

ORISSA ACT XXX OF 1947
THE GANJAM SMALL HOLDERS RELIEF
ACT, 1947

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AN ACT TO PROVIDE FOR THE TEMPORARY RELIEF OF INDEBTED
 SMALL HOLDERS IN THE DISTRICT OF GANJAM IN THE
 PROVINCE OF ORISSA

WHEREAS it is expedient to provide for the temporary relief
 of indebted small holders in the district of Ganjam in the
 Province of Orissa ;

It is hereby enacted as follows :—

Short title
and extent

1. (1) This Act may be called the Ganjam Small Holders Relief Act, 1947.

(2) It extends to the whole of the district of Ganjam in the Province of Orissa.

(3) It shall come into force at once.

Definitions

2. In this Act unless there is anything repugnant in the subject or context—

(1) 'rent' means rent as defined by the Madras Estates Land Act, 1908, or quit-rent, jodi, kattubadi, poruppu or the like, payable to the landholder of an estate as defined by the Madras Estates Land Act, 1908, whether a decree or order of a Civil or Revenue Court has been obtained therefor or not, and includes interest payable thereon but does not include costs incurred in respect of the recovery thereof through a Civil or Revenue Court or the share of the land cess recoverable by the landholder under section 88 of the Madras Local Boards Act, 1920 ;

Madras Act
XIV of 1920

(2) 'small holder' means a person who holds land not exceeding six acres of wet land or twelve acres of other land.

Explanation (1)—The expression 'person' includes an undivided Hindu family.

Explanation (2)—For the purposes of this clause, in the case of a person who holds wet land as well as other land, one acre of wet land shall be deemed to be equal to two acres of other land and *vice versa*.

Conditional
discharge of
arrears of
rent due to
landholders,
etc.

3. (1) All rent payable by a small holder to a landholder or an under-tenure holder under the Madras Estates Land Act, 1908, which has accrued for the fasli year 1354 and prior faslis and which is outstanding at the date of the commencement of this Act shall be deemed to be discharged whether the rent be due as such or whether a decree has been obtained therefor :

Madras Act
I of 1908.

Provided that where the small holder liable to pay rent does not, on or before the 31st January 1949, pay up all arrears of rent accrued in respect of any holding for faslis 1355 and 1356, the

arrears of rent for fasli 1354 and prior faslis which were outstanding in respect of the same holding on the date of the commencement of this Act shall be deemed to be discharged only in the same proportion as the rent due for faslis 1355 and 1356 which is paid up by the small holder bears to the rent due for those two faslis :

Provided further that no small holder shall be entitled to the benefit of this section unless he shall have paid in respect of the holding, the rent due for fasli 1356 on or before the 31st January 1948.

Illustrations—(a) A small holder is in arrear at the commencement of this Act in respect of rent for a particular holding for fasli 1354 and prior faslis in the sum of Rs. 500 and is in arrear on that date in respect of rent for the same holding for faslis 1355 and 1356 the rent for each fasli being Rs. 100. Within the 31st January 1948 he pays the rent for fasli 1356 and within the 31st January 1949, he pays the rent for fasli 1355. The arrears of rent of Rs. 500 which were outstanding at the commencement of this Act will be discharged.

(b) A sum of Rs. 500 representing the arrears of rent in respect of a particular holding for fasli 1354 and prior faslis and the rents for faslis 1355 and 1356 for that holding are in arrear and outstanding at the commencement of this Act, the rent for each fasli being Rs. 100. The small holder pays the landholder within the 31st January 1948 the rent for fasli 1356 but fails to pay within the 31st January 1949, any portion of the rent for fasli 1355. Only a sum of Rs. 250 or one-half of the rent of faslis prior to and inclusive of fasli 1354 will be deemed to be discharged.

(c) In the same case, the small holder does not pay the landholder within the 31st January 1948 the whole of the rent for fasli 1356. No portion of the arrears for fasli 1354 and prior faslis is discharged, and the small holder loses the benefit of this section.

(d) In the same case, the small holder pays the landholder within the 31st January 1948 the rent for fasli 1356 but pays within the 31st January 1949 only Rs. 50, being half the rent for fasli 1355. He has thus paid Rs. 150 out of Rs. 200 being the rent of both the faslis 1355 and 1356 before the 31st January 1949. A sum of Rs. 375, or three-fourths of the rent of faslis prior to and inclusive of fasli 1354 will be allowed to be discharged.

(2) Nothing contained in sub-section (1) shall be deemed to effect a discharge of arrears of rent which accrued due for fasli 1354 if proceedings for the recovery of such arrears stood stayed by an Act of the Legislature or by an order of a Court or if such proceedings, if instituted, would have stood so stayed. But the arrear of rent for fasli 1354 shall not be recoverable until the 31st January 1948 or if the rent for fasli 1356 is paid before that date, until the 31st January 1949.

(3) Notwithstanding anything to the contrary in any agreement or in section 64 of the Madras Estates Land Act, 1908, any payment of rent made by a small holder after the commencement of this Act shall be credited towards the rent due by him for fasli 1356 in the first instance and for fasli 1355 in the next instance, and not towards the rent due for any previous fasli.

Madras Act
I of 1908.

(4) Every small holder shall be at liberty to pay into Court any amount towards the rent due or claimed to be due by him for faslis 1356 or 1355 or both and thereupon the Court shall, after notice to the landholder or under-tenure holder, as the case may be, apply the provisions of this Act and determine whether the whole or only a portion of the rent for the fasls aforesaid has been paid by the small holder, and also the extent of the remaining liability, if any, of the small holder for rent under the provisions of this Act.

Explanation—For the purposes of this sub-section, "Court" shall mean the Collector referred to in sub-section (1) or section 209 of the Madras Estates Land Act, 1908.

Madras Act
I of 1908.

Landholder to be entitled to recover land cess and costs. 4. Notwithstanding anything contained in this Act, a landholder or an under-tenure holder under the Madras Estates Land Act, 1908 shall be entitled to recover, in addition to any sum recoverable by him under section 3—

(a) the land cess, if any, paid by him and recoverable under section 88 of the Madras Local Boards Act, 1920;

Madras Act
XIV of 1920.

(b) the land revenue and water cess, if any, paid by him to the Provincial Government which the small holder was bound to pay by virtue of any law, custom, contract or decree of Court governing the tenancy; and

(c) the costs awarded to him in any decree for rent obtained by him.

Extension of limitation for suits, etc for rent in certain cases.

5. Notwithstanding anything contained in the Madras Estates Land Act, 1908, or in any law of limitation or procedure in force for the time being no suit or execution proceedings in respect of arrears of rent accrued of fasli 1354 or any prior fasli which, under the existing law, would become barred between the 1st February 1947 and the 31st January 1948 shall be so barred and the landholder or the under-tenure holder, as the case may be, shall be entitled to file a suit or institute execution proceedings for recovery thereof, on or before the 30th April 1948; and in cases where the rent due for fasli 1356 has been paid before the 31st January 1948 the period of limitation for any suit or execution proceedings for the recovery of any arrears of rent which, under the existing law, would become barred between the 1st February 1947 and the 31st January 1949, shall stand extended until the 30th April 1949:

Madras Act
I of 1908.

Provided that where on the 30th April 1948, or the 30th April 1949, as the case may be, an application under sub-section (4) of section 3 is pending in any Court, the period of limitation prescribed by this section shall stand extended until the expiry of a period of two months from the date of the order on such application.

Court's decision to be final in cert. in cases.

6. If in any proceedings under this Act a question arises whether a person is a small holder, such question shall be decided by the Court concerned in proceedings under sections 3 to 5 and the decision of the said Court shall, notwithstanding anything contained in any law for the time being in force, be final.