

## ACT No. XIII OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 19th October, 1900.)

An Act to amend the law relating to agricultural land in the Punjab.

WHEREAS it is expedient to amend the law relating to agricultural land in the Punjab; It is hereby enacted as follows:—

### *Preliminary.*

1. (1) This Act may be called the Punjab Alienation of Land Act, 1900.

Short title,  
extent and  
commence-  
ment.

(2) It extends to all the territories for the time being administered by the Lieutenant-Governor of the Punjab; and

(3) It shall come into force on such day as the Governor General in Council may, by notification in the Gazette of India, direct.

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

Definitions.

(1) the expression "agriculturist" means a person holding agricultural land who either in his own name or in the name of his ancestor in the main line was recorded as the owner of land or as a hereditary tenant or as an occupancy-tenant in any estate at the first regular settlement, or, if the first regular settlement was made in or since the year 1870, then at the first regular settlement or at such previous settlement as the Local Government may, by order in writing, determine:

Provided that, if since the making of any such settlement a Civil Court or other competent authority has before the commencement of this Act decided that

that any person was wrongly included in or omitted from the record thereof or that any right recorded in the record is erroneously stated, this definition shall be construed with due regard to such decision :

Provided also that the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, extend or restrict this definition so as to include or exclude any persons or classes of persons in any part of the territories to which this Act extends :

(2) all expressions which are defined by section 4 of the Punjab Tenancy Act, 1887, or by section 3 of the Punjab Land-revenue Act, 1887, shall, subject to the provisions of this Act, have the meanings assigned to them in the said sections respectively; and the expressions "record-of-rights" and "annual record" shall have the meanings assigned to them respectively in Chapter IV of the said last-mentioned Act;

(3) the expression "land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes—

- (a) the sites of buildings and other structures on such land;
- (b) a share in the profits of an estate or holding;
- (c) any dues or any fixed percentage of the land-revenue payable by an inferior land-owner to a superior land-owner;
- (d) a right to receive rent; and
- (e) any right to water enjoyed by the owner or occupier of land as such:

(4) the expression "permanent alienation" includes sales, exchanges, gifts and wills, but does not include any gift for a religious or charitable purpose whether made *inter vivos* or by will :

(5) the

*(Permanent Alienation of Land.—Section 3.)*

(5) the expression “usufructuary mortgage” means a mortgage by which the mortgagor delivers possession of the mortgaged land to the mortgagee and authorises him to retain such possession until payment of the mortgage-money, and to receive the rents and profits of the land and to appropriate them in lieu of interest or in payment of the mortgage-money or partly in lieu of interest and partly in payment of the mortgage-money : and

(6) the expression “conditional sale” includes any agreement whereby in default of payment of the mortgage-money or interest at a certain time the land will be absolutely transferred to the mortgagee.

*Permanent Alienation of Land.*

3. (1) A person who desires to make a permanent alienation of his land shall be at liberty to make such alienation where—

- (a) the alienor is not a member of an agricultural tribe ; or
- (b) the alienor is a member of an agricultural tribe and the alienee holds land as an agriculturist in the village where the land alienated is situated ; or
- (c) the alienor is a member of an agricultural tribe and the alienee is a member of the same tribe or of a tribe in the same group :

Provided that, if an agriculturist desires to make a permanent alienation of land acquired under clause (b), he shall not be at liberty to make such permanent alienation under this sub-section unless the alienee is a member of an agricultural tribe or a person holding land as an agriculturist in the village.

(2) Except in the cases provided for in sub-section (1), a permanent alienation of land shall not take effect as such unless and until sanction is given thereto by a Deputy Commissioner :

Sanction of Deputy Commissioner required to certain permanent alienation.

Provided

84      *Alienation of Land (Punjab).* [ACT XIII,  
(*Permanent Alienation of Land.—Sections 4-5. Tem-  
porary Alienations of Land.—Section 6.*)

Provided that sanction may be given after the act of alienation is otherwise completed.

(3) The Deputy Commissioner shall enquire into the circumstances of the alienation and shall have discretion to grant or refuse the sanction required by sub-section (2).

Agricultural  
tribes.

4. The Local Government shall, by notification in the local official Gazette published with the previous sanction of the Governor General in Council, determine what bodies of persons in any district or group of districts are to be deemed to be agricultural tribes or groups of agricultural tribes for the purposes of this Act.

Saving for  
rights in land  
alienated.

5. When a Deputy Commissioner sanctions a permanent alienation of land, his order shall not be taken to decide or affect any question of title, or any question relating to any reversionary right or right of pre-emption.

*Temporary Alienations of Land.*

Forms of  
mortgage  
permitted in  
certain cases.

6. (1) If a member of an agricultural tribe mortgages his land and the mortgagee is not a member of the same tribe, or of a tribe in the same group, the mortgage shall be made in one of the following forms:—

(a) in the form of a usufructuary mortgage, by which the mortgagor delivers possession of the land to the mortgagee and authorizes him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on condition that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceeds twenty years) after the expiry of twenty years, the land shall be re-delivered to the mortgagor; or

(b) in the form of a mortgage without possession, subject to the condition that, if the mortgagor

*(Temporary Alienations of Land.—Section 6.)*

gagor fails to pay principal and interest according to his contract, the mortgagee may apply to the Deputy Commissioner to place him in possession for such term, not exceeding twenty years, as the Deputy Commissioner may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such sum as may be due to the mortgagee on account of the balance of principal due and of interest due not exceeding the amount claimable as simple interest at such rate and for such period as the Deputy Commissioner thinks reasonable; or

(c) in the form of a written usufructuary mortgage by which the mortgagor recognises the mortgagee as a landlord and himself remains in cultivating occupancy of the land as a tenant subject to the payment of rent at such rate as may be agreed upon not exceeding sixteen annas per rupee of the amount of the land-revenue in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon and for such term as may be agreed on, the mortgagor having no right to alienate his right of cultivating occupancy and the mortgagee having no right to eject the mortgagor unless on the grounds mentioned in section 39 of the Punjab Tenancy Act, 1887; or

(d) in any form which the Local Government may, by general or special order, permit to be used.

(2) If in the case of a mortgage in form (c) the mortgagor is ejected or relinquishes or abandons cultivating occupancy of the land, the mortgage shall take effect as a usufructuary mortgage in form

(a)

(a) for such term not exceeding twenty years from the date of ejectment, relinquishment or abandonment, and for such sum of money as the Deputy Commissioner considers to be reasonable.

Rules apply-  
ing to per-  
mitted  
mortgages.

7. In the case of mortgages made under section 6—

- (1) no interest shall accrue during the period for which the mortgagee is in possession of the land or in receipt of rent;
- (2) if the mortgage is in form (a) or form (b), then at the end of such period of possession the mortgage-debt shall be extinguished;
- (3) the mortgagor may redeem his land at any time during the currency of the mortgage, on payment of the mortgage-debt or, in the case of a mortgage in form (a) or form (b), of such proportion of the mortgage-debt as the Deputy Commissioner determines to be equitable; and
- (4) in the case of a usufructuary mortgage the mortgagor shall not be deemed to bind himself personally to repay the mortgage-money.

Conditions in  
permitted  
mortgages.

8. (1) In a mortgage made under section 6, the following conditions may be added by agreement between the parties:—

- (a) a condition fixing the time of the agricultural year at which a mortgagor redeeming his land may resume possession thereof;
- (b) conditions limiting the right of a mortgagor or mortgagee in possession to cut, sell or mortgage trees or to do any act affecting the permanent value of the land; and
- (c) any condition which the Local Government by general or special order may declare to be admissible.

(2) In

*(Temporary Alienations of Land.—Sections 9-10.)*

(2) In mortgages made under section 6 any condition not permitted by or under this Act shall be null and void.

9. (1) If a member of an agricultural tribe makes a mortgage of his land in any manner or form not permitted by or under this Act, the Deputy Commissioner shall have authority to revise and alter the terms of the mortgage so as to bring it into accordance with such form of mortgage permitted by or under this Act as the mortgagee appears to him to be equitably entitled to claim.

Power to revise mortgage made in form not permitted.

(2) If a member of an agricultural tribe has before the commencement of this Act made a mortgage of his land in which there is a condition intended to operate by way of conditional sale, the Deputy Commissioner shall be empowered at any time during the currency of the mortgage to put the mortgagee to his election whether he will agree to the said condition being struck out, or to accept in lieu of the said mortgage a mortgage which may at the mortgagee's option be either in form (a) or in form (b) as permitted by section 6 and which shall be made for such period not exceeding the period permitted by the said section and for such sum of money as the Deputy Commissioner considers to be reasonable.

(3) If proceedings for the enforcement of a condition intended to operate by way of conditional sale are instituted or are pending at the commencement of this Act in any Civil Court or if a suit is instituted in any Civil Court on a mortgage to which sub-section (1) or sub-section (2) applies, the Court shall refer the case to the Deputy Commissioner with a view to the exercise of the power conferred by the sub-section applying thereto.

10. In any mortgage of land made after the commencement of this Act any condition which is intended to operate by way of conditional sale shall be null and void.

Future mortgage by way of conditional sale not permitted.

11. Any

88      *Alienation of Land (Punjab).* [ACT XIII,  
(*Temporary Alienations of Land.—Sections 11-13.—*  
*General Provisions.—Section 14.*)

Leases and  
farms.

11. Any member of an agricultural tribe may make a lease or farm of his land for any term not exceeding twenty years, and any lease or farm made by a member of an agricultural tribe for a longer term than twenty years shall, if the lessee or farmer is not a member of the same tribe or of a tribe in the same group, be deemed to be a lease or farm for the term permitted by this section.

Restriction  
on power to  
make further  
temporary  
alienation.

12. (1) During the currency of a mortgage made under section 6 in form (a) or form (b) or of a lease or farm under this Act, the owner shall be at liberty to make a further temporary alienation of the same land for such term as together with the term of the current mortgage, lease or farm will make up a term not exceeding the full term of twenty years.

(2) Any such further temporary alienation, if made for a longer term than is permitted by this section, shall be deemed to be a temporary alienation for the term permitted by this section.

Ejectment of  
mortgagee,  
lessee or  
farmer  
remaining in  
possession  
after term.

13. If a mortgagee, lessee or farmer holding possession under a mortgage made under section 6 or under a lease or farm made under section 11 or under a mortgage, lease or farm made under section 12 remains in possession after the expiry of the term for which he is entitled to hold under his mortgage, lease or farm, the Deputy Commissioner may, of his own motion or on the application of the person entitled to possession, eject such mortgagee, lessee or farmer and place the person so entitled in possession.

*General Provisions.*

Effect of  
permanent  
alienation  
made  
without  
sanction.

14. Any permanent alienation which under section 3 is not to take effect as such until the sanction of a Deputy Commissioner is given thereto shall, until such sanction is given or if such sanction has been refused, take effect as a usufructuary mortgage in form (a) permitted by section 6 for such term not exceeding twenty years and on such conditions as the Deputy Commissioner considers to be reasonable.

15. Every



*(General Provisions.—Sections 15-17.)*

15. Every agreement whereby a member of an agricultural tribe purports to alienate or charge the produce of his land or any part of, or share in, such produce for more than one year shall not take effect for more than one year from the date of the agreement unless the sanction of a Deputy Commissioner is given thereto, and shall, until such sanction is given or if such sanction is refused, take effect as if it had been made for one year.

Sanction of Deputy Commissioner required to certain alienations of, or charges on, produce of land.

*Explanation.*—The produce of land means—

- (a) crops and other products of the earth standing or ungathered on the holding ;
- (b) crops and other products of the earth which have been grown on the land during the past year and have been reaped or gathered.

16. (1) No land belonging to a member of an agricultural tribe shall be sold in execution of any decree or order of any Civil or Revenue Court, whether made before or after the commencement of this Act.

Execution-sale of land forbidden.

(2) Nothing in this section shall affect the right of Government to recover arrears of land-revenue, or any dues which are recoverable as arrears of land-revenue, in any manner now permitted by law.

17. Notwithstanding anything in the Indian Registration Act, 1877, or in any rules made under section 69 of that Act,—

Registration.

- (1) an instrument which contravenes any provision of this Act shall not be admitted to registration ;
- (2) an instrument which records or gives effect to any transaction which requires the sanction of a Deputy Commissioner shall not be admitted to registration until a certified copy of the order giving such sanction is produced to the officer empowered to register such instrument.

18. (1) Where

*Alienation of Land (Punjab). [ACT XIII,  
(General Provisions.—Sections 18-22.)*

Record of rights and annual record.

18. (1) Where, by reason of any transaction which under this Act requires the sanction of a Deputy Commissioner, a person claims to have acquired a right the acquisition whereof he is bound to report under section 34 of the Punjab Land-revenue Act, 1887, such person shall, in making his report, state whether the sanction required has been obtained or not, and his right so acquired shall not be entered in the record-of-rights or in any annual record until he produces such evidence of the order by which such sanction is given as may be required by any rules made under this Act.

XVII of 1887.

(2) No right claimed by reason of any transaction or condition which is declared by this Act to be null and void shall be entered in the record-of-rights or in any annual record.

Application of certain provisions of the Punjab Land-revenue Act, 1887.

19. Subject to the provisions of this Act, the provisions of Chapter II of the Punjab Land-revenue Act, 1887, shall, in so far as they are applicable, apply to the proceedings of Revenue-officers under this Act.

XVII of 1887.

Appearance of legal practitioners forbidden.

20. No legal practitioner shall appear on behalf of any party interested in any proceeding before a Revenue-officer under this Act.

*Explanation.*—The term “legal practitioner” includes a mukhtar.

Jurisdiction of Civil Courts excluded.

21. (1) A Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by this Act to dispose of.

(2) No Civil Court shall take cognisance of the manner in which the Local Government or any Revenue-officer exercises any power vested in it or in him by or under this Act.

Addition to section 77, Act XVI, 1887.

22. In sub-section (3) of section 77 of the Punjab Tenancy Act, 1887, the following words shall be added to clause (c) of the First Group of suits therein mentioned, namely :—

XVI of 1887

“and suits relating to the rent to be paid under

*(General Provisions.—Sections 23-25.)*

a mortgage made in accordance with form (c) as prescribed by section 6 of the Punjab Alienation of Land Act, 1900."

23. The powers conferred by this Act upon a Deputy Commissioner may be exercised by a Revenue-officer of higher rank, or by any officer authorised by the Local Government in this behalf.

Exercise of powers of Deputy Commissioner.

24. The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, exempt any district or part of a district or any person or class of persons from the operation of this Act or of any of the provisions thereof.

Exemption.

25. (1) The Local Government may make rules for carrying into effect the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, the Local Government may make rules prescribing the Revenue-officers to whom applications may be made, and the manner and form in which such applications shall be made and disposed of.