

12

ASSAM ACT XII OF 1948

THE ASSAM ADHIARS PROTECTION AND REGULATION ACT, 1948

(As modified upto 28th January 1958)

(Passed by the Assembly)

(Received the assent of the Governor on the 3rd
June 1948)

[Published in the *Assam Gazette* of the 16th June 1948]

An

Act

*to provide for the protection and regulation of Adhiars in
Assam.*

Preamble. Whereas it is expedient to provide for the protection of tenants of agricultural lands paying rent in kind in the Province of Assam.

It is hereby enacted as follows:—

Short title, extent and commencement. 1 (1) This Act may be called the Assam Adhiars Protection and Regulation Act, 1948.

(2) The [State Government]¹ may, by notification in the official Gazette, extend all or any of the provisions of this Act to agricultural lands in any district, local area or class of estates in the [State]² of Assam where the Goalpara Tenancy Act, 1929, or the Assam (Temporarily-Settled Districts) Tenancy Act, 1935 or the Sylhet Tenancy Act, 1936, is applicable.

Assam Act I
of 1929.
Assam Act
III of 1935.
Assam Act
XI of 1936.

(3) All or any of the provisions of this Act shall come into force in any district, local area or class of estates to which the said provisions have been extended under sub-section (2) on such date as the [State Government]¹ may, by notification in the official Gazette, direct.

¹ Substituted by the A.O. 1950 for "Provincial Government".

² Substituted by the A.O. 1950 for "Province".

[Price 00.25 N.P. or 5d.]

Definitions.

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

(1) "Adhiar" means a person who under the system generally known, as Adhi (whether Guchiadhi or Guti-adhi), barga, chukti, bhag or chukani cultivates the land or another person on condition of delivering a share or quantity of the produce of such land to that person ;

(2) "Agricultural lands" means land used for agricultural purposes;

(3) "Agricultural year" means the year commencing on the first day of Baisakh or Bahag ;

(4) "Cultivating adhiar" means an adhiar who cultivates land himself or with the members of his family or dependants or hired labourers and does not include a person who lets out his land for cultivation;

(5) "Land-lord" means the person directly under whom the adhiar holds the land on condition of delivering a share or quantity of the produce thereof;

(6) "Notification" means a notification published in the official Gazette;

(7) "Personal cultivation" means cultivation by the person himself, or by any member of his family or by his servants or hired labourers on fixed remuneration payable in cash or kind but not in crop share, under personal supervision of the person himself or any member of his family, provided it is accompanied by the bearing of risks of cultivation by the owner and by residence in the village in which the land is situate or in a nearby village within a distance of five miles during the greater part of the agricultural seasons :

[Provided that in the case of a person who is a widow or a minor, or is subject to any physical or mental disability or is a member of the Military, Naval or Air Force of the Union, or is a student below the age of twenty-five years of any educational institution recognised by the State Government, the land shall be deemed to be under personal cultivation even in the absence of such personal supervision.]¹

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

¹ Inserted by Assam Adhiars Protection and Regulation (Amendment) Act, 1957 (Assam Act (XI) of 1957) and Clause (7) and (8) renumbered as Clauses (8) and (9).

(9) "Revenue Officer" means any officer appointed by the [State Government]² by name or by virtue of his office to discharge any of the functions of a Revenue Officer under this Act and includes the Deputy Commissioner of the District and the Subdivisional Officer of a Subdivision.

Establishment and constitution of Adhi Conciliation Board.

[2A. (1) The State Government may, by notification in the official Gazette, establish for any local area specified in the notification and Adhi Conciliation Board, hereinafter called the Board consisting of one member from landlords and one member from adhiars from the area concerned with the Revenue Officer as Chairman, constituted in the manner prescribed.

Provided that till such Board is constituted, the function of the Board shall be performed by the Revenue Officer having jurisdiction in the area concerned.

(2) An order of the Board shall be executed by the Revenue Officer in the manner prescribed and the procedure to be followed by the Board shall also be prescribed:

Provided that an order for eviction and restoration of possession shall be executed in the manner prescribed in the Code of Civil Procedure, 1908 (Act V of 1908) subject to such modification as may be prescribed.]¹

Adhiar to continue to cultivate adhi land.

3. [(1) Notwithstanding anything to the contrary contained in any law for the time being in force or any contract or agreement, express or implied, any person who during the preceding agricultural year cultivates any land as adhiar shall have a right to remain in occupation and cultivate the land for subsequent years until he either voluntarily relinquishes the land or is ordered by a [Adhi Conciliation Board]² under section 5 to cease to cultivate and vacate the land or is evicted therefrom in execution of a valid order of the [Adhi Conciliation Board.]¹ .]²

². Substituted by the A. O. 1950 for "Provincial Government".

¹. Inserted by Assam Adhiars Protection and Regulation (Amendment) Act, 1955 (Assam Act XIII of 1955).

². Substituted by Assam Act XIII of 1955 for "Revenue Officer".

(2) It shall not be lawful for a landlord or any other person claiming superior interest to interfere with the adhiar's right to occupy and cultivate the land [***]³ except as provided in section 5.

Power to put adhiar in possession of the land if illegally ousted and to award compensation. [4. If any person cultivating any land as an adhiar during the preceding agricultural year is prevented by a landlord or any person claiming superior interest from cultivating such land in the subsequent year, the [Adhi Conciliation Board may order such person to be put]⁴ in possession of the land and may also award compensation realisable from the landlord or the person claiming superior interest, as the case may be, not exceeding Rs.200 in any individual case in the manner prescribed]⁵.

Power to order adhiar to cease to cultivate adhi land and to evict on certain grounds. [5. (1) Subject to the provisions of sub-section (2) below, an Adhi Conciliation Board may, on application of a landlord and after due notice and enquiry as prescribed, order an Adhiar, on one or more of the grounds mentioned below, to cease to cultivate an Adhi land and to be evicted there from in the manner prescribed :—

[(i) that the land is *bonafide* required by the landlord for his personal cultivation ;

Provided that,—

(a) if the aggregate area of lands in actual occupation of an adhiar does not exceed 10 bighas, then he shall not be evicted therefrom until he has been provided with land of equivalent value in the locality ;

(b) if the aggregate area of lands in actual occupation of an adhiar exceeds 10 bighas, then the adhiar shall not be evicted from a minimum area of 10 bighas as selected by him (adhiar), until he has been provided with land equivalent value in the locality, but the landlord shall be entitled to resume for his personal cultivation any area in excess of these 10 bighas. In no case, however, the aggregate area of lands so resumed from all his adhiars taken together, along with any other land already held under personal cultivation by the landlord or any member of his family on the date of resumption shall exceed an overall limit of 100 bighas ;

(c) if the landlord is a minor, or a widow, or a person subjected to any physical or mental disability

³ The words "or to let it out for cultivation to some other person" deleted by Assam Act XVI of 1952.

⁴ Substituted by Assam Act XIII of 1955 for "Revenue Officer may put in such person".

Substituted by Assam Act XVI of 1952.

or a member of the Military, Naval or Air Force of the Union, then it shall be obligatory on him to leave a minimum area with the adhiar as provided for in (a) or (b) above ;

(d) if the landlord does not cultivate the land within one year or sublets it to others within two years from the date he gets possession of the land by virtue of this clause, the evicted adhiar shall be restored to possession in the manner prescribed .]¹

(2) No adhiar who has acquired any right of occupancy under any other law shall be evicted except under the provisions of that law, and no adhiar who has acquired any other right under any other law shall be deprived of it.]¹

Power to fix the rate of rent on the basis of the produce of the land. 6. (1)² Notwithstanding anything to the contrary contained in any law for the time being in force or in any contract or agreement express or implied the portion or share of the crop payable by an adhiar to a person under whom he directly holds the land shall be determined and shall be subject to the maxima given below:—

From the gross crop, the seedgrains, if any, paid by a landlord or person under whom an adhiar holds land shall be repaid to him. Of the remaining crop the maximum portion or share payable to him shall vary according as he supplies or does not supply plough cattle for cultivating the land.

(a) Where he supplies plough [one-fourth]³, cattle and cultivation is done with their help.

(b) Where he does not supply [one-fifth]⁴ plough cattle.

Provided that where the quantity or share of crop fixed by contract is less than the above maxima the adhiar shall be liable to pay only the quantity fixed by contract.

1. Substituted by Assam Act XI of 1957.

1. Substituted by Assam Act XIII of 1955.

2. Section 6 renumbered as sub-section (1) of the section and sub-section (2) added by the Assam Act XI of 1957.

3. Substituted by Assam Act XIII of 1955 for "one-third"

4. Substituted by Assam Act XIII of 1955 for "one-fourth".

[Provided further that when more than one crop are grown on a particular plot of land within the same Agricultural year, the landlord or the person under whom an adhiar holds land shall get his stipulated share only of the major crop.]¹

[(2) Notwithstanding anything to the contrary in any law, custom or agreement, it shall be lawful for an adhiar, if he so elects, to pay, in lieu of the share of crop as provided in sub-section (1) above, the money value of such crop computed in the manner prescribed]²

Settlement of disputes. 6. A. If any dispute arises between a landlord and an adhiar (a) as to whether a particular crop is a major crop or not, or (b) as to what share of such crop or its market value is payable by an adhiar, or (c) as to any other matter under this Act, it shall be decided by the Board on application of either party]³

Receipt for the crop. 7. (i) Every adhiar, on delivery to the landlord, the latter's share of the crop shall be entitled to obtain forthwith from the landlord a written receipt for the quantity of the crop delivered by him, signed by the landlord or his duly authorised agent.

(ii) The landlord should prepare and retain a counterfoil of the receipt signed by the adhiar or his duly authorised agent.

(iii) The receipt and the counterfoil shall contain a description of the land for which crop is delivered, the total quantity of the crop due from the adhiar, the quantity delivered and the year for which the crop is delivered.

(iv) If a receipt does not contain substantially the above particulars, it shall be presumed, until the contrary is shown to be an acquittance in full of the landlord's share of the crop due from the adhiar upto the date on which the receipt is given.

Penalty for omission to deliver receipt. 8. When a landlord or his agent, without reasonable cause, fails to deliver to the adhiar a receipt as required by section 7, a Revenue Officer, on proceedings under this section, after making such enquiry as he may deem necessary order the landlord to pay as penalty a sum not exceeding fifty rupees for each default, and may, in his discretion award to the adhiar as compensation such portion of the penalty as he thinks fit.]⁴

¹. Added by Assam Act XIII of 1955.

². Added by Assam Act XI of 1957.

³. Inserted by Assam Act XIII of 1955.

⁴. Inserted by Assam Act XVI of 1952 and the existing section 7, 8, 9, 10, 11 and 12 renumbered as sections 9, 10, 11, 12, 13 and 14 respectively.

Supersession 9. The [State Government] may amend, vary or rescind any notification issued under sub-section (2) and (3) of section 1.

Mode of recovery of money ordered to be paid. 10. Any money payable by virtue of an order made under this Act or Rules thereunder shall be recoverable as arrears of land revenue.

Appeals [11. (1) Any person aggrieved by an order of the Adhi Conciliation Board or the Revenue Officer under this Act, may, within the prescribed time and in the prescribed manner, appeal to the Sub-Judge having jurisdiction over the area concerned and the latter may uphold, modify or set aside the order, or pass such order as he may deem fit.

(2) The order of the Adhi Conciliation Board or the Revenue Officer when no appeal is preferred and the orders of the Sub-Judge when an appeal is preferred, shall be final.]¹

Bar of jurisdiction of Civil Courts 12. No Civil Court shall entertain any suit or proceeding in any matter arising out of any proceedings under this Act, or in respect of any matter which [an Adhi Conciliation Board or]² a Revenue Officer is empowered to dispose of under this Act [except as provided under this Act.]³

Indemnity 13. No suit, prosecution or other proceeding shall lie against any person for anything in good faith done or purporting to be done under this Act, or the rules made thereunder.

Power to make rules. 14. The [State Government] may by notification make rules for carrying out the provisions of this Act.

2. Substituted by the A. O. 1950 for "Provincial Government".

1. Substituted by Assam Act XIII of 1953.

2. Added by Assam Act XII of 1955.

3. Substituted by A. O. 1950 for "Provincial Government".