

**THE MAHARASHTRA DEBT RELIEF ACT, 1975**

[Text as on 15<sup>th</sup> July 2024]

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CONTENTS

PREAMBLE.

SECTIONS.

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

REVIVAL OF DEBTS

3. Revival of all discharged debts under Ordinance VII of 1975.

CHAPTER III

LIQUIDATION OF CERTAIN DEBTS

4. Discharge of certain debts and consequences thereof.
5. Prohibition against disposal of pledged property, etc. and penalty.
6. Power of certain officers to enforce delivery of possession of property to debtor.
7. Creditor may dispute debtor's claim.
8. Power of entry and search.
9. Creditor required to pay value of pledged property in certain cases.
10. Power of Authorised Officer to impose fine for frivolous or vexatious applications.
11. Bar of jurisdiction.
12. Suits involving issues required to be decided under this Act.
13. Agreement for labour in lieu of debt to become void.

CHAPTER IV

MORATORIUM ON DEBTS OF WORKERS

14. Moratorium on debts of workers in certain cases.
- 14A. Temporary duration of Chapters IV and V.

CHAPTER V

MORATORIUM ON EXECUTION OF DECREES AGAINST SMALL FARMERS

15. Stay of proceedings in case of certain decrees.
16. Release of persons in detention in civil prison.
17. Relief against default in payment of installments.
18. Computation of time for execution.
19. Payment of certain decrees.
20. Transfer by small farmer to be voidable.

21. Restriction on amount of claim and interest in certain cases.

#### CHAPTER V-A

##### ADJUSTMENT OF DEBTS OF CERTAIN FARMERS AND WORKERS

22. Commencement of Chapter V-A.
23. Definitions.
24. Application for adjustment of debts.
25. Every creditor and debtor to file true and correct statement before Court.
26. Assignee from non-debtor not entitled to benefit of this chapter.
27. Application for recording settlement.
28. Service of notice on debtor and creditor to submit statement of debts.
29. Debts in respect of which no application for adjustment or settlement is made to be extinguished.
30. Duties of debtors and creditors.
31. Preliminary issues.
32. Examination of creditor and debtor.
33. Mode of taking accounts.
34. In certain cases rent may be charged in lieu of profits.
35. Power of Court to declare certain transfers to be in the nature of mortgage.
36. Provisions of section 35 not to apply to certain transfers and transferees.
37. Court's duty to determine particulars, value etc. of property.
38. Fraudulent alienations or encumbrances void.
39. Paying capacity of debtor.
40. Debts payable by debtor to be scaled down.
41. Award.
42. *Ex-parte* proceeding, if any party does not appear.
43. Award to be registered.
44. Execution of award.
45. Postponement of payment of installment in case of remissions, etc.
46. No alienation by debtor before discharge of debts valid.
47. Court may order sale of debtor's property in liquidation of his debts.
48. Legal practitioners excluded from appearance.
49. Appeals.
50. Power of District Judge to refer for disposal certain appeals to Assistant Judge or Civil Judge empowered to hear appeals.
51. Court-fees.
52. Notice how served.
53. Provisions of Civil Procedure Code to apply to proceedings.
54. Bar of civil suits or proceedings.
55. Period of proceedings before courts under this chapter to be excluded.

56. Alienation of standing crop, etc., before repayment of loan prohibited.
57. Power to make rules.
58. Further exemptions.
59. Debts adjusted under any other laws not to be further adjusted under this Chapter.

#### CHAPTER VI

#### EXEMPTIONS AND REPEALS

60. Exemptions.
61. Repeal of Mah. Ord. VII of 1975 and savings.



## LIST OF AMENDMENT ACTS

1. Amended by Mah. 40 of 1977
2. Amended by Mah. 18 of 1979 (15-8-1979)
3. Amended by Mah. 2 of 1984<sup>1</sup> (21-8-1983)<sup>2</sup>
4. Amended by Mah. 1 of 1988 (21-8-1987)<sup>3</sup>

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<sup>1</sup> Maharashtra Ordinance XX of 1983 was repealed by Mah. 2 of 1984.

<sup>2</sup> Section 3 of Mah. 2 of 1984 reads as under :—

**“3. Consequences of retrospective amendment.—** (1) It is hereby declared that Chapters IV and V of the principal Act, which were to expire after the 21<sup>st</sup> August 1983, having been retrospectively extended by this Act from that date upto and inclusive of the 21<sup>st</sup> August 1985, with power to the State Government to extend their duration further for a period, not exceeding two years, by notification in the *Official Gazette*, shall not be deemed to have expired at any time, and all their provisions as amended by this Act shall be deemed to be valid, effective and continuously in force.

(2) It is hereby further declared that anything done, including any proceedings taken or any recovery made, by any person during the period from the 22<sup>nd</sup> August 1983 to the date immediately preceding the date of publication of this Act in the *Official Gazette* (both inclusive), which is inconsistent with the provisions of Chapters IV and V of the principal Act as amended by this Act, shall be deemed to be null and void, and anything done during the said period which is consistent with the said provisions shall be deemed to be valid, effective and continuously in force.”

<sup>3</sup> Section 3 of Mah. 1 of 1988 reads as under :—

**“3. Consequences of retrospective amendment.—** (1) It is hereby declared that Chapters IV and V of the principal Act, which were to expire on 21<sup>st</sup> August 1987, having been retrospectively extended by this Act from that date upto and inclusive of the 21<sup>st</sup> August 1989, with power to the State Government to extend their duration further for a period, not exceeding two years, by notification in the *Official Gazette*, shall not be deemed to have expired at any time, and all their provisions as amended by this Act shall be deemed to be valid, effective and continuously in force.

(2) It is hereby further declared that anything done, including any proceedings taken or any recovery made, by any person during the period from the 22<sup>nd</sup> August 1987 to the date immediately preceding the date of publication of this Act in the *Official Gazette* (both inclusive), which is inconsistent with the provisions of Chapters IV and V of the principal Act as amended by this Act, shall be deemed to be null and void, and anything done during the said period which is consistent with the said provisions shall be deemed to be valid, effective and continuously in force.”



**MAHARASHTRA ACT NO. III OF 1976<sup>1</sup>**

[THE MAHARASHTRA DEBT RELIEF ACT, 1975.]

[This Act received the assent of the President on the 3<sup>rd</sup> January 1976; assent was first published in the *Maharashtra Government Gazette*, Part IV, on the 3<sup>rd</sup> January 1976.]

**An Act to provide for relief from indebtedness to certain farmers, rural artisans, rural labourers and workers.**

WHEREAS, both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to provide for relief from indebtedness to certain farmers, rural artisans, rural labourers and workers in the State of Maharashtra; and for that purpose promulgated the Maharashtra Debt Relief Ordinance, 1975 (Mah. Ord. VII of 1975), on 22<sup>nd</sup> day of August 1975 ;

AND WHEREAS it is now considered that relief from indebtedness should be restricted to liabilities arising out of loans only and debts of workers who hold immovable property the market value of which does not exceed twenty thousand rupees should stand liquidated, and the debts of workers who hold such property the market value of which exceeds twenty thousand rupees but does not exceed forty thousand rupees should receive moratorium for a temporary period ;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature after carrying out therein the amendments as hereinafter provided for securing the above purposes and other purposes hereinafter appearing ;

<sup>2</sup>[AND WHEREAS it is also expedient to provide for adjustment of debts of certain farmers, rural artisans, rural labourers and workers and to provide for matters connected therewith;]

It is hereby enacted in the Twenty-sixth Year of the Republic of India as follows :—

## CHAPTER I

## PRELIMINARY

**1. Short title, extent <sup>3</sup>[and commencement].—** (1) This Act may be called the Maharashtra Debt Relief Act, 1975.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall be deemed to have come into force on the 22<sup>nd</sup> day of the August 1975.

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

(a) “agriculturist” means a person who cultivates land personally;

(b) “appointed day” means the 22<sup>nd</sup> day of August 1975;

(c) “civil court” includes a Court of Small Causes;

(d) “corporation area” means an area within the jurisdiction of any municipal corporation constituted or established under any law for the time being in force;

(e) “debt” means any liability in cash or kind, outstanding on the appointed day, being a liability arising out of a loan (with interest if the loan is taken by a worker, and with or without

<sup>1</sup> For Statement of Objects and Reasons of the L. A. Bill No. LXIV of 1975, see *Maharashtra Government Gazette*, 1975, Extraordinary No. 65, Part V, dated 24<sup>th</sup> November 1975, p. 468.

<sup>2</sup> This paragraph was inserted by Mah. 18 of 1979, s. 2.

<sup>3</sup> These words were substituted for the words “commencement and duration” by Mah. 18 of 1979, s. 3 (b).

<sup>4</sup> Sub-section (4) was deleted by Mah. 18 of 1979, s. 3 (a).

interest, in any other case), whether secured or unsecured, due from a debtor whether payable under a decree or order of any court or otherwise;

(f) “debtor” means a marginal farmer, rural artisans, or rural labourer whose total income from all sources did not exceed two thousand and four hundred rupees during the year immediately before the 1<sup>st</sup> day of August 1975 and a worker whose total income from all sources did not exceed, if living in an urban area six thousand rupees during the year immediately before the said date, and if living elsewhere four thousand and eight hundred rupees during that year;

(g) “to hold land” with its grammatical variations and cognate expressions, means to be lawfully in actual possession of land as owner or as tenant (including a Government lessee), and the expression “holding” shall be construed accordingly;

(h) “marginal farmer” means an agriculturist who holds land measuring not more than one hectare of unirrigated land and includes an agriculturist who cultivates as a tenant of share cropper land measuring not more than one hectare of unirrigated land;

(i) “member of a family” means a father, mother, spouse, brother, unmarried dependent sister, divorced and dependent sister, son, son’s wife, or unmarried daughter, divorced and dependent daughter, son’s son, son’s unmarried daughter, son’s divorced and dependent daughter, and includes any relation residing with and actually dependent for his maintenance on the debtor;

(j) “rural area” means an area for the time being within the jurisdiction of a *Zilla Parishad* established under, the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962), and includes any ‘B’ Class or ‘C’ Class municipal area as classified under the Maharashtra Municipalities Act, 1965 (Mah. XL of 1965), but does not include the area within the limits of the cantonments of Pune, of Kirkee and Kamptee as defined under the Cantonment Act, 1924 (2 of 1924);

(k) “rural artisan” means a person who principally earns his livelihood in a rural area by practising any craft either by his own labour or with the help of labour of the members of his family but does not include an artisan who resides in an urban area;

(l) “rural labourer” means a person who—

- (i) does not hold any land in a rural area,
- (ii) may or may not have any homestead therein, and
- (iii) earns his livelihood principally by manual labour,

but does not include any such labourer residing in an urban area and a rural artisan;

(m) “small farmer” means an agriculturist who holds land measuring more than one hectare of unirrigated land but less than two hectares of such land and who cultivates personally such land and includes an agriculturist who cultivates as a tenant or a share cropper land measuring more than one hectare of unirrigated land but not more than two hectares of such land.

*Explanation I.*—A person belonging to a Scheduled Caste, Scheduled Tribe, Nomadic Tribe or *Vimukta Jatis* shall be deemed to be small farmer irrespective of the extent of unirrigated land held and cultivated by him as aforesaid;

*Explanation II.*—“Nomadic Tribes” and “*Vimukta Jatis*” means Nomadic Tribes and *Vimukta Jatis* determined as such by the State Government from time to time;

(n) “urban area” means a corporation area or an area within the limits of any municipal council constituted under any law for the time being in force in the State, and includes the area within the limits of the cantonments of Poona, Kirkee and Kamptee as defined under the Cantonments Act, 1924 (2 of 1924), but does not include any “B” Class, or “C” Class municipal area as classified under the Maharashtra Municipalities Act, 1965 (Mah XL of 1965);

(o) “worker” means a person who earns his livelihood through any profession, calling or trade and also a person who is working in any factory (including a *badli* worker therein);

*Explanation.*—In this clause—



(1) the expression “factory” has the meaning assigned to it in the Factories Act, 1948 (63 of 1948), with this modification that the limitation on the number of workers working therein shall be dispensed with;

(2) the expression “*badli worker*” means a worker who is provided with a *badli* card and who is employed in a factory in place of another worker who is temporarily absent and whose name is borne on the muster-roll of the factory;

(3) for the avoidance of doubt, it is hereby declared that the expression “profession, calling or trade” shall include and shall be deemed always to have included “employment”, and that expression shall be construed accordingly;

(p) words and expressions used in this Act but not defined therein shall have the meanings, respectively assigned to them in the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (Mah. XXVI of 1961).

## CHAPTER II

### REVIVAL OF DEBTS

**3. Revival of all discharged debts under Ordinance VII of 1975.**— Notwithstanding anything contained in the Maharashtra Debt Relief Ordinance, 1975 (Mah. Ord. VII of 1975), all debts of a debtor which stood discharged on the appointed day under the provisions of that Ordinance shall, on the commencement of this Act, stand revived; and accordingly, the provisions of the said Ordinance as amended by this Act as herein provided shall operate in relation to all such revived debts, as if those provisions were always amended and in operation on the appointed day.

## CHAPTER III

### LIQUIDATION OF CERTAIN DEBTS

**4. Discharge of certain debts and consequences thereof.**— 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, every debt of a worker whose immovable property, if any, does not exceed twenty thousand rupees in market value and every debt of any other debtor, outstanding on the appointed day, including the amount of interest, if any, payable by a debtor shall be deemed to be wholly discharged; and the consequences as hereinafter set forth shall, with effect from the appointed day, ensue, namely:—

(a) no such debt due from a debtor on the appointed day shall be recoverable from him or from or against any moveable 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;

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

Provided that, where a suit or proceeding is instituted jointly against such debtor or any other person, nothing in this clause shall apply to the maintainability of a suit or proceeding in so far as it relates to such other person;

(c) all suits and proceedings (including appeals, revisions, attachment or execution proceedings) pending on the appointed day for the recovery of any such debt against such debtor shall abate:

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

(i) any movable property, held and concluded before the appointed day;

(ii) any immovable property, confirmed before such day;

(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 shall be released;

(e) every property pledged or mortgaged by such debtor shall stand released in favour of such debtor, and the creditor shall be bound to return the same to the debtor forthwith on the

debtor making an application in writing in that behalf; and the creditor shall pass a receipt to the debtor of having received the application. If the creditor refuses to pass a receipt, then the debtor may get the application endorsed to that effect under the signature and date of any of the officers referred to in section 6 or by any person authorised by them in this behalf.

*Explanation 1.*—Nothing in this section shall be construed to entitle any such debtor to the refund of any part of a debt already repaid by him or recovery from him before the appointed day.

*Explanation 2.*—For the purposes of this section, the expression “debt of a worker” includes a debt arising out of loans taken from more than one creditor.

**5. Prohibition against disposal of pledged property etc. and penalty.**— (1) No creditor shall after the appointed day, damage, destroy or tamper with any property pledged or mortgaged with him or any document connected therewith or part with or otherwise deal with the same except as provided in this Act.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine which may extend to one thousand rupees:

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months, and fine shall not be less than two hundred rupees.

**6. Power of certain officers to enforce delivery of possession of property to debtor.**— Where a creditor fails to return the property to the debtor forthwith as required by clause (e) of section 4, and the debtor is opposed or impeded in taking possession of the property, then the debtor may, subject to the provisions of section 7, request the Commissioner of Police, where there is one, and elsewhere the District Magistrate or the Superintendent of Police, to enforce delivery of possession of such property, the Commissioner of Police, the District Magistrate or, as the case may be, the Superintendent of Police, shall take or cause to be taken such steps or use or cause to be used such force as may be reasonably necessary for securing the delivery of possession of the property to the debtor.

*Explanation.*—For the purposes of this section—

(a) the Commissioner of Police includes an officer not below the rank of an Inspector duly authorised by him;

(b) the District Magistrate includes an officer not below the rank of a Tahsildar duly authorised by him; and

(c) the Superintendent of Police includes an officer not below the rank of a Sub-Inspector duly authorised by him.

**7. Creditor may dispute debtor’s claim.**— (1) If, in the course of implementing the provisions of section 4, a creditor raises a question that the person who claims to be his debtor is not a marginal farmer, a rural artisan, a rural labourer or, as the case may be, a worker, or disputes the eligibility of the debtor for relief under this Act on any other ground including the valuation of the immovable property, if any, of a worker, then the creditor shall make an application in writing to an officer not below the rank of an additional Tahasildar (or any officer in any department who in the opinion of the District Magistrate is of equivalent rank) duly appointed by an order in writing by the District Magistrate in this behalf (hereinafter referred to as “the Authorised Officer”).

(2) The application shall state the facts of the case in brief, and the point raised for the decision of the Authorised Officer; and shall be made within seven days from the date of receipt of the application by the creditor under clause (e) of section 4, or from the date of endorsement made on the application under that clause.

(3) No application under this section shall be entertained by the Authorised Officer unless the creditor either deposits the pledged property or any document evidencing such pledge or both or the value of such property. If the property for any reason is not available with the creditor, in which case he shall make an affidavit stating the reasons for which the property is not available.

(4) In all proceedings under this section, the Authorised Officer shall follow the procedure provided for summary inquiries under the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966).

(5) For the purposes of this section, a person claiming to be a debtor shall unless the contrary is proved, be presumed by the Authorised Officer to be a debtor if he produces a certificate from any Special Executive Magistrate, *talathi*, *police patil*, *sarpanch* of a village *panchayat*, or any person specified by the State Government in an order from time to time made in this behalf that he is a debtor as described in such certificate. The certificate shall be issued in such form as the State Government may from time to time determine. The authority issuing the certificate may not hear the creditor before issuing such certificate.

(6) The Authorised Officer shall have power to determine all questions in relation to, or connected with, the question or dispute raised by the creditor in his application, and accordingly, he may determine the extent, or as the case may be, the value of the property, give directions for the safe custody of the pledged property and may pass such orders as may be necessary in the circumstances of each case for enforcing and implementing the provisions of this Act. It shall be lawful for the Authorised Officer to take the assistance of the services of an expert for determining the value of any immovable property; and the provisions of sub-section (3) of section 9 for payment of honorarium shall apply to such payment.

(7) Except as otherwise provided in this section, no question shall be decided by the Authorised Officer under this section unless an opportunity has been given to the creditor and the debtor to be heard.

(8) The Authorised Officer shall decide the question as provided in this section and his decision shall be final and conclusive and shall not be called in question in any Civil Court. If the property or its value is in the possession of the Authorised Officer and the decision is in favour of the debtor, it shall be delivered to the debtor forthwith; and he shall make an endorsement on the order that the property or value has been delivered to the debtor.

**8. Power of entry and search.**— (1) For enforcing the provisions of this Chapter, any officer referred to in section 6 may enter and search any place without any warrant where such officer has reason to believe that the property of any debtor or any document evidencing transactions relating to a loan given to any debtor is kept or concealed; and may seize such property or documents and detain the same in his custody for such period as he may think fit. If the property is not delivered to the debtor, it shall be returned to the creditor from whose custody it was seized.

(2) Except as provided in sub-section (2), the other provisions of the Code of Criminal Procedure, 1973 (II of 1974), shall, so far as may be applicable, apply to such search or seizure as they apply to any search or seizure made under the provisions of the said Code.

**9. Creditor required to pay value of pledged property in certain cases.**— (1) If the possession of the property pledged by a debtor cannot for any reason (including lack of identity thereof) be delivered to him, then the creditor shall pay to the debtor the value of such property. The value of the property shall be the market value thereof, and identity of the property shall be determined after due inquiry made in that behalf. If the creditor fails to pay the value, it may be recoverable from him as an arrear of land revenue; and on recovery of the value, it shall be delivered to the debtor by whom such property was pledged.

(2) If there is difference of opinion between the creditor and the debtor on the question of value of the property or its identity, the question shall be referred to the Authorised Officer for decision, and his decision on the question shall be final.

(3) The value of the property may be determined with the assistance of the services of an expert appointed in that behalf. The expert may be paid such honorarium as the State Government or any officer not below the rank of a Tahsildar appointed by it may by an order in writing from time to time in relation to any area or areas determine.

**10. Power of Authorised Officer to impose fine for frivolous vexatious applications.**— Where an application presented to an Authorised Officer under section 7 is dismissed, and the Authorised Officer is satisfied that the application is frivolous or vexatious, the Authorised Officer may

by an order in writing impose on the creditor a fine of an amount which may extend to one hundred rupees. If the creditor fails to pay the fine within thirty days from the date of receipt of the order, it may be recovered from him as an arrear of land revenue.

**11. Bar of jurisdiction.**— (1) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Chapter required to be settled, decided or dealt with by the Authorised Officer.

(2) No order of the State Government or of any officer or authority made under this Chapter shall be questioned in any Court.

**12. Suits involving issues required to be decided under this Act.**— (1) If a suit instituted in any civil court involves any issues which are required to be settled, decided or dealt with, by the Authorised Officer under this Act, the civil court shall stay the suit and refer such issues to the Authorised Officer for determination.

(2) On receipt of such reference from the civil court, the Authorised Officer shall deal with and decide such issues in accordance with the provisions of this Chapter, and shall communicate his decision to the civil court, and such court shall thereupon dispose of the suit in accordance with the procedure applicable thereto.

**13. Agreement for labour in lieu of debt to become void.**— Any custom or tradition or any agreement (whether made before or after the appointed day), whereunder or by virtue of which a debtor or any member of his family is required to work as labourer or otherwise for the creditor shall be void and of no effect and shall never be enforceable in any civil court.

#### CHAPTER IV

##### MORATORIUM ON DEBTS OF WORKERS

**14. Moratorium on debts of workers in certain cases.**— (1) 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, no debt of a worker who holds immovable property the market value of which exceeds twenty thousand rupees but does not exceed forty thousand rupees together with interest, if any, outstanding on the appointed day, shall stand discharged or shall be deemed ever to have stood discharged on the appointed day; and except as herein before provided, all such debts shall stand revived as provided by section 3 and shall continue to exist until they are wholly discharged ; but the payment or recovery of any such debts shall, subject to the provisions of this section, nevertheless stand stayed <sup>1</sup>[during the period this Chapter remains in force;] and it shall not be lawful for any creditor to recover any such debt or any part thereof or any interest remaining unpaid on the appointed day during such period, and the provisions of Chapter V shall apply to the execution of decrees in relation to such debt against any such workers as they apply to the execution of decrees against small farmers.

(2) The amount of debt of a worker to be recovered <sup>2</sup>[after the expiry of this Chapter] shall not exceed the amount of the principal by more than one hundred and fifty per cent of such amount.

(3) No interest shall accrue on any amount of the debt of a worker during the period this Chapter is in operation.

*Explanation.*—For the purposes of this section, the expression “debt of a worker” includes a debt arising out of loans taken from more than one creditor.

<sup>3</sup>[**14A. Temporary duration of Chapters IV and V.**— Without prejudice to the operation of the other provisions of this Act, this Chapter and Chapter V shall remain in force for the period commencing on the 22<sup>nd</sup> August 1975 and <sup>4</sup>[ending on, and inclusive of, the 21<sup>st</sup> August 1989] and for

<sup>1</sup> These words were substituted for the words “during the period this Act remains in force” by Mah. 18 of 1979, s. 4 (a).

<sup>2</sup> These words were substituted for the words “after expiry of this Act” by Mah. 18 of 1979, s. 4 (b).

<sup>3</sup> Section 14A was inserted by Mah. 18 of 1979, s. 5.

<sup>4</sup> These words, figures and letters were substituted for the words, figures and letters “ending on, and inclusive of, the 21<sup>st</sup> August 1985” by Mah. 1 of 1988, s. 2.

such further period thereafter, not exceeding two years as the State Government may, from time to time, by notification in the *Official Gazette*, specify and shall then expire. Section 7 of the Bombay General Clauses Act, 1904 (Bom. I of 1904), shall apply upon the expiry of these Chapters as if they had been repealed by a Maharashtra Act.]

## CHAPTER V

### MORATORIUM ON EXECUTION OF DECREES AGAINST SMALL FARMERS

**15. Stay of proceedings in case of certain decrees.**— (1) All proceedings in execution of any decree for money, or proceeding for making final, any preliminary decree for foreclosure or sale, or proceedings in execution of any final decree for sale, passed by a civil court on the basis of a liability in relation to a debt incurred before the appointed day, in which the judgment-debtor or defendant, as the case may be, is on the appointed day, a small farmer, shall be stayed against such judgment-debtor or defendant, on an application made by him in this behalf <sup>1</sup>[during the period this Chapter remains in force.]

(2) All attachments of growing crops, agricultural produce, livestock and other moveable property of a perishable nature made in execution of decrees for money the execution of which has been stayed under sub-section (1) and existing on the date on which the stay order is passed shall be withdrawn.

(3) Any judgment-debtor or defendant who is a small farmer may, notwithstanding that no proceedings of the nature referred to in sub-section (1) are pending against him, make an application for stay under that sub-section.

(4) Every stay order passed by a court under this section shall relate back to the date of the application for stay filed by the judgment-debtor or defendant, as the case may be, and the proceedings shall for all purposes of this Act be deemed to have been stayed with effect from such date.

**16. Release of persons detention in civil prison.**— (1) On the appointed day, every small farmer undergoing detention in a civil prison in execution of any decree for money passed by a civil court in respect of his debt shall be released.

(2) No small farmer shall in any case be liable to arrest or detention in civil prison in execution of any such decree as is referred to in sub-section (1) <sup>2</sup>[during the period this Chapter remains in force.]

**17. Relief against default in payment of installments.**— (1) Where a decree for payment of a decretal amount by installments contains a provision that in default of one or more installments, the whole amount shall become due at once, then, notwithstanding anything in such provision, non-payment of any installment falling due during the period in which the proceedings in execution remain stayed <sup>3</sup>[under this Chapter,] shall not be deemed to be a default for the purposes of such provision.

(2) If the judgment-debtor pays the installments so falling within a period of twelve months <sup>4</sup>[after the expiry of this Chapter,] then such installment shall be deemed to have been paid on the due date.

**18. Computation of time for execution.**— In computing the period of twelve years prescribed by the Limitation Act, 1963 (36 of 1963), the period during which proceedings are stayed <sup>5</sup>[under this Chapter] shall be excluded.

**19. Payment of certain decrees.**— Nothing contained in this Chapter shall—

(a) apply to a decree for money arising out of claims relating to trusts or for maintenance or for profits in favour of a co-tenant or co-owner, or for mesne profits or for damages for tort, or for contribution between co-tenants of agricultural lands ; or

<sup>1</sup> These words were substituted for the words “during the period this Act remains in force.” by Mah. 18 of 1979, s. 6.

<sup>2</sup> These words were substituted for the words “during the period this Act remains in force.” by Mah. 18 of 1979, s.7.

<sup>3</sup> These words were substituted for the words “under this Act,” by Mah. 18 of 1979, s. 8(a).

<sup>4</sup> These words were substituted for the words “after the expiry of this Act,” by Mah. 18 of 1979, s. 8(b).

<sup>5</sup> These words were substituted for the words “under this Act” by Mah. 18 of 1979, s 9.

(b) apply to a mortgage decree against property in the hands of a subsequent transferee who has taken the transfer in order to satisfy the mortgage subject to the mortgage on the basis of which such decree has been obtained ; or

(c) apply to the decisions or orders or awards given or made by the Registrar, persons appointed to assist the Registrar, nominees or boards of nominees appointed by the Registrar, Liquidators, Maharashtra State Co-operative Tribunal, Co-operative Courts, Co-operative Appellate Court or other authorities under the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961), or the rules made thereunder.

**20. Transfer by small farmer to be voidable.**— Every transfer of property made by a small farmer against whom proceedings in execution have been stayed <sup>1</sup>[under this Chapter] shall be voidable at the option of the creditor whose claim against such small farmers is defeated or delayed.

**21. Restriction on amount of claim and interest in certain cases.**— (1) On the expiry of this Chapter, no claim arising out of any proceedings which are stayed under sub-section (1) of section 15 or out of any decree described in sub-section (1) of that section in respect of which no execution proceedings have been taken shall exceed the amount of the principal by more than one hundred fifty per cent of such amount.

(2) No interest shall accrue on any amount included in any claim referred to in sub-section (1) during the period this Chapter is in operation.

## <sup>2</sup>[CHAPTER V-A

### ADJUSTMENT OF DEBTS OF CERTAIN FARMERS AND WORKERS

**22. Commencement of Chapter V-A.**— The provisions of this Chapter shall come into force on the date of commencement of the Maharashtra Debt Relief (Amendment) Act, 1979 (Mah. XVIII of 1979) (hereinafter in this Chapter referred to as “the date of commencement of this Chapter”) and shall have effect notwithstanding anything inconsistent therewith contained in Chapters IV and V.

**23. Definitions.**— In this Chapter, unless the context requires otherwise,—

(a) “award” means an award made under sub-section (4) of section 27 or under section 41 or 42 or as confirmed or modified by the Court in appeal;

(b) “Court” means—

(i) in Greater Bombay, the Court of Small Causes, Bombay,

(ii) in any area for which a Court of Small Causes is established under the Provincial Small Cause Courts Act, 1887 (IX of 1887), such Court, and

(iii) elsewhere, the Court of the Civil Judge (Junior Division) having jurisdiction in the area in which the debtor ordinarily resides or, if there is no such Civil Court, the Court of the Civil Judge (Senior Division) having ordinary jurisdiction;

(c) “debt” means any liability, in cash or kind, outstanding on the date of commencement of this Chapter being a liability arising out of a loan (with interest if the loan is taken by a worker, and with or without interest, in any other case), whether secured or unsecured, due from a debtor, whether payable under a decree or order of any Court or otherwise;

(d) “debtor” means—

(i) a marginal farmer, small farmer, rural artisan or rural labourer as defined in section 2, who owes any debt and whose total income from all sources exceeded two thousand and four hundred rupees, but did not exceed six thousand rupees during the year immediately preceding the date of commencement of this Chapter ;

(ii) a worker as defined in section 2, who owes any debt, and—

<sup>1</sup> These words were substituted for the words “under this Act” by Mah. 18 of 1979, s. 10.

<sup>2</sup> Chapter V-A was inserted by Mah. 18 of 1979, s. 11.

(A) whose total income from all sources exceeded, if living in an urban area, six thousand rupees, but did not exceed eight thousand rupees, during the year immediately preceding the date of commencement of this Chapter, or exceeded, if living elsewhere, four thousand and eight hundred rupees, but did not exceed seven thousand rupees, during that year; or

(B) who holds immovable property the market value of which, on the date of commencement of this Chapter, exceeds twenty thousand rupees, but does not exceed forty thousand rupees;

(iii) an agriculturist, who owes any debt and who, on the date of commencement of this Chapter, holds more than two hectares of unirrigated land, but less than four hectares of such land, and cultivates such land personally; or an agriculturist who owes any debt and who is, on the date of commencement of this Chapter, cultivating as a tenant or a share cropper any land measuring more than two hectares of unirrigated land, but less than four hectares of such land, in both cases the land being situated in any drought-prone area; or

(iv) any other person, the payment of recovery of whose debts has been stayed under section 14 or against whom any proceedings have been stayed under section 15;

(e) “drought-prone area” means any area or areas, which the State Government, having regard to the distress caused therein by serious drought, flood or other natural calamities, may, from time to time, by notification in the *Official Gazette*, declare to be drought-prone areas, for the purpose of this Chapter;

(f) “financing of crops” means advancing of loans for the cultivation of crops during the ploughing season or later, for ploughing, sowing, harrowing, weeding, harvesting, purchase of seeds manure or bullocks or for such other purposes and payable during such periods (not exceeding five years from the date on which the loan is advanced) as may be prescribed;

(g) “prescribed” means prescribed by rules made under this Chapter;

(h) “resource society” shall have the meaning assigned to it in the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961);

(i) “seasonal finance” means advancing of loans for preparation of lands for irrigation, for constructing field channels or bunds to save land from erosion, for the removal of silt or for such other purposes and payable during such period as may be prescribed;

(j) words and expressions used in this Chapter, but not defined in this Chapter, shall have the meanings, respectively, assigned to them in the other Chapters of this Act, or the Code of Civil Procedure, 1908 (V of 1908), as the case may be.

**24. Application for adjustment of debts.**— (1) Any debtor or his creditor may, within a period of six months from the date of commencement of this Chapter, make an application to the Court for adjustment of the debts of the debtor.

(2) Every application under this section shall be made in writing in the prescribed form, and shall be signed, verified and presented, in the prescribed manner, and shall contain such particulars and be accompanied by copies of such documents as may be prescribed.

(3) Notwithstanding anything contained in sections 58 and 60, an application under this section shall also contain the particulars of all debts specified in those sections due by the debtor.

(4) An application made under this section shall not be withdrawn without the leave of the Court.

(5) Where two or more applications are made under this section by or against the same debtor, all such applications shall be consolidated. Where such applications are presented by or against joint debtors, all such applications shall be heard together.

**25. Every creditor and debtor to file true and correct statement before Court.**— (1) Notwithstanding the fact that no application had been made under section 24,—

(a) every creditor, on being required to do so by notice in writing by any of his debtors, shall, within two months from the date of receipt of such notice, file before the Court a true and correct statement of all his claims under any decree or otherwise against such debtor, and shall at the same time send a copy thereof to such debtor, and

(b) every debtor, on being required to do so by notice in writing by any of his creditors, shall, within two months from the date of receipt of such notice, file before the Court a true and correct statement,—

(i) of all the debts owned by such debtor under any decree or otherwise to such creditor or creditors;

(ii) declaring whether he holds any land used for agricultural purposes, and if so, the exact area and situation of the land so held, together with its market value as certified in a corporation area by an engineer of the corporation authorised by it in this behalf and elsewhere by the Tahsildar having jurisdiction over the area where such land is situated, and whether he has been cultivating the land personally within the meaning of the relevant tenancy law;

(iii) of his total income from agriculture, and from sources other than agriculture, in the year immediately preceding the date of the notice, the agricultural and non-agricultural income and the different sources of nonagricultural income being shown separately;

(iv) of his other immovable property, if any, together with its market value as certified in a corporation area by an engineer of the corporation authorised by it in this behalf and elsewhere by the Tahsildar having jurisdiction over the area where such property is situated.

The debtor shall at the same time send a copy of such statement to such creditor.

(2) Notwithstanding anything contained in sub section (1), the Court may, for sufficient cause, extend, from time to time, the period (but not exceeding six months in the aggregate) within which the creditor or the debtor, as the case may be, may file the statement under this section.

(3) Every creditor or debtor giving a notice under sub-section (1) shall at the same time send a copy thereof to the Court.

(4) In awarding the costs of any proceeding in respect of any application made under section 24, the Court may, on being satisfied that the statement required to be filed under sub-section (1) was, without sufficient cause, not filed within the time specified therein, or within the period extended under sub-section (2), or incorrectly filed, direct the party in default to bear the whole or any portion of such costs.

**26. Assignee from non-debtor not entitled to benefit of this Chapter.**— No application shall lie under section 24 for adjustment of any debt due from a debtor to whom such debt has been transferred or assigned, after the date of commencement of this Chapter, by any person who is not himself a debtor.

**27. Application for recording settlement.**— (1) If any debtor and all or any of his creditors arrive at a settlement in respect of any debt due by the debtor to the creditor or creditors, the debtor or any creditor may, within thirty days from the date of such settlement, make an application to the Court for recording such settlement.

(2) Every such application shall be in the prescribed form and shall be signed and verified and presented in the prescribed manner.

(3) On receipt of such application, the Court shall, after giving notice in the prescribed manner to the creditor or creditors or the debtor, as the case may be, and after making such inquiry as it thinks fit, if it is satisfied that the settlement arrived at is *bona fide* and voluntary, and is not made with intent to defeat or delay any of the creditors of the debtor, and is in the interest of the debtor, record such settlement and certify the same. Every such settlement so recorded and certified shall be binding upon the parties thereto, and shall not, save as otherwise hereinafter provided, be re-opened.

(4) After the Court has recorded and certified a settlement under sub-section (3), the Court shall call upon the debtor to make a declaration whether there are any other debts due by the debtor which



are not included in the settlement. If the debtor makes a declaration that there are no such debts the Court shall make an inquiry and ascertain that there are no debts other than those included in the settlement, and then make an award in terms of such settlement.

(5) If the Court, on making an inquiry under sub-section (4), is satisfied that there are other debts due from the debtor which are not included in the settlement, the Court shall treat the application made under sub-section (1) as an application for adjustment of debts under section 24.

**28. Service of notice on debtor and creditor to submit statement of debt.**— On receipt of an application made under section 24, the Court shall,—

(a) give notice to the debtor (unless the debtor is himself an applicant) and to every creditor (other than the creditor who is himself an applicant) whose name and address are given in the application, and

(b) publish a general notice,

requiring the debtor and all creditors to submit a statement of debts in the prescribed form, within one month from the date of the service of the notice or the publication of the general notice, whichever is later:

Provided that, if the Court is satisfied that the debtor or any creditor is for good and sufficient cause unable to comply with the notice within the time specified therein, it may extend the period for the submission of the statement.

**29. Debts in respect of which no application for adjustment or settlement is made to be extinguished.**— Every debt due from a debtor in respect of which no application has been made under section 24, before the date specified in that section, or in respect of which no application for recording a settlement is made under section 27 within the period specified in that section, or in respect of which an application made to the Court is withdrawn under sub-section (3) of section 24 and no fresh application is made under that section, and every debt due from such debtor in respect of which a statement is not submitted to the Court by the creditor in compliance with the provisions of section 28, shall be extinguished.

**30. Duties of debtors and creditors.**— (1) Every debtor by or against whom an application is made under section 24 or who is a party to an application made under section 27, shall produce all books of accounts and shall give such inventories of his property and such lists of his creditors and debtors and of the debts due from and to, him, submit to such examination in respect of his property or the property of his creditors, attend at such time before the Court, and generally do all such things as may be required by the Court, or as may be prescribed.

(2) It shall be the duty of every creditor to produce such books of accounts to submit to such examination and to supply such information in respect of the debt due to him by the debtor and the securities held by him, as may be required by the Court, or as may be prescribed.

**31. Preliminary issues.**— (1) On the date fixed for the hearing of an application made under section 24, the Court shall decide the following points as preliminary issues, that is to say:—

(a) whether the person for the adjustment of whose debts the application has been made is a debtor within the meaning of clause (d) of section 23;

(b) whether the creditor or creditors are holding a valid decree against such debtor;

(c) whether the creditor or creditors have any other debts against the debtor on the basis of valid documents and accounts maintained by him or them in the regular course of business.

(2) If the Court finds that such person is not a debtor or that the creditor or creditors are not holding a valid decree or have no other debts against the debtor, the Court shall dismiss the application forthwith.

(3) If the Court finds the person making an application under section 24, or the person against whom an application is made under that section, to be a debtor, the Court shall proceed to take accounts and reduce the debt in the manner hereinafter provided.

**32. Examination of creditor and debtor.**— In an application for adjustment of debts, if the amount of the creditor's claim is disputed, the Court shall, when taking accounts, examine both the creditor and the debtor as witnesses, unless for reasons to be recorded, the Court deems it unnecessary so to do.

**33. Mode of taking accounts.**— Notwithstanding any decree against the debtor or any agreement between the parties or the persons, if any, through whom they claim, as to allowing compound interest or setting off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account, and notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation, the Court shall inquire into the history and merits of the case and take account between the parties from the commencement of the transactions subsisting between the parties and the persons, if any, through whom they claim, out of which the claim has arisen and determine the amount due to each of the creditors at the date of the application made under section 24, according to the following rules, namely:—

(a) Separate accounts of principal and interest shall be taken.

(b) In the account of principal, there shall be debited to the debtor only such money as may, from time to time, have been actually received by him, or on his account, from the creditor, and the price of goods, if any, sold to him by the creditor.

(c) In the accounts of principal and interest, there shall be debited the amounts, if any, respectively due for principal (including costs) and interest under any decree or order passed by a competent Court in respect of any debts:

Provided that, if such decree or order does not specify the amount of principal and interest separately or does not contain any material for determining the same, two-thirds and one-third of the amount awarded by such decree or order shall, for the purposes of this clause, be deemed to be the amount awarded on account of principal (including costs) and interest, respectively.

(d) In the accounts of interest, there shall be debited to the debtor simple interest on the balance of principal for the time being outstanding at the rate agreed upon between the parties, or at the rate allowed under any decree or order passed between the parties, or at a rate not exceeding six per cent. per annum, whichever is the lowest.

(e) Credit shall be given for all sums paid by the debtor first towards outstanding interest and the balance, if any, shall be credited towards repayment of the principal. The principal and interest outstanding thus calculated shall be considered as net outstanding debts as on the date of application for the purpose of scaling down as hereinafter provided. In no case the total repayments made shall exceed twice the principal.

**34. In certain cases rent may be charged in lieu of profits.**— Where any mortgaged property is in the possession of the mortgagee or his tenants other than the mortgagor, and the Court is unable to determine what profits have actually been received, it may fix a fair rent for such property and charge to the mortgagee such rent as profits for the purposes of section 33:

Provided that, if it be prove that in any year there was any suspension or remission of rent or land revenue of such land under any law relating to land revenue for the time being in force, an abatement of the whole or part of such amount may be allowed for that year.

**35. Power of Court to declare certain transfers to be in the nature of mortgage.**— Notwithstanding anything to the contrary contained in any law, custom or contract, whenever it is alleged during the course of the hearing of an application made under section 24 that any transfer of land, by a person whose debts are being adjusted under this Chapter or any other person through whom he inherited it, was a transfer in the nature of a mortgage, the Court shall declare the transfer to be a mortgage, if the Court is satisfied that the circumstances connected with that transfer showed it to be in the nature of a mortgage.

**36. Provisions of section 35 not to apply to certain transfers and transferees.**— Nothing in section 35 shall apply to,—

(a) any transfer which has been finally adjudged to be a transfer other than a mortgage by a decree of a Court, tribunal or other authority of competent jurisdiction; and

(b) any *bona-fide* transferee for value without notice of the real nature of such transfer his representative, where such transferee or representative holds under a registered deed executed before the date of commencement of this Chapter.

**37. Court's duty to determine particulars, value, etc. of property.**— After taking accounts under section 33, the Court shall in the manner hereinafter provided determine,—

(a) the particulars of the property belonging to the debtor;

(b) the value of the said property;

(c) the particulars of any encumbrances on the said property;

(d) in the case of a debtor who is a marginal farmer, small farmer or other agriculturist, the average annual gross value of the agricultural produce during the five years immediately preceding the date of application, in the prescribed manner;

(e) in the case of a debtor, who is a worker, rural artisan or rural labourer, the average gross annual income during the five years immediately preceding the date of application, in the prescribed manner;

(f) the paying capacity of the debtor.

**38. Fraudulent alienations or encumbrances void.**— (1) If in the course of the hearing of an application made under section 24, the Court finds that the debtor has made an alienation of property or created any encumbrance thereon with intent to defeat or delay any of his creditors the Court shall, by notice, summon the debtor and the person in whose favour the alienation is made or encumbrance is created, to appear before it on a day to be specified in the notice.

(2) On the day specified in the notice or such other day to which the hearing may be adjourned, the Court shall hear the parties and record evidence as may be produced. If the Court is satisfied that the alienation was made or the encumbrance was created with intent to defeat or delay any of the creditors of the debtor, the Court shall declare the alienation or encumbrance to be void.

(3) Nothing in this section shall impair the rights of an alienee or the holder of an encumbrance in good faith and for valuable consideration.

**39. Paying capacity of debtor.**— The paying capacity of a debtor shall, for the purposes of this Chapter, in the case of a marginal or small farmer or other agriculturist be deemed to be 20 per cent. of the average annual gross value of his agricultural produce for the five years immediately preceding the date of application, and in the case of a worker, rural artisan or rural labourer 20 per cent. of his average gross annual income during such period.

**40. Debts payable by debtor to be scaled down.**— Notwithstanding anything to the contrary contained in any law, custom, contract, award or decree of a Court, or other competent authority, the amounts found due under section 33 from a debtor shall be scaled down in the manner hereinafter provided—

(i) in the case of a debtor who is a marginal or small farmer or other agriculturist, or rural artisan or rural labourer, the total amount of debt, whether secured or unsecured, found due after taking accounts, shall be scaled down to 10 per cent. of such debt;

(ii) in case of a debtor who is a worker, the total amount of debt, whether secured or unsecured, found due after taking accounts, shall be scaled down to 50 per cent. of such debt;

(iii) notwithstanding anything contained in clauses (i) and (ii) the debts to be scaled down shall not exceed the amount which a debtor would be able to repay within a period of seven years based on his repaying capacity worked out in the manner provided in section 39.

**41. Award.**— (1) After determining the amount of the debts due to the creditors in accordance with the provisions of section 40, the Court shall make an award.

(2) After the Court passes an award in terms of the amounts so scaled down, the scaled down amount specified in the award shall be the amount due by the debtor in respect of his debts, and any amount remaining due in excess of such amount shall stand extinguished.

(3) The award shall be in the prescribed form and shall be drawn up subject to the following provision:—

(a) the amount of the secured debts scaled down shall be charged on the properties on which they may have been secured;

(b) in fixing the priority in which debts shall be paid, the following order shall be followed, namely:—

(i) debts due to Government, which are charged on the immovable property belonging to the debtor or which are recoverable as the current year's land revenue;

(ii) debts due to local authorities, which are charged on the immovable property belonging to the debtor or which are recoverable as the current year's dues;

(iii) loans given by resource societies, secured debts due to co-operative societies, not being resources societies, and debts due to any of the institutions referred to in clause (c) of section 60;

(iv) secured debts in order of priority;

(v) unsecured debts:

Provided that, in the case of unsecured debts they shall be paid *pro rata*;

(c) in the case of a debtor who is a marginal or small farmer or other agriculturist, the total annual installments in which the debts shall be paid shall not exceed seven, and in the case of a debtor who is a worker, rural artisan or rural labourer, the total monthly installments shall not exceed eighty-four:

Provided that, in fixing the amount of installments in which the debts shall be paid, the Court shall ascertain the net annual income of the debtor, and the annual installments or twelve monthly installments during any year payable by the debtor shall not exceed his net annual income.

*Explanation.*— For the purpose of this clause, the “net annual income” of the debtor means the balance of his annual income after deducting—

(i) such sum as may be considered necessary for the payment of the liability, if any, imposed on the debtor under a decree or order for maintenance passed by a competent Court,

(ii) such sum as may be considered necessary for the maintenance of the debtor and his dependents, that is to say, his spouse and his children, whether married or unmarried, his parents, sisters and daughters-in-law, if such persons (other than the spouse) are dependent on him for their maintenance, and

(iii) the sum required by the debtor to pay the assessment and taxes in respect of the current year to Government and to the local authorities and to pay off loans borrowed for the purpose of the financing of crops or seasonal finance under any law;

(d) the Court may pass an order for the delivery of possession of any property notwithstanding any law or contract to the contrary;

(e) the rate of interest shall not exceed six per cent. per annum or such less rate as may be notified by the State Government or the rate agreed upon between the parties when the debt was originally incurred or the rate allowed by the decree in respect of such debt, whichever is the lowest.

**42. Ex-parte proceeding, if any party does not appear.**— (1) Notwithstanding that the person, for the adjustment of whose debts an application has been made under section 24 or any of his creditors does not appear on the date fixed for the hearing of the application or on any date to which the hearing

may be adjourned, the Court shall proceed *ex-parte* to hear the application, decide the preliminary issues and, if necessary, make the award, on the evidence available.

(2) When an application made under section 24 is heard and disposed of *ex-parte* under sub-section (1), the decision on the preliminary issues or the award shall not, except for sufficient reasons, be re-opened merely on the ground that any of the parties thereto did not appear at the hearing.

**43. Award to be registered, etc.**— (1) Every award made under this Chapter, if it is in respect of debts charged on the properties of the debtor, shall, on payment of the court-fee payable under section 51, be registered in the manner hereinafter provided.

(2) The court-fee on the award shall be paid by the party ordered by the Court to bear the costs:

Provided that, any creditor who is not ordered to bear the costs may pay such court-fee. Such creditor shall be entitled to recover the amount of court-fee paid by him from the debtor, with the first installment payable to him under the award.

(3) In all registration offices, a book called “Register of Debt Adjustment Awards”, and an Index relating thereto, shall be kept. The book and index shall be kept in such form and shall contain such particulars as the State Government may by general or special order, specify.

(4) Where an award is required to be registered under this section, it shall be the duty of the Court making the award to send to the Sub-Registrar of the sub-district in which the property which is the subject-matter of the award or any part of such property is situated, or if there is no Sub-Registrar for the area, to the Registrar of the district in which the property or its part is situate, a certified copy of the award, after the court-fee has been paid thereon in accordance with the provisions of section 51, together with a memorandum containing such particulars as the State Government may prescribe.

(5) If a party files an appeal against an award under section 49 and if such award has been registered under this section, it shall be the duty of the Court in which the appeal is filed to send to the Sub-Registrar or the Registrar, as the case may be, to whom a certified copy of the award has been sent under sub-section (4), a notice regarding the institution of the appeal.

(6) After the expiry of the period provided for an appeal against an award, if no appeal is filed, or if an appeal is filed after the disposal of the said appeal the Sub-Registrar or the Registrar, as the case may be, shall register the award in the Register of Debt Adjustment Awards and shall also enter particulars in the Index kept under sub-section (3).

(7) Any person acquiring any property or any part of, or any share or interest in, the property of debtor, for the adjustment of whose debts an award has been made and registered, shall be deemed to have notice of the award as from the date of its registration under this section.

(8) Except as herein provided, the provisions of the Registration Act, 1908 (XVI of 1908), shall, *mutatis mutandis*, apply to the registration of awards.

**44. Execution of the award.**— (1) If the debtor makes a default in the payment of any installments due under the award to any creditor, such creditor may apply in the prescribed form to the Court for execution of the award.

(2) If the Court, on receipt of such application, is satisfied that the debtor has made a default in the payment of the installment, the Court shall transfer the award for execution to the Collector; and thereupon, the Collector shall recover the amount of the installment from the debtor as arrears of land revenue.

(3) If the Court has passed an order for the delivery of possession of any property under clause (d) of sub-section (3) of section 41, such order shall, on such application, be executed by the Court as if it were a decree passed by it.

**45. Postponement of payment of installment in case of remissions, etc.**— Whenever from any cause the payment of the land revenue payable to the State Government is suspended or remitted, partly or wholly, under the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), if the debtor is a marginal or small farmer or other agriculturist, the payment of the whole of the installment due for

that year and the full amount of the installment due for each subsequent year under the award made in his case shall be postponed for one year.

**46. No alienation by debtor before discharge of debts valid.**— Notwithstanding anything to the contrary contained in any law or contract, but subject to the provisions of sections 47 and 56, no alienation of any property belonging to a debtor, made by him before all his debts are discharged, shall be valid except with the previous sanction of the Court, if the debtor is a party to any proceedings under this Chapter, or to an award registered under this Chapter.

**47. Court may order sale of debtor's property in liquidation of his debt.**— If the Court, or the Court hearing an appeal against the award, is at any time satisfied that it is in the interest of a debtor that any part of his property should be sold in liquidation of his debt or part thereof, such Court may permit the debtor to sell such part of the property for such purpose within a specified period. If the debtor fails so to sell it, such Court may order an officer of the Court to sell the same. The property ordered to be sold under this section shall be sold by such officer in the prescribed manner.

**48. Legal practitioners excluded from appearance.**— Except in proceedings under sections 35, 38 and 44, no legal practitioner shall be entitled to appear on behalf of any party in any proceeding before the Court or the Court in appeal under this Chapter:

Provided that, the Court, or the Court in appeal, in the interest of justice for reasons to be recorded in writing, may allow the parties to be represented at their own cost by a legal practitioner:

Provided further that, no fees shall be allowed as part of the costs for the appearance of any legal practitioner in any proceeding under this Chapter:

Provided also that, if any officer of Government is appointed or declared by a competent Court or is authorised, under any law for the time being in force, as a guardian, administrator or manager of the property of a person who is under a legal disability or is incompetent or unable to manage or to act, such officer shall be entitled to appear through a representative authorised by him in writing in this behalf in any proceeding before the Court or the Court in appeal. Such representative may also submit any application, and otherwise act on behalf of the officer in any such proceedings.

**49. Appeals.**— Notwithstanding anything contained in any other law,—

(1) an appeal shall lie—

(i) from every order made under sub-section (3) or (4) of section 27;

(ii) from every decision or order given or made under section 31;

(iii) from every declaration or order made under section 35;

(iv) from every declaration or order made under section 38;

(v) from every award made under section 41;

(vi) from every decision or order given or made under section 42, subject to the provisions of that section;

(2) an appeal from the Court shall lie—

(a) in Greater Bombay, from any order, decision, declaration or award made or given by the Court of Small Causes, Bombay, to a Bench of two Judges of the said Court, which shall not include the Judge who made or gave such order, decision, declaration or award;

(b) elsewhere, from any order, decision, declaration or award made or given by the Judge of the Court of Small Causes established under the Provincial Small Cause Courts Act, 1887 (IX of 1887) or by the Court of any Civil Judge, to the District Court;

(3) every appeal under clause (1) shall be made within sixty days from the date of order, decision, declaration or award, as the case may be, provided that, in computing the period of limitation prescribed by this clause, the provisions contained in sections 4, 5 and 12 of the Limitation Act, 1963 (XXXVI of 1963), shall, as far as may be, apply;

(4) no second appeal shall lie against any order, decision, declaration or award of the Court under this Chapter.

**50. Power of District Judge to refer for disposal certain appeals to Assistant Judge empowered to hear appeals.**— A District Judge may refer for disposal any appeal filed under section 49 to an Assistant Judge or a Civil Judge invested with power to hear appeals under section 27 of the Bombay Civil Courts Act, 1869.

**51. Court-fees .—** (1) Notwithstanding anything contained in the Bombay Court-fees Act, 1959 (Bom. XXXVI of 1959), the court-fees payable in respect of proceeding under this Chapter shall be at the following rates:—

(i) on an application under sub-section (1) section 24 or section 27 or on an award under sub-section (4) of section 27-Re. 1;

(ii) on an award other than an award specified in clause (i)— Re. 1 for every hundred rupees, or part thereof, of the amount of the award, subject to a maximum of Rs. 50;

(iii) on an appeal against an order of the Court under sub-section (3) or (4) of section 27 or against any decision or order given or made under section 31-Rs. 2;

(iv) on an appeal other than an appeal specified in clause (iii)— Re. 1 for every hundred rupees, or part thereof, of the amount involved, subject to a maximum of Rs. 50.

(2) Notwithstanding anything to the contrary contained in any law, the court-fee payable in respect of proceedings under this Chapter shall be a first charge on the property of the party ordered to pay the costs and shall be recoverable in such manner as may be prescribed.

**52. Notice how served.**— Any notice required to be served under this Chapter shall be served in the manner provided in the Code of Civil Procedure, 1908 (V of 1908); and when rules are made in that behalf, in such manner as may be prescribed.

**53. Provisions of Civil Procedure Code to apply to proceedings.**— Save as otherwise expressly provided in this Chapter, the provisions of the Code of Civil Procedure, 1908 (V of 1908), shall apply to all proceedings under this Chapter:

Provided that, the Court may, in a proper case and on such terms as may appear to it to be just, exercise its powers to add or strike out parties under rule 10 of Order I in the First Schedule to the said Code in any proceeding pending before it under section 24 or 35 notwithstanding the fact that in the former case such addition, or striking out of parties is to be made after the date specified in section 24 has elapsed.

**54. Bar of civil suits or proceedings.**— Except as otherwise provided by this Chapter and notwithstanding anything contained in any other law, no Civil Court shall entertain or proceed with any suit or proceeding in respect of—

(a) any matter pending before the Court under this Chapter;

(b) the validity of any procedure or the legality of any award, declaration, decision or order of the Court under this Chapter; and

(c) the recovery of any debt made payable under such award.

**55. Period of proceeding before courts under this Chapter to be excluded.**— In computing the period of limitation for the institution of any suit or proceeding in respect of any debt due from any person who is held not to be a debtor by the Court or the Court in appeal or an application relating to which has been dismissed by the Court or the Court in appeal, the period during which the proceedings in respect of such debt were prosecuted under this Chapter before the Court or the Court in appeal shall be excluded.

**56. Alienation of standing crop, etc. before repayment of loan prohibited.**— (1) No person, who is or was a party to any proceedings or award under this Chapter and who is indebted to a resource

society or any institution referred to in clause (c) of section 60, on account of any loan advanced to him for the financing of crops or seasonal finance, shall hypothecate or sell the standing crops or the produce of his land, without the previous permission of the society or, as the case may be, the institution, until such loan has been repaid in full.

(2) Any person who hypothecates or sells the standing crops or the produce of his land in contravention of sub-section (i), shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees.

(3) No criminal court shall take cognizance of any offence under this section, except on a complaint in writing of the court before which the proceedings were held, or which made the award.

**57. Power to make rules.**— (1) The power to make all rules under this Chapter shall be exercisable by the state Government by notification in the *Official Gazette*.

(2) Without prejudice to any power to make rules contained elsewhere in this Chapter, the State Government may make rules consistent with this Chapter generally to carry out the purposes of this Chapter.

(3) All rules made under this Chapter shall be subject to the condition of previous publication.

(4) Every rule made under this Chapter shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of such notification 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 or omitted to be done under that rule.

**58. Further exemptions.**— Without prejudice to the provisions of section 60, nothing in this Chapter shall affect the debts and liabilities of any debtor due to,—

(a) any other Corporation (including a company) owned or controlled by the State;

(b) a co-operative society registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961).

**59. Debts adjusted under any other laws not to be further adjusted under this Chapter.**— Where the debts of any person are adjusted or scaled down under the Maharashtra (Vidarbha Region) Agricultural Debtors Relief Act, 1969 (Mah. XXII of 1969), Hyderabad Agricultural Debtors' Relief Act, 1956 (Hyd. XVI of 1956), or any other law for the time being in force, such person shall not be entitled to any further adjustment or scaling down of those debts under this Chapter.

## CHAPTER VI

### EXEMPTIONS AND REPEALS

**<sup>1</sup>[60.] Exemptions.**— Without prejudice to the provisions of section 19, nothing in this Act shall affect the debts and other liabilities of any debtor or small farmer falling under any of the following matters, namely:—

(a) debts due to any Government;

(b) debts due to any local authority including amount due by way of tax, cess or fee;

(c) debts due to —

(i) (a) a banking company as defined in the Banking Regulation Act, 1949 (10 of 1949);

(b) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

<sup>1</sup> Sections 22 and 23 were re-numbered as sections 60 and 61 respectively by Mah. 18 of 1979, s. 12.



(c) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(d) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970);

(e) the Agricultural Refinance Corporation constituted under the Agricultural Refinance Corporation Act, 1963 (10 of 1963); and

(ii) any other banking, financial or any institution which the State Government may, by notification in the *Official Gazette*, specify in this behalf;

(d) any sum recoverable by way of arrear of land revenue;

(e) any advance of loan given to a debtor by his employer for any specific purpose, such as, for festival, medical treatment, meeting any educational, marriage or funeral expenses and the like;

(f) any sum due in favour of public trust registered under the Bombay Public Trusts Act, 1950 (Bom. XXIX of 1950);

(g) any claim arising out of contract or transaction not connected with money lending.

**1[61.] Repeal of Mah. Ord. VII of 1975 and savings.**— (1) The Maharashtra Debt Relief Ordinance, 1975 (Mah. Ord. VII of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any appointment made or any order or notification issued) under the Ordinance so repealed shall, unless inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued, as the case may be, under the corresponding provisions of this Act.

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<sup>1</sup> Sections 22 and 23 were re-numbered as sections 60 and 61 respectively by Mah. 18 of 1979, s. 12.