

## ACT No. XXII OF 1882.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 23rd December, 1882.)*

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

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

1. (1) This Act may be called the Dekkhan Agriculturists' Relief Act, 1882; and it and the Dekkhan Agriculturists' Relief Act, 1879, and the Dekkhan Agriculturists' Relief Act, 1881, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1882. XVII of 1879.  
XXIII of 1881.

(2) This Act shall come into force on the first day of February, 1883.

2. In this Act, unless there is something repugnant in the subject or context, "section" means a section, and "chapter" a chapter, of the Dekkhan Agriculturists' Relief Act, 1879, as amended by the Dekkhan Agriculturists' Relief Act, 1881. XVII of 1879.  
XXIII of 1881.

3. For section two the following shall be substituted:—

"2. In construing this Act, unless there is something repugnant in the subject or context, the following rules shall be observed, namely:—

"1st.—'Agriculturist' shall be taken to mean a person who by himself, his servants or tenants earns his livelihood wholly or principally by agriculture carried on within the limits

limits of the said districts, or who ordinarily engages personally in agricultural labour within those limits.

"*Explanations.*—(a) An agriculturist who, without any intention of changing his status as such, temporarily ceases to earn his livelihood or to engage personally in agricultural labour as aforesaid does not thereby cease to be an agriculturist within this definition.

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

"*2nd.*—In Chapters II, III, IV and VI, and in section sixty-nine, the term 'agriculturist,' when used with reference to any suit or proceeding, shall be deemed to include also a person who, when any liability incurred by him and forming the subject or part of the subject of that suit or proceeding was so incurred, was an agriculturist as defined in the first rule.

"*3rd.*—An agriculturist shall be deemed to reside where he earns his livelihood or personally engages in agricultural labour as aforesaid.

"*4th.*—'Money' shall be deemed to include agricultural produce, implements and stock."

4. After section two the following section shall be inserted:—

"2A. Every *jágírdár* and other authority invested with powers under Bombay Regulation XIII of 1830 and Act XV of 1840 shall, for the purposes of this Act, be deemed to be a Subordinate Judge of such class as the Local Government may from time to time direct."

*Jágírdárs, &c., to be deemed Subordinate Judges.*

5. In section three, clause (a), after the word "account," the words "whatever be the amount or value of the subject-matter thereof" shall be inserted.

*Amendment of section 3. (Chapter II to apply to certain suits of whatever value.)*

6. After

New sections  
to follow  
section 15.

Mortgagor  
entitled to  
decree for  
redemption  
though time  
fixed by  
mortgage has  
not arrived  
or debt has  
not been  
paid.

Power to  
order pay-  
ment by  
instalments  
in case of  
decree for re-  
demption,  
foreclosure  
or sale.

Power to  
order pay-  
ment by  
instalments  
in suits for  
possession of  
mortgaged  
property.

6. After section fifteen, the following sections shall be inserted, namely :—

“15A. In a suit of the description mentioned in section three, clause (z), the Court shall not refuse to pass a decree for redemption merely on the ground that the time fixed for the payment of the principal of the mortgage-money has not arrived, or on the ground that the mortgage-debt has not been completely discharged, or on both.

“15B. (1) The Court may in its discretion, in passing a decree for redemption, foreclosure or sale in any suit of the descriptions mentioned in section three, clause (y) or clause (z), or in the course of any proceedings under a decree for redemption, foreclosure or sale passed in any such suit, whether before or after this Act comes into force, direct that any amount payable by the mortgagor under that decree shall be payable in such instalments, on such dates and on such terms as to the payment of interest, and, where the mortgagor is in possession, as to the appropriation of the profits and accounting therefor, as it thinks fit.

“(2) If a sum payable under any such direction is not paid when due, the Court shall, except for reasons to be recorded by it in writing, instead of making an order for the sale of the entire property mortgaged or for foreclosure, order the sale of such portion only of the property as it may think necessary for the realization of that sum.

“15C. (1) The Court may, if it thinks fit, in any suit for the possession of mortgaged property under section three, clause (y), instead of passing a decree for possession of that property, pass a decree directing that the amount payable by the mortgagor shall be payable in such instalments, on such dates and on such terms as to the payment of interest, and as to the appropriation of the profits and accounting therefor, as it thinks fit.

“(2) If a sum payable under any such direction is not paid when due, the Court may, if it thinks fit, instead

instead of making any other order which it is empowered to make for the realization of that sum, make an order directing that the mortgagee be put in possession of the whole or any portion of the property mortgaged.

"15D. (1) Any agriculturist whose property is mortgaged may sue for an account of the amount of principal and interest remaining unpaid on the mortgage and for a decree declaring that amount.

Mortgagee may sue for account.

"(2) When any such suit is brought, the amount (if any) remaining unpaid shall be determined under the same rules as would be applicable under this Act if the mortgagee had sued for the recovery of the debt.

"(3) At any time before the decree in the suit is signed, the plaintiff may apply to the Court to pass a decree for the redemption of the mortgage, or the mortgagee, if he would then have been entitled to sue for foreclosure or sale, may apply to the Court to pass a decree for foreclosure or sale (as the case may be), instead of a decree merely declaring the amount remaining unpaid; and the Court may, if it thinks fit, grant the application.

"(4) The provisions of section 15B shall apply to any decree passed under sub-section (3)."

7. In section nineteen, after the word "Court" in both places in which it occurs, the words "on application or of its own motion" shall be inserted.

Amendment of section 19. (Court to act of its own motion.)

8. To section twenty-one, the words "passed whether before or after this Act comes into force" shall be added.

Amendment of section 21. (Retrospective operation of section.)

9. (1) In section twenty-two, after the words "decree or order," the words "passed whether before or after this Act comes into force" shall be inserted.

Amendment of section 22. (Retrospective operation of section.)

(2) In the same section, after the word "Court" the words "on application or of its own motion" shall be inserted.

Court to act of its own motion.)

(3) In the same section, for the words "at any subsequent time" the words "in the course of any proceedings

ceedings under a decree against an agriculturist passed whether before or after this Act comes into force" shall be substituted.

10. In section twenty-nine, first clause, and in section thirty, after the word "Court," the words "on application or of its own motion" shall be inserted.

11. In section forty-four, for the word "taluka" the word "place" shall be substituted.

12. To the same section the following shall be added, namely:—"The Court may in any case, for reasons to be recorded by it in writing, from time to time extend the period of one month allowed for showing cause under this section."

13. In section forty-seven, for the words "such certificate as aforesaid in reference thereto" the following shall be substituted, namely:—"a certificate in reference thereto obtained by him under section forty-six within the year immediately preceding."

14. In sections fifty and fifty-two, for the words and figures "Chapter II and Chapter IV" the words and figures "Chapter II, Chapter IV and Chapter VI" shall be substituted; and in sections fifty-one and fifty-three, for the words and figures "Chapter II or Chapter IV" the words and figures "Chapter II, Chapter IV or Chapter VI" shall be substituted.

15. To section fifty-four the following shall be added, namely:—

"But the District Judge or Special Judge, or an Assistant or Subordinate Judge or Bench, may refer to the High Court, under section 617 of the Code of Civil Procedure, any question of law, or usage having the force of law, or the construction of a document, arising in any case pending before him or it under this chapter as if that case were a suit or an appeal pending before him or it; and in respect of every reference so made, sections 618 to 621 of the said Code, both inclusive, shall apply :

"Provided

Amendment of sections 29 and 30.

(Court to act of its own motion.)

Amendment of section 44.

("Place" substituted for "taluka.")

Addition to section 44.

(Extension of period for showing cause.)

Amendment of section 47.

(Conciliator's certificate available only for one year.)

Amendment of sections 50 to 58.

(Extension of revision to proceedings under Chapter VI.)

Amendment of section 54.

(Power to refer to High Court under section 617 of Act XIV of 1882.)

"Provided that no reference shall be made under this section by any Assistant or Subordinate Judge, or by any Bench of which the District Judge or Special Judge is not a member, without the previous sanction of the District Judge or Special Judge, as the case may be."

16. In section fifty-seven, after the words "power-of-attorney" the following shall be inserted, namely:—"executed and authenticated in such manner as the Local Government may, from time to time, by rule prescribe."

Amendment of section 57. (Power-of-attorney.)

17. The last thirteen words of the first clause of section sixty-eight are repealed.

Repeal of part of section 68. (Pleadings, &c., excluded in additional cases.)

18. After section seventy-three the following section shall be inserted, namely:—

Certain agricultural produce exempted from attachment, &c.

"73A. When the Collector has taken any immovable property of a judgment-debtor or insolvent into his possession under section twenty-two or section twenty-nine, he may, by an order in writing, direct that any other such property not so taken shall be deemed to be reserved for the support of the judgment-debtor or insolvent and the members of his family dependent on him, and may rescind that order.

"While any such order continues in force in respect of any immovable property, agricultural produce grown on that property shall not be attached or sold in execution of a decree passed whether before or after this Act comes into force, and shall not vest in the receiver appointed in any insolvency-proceedings."

19. Notwithstanding anything contained in the foregoing sections of this Act, the period of limitation for any suit instituted within two years from the day on which this Act comes into force, and to which, if this Act had not been passed, section seventy-two of the Dekkan Agriculturists' Relief Act, 1879, would have applied, shall be the period prescribed by that section.

Limitation of suits.