

THE ORISSA TENANTS RELIEF ACT, 1958

TABLE OF CONTENTS

PREAMBLE

CLAUSES

1. Short title, extent and commencement
2. Interpretation
3. Protection from eviction and maximum rent
4. The landlord's right to a limited acreage for personal cultivation
5. Tenancy to remain unaffected by change of landlord
6. Delivery of rent and option to pay commuted value thereof
7. Stay of suits and proceedings for eviction of tenants
8. Power of Collector to order continuance of suits and proceedings
9. Powers of Collector
10. Bar of jurisdiction of Civil Court
11. Dispute as to the identity of tenants
12. Landlord's failure to cultivate after resumption
13. Recoveries under this Act
14. Penalty
15. Appeals
16. Indemnity
17. Power to make rules
18. Bar to the application of the Act to certain lands and areas
19. Repeal
20. Power to remove difficulty

SCHEDULE

ORISSA ACT No. 5 OF 1955

THE ORISSA TENANTS RELIEF ACT, 1955

[Received the assent of the President on the 20th April 1955 first published in an extraordinary issue of the Orissa Gazette, dated the 21st April 1955]

AN ACT TO PROVIDE FOR TEMPORARY RELIEF TO CERTAIN CLASSES OF TENANTS IN THE STATE OF ORISSA

WHEREAS subsequent to the passing of the Orissa Estates Abolition Act, 1951 and pending further legislation relating to land reforms large-scale eviction of tenants from actual cultivation of agricultural lands is being resorted to by owners of such lands ; Orissa Act I of 1952.

AND WHEREAS pending such further legislation it is expedient to afford relief to such persons by providing for their temporary protection from such eviction and for conferring on them certain other privileges in the manner hereinafter appearing ;

It is hereby enacted by the Legislature of the State of Orissa in the Sixth Year of the Republic of India, as follows :—

Short title,
extent and
commence-
ment.

* 1. (1) This Act may be called the Orissa Tenants Relief Act, 1955.

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

(3) It shall be deemed to have come into force on the 1st day of July 1954.

(4) It shall cease to have effect on the ^{" 31st day of Decr, 1965 "} 30th day of June 1956 and section 5 of the Orissa General Clauses Act, 1937, shall apply on the expiry of this Act as if it had then been repealed by an Orissa Act. Orissa Act I of 1937.

Sub-by
O. A. 25/63

* For statement of objects and reasons see *Orissa Gazette extraordinary*, dated the 22nd February 1955. and for S. C. Report see *Orissa Gazette extraordinary*, dated the 22nd March 1955.

Interpreta-
tion.

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

(a) “agricultural year” means, where the Oriya year prevails, the year commencing on the first day of Baisakh of the Oriya year, where the fasli year prevails, the year commencing on the first day of July and where any other year prevails for agricultural purposes, that year ;

Explanation—In the event of any question as to the particular agricultural year in any area the notification by the Board of Revenue on this behalf shall be conclusive ;

(b) “Collector” includes any officer authorised by the Collector of the district and any Grama Panchayat or Adalti Panchayat constituted under the provisions of the Orissa Grama Panchayats Act, 1948, authorised by the State Government to perform all or any of the functions of a Collector under this Act , Orissa Act
XV of 1948.

(c) “dry land” means land other than wet land ;

(d) “land” means any land that is fit for agricultural purposes ;

(e) “landlord” means a person whose land is cultivated by a tenant on payment of rent ;

(f) “personal cultivation” with its grammatical variations and cognate expressions means cultivation by one’s own labour or with the assistance of a member of that person’s family or a servant or hired labourer on payment of wages in cash or in kind but not by way of a share in the produce of the land, under one’s personal supervision or that of any member of the family :

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

(h) “rent” includes whatever is lawfully payable or deliverable by a tenant to the landlord on account of use or occupation of land cultivated by the tenant ;

(i) "standard acre" means one acre of wet land or two acres of dry land ;

(j) "tenant" means a person who under the system generally known as Bhag, Sanja or Kata or such similar expression, or under any other system, law, contract, custom or usage cultivates the land of another person on payment of rent in cash or in kind or in both or on condition of delivering to that person—

(i) either a share of the produce of such land, or

(ii) the estimated value of a portion of the crop raised on the land or

(iii) a fixed quantity of produce irrespective of the yield from the land, or

(iv) produce or its estimated value partly in any one of the ways described above and partly in another ;

Exceptions—The following persons shall not be deemed to be tenants within the meaning of this definition :—

(1) a member of the landlord's family ;

(2) a servant or hired labourer, cultivating the land under the personal supervision of the landlord or any member of his family on payment of wages in cash or in kind but not by way of a share in the produce of the land ; and

(3) a person holding land directly under Government, with permanent and heritable rights of cultivation therein on payment of rent either wholly or partly in cash ;

(k) "wet land" means land for which any cess, rate or tax for purposes of irrigation has been assessed under any law for the time being in force or any contract, custom or usage having the force of law, irrespective of whether such cess, rate or tax has merged in the rent payable for the land or not.

Explanation— In relation to the district of Ganjam, 'wet land' shall mean land recorded as such in accordance with any law for the time being in force, or with any practice or usage having the force of law.

(2) The provisions of this Act in its application to any local area or to any tenant shall be read and construed so far as may be as forming part of the law or custom or usage having the force of law relating to landlord and tenants in force in such area and applicable to such tenant and in case of any inconsistency or repugnancy the provisions of this Act shall prevail.

(3) Nothing in this Act shall be deemed to confer any additional right in and on any tenant and on expiry of this Act such tenant shall possess the same right which he would have possessed if this Act had not been passed.

Protection
from eviction
and
maximum
rent.

3. (1) Notwithstanding anything in any law, contract or usage or in any decree or order of any Court but subject to the provisions of this Act—

(a) no tenant in lawful cultivation of any land on the 1st day of July 1954 or at any time thereafter shall be liable to be evicted from such land by the landlord ;

(b) no such tenant shall be bound to pay more than one-fourth of the gross produce of the land or the value thereof or the value of one-fourth of the estimated produce as rent to the landlord :

Provided that in no event the rate of rent per year per each acre of land in cultivation of the tenant shall exceed the value of four standard maunds of paddy in case of dry lands and six such maunds of paddy in case of wet lands :

Provided further that if any of the crops specified in the Schedule to this Act has been grown on the land by the tenant during the year such rate of rent shall not exceed the value of eight standard maunds of paddy :

Provided also that the value of such quantities of paddy shall be the market value as may be declared from time to time with respect to different areas by the State Government by notification in that behalf; and

(c) no landlord shall be entitled to recover from such tenant any cesses, rates or other dues payable or deliverable in relation to such land under any other law or custom, practice or usage beyond the rent as specified in clause (b).

(2) Notwithstanding anything contained in sub-section (1), no tenant holding land on produce rent with permanent and heritable rights of cultivation therein on or after the first day of July 1954 shall, irrespective of whether such land is cultivated by the tenant himself or not, be liable to pay more than two-thirds of the rate of rent payable in accordance with clauses (b) and (c) of sub-section (1).

Explanation—For the purpose of this section 'gross produce' shall include all subsidiary crops and hay and straw.

The land-
lord's right
to a limited
acreage for
personal
cultivation,

4. (1) Notwithstanding anything in section 3 the landlord shall have the right to evict the tenant from any land selected by him for his personal cultivation to the aggregate extent of seven standard acres of land inclusive of land, if any, to the extent of the said limit, under his personal cultivation on the 1st day of July 1954 :

Provided that the landlord shall make such selection and intimate the same in the prescribed manner to the Collector on or before the 15th day of June 1955.

(2) The selection made by the landlord and intimated to the Collector in accordance with the provisions of sub-section (1) shall be final and shall be conclusive evidence of the selection so made.

(3) Where the landlord has made a selection in pursuance of sub-section (1) the right to evict the tenant, if any, on such land shall be exercised on or before the 15th day of May 1955 or after service of notice in the prescribed manner on the tenant of a period of ninety days ending with the 31st day of March 1956.

(4) Any two or more individuals jointly owning any land immediately before the date of commencement of this Act as co-sharers or otherwise whether recorded as such or not shall for the purposes of this section be deemed to be one landlord.

(5) Where the landlord is a body of share-holders as aforesaid, the apportionment of the land selected for personal cultivation shall be in accordance with the written agreement, if any, in the prescribed form submitted to the Collector on or before the 15th day of June 1955 or in the absence of any such agreement, in accordance with the decision of the Collector on the application of such share-holders either jointly or separately within such time, after the said date and in such form and manner as may be prescribed :

Provided that in making the selection and the apportionment the share-holders or the Collector as the case may be shall have due regard to the share in the total extent of such land owned by each of the share-holders.

(6) Notwithstanding anything in the foregoing sub-sections or in clause (a) of sub-section (1) of section 3 but subject to any other law, contract or usage, a person who has been displaced from his village in pursuance of any acquisition of his lands under the Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Resettlement of Displaced Persons (Land Acquisition) Act, 1948 and has purchased any land subsequent to the date of such acquisition but before the 31st day of December 1955, for the rehabilitation of himself or his family and requires such land for his personal cultivation may after service of notice before the 31st day of March 1956 in the prescribed manner evict the tenant, if any, on such land.

Orissa Act
XVIII of
1948.

(7) Nothing in sub-section (1) or in sub-section (2) shall apply to a tenant who is already protected from eviction under any other law in force prior to the date of commencement of this Act.

Explanation—For the purposes of this section landlord in relation to any land shall mean a person who owned such land on the date of the commencement of this Act.

Tenancy to remain unaffected by change of landlord.

5. Notwithstanding anything in any other law, contract or usage the rights and benefits and protection and privileges of a tenant in relation to any land under any of the provisions of this Act shall not be prejudicially affected in any manner merely by virtue of the fact that the right, title and interest of the landlord in the land has devolved wholly or in part upon another either by the act of parties or by the operation of law or in pursuance of any judgment, decree or order of any Court or otherwise :

Provided that in the absence of an agreement, express or implied, the rate of rent payable by the tenant shall be the same as was payable to the last preceding landlord ; but no agreement shall have effect save to the extent it is consistent with the provisions of this Act.

Delivery of rent and option to pay commuted value thereof.

6. When rent is deliverable in kind, it shall be delivered at the landlord's granary in the village in which the land is situated or at such other granary within three miles of the village as may be provided in that behalf by the landlord :

Provided that the tenant shall always have the option of making payment in cash to the landlord or of depositing the same with the prescribed authority at such time and in such manner as may be prescribed, the value of the quantity of paddy determined in accordance with the principles specified in the provisos to clause (b) of sub-section (1) of section 3 or in sub-section (2) of the said section, as the case may be, and such payment shall be deemed to be in complete discharge of the tenants' liability for such rent, anything in any law, contract or usage to the contrary notwithstanding.

Stay of suits and proceedings for eviction of tenants.

7. (1) All suits, proceedings in execution of decrees or orders and other proceedings for the eviction of tenants from their lands, which are pending at the date of the passing of this Act in any Court or which may thereafter be instituted in any Revenue Court shall be stayed subject to the following sub-sections :

Provided that nothing contained in this sub-section shall affect the power of the Court to grant any relief of the nature specified in section 94 of the Code of Civil Procedure, 1908, with a view to prevent wilful waste by the tenant. ^{v of 1908}

(2) Where in a suit for eviction there is also a claim for rent, the tenant shall within two months from the date of the passing of this Act or the date of the institution of the suit, as the case may be, deposit in Court for payment to the landlord arrears of rent accrued due together with such interest as may be payable under law, custom or agreement.

(3) In the case of a decree or order for eviction, if the decree or order provides for payment of rent, the tenant shall within two months from the date of the passing of this Act deposit in Court for payment to the landlord the amount payable under the decree or order.

(4) Where a suit or other proceeding is stayed under sub-section (1), a tenant shall deposit or continue to deposit in Court for payment to the landlord each year's rent as it accrues due within a period of two months from the date on which it becomes payable.

(5) If the deposit required by sub-section (2) or sub-section (3) or sub-section (4) is not made within the time specified therein, such tenant shall not be entitled to the benefits of clause (a) of sub-section (1) of section 3 in respect of the land for which the rent was not deposited and the Court shall proceed with the suit, proceedings in execution or other proceedings, as the case may be, from the stage which had been reached when the suit or proceeding was stayed.

Power of
Collector to
order
continuance
of suits and
proceedings.

8. Notwithstanding anything contained in section 7, the Collector may, for reasons prescribed, direct that any suit or proceeding or any class or classes thereof stayed under sub-section (1) of that section shall be proceeded with from the stage which had been reached when the suit or proceeding was stayed.

Powers of
Collector.

9. (1) Any dispute between the tenant and the landlord as regards—

(a) tenant's possession of the land on the first day of July 1954 or at any time thereafter and his right to the benefits under this Act ; or

(b) failure of the tenant to deliver to the landlord the rent accrued due within two months from the date on which it becomes payable; or

(c) the quantity of the produce payable to the landlord as rent; or

(d) the right of landlord to resume land for personal cultivation in pursuance of section 4; or

(e) failure of the tenant to cultivate the land or use of the same by him for any non-agricultural purpose;

shall be decided by the Collector on the application of either of the parties:

Provided that such application shall be filed before the Collector in the prescribed manner within sixty days from the date on which the dispute arises or from the date of the passing of this Act, whichever is later.

(2) On receipt of an application under sub-section (1) the Collector may, after making such enquiries as he may deem necessary, order the tenant by a notice served in the prescribed manner and specifying the grounds on which the order is made to cease to cultivate the land:

Provided that where the tenant has any permanent and heritable rights of cultivation in any land the steps to be taken for eviction of such tenant shall be in accordance with the law or the custom or usage having the force of law applicable to such tenancy.

(3) If any tenant on whom a notice under sub-section (2) has been served does not forthwith cease such cultivation, the Collector may take such steps as he may deem necessary for the purpose of carrying into effect his order.

(4) If an order is made under sub-section (2) and the landlord enters into an agreement, whether express or implied, with another person to cultivate the land, such person shall be deemed to be a tenant for the purpose of this Act.

(5) An order made by the Collector under sub-section (2) shall take effect on and from the first day of the agricultural year or, as the case may be, revenue year next following the date of such order.

(6) If, after holding the enquiry under sub-section (2), the Collector is satisfied that the tenant was cultivating the land as a tenant on the 1st day of July 1954 or at any time thereafter and that such

person is being prevented from cultivation of such land as a tenant by the landlord, he may, in addition to the penalty that he may impose on the landlord under section 14, order the landlord by notice served in the prescribed manner to allow the tenant to enter the land forthwith and to cultivate it as a tenant.

(7) If the Collector is satisfied, after such further enquiry as he may deem necessary, that the landlord has failed to comply with his order under sub-section (6), he shall take such steps as may be necessary to put the tenant in possession of the land.

(8) If there is a dispute between the landlord and the tenant as regards division of produce, the Collector may effect such division in the prescribed manner.

(9) In case of any dispute under clause (d) of sub-section (1) if the Collector is satisfied, after such further enquiry, as he deems necessary that the landlord or the tenant has failed to comply with his order made under the said sub-section, he shall notwithstanding anything in sub-section (2) take such steps as may be necessary to put the tenant or the landlord, as the case may be, in possession of the land.

(10) The Collector may, if he deems necessary, appoint a Receiver to take charge of the crops or for getting the land cultivated or for such other purposes as he may deem necessary till the disposal of the application under clause (a) (d) or (e) of sub-section (1).

Bar of jurisdiction of Civil Court.

10. (1) Subject to the provisions of section 9, all disputes arising between a landlord and a tenant shall be cognizable by the Revenue Court and shall not be cognizable by a Civil Court.

(2) Nothing in this section shall be construed as affecting the jurisdiction of the Civil Court to deal with the suits, proceedings in execution of decrees or orders and other proceedings that were pending in such Court at the date of the passing of this Act in accordance with the law which would have been applicable if this Act had not been passed, but subject always to the provisions of sections 7 and 8.

Dispute as to the identity of tenants.

11. If any dispute arises as to the identity of the tenant in cultivation of any land on the 1st day of July 1954 or at any time thereafter, such question shall, after such enquiry as may be prescribed, be forthwith decided by the Collector on his own motion or on the application of the landlord or any person

claiming to be in such cultivation ; and the Collector shall also have power to pass such other order or orders as he may deem necessary.

Landlord's
failure to
cultivate
after
resumption.

12. (1) Where a landlord after evicting a tenant from any land in pursuance of sub-section (3) of section 4 has failed to personally cultivate the same during the first three quarters of the agricultural year in which the eviction has taken place, the said tenant may, within a period of ninety days ending with the last date of the said agricultural year, apply to the Collector in the prescribed manner for the restoration of the possession of the land.

(2) On receipt of such application the Collector after giving an opportunity to the parties to be heard and after making such enquiry as he deems fit, shall, if satisfied that there has been a failure on the part of the landlord as alleged, take such steps as may be necessary to restore the possession of such land to the tenant.

(3) From and after the date of such restoration the provisions of this Act shall apply as fully and effectively as if the tenant had been in cultivation of such land as a tenant on the first day of the agricultural year next following the date of eviction on the same terms and conditions on which he was holding immediately before the said date.

(4) Notwithstanding anything in any other law or contract, where the land has been restored to the possession of the tenant under the foregoing sub-sections, the rights and benefits in pursuance of sub-section (3) shall prevail as against any other person who may have been in cultivation of the said land by the date of such restoration :

Provided that the tenant shall have the option of either taking possession of the land at the commencement of the next agricultural year or on payment of the costs of cultivation to such person, if any, as may be determined by the Collector, immediately on the date of such restoration.

(5) Where the Collector is satisfied that it was not reasonably practicable for the landlord to cultivate the land by reason of any delay due to the default on the part of the tenant in giving up possession of the land in pursuance of sub-section (3) of section 4 the Collector, instead of ordering restoration of possession of the land to such tenant, shall reject his application for such restoration under sub-section (1) :

Provided that if the landlord fails to personally cultivate the land during the first three quarters of the next agricultural year the tenant may apply for restoration of the land within a period of ninety days ending with the last date of the said agricultural year and the provisions of sub-sections (2), (3) and (4) except the proviso to the last mentioned sub-section shall *mutatis mutandis* apply ;

Explanation— The date of eviction referred to in sub-section (3) shall, in the application of the said sub-section in accordance with the above proviso, be construed as the date of application under the said proviso.

Recoveries
under this
Act.

13. Any money payable by virtue of an order made under this Act shall be recoverable in the same manner as if it were an arrear of land revenue.

Penalty

14. (1) If, in contravention of the provisions of this Act a landlord or his agent realises from a tenant anything in excess of the rent lawfully payable or deliverable or evicts the tenant from the land or interferes in any way with the tenant's cultivation of the land, the Collector may, after making such enquiries as he deems fit, impose on such landlord or his agent or both a penalty not exceeding five hundred rupees or when double the amount or value of what is so realised exceeds five hundred rupees, not exceeding double the amount or value :

Provided that no landlord or his agent shall be liable to the penalty provided in this sub-section for any contravention that took place prior to the date of the passing of this Act.

(2) The Collector may proceed against the landlord and his agent in the same proceeding or in separate proceedings and shall award to the tenant, by way of compensation and cost, such portion of the penalty as he thinks fit.

calls

15. Any person aggrieved by an order of the Collector made under this Act may, within thirty days from the date of such order, appeal to the prescribed superior Revenue Authority whose decision thereon shall be final subject to revision by such other superior Revenue Authority as may be appointed by the State Government in that behalf. The decision so arrived at shall not be called in question in any Court.

Indemnity

16. No suit, prosecution or any other legal proceeding shall lie against any person for or in respect of anything which is in good faith done or intended to be done under this Act.

Power to make rules.

* **17.** The State Government may make rules to carry out the purposes of this Act.

Bar to the application of the Act to certain lands and areas.

18. Nothing in the foregoing provisions other than clauses (b) and (c) of sub-section (1) of section 3 of this Act shall apply to—

(a) lands either recorded as communal lands or pasture lands or recognised as such in accordance with any law, custom or usage ;

(b) any area which the State Government may from time to time by notification specify as being reserved for non-agricultural or industrial development ;

(c) lands recorded or demarcated as belonging to Government or any Local authority which is used or held for purposes of the Army, Navy or Air-force or for any public work, such as a railway, road, canal or embankment, or is required for the repair, maintenance or construction of the same, while such land continues to be so used, held or required ;

(d) any land held under a temporary lease granted by the Government ; or

(e) any land held on a temporary lease under a Grama Sabha formed under the Orissa Grama Panchayats Act, 1948.

Orissa Act
XV of 1948.

Repeal

19. (1) The Orissa Tenants Protection Act, 1948 is hereby repealed.

Orissa Act
III of 1948.

(2) Notwithstanding such repeal and save as expressly provided in this Act ;

(i) any benefit, right, protection, privileges, obligation or liability conferred, acquired, accrued or incurred before the commencement of this Act shall be deemed to have been so conferred, acquired, accrued or incurred under this Act and the provisions thereof shall apply accordingly, and

(ii) any legal proceeding in respect of any such benefit, right, protection or privilege or obligation or liability or anything done or suffered before the commencement of this Act shall be continued and disposed of as if this Act had not been passed.

(3) Any appointment, notification, order, rule or form made or issued under the Orissa Tenants Protection Act, 1948 shall continue to be in force and deemed to have been made or issued under the provisions of this Act in so far as the same is not inconsistent with the provisions of this Act or rules made thereunder and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act. Orissa Act
III of 1948.

(4) Any reference to the Orissa Tenants Protection Act, 1948 shall be read and construed as reference to that Act as amended or modified by any Act, Regulation or Ordinance, enacted, made or promulgated from time to time in its application either generally or to certain local areas in the State of Orissa. Orissa Act
III of 1948

Power to remove difficulty. 20. If any difficulty arises in giving effect to the provisions of this Act, the State Government shall have power as occasion may arise, by order to do anything not inconsistent with the provisions of this Act or the rules made thereunder which appears to them necessary for the purpose of removing the difficulty.

SCHEDULE

[Second Proviso to Section 3 (1) (b)]

Sugarcane, Cotton, Jute, Tobacco, Betel leaves and Potato.