

**THE PONDICHERRY CULTIVATING
TENANTS (PAYMENT OF FAIR RENT)
ACT, 1970**

(Act No. 5 of 1971)

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27th February, 1971.

AN ACT

to provide for the payment of fair rent by cultivating tenants in certain areas in the Union territory of Pondicherry.

BE it enacted by the Legislative Assembly of Pondicherry in the Twenty-first of the Republic of India as follows :—

Short title, extent and commencement

1. (1) This Act may be called the Pondicherry Cultivating Tenants (Payment of Fair Rent) Act, 1970.

(2) It extends to the whole of the regions known as Pondicherry, Karaikal and Yanam in the Union territory of Pondicherry.

(3) It shall come into force on such date ¹ as the Government may, by notification in the Official Gazette, appoint.

Provided that different dates may be appointed for different provisions of this Act or for different areas and any reference in any such provisions to the commencement of this Act shall be construed, in relation to any area, as a reference to the coming into force of that provision in such area.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) " agricultural year " means the year commencing on the 1st day of April, or such other date as the Collector may specify in that behalf by notification in the Official Gazette ;

(b) " average gross produce " means the average produce for different classes of land in each zone as may be notified by the Government from time to time.

1. The Act came into force on the 1st day of April, 1971 vide Notification No. 6896/70—E, dated 22nd March, 1971

Explanation.— For the purpose of this clause each region shall be divided into zones and the lands comprised in each zone divided into categories consisting of double crop lands, single crop lands, irrigated lands and dry lands ;

(c) " cultivating tenant " means a person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another, under a tenancy agreement, express or implied, on condition of paying rent therefor in cash or in kind or delivering or receiving a share of the produce and includes—

(i) any such person who continues in possession of the land after the determination of the agreement ;

(ii) the heir of such person, if the heir contributes his own physical labour or that of any member of his family in the cultivation of such land ;

(iii) a sub-tenant if he contribute his own physical labour or that of any member of his family in the cultivation of such land ;

(iv) any such sub-tenant who contributes in possession of the land notwithstanding that the person who sublet the land to such-tenant ceases to have the right to possession of such land ; and

(v) a person who cultivates the land on payment of waram ; but does not include a mere intermediary or his heir ;

(d) " fair rent " means the rent payable under this Act ;

(e) " garden land " means dry land irrigated by lifting water from wells or other sources ;

(f) " Government " means the Administrator appointed by the President under article 239 of the Constitution ;

(g) " landowner " means the owner of the land let for cultivation by a cultivating tenant and includes the heirs, assignees, legal representatives of such owner, or person deriving rights through him ;

(h) " paid " includes " delivered " ;

(i) " prescribed " means prescribed by rules made under his Act ;

(j) " Rent Court " and " Rent Tribunal " in relation to any area mean the Rent Court and Rent Tribunal respectively constituted under this Act for such area.

¹ [Act not to apply in certain cases

2A. Nothing in this Act shall apply, to—

(i) leases or tenancies of lands belonging to or vested in the Government of the Union territory of Pondicherry, the Central Government, a State Government, a local authority, or a corporation owned or controlled by any of the said governments, or authority ; or

1. Inserted by Act 8 of 1973, section 2, w.e.f 19-07-1973. Published in E. G. No. 62 dt 31-07-1973.

(ii) leases or tenancies of lands created by the Administrator General or the Official Trustee or an Official Receiver or Officer appointed by a Court under the provisions of any law, or by any person holding under or deriving title from any of the Officers aforesaid.]

Interpretation

3. If any question arises whether any land is wet, or dry or garden land, the question shall be decided by the Rent Court.

Rights and liabilities of cultivating tenant and landowner

4. (1) With effect from the commencement of this Act, every cultivating tenant shall be bound to pay to the landowner and every landowner shall be entitled to collect from the cultivating tenant fair rent payable under this Act.

(2) Where the irrigation of any land is irregular, the landowner shall bear the excess water cess proportionate to his share of the produce.

(3) Notwithstanding any neglect or failure on the part of the cultivating tenant to raise any crop, the landowner shall be entitled to collect fair rent.

(4) Subject to the proviso to sub-section (2) of section 5, all the cultivation expenses inclusive of cost of seed, ploughing, manuring, harvesting and threshing shall be borne by the cultivating tenant.

(5) The landowner shall be responsible for the payment of all dues payable to the Government and local authorities in respect of the land subject to his right to recover from the cultivating tenant the public charges which are expressly made payable by the cultivating tenant by this Act.

(6) The landowner shall bear all capital expenditure necessary to maintain the land and wells in a state of proper repair.

(7) No landowner shall, after the commencement of this Act, claim or stipulate for—

(i) payment of any amount by the cultivating tenant in excess of the fair rent or in excess of the public charges which are expressly made payable by the cultivating tenant by this Act;

(ii) the delivery by the cultivating tenant of any article or thing in addition to fair rent ; or

(iii) any service by the cultivating tenant or the free use of his cattle.

Explanation I.— Nothing contained in this section shall affect the right of the landowner to claim from the cultivating tenant compensation for damages to the land or to anything that stood on the land at the time of lease.

Explanation II.— Where a cultivating tenant pays a contract rent lower than the fair rent payable under this Act, clause (iii) shall not apply.

(8) Any person, the rent receivable by whom from any cultivating tenant in respect of any land, suffers a reduction as a result of the provisions of this Act, shall, if he is himself a tenant in respect of that land under another person, be entitled to surrender the lease of that land as from a date specified by him by notice given to his landlord.

(9) A landowner may for better farming advance to his cultivating tenant who is not a member of any co-operative society such loans as may be necessary for manuring his land. The loan so advanced shall be first charge on the share of the produce to which the cultivating tenant is entitled under this Act.

(10) Notwithstanding anything contained in sub-section (4) and (9), the landowner may, with the consent of the cultivating tenant in the case of any wet land or garden land, attend to the manuring of the land by chemical manures and oil-cakes up to a sum equivalent to ten per cent of the average gross produce and recover the same from the cultivating tenant. The amount payable by the cultivating tenant under this sub-section shall be in addition to the fair rent payable under this Act.

What is fair rent ?

5. (1) Subject to the provisions of sub-sections (2) and (3), fair rent shall be—

- (i) in the case of wet land, 40 per cent of the average gross produce or its value in money;
- (ii) in the case of wet land where the irrigation is supplemented by lifting water, 35 per cent of average gross produce or its value in money ;
- (iii) in the case of any other class of land 33 1/3% of the average gross produce or its value in money ;

Provided that the provision of this sub-section shall apply to the actual tenant cultivations and, where there is an intermediary tenant, to the cultivating sub-tenants.

Explanation I.— In every harvest, the landowner shall be entitled to one-fifth of the straw or stalk of all the crops.

Explanation II.— Pending determination of the average gross produce under clause (b) of section 2, the fair rent shall be 40%, 35% or 33 1/3%, as the case may be, of the actual gross produce.

(2) In the case of lands in clauses (ii) and (iii) of sub-section (1) in which water is lifted by pumpsets installed at the cost of the landowner, the fair rent specified in that sub-section shall be increased to 40 per cent :

Provided that the cultivating tenant shall bear all the maintenance charges and the landowner shall bear the charges for repairing the pumpsets and the installation of a pumpset shall be at the option of the landowner.

(3) Where the contract of tenancy provides for payment of a rent lower than the fair rent payable under the above provisions, the contract rent shall be deemed to be fair rent.

Fair rent payable in cash or in kind

6. (1) The fair rent in respect of any land may be paid either in cash or in kind or partly in cash and partly in kind, in accordance with terms of the contract between the landowner and the cultivating tenant; in the absence of such contract, the fair rent may be paid at the option of the cultivating tenant in any one of the above ways:

Provided that the option shall be exercised in the case of a tenancy in force on the date of commencement of this Act, within three months from such commencement and in any other case within three months from the date on which the tenancy agreement takes effect; and if the cultivating tenant does not exercise the option, within the period aforesaid, the landowner shall, by notice in writing given to the cultivating tenant, specify the mode in which the fair rent shall be paid by the cultivating tenant:

Provided further that the option once exercised or the mode once specified shall not be changed except by mutual agreement:

Provided further that where the crop raised is paddy, the landowner shall have the right to insist that the rent shall be paid in kind.

(2) Whenever adverse seasonal conditions result in the reduction of the gross produce from any particular crop and there is remission of land revenue, the landowner shall be bound to remit a proportionate part of the fair rent due to him from his cultivating tenant in respect of that land for that period:

Provided that before admitting or inquiring into an application made by a cultivating tenant for remission of fair rent under this section, the Rent court may impose such conditions as it considers reasonable in the circumstances of the case including condition as to deposit of admitted rent which has become due.

Alteration or revision of fair rent

7. Where in respect of any land fair rent has been determined under this Act, it shall continue in force for five years:

Provided that the Rent Court, may, on an application made by the cultivating tenant, reduce the fair rent if it is satisfied that on account of deterioration of the land by floods or other causes beyond the control of the cultivating tenant, the land has been wholly or partially rendered unfit for the purpose of cultivation.

Provided further that the Rent Court may, on an application made by the landowner, enhance the fair rent if it is satisfied that on account of any improvements made in the land by or at the expense of the landowner, the produce of the land has increased.

Sharing of produce

8. Where the produce to be shared is grain, the sharing shall be done at the threshing floor on which the threshing took place ; and no portion of the produce shall be removed therefrom at such time or in such manner as to prevent the due division thereof at the proper time.

Constitution of Rent Courts and Rent Tribunals

9. (1) The Government may, by notification in the Official Gazette, constitute Rent Courts and Rent Tribunals for the purposes of this Act with jurisdiction over such areas as may be specified in the notification.

(2) Every Rent Court shall be presided over by an officer not below the rank of Deputy Tahsildar in the case of Sub-taluk and Tahsildar in the case of a Taluk and every Rent Tribunal shall be presided over by an officer not below the rank of the District Munsif.

Application of Rent Courts and appeals to Rent Tribunals

10. (1) Notwithstanding any agreement between a land-owner and the cultivating tenant, or any decree or order of a Court, either party may, in case of dispute, apply to the Rent Court on payment of such fee as may be prescribed, for fixation of fair rent or for deciding any other dispute arising under this Act.

(2) Any person aggrieved by the decision of a Rent Court, may, within such time and on payment of such fee as may be prescribed, prefer an appeal to the Rent Tribunal whose decision shall be final, subject to revision, if any under section 12.

Costs

11. The costs of and incidental to all proceedings before the authorities referred to in section 10 shall be in discretion of the respective authority.

Revision by High Court

12. The Rent Tribunal shall be deemed to be a Court subordinate to the High Court for the purpose of section 115 of the code of Civil Procedure, 1908 (Central Act 5 of 1908), and its orders shall be liable to revision by the High Court under the provisions of that section.

Publication of list of prices

13. (1) The Collector shall publish in the months of January, April, July and October every year in the Official Gazette the average market price of the main crops during the immediately preceding three months at the headquarters of each region.

(2) Where, for the payment of fair rent by a cultivating tenant to whom the provisions of this Act apply, the cash value of any crop has to be fixed, such value shall be fixed—

(a) in the case of any of the crops referred to in sub-section (1), at the market price last published under sub-section (1) before the date when such fair rent became payable ;

(b) in the case of any other crop at such rate as may be agreed upon between the landowner and the cultivating tenant and in the case of disagreement as may be deemed fair and reasonable by the Rent Court.

Cultivating tenant's right to obtain receipts

14. (1) Every cultivating tenant paying rent shall be entitled to receive and the landlord shall be bound to grant a receipt containing such particulars as may be prescribed.

(2) If any landlord fails to grant a receipt as provided under sub-section (1), the tenant shall be entitled to send by money order, after deducting the charges for doing so,—

- (i) the money, if the rent is payable in cash ; and
- (ii) the money value of the rent, if it is payable in kind.

Act to override contract and other laws, etc.

15. (1) The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any pre-existing law, custom, usage, agreement or decree or order of a Court.

(2) If any provision contained in the Karaikal Pannaiyal Protection Act, 1966 (Act No. 3 of 1966) is repugnant to any provision contained in this Act, the latter provision shall prevail and the former provision shall, to the extent of the repugnancy, be of no effect.

Exemption

16. Nothing in this Act shall apply to—

- (a) any land during the period when such land is used for raising any crop which does not given any yield for a continuous period of two years or more from the time of cultivation ; or
- (b) to any contract merely for collection or harvesting of the produce of any kind.

Power to make rules

17. (1) The Government may, by notification in the Official Gazette make rules to carry out the purposes of this Act.

- (2) Without prejudice to the generality of the foregoing power such rules may provide for—
 - (a) the procedure to be followed by Rent Courts and Rent Tribunals ;
 - (b) the matters to be taken into account in determining average gross produce ;

- (c) the fees to be paid in respect of applications and appeals under this Act ;
- (d) the time within which appeals may be presented under this Act ;
- (e) the notification of prices of agricultural or horticultural produce for the purpose of fixing the cash value of the fair rent.

(3) All rules under this Act shall, as soon as may be after they are made, be laid before the Legislative Assembly of Pondicherry while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that any such rule should not be made, that rule shall thereafter have effect, only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties

18. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order, do anything not inconsistent with such provisions which appears to the Government to be necessary for the purpose of removing the difficulty :

Provided that no such order shall be made under this section after the expiration of two years from the commencement of this Act.