

ACT No. XXIII OF 1881.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 26th October, 1881.)

An Act to amend the Dekkhan Agriculturists' Relief Act, 1879.

Preamble.

WHEREAS it is expedient to amend, in manner hereinafter appearing, the Dekkhan Agriculturists' Relief Act, 1879; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Dekkhan Agriculturists' Relief Act, 1881";

Commencement.

and it shall come into force at once.

"Section."

2. In this Act "section" means a section of the Dekkhan Agriculturists' Relief Act, 1879.

Amendment of section 1.

3. In section one, before the word "Sections," the words "This section and" shall be, and be deemed to have always been, inserted.

Amendment of section 2, clause (2).

4. For section two, clause (2), the following shall be substituted:—

'Agriculturist.'

"'Agriculturist' means a person who, when or after incurring any liability the subject of any proceeding under this Act, by himself, his servants or tenants earned or earns his livelihood, wholly or partially, by agriculture carried on within the limits of the said districts.

"A cultivator who has temporarily ceased to earn his livelihood in manner aforesaid, without any intention of changing his status as such, does not thereby cease to be an agriculturist within this definition.

"An

"An assignee of Government assessment or a mortgagee is not, as such, an agriculturist within this definition.

"An agriculturist shall be deemed to 'reside' where he earns his livelihood in manner aforesaid."

5. In section three, clause (y), the words "not being merely a surety for the principal debtor," and in section twelve the words "not being merely a surety of the principal debtor," shall be omitted. Amendment of sections 3 and 12.

6. In section nineteen, first clause, for the words "there is no other claim against him," the words "the other debts (if any) due by him do not, taken together with such sum, amount to fifty rupees" shall be substituted; and to the same clause the words "of such sum" shall be added. Amendment of section 19.

7. To section 38, the following shall be added:— Addition to section 38.

"The expression 'officer of police' in this section shall not be deemed to include a police patel appointed under Bombay Act No. VIII of 1867 (*for the Regulation of the Village Police in the Presidency of Bombay*)."

8. In section forty-four, for the word "place," the word "taluka" shall be substituted. Amendment of section 44.

9. To section forty-seven the following shall be added, namely:— Addition to section 47.

"*Explanation.*—The expression 'civil Court' in this section does not include a Mámlatdár's Court under Bombay Act No. III of 1876 (*to consolidate and amend the law relating to the powers and procedure of Mámlatdárs' Courts*)."

10. For section forty-eight the following section shall be substituted:— New section substituted for section 48.

"48. In computing the period of limitation prescribed for any such suit or application the time intervening between the application made by the plaintiff under section thirty-nine and the grant of the certificate under section forty-six shall be excluded. Allowance to be made in period of limitation.

"Any

Limitation
in certain
cases.

“ Any such application which after the first day of November, 1879, has been rejected, and which, if such time had been excluded in computing the period of limitation prescribed for such application, would have been entertained, shall be entertained if made within two months from the twenty-sixth day of October, 1881.

New section
substituted
for section 51.

District
Judge may
withdraw
case from
Conciliator
or Subordi-
nate Judge,

11. For section fifty-one the following section shall be substituted :—

“ 51. The District Judge may—

“ (a) transfer any application pending before a Conciliator to the file of any other Conciliator ;

“ (b) transfer to his own file any suit or other matter pending before the Court of any Subordinate Judge under Chapter II or Chapter IV of this Act, and may dispose of the same as if he were a Subordinate Judge ; or

or sit with
Subordinate
Judge as a
Bench for
trial of any
case.

“ (c) stay the proceedings in any such suit or matter, and sit together with such Judge as a Bench to dispose of such suit or matter in accordance with the provisions of this Act.

“ If the members of any Bench sitting under this section differ in opinion, the opinion of the District Judge shall prevail.”

Addition to
section 56.

12. To section fifty-six the following shall be added, namely :—

“ or apply to any instrument which is executed by an agriculturist merely as a surety.”

New section
substituted
for section
57.

Such instru-
ments to be
written by,
or under the
superintend-
ence of, a
Village-Reg-
istrar and

13. For section fifty-seven the following section shall be substituted :—

“ 57. When any persons intend to execute any instrument to which section fifty-six applies, all such persons shall appear before the Village-Registrar appointed for the area in which the agriculturist, or when there are several agriculturists intending to execute the instrument, any one of such agriculturists,

resides,

resides, and such Registrar, after satisfying himself in such manner as he deems fit as to the identity of the intending executants and receiving the fee (if any) prescribed by the Local Government in this behalf, and the stamp (if any) which may be required by law, shall write the instrument, or cause the same to be written under his superintendence; and after reading the same aloud, or causing it to be so read, in the hearing of the intending executants, shall require them to execute it in his presence.

executed in
his presence.

“Every instrument so written and executed shall at the time of execution be attested by the Village-Registrar; and also, if any of the executants thereof is unable to read such instrument, by two respectable witnesses.

Attestation
of such in-
struments.

“For the purposes of this section every executant of any such instrument shall appear in person before the Village-Registrar; but every other party thereto may appear either in person or by any agent, being his relative, servant or dependent, whom he has duly furnished with a power-of-attorney authorizing him to appear and act on his behalf.”

14. In section fifty-eight, for the words “parties to any instrument have executed it,” the words “intending executants have executed any instrument” shall be substituted.

Amendment
of section 58.

15. For section sixty-eight the following section shall be substituted:—

New section
substituted
for section
68.

“68. No pleader, vakíl or mukhtár, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to any case before a Conciliator or a Village-Munsif the subject-matter whereof does not exceed in amount or value one hundred rupees:

Pleaders, &c.,
excluded in
certain cases.

“Provided that any party to any such case may be permitted, on reasonable cause being shown to the satisfaction of the Conciliator or Village-Munsif, to employ

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employ any relative, servant or dependent who is not, and has not previously been, a pleader, vakil or mukhtar, or an advocate or attorney of a High Court, to appear either conjointly with, or in lieu of, such party.

“When a relative, servant or dependent appears in lieu of a party, he shall be furnished by him with a power-of-attorney defining the extent to which he is empowered to act.”

16. Section seventy-one is hereby repealed.

17. For section seventy-two the following section shall be substituted:—

“72. In any suit under this Act for the recovery of money from a person, not being merely a surety for the principal debtor, who at the time when the cause of action arose was an agriculturist, the following periods of limitation shall be deemed to be substituted for those prescribed in the second column of the second schedule annexed to the Indian Limitation Act, (that is to say):—

“(a) when such suit is founded on a written instrument registered under this Act or any law in force at the date of the execution of such instrument,—twelve years;

“(b) in any other case,—six years:

“Provided that nothing herein contained shall revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.”

Repeal of section 71. The substituted section.