farmer and a rural artisan;,-

(k) reference to land under assured Figation capable of growing at least two crops or one crop in a year made in clause (f) shall have t en to these expressions by or under

the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (Rajasthan Act 11 of 1973) and reference to various zones given in the said clause shall mean the areas of the State as specified under each such zone in the Schedule appended to the said Act; and

(I) words and expressions used, but not defined, in this Act, shall have 1 1 w same meanings as are assigned to them in the Rajasthan Tenan•• Act, 1955 (Rajasthan Act 3 of 1955).

C O M M E N T A R Y

Yearly income of agricultural labourer-Calculation of -Income calculated at 4/- per day of a male and at Rs. 3/- per day of a female-Working month consisting of 15 days- Held, income has been calculated correctly.

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On the basis of the evidence led by Jethmal, the court has calculated the amount of income of the male members at the rate of Rs. 4/- per day and that of the lady at the rate of Rs. 3/- per day by labour. He has also taken into consideration the fact that average working days were about 15 days in a month. This reasoning is well founded because agricultural labourers have seasonal work and many a times remain idle.-[*Jethmal & Anr. Vs. Ramvilas & Babulal,* **1979 WLN 670]**

S. 2(a)- Word 'house hold income'.-Explained-Collective income of all members living in a family is 'household income'.

The legislature by using the term house hold income means the income of all those living together in the same house and comprising a family.

The word 'whose' is used as singular and plural-both. The word 'from all sources' succeeding the term 'Household Income' of whatever type of all the members that is to say the income should come to the family from whatever source it may be. The individual income of each members of the family dwelling in the same house is a source and, therefore, the income of all the family members residing in the same house and comprising a household will have to be taken into consideration in calculating the income of the judgment-debtor. To my mind, the meaning of the 'Household' is too plain to import any other meaning, that it is the collec-tive income of all the members of the family living together-.

[Jethmal & Mr. Vs. Ramvilas & Babulal, **1979 WLN 670.]**

3. Inapplicability of the Act to certain debts and liabilities.- The provisions of this act shall not affect the following debts and liabilities of a scheduled debtor:-

(a) any rent due in respect of any property let out to a scheduled debtor; (b) any liability arising out of breach of trust or any tortious liability;

(c) any liability in respect of wages or remuneration due as salary or otherwise for services rendered to a scheduled debtor;

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

(e) any debt which represents the price of the goods purchased by a scheduled debtor;

(f) any debt due to—

(i) the Central Government or the State Government:

(ii) any local authority;

(iii) a banking company as defined in Section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949), including the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955), a Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959) and a corresponding new bank

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as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970);

(iv) any banking institution notified by the Central Government under Section 51 of the Banking Regulation Act, 1949;

(v) a co-operative society;

(vi) a Government company as defined in Section 617 of the Companies Act. 1956 (Central Act 1 of 1956);

(vii) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 (Central Act 1 of 1956):

(viii) the Rajasthan State Agro-Industries Corporation;

(ix) a corporation or any other body corporate by whatever name called and established or constituted by any law for the time being in force; and (x) any other financial institution that may be notified by the State Government in the Official Gazette;

(g) any sum recoverable as a public demand or arrears of land revenue under any law for the time being in force.

4. Liquidation of debts of the scheduled debtor.- Notwithstanding anything contained in any other law for the time being in force or in any contract or other instrument having force by virtue of any such law, and save as otherwise expressly provided in this Act, the conse-quences as hereinafter set forth shall, with effect from the date of commencement of this Act, ensue namely:

(a) every debt advanced before the commencement of this act, including the amount of interest, if any, payable by a scheduled debtor to a creditor shall be deemed to be wholly discharged;

(b) no such debt due from the scheduled debtor immediately before the commencement of this Act, shall be recoverable from him, or from or against any movable or immovable property, belonging to him, nor shall any such property be liable to be attached and sold or proceeded against in any manner in the execution of any decree or order relating to such debt against him;

(c) no civil court shall entertain any proceeding against a scheduled debtor for the recovery of any amount of such debt, including interest, if any:

Provided that where a proceeding is instituted jointly against a scheduled debtor and any other person, nothing in this clause shall apply to the mainta-inability of a proceeding in so far as it relates to such other person:

(d) all proceedings (including appeals, revisions, attachment or execution proceedings) pending on the date of the commencement of this Act for the recovery of any debt against a scheduled debtor shall abate:

Provided that nothing in this clause shall apply to the sale of-

(i) any moveable property, held and concluded before the commencement of this Act:
(ii) any immovable property, confirmed before such com-mencement;

(e) every scheduled 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 debt shall be released.

Explanation.- Nothing in this Section shall be construed to entitle any scheduled debtor to the refund of any part of a debt already repaid by him or recovered from him before the commencement of this Act.

C O M M E N T A R Y **Debtor of other State also benefited.**

The interpretation of the Act should be such which is in consonance with the fundamental rights and directive principles and is not violative of it. The object to provide liquidation of indebtedness is wide enough to cover and merely because the preamble says in Rajasthan, it cannot mean that only of the rural population of Rajasthan and not of Madhya Pradesh or other States. It would therefore, interprete these provisions to make them harmonious to the directive principles of Art. 46 of the Constitution and further to be consistent with Art. 14 of the Constitution. So interpreted this Act of Rajasthan, whenever it is interpreted or applied in the Courts of Rajasthan, for the purposes of giving effect to the objects of the Act, would provide protection and benefit to all scheduled debtors who can legitimately prove that their case comes in that category even though their land may be situated in some other State so long as litigation is being conducted in the Courts of Rajasthan.

The Constitutional mandate of Art. 46 read with Art. 14 is universally applicable for Indian Union from Kashmir to Kanyakumari and Kutch to Calcutta. It is the clarion call for equality before law which in terms inspires unity and integrity of the people, irrespective of place of birth or residence. This act of liquidation of debts of marginal farmers, who are poor and downtrodden and who have been suppressed, oppressed and repressed and consequently depressed on account of centuries of exploita-tion by landlords on the one hand and rich money lenders and creditors on the other hand, is to emancipate and release them from the above exploitation. It would, therefore, be not material to the economic status of the Indian citizen of marginal farmer as to which part of the country he resides, as the Rajasthan laws would liquidate his debts the moment they become subject matter of litigation of Rajasthan Courts.

Thus interpreted, Jhabua's, marginal framer who has got the certificate of Tehsildar would be entitled to the protection of this Rajasthan Act. *[Sagarmul Vs. MIS Laxmi Vastra Bhandar***AIR 1987 Raj 112 = 1987 RLR 110=1987(1) WLN 103.]**

5. Power to issue certificate.- The Tehsildar, Naib Tehsildar and Inspector Land Records within the local limits of whose jurisdiction a debtor actually and voluntarily resides, or carries on business, or personally works for gain and such other officer or authority as may be prescribed shall be competent to issue a certificate in the prescribed form and manner certifying that the debtor is an agricultural labourer, a marginal farmer or a rural artisan.

C O M M E N T A R Y

Judgment debtor producing certificate of Tehsildar issued under S. 5 in execution of money decree- Presumption of his being scheduled debtor to be raised.

It is clear that as per the provisions of S. 6 of the act, as presumption has to be drawn when a certificate of Tehsildar is issued that the petitioner is scheduled debtor. However, this presumption is rebuttable and the non-petitioners are at liberty to adduce such evidence, which may disprove the correctness of the certificates. The certificate cannot be ignored merely on the ground that the Tehsildar had made no enquiry.

*[Rameshwar Vs. Purshottam,***1987 (1) RLR 508.]**

6. Presumption and burden of proof.- Where in any proceeding for the recovery of debt in a civil court, the debtor produces a certificate issued in his favour under Section 5, the civil court shall presume that the debtor is a scheduled debtor and the burden of proving to the contrary, shall lie on the creditor.

7. Property of scheduled debtor to be freed from mortgaged, etc. –

(1) All property belonging to a scheduled debtor which was, immediately before the commencement of this Act under any mortgage, charge, lien or other incumbrances in connection with any debt owed by a scheduled debtor shall, in so far as it is relatable to such debt, stand freed and discharged from such mortgage, charge, lien or other in cumbrances and where any such property was, immediately before the commencement of this act, in the possession of the mortgages or the holder of the charge, lien or incumbrance, such property shall except where it was subject to any other charge, on such commencement, be restored to the possession of the scheduled debtor.

(2) If any delay is made in restoring any property, referred to in sub-section (1), to the possession of the scheduled debtor, such debtor shall be entitled, on and from the date of such commencement, to recover from the mortgage or holder of the lien, charge or encumbrance, such mesne profits as may be determined by the civil court within the local limits of whose jurisdiction such property is situated.

8. Resumption land disposal of stayed proceedings.- With effect from the date of commencement of this Act, the provisions of the Rajasthan Scheduled Debtors (Moratorium on Debts) Ordinance, 1975 (Ordinance No. 21 of 1975) shall cease to

apply in relation to a scheduled debtor to whom this Act applies and proceedings against such scheduled debtor stayed under the said Ordinance shall upon such commencement be resumed and be disposed of by the civil court in accordance with the provisions of this Act.

9. Creditors not to accept payment against extinguished debts. –

(1) No Creditor shall accept any payment against any debt which has been discharged, or is deemed to be discharged or wholly satisfied under this Act.

(2) Any person who contravenes the provisions or sub-section (1) shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to two thousand rupees or with both.

(3) The Court convicting any person under sub-section 91 may, in addition to the penalties that may be imposed under that sub-section, direct such person to deposit into the Court within such period as may be specified In the order, the sum so accepted by him in contravention of sub-section (1), to be refunded to the scheduled debtor.

(4) The offence under this Section shall be cognizable and bailable and may be compounded by the Scheduled debtor from whom the payment was accepted.

10. Power to make rules.-

(1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the forgoing power, such rules may provide for all or any of the matters which may be or are required to be prescribed under this Act.

THE RAJASTHAN SCHEDULED DEBTORS (Liquidation of Indebtedness) RULES, 1976

*[Notification No. F. **2(3)** Rev./G.4/ 76, dated June, 30, 1976, Pub., in Raj. Gaz., Part IV-C, dated 8-7-1976 at page 162 (198- 200)]*

G.S.R. 15(76).- In exercise of the powers conferred by Section 10 of the Rajasthan Scheduled Debtors (Liquidation of Indebtedness) Act, 1976 (Rajasthan Act 23 of 1976).

the State Government hereby makes ly:-

1. Short title and commencement.-(1) These rules may be called the Rajasthan Scheduled Debtors (Liquidation of Indebtedness) Rules, 1976.
(2) These rules shall come into force on the date of their publication in the Rajasthan Rajpatra.

2. Interpretation.- In these rules, unless there is anything repugnant in the subject or context:-
(i) "Act" shall mean the Rajasthan Scheduled debtors (Liquidation of Indebtedness) Act. 1976; and

(ii) "Form" means a form appended to these rules.

3. Form of application for certificate of being an agricultural labourer etc.-Application for obtaining a certificate of being agricultural labourer/ a marginal farmer/or a rural artisan shall be in Form

4. Enquiry by Tehsildar/ Naib Tehsildar / Inspector of Land Records.- The Tehsildar/Naib Tehsildar/Inspector of Land Records shall get the particulars given in oath application verified with the entries existing in the annual register and any revenue record and may, after making such further enquiries as he deems fit, issue a certificate that the debtor is an agricultural labourer, a marginal farmer, or a rural, artisan in

SCHEDULES

RAJASTHAN SCHEDULED DEBTORS (LIQUIDATION OF INDEBTEDNESS) ACT, 1976

FORM I

(See rule 3)

Application for obtaining certificate of being an agricultural labourer/ a marginal farmer/ or a rural artisan

To

The Tehsildar/Naib Tehsildar/Inspector of Land Records Sir,

I …….S/O …….…..……..resident of …

Tehsil….. District ….. Occupation state as under

1) That I am an agricultural labourer/a marginal farmer/or a rural artisan as defined in the Rajasthan Scheduled Debtors (Liquidation of Indebtedness) Act, 1976.

(2) That I do not hold any agricultural land and follow any one or more of the following agricultural occupations in capacity of a labourer on hire or exchange, whether paid in cash or in kind or partly in cash or partly in kind and my annual house hold income from all sources does not exceed Rs. 2400/- a year:—

(i) farming including/cultivation and tillage of soil;

(ii) dairy farming:

(iii) production, cultivation, growing and harvesting of any horticultural commodity;

(iv) raising of livestock, bees or poultry; and

(v) any practice performed on a farm as incidental to or in conjunction with farm operation (including any forestry or timbering operations) and preparation for market and delivery to storage or to market or to carriage for transportation of farm products;

Or

*That I do not hold any land and my principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture or for purposes ancillary thereto, or I normally earn my livelihood by practising a craft either by the own labour or by the labour of the members of my family in rural area and my annual house hold income from all sources does not exceed Rs. 2400/- a year.

Or

*That I hold land as a Khatedar or Ghair Khatedar tenant or an subtenant or share cropper and cultivate the same personally, particulars of which are as under.

Name of the village in which land is situated	Khasra No.	Areas	Soil Classification	Rent Payable
1	2	3	4	5

I, therefore, request to kindly issue me a certificate of being an agricultural laborer/a marginal farmer/ or a rural artisan:

Place …. ……..

Date….. …

Yours faithfully

Signature of the Applicant

I hereby verify on oath that particulars of paras 1 & 2 of the above application are true to my personal knowledge and that I have state the truth and have not suppressed any fact.

Signature of the Applicant.

*Strike out that which is not applicable.

FORM 2

(See rule 4)

Certificate of being art agricultural labourer/a marginal farmer/ or a rural artisan

This is to certify that Shri…….. ……..S/o ……. Caste ……. Age …… resident of …… Tehsil ……. District ….. ……is an agricultural labourer/a marginal farmer/or a rural artisan as defined in the Rajasthan Scheduled Debtors (Liquidation of Indebtedness) Act, 1976 (Rajasthan Act 23 of 1976).

Given under my hand and seal of the Tehsildar / Naib Tehsildar/In-Spector of Land Records.

Signature of Tehsildar/Naib Tehsildar/
Inspector of Land Records.