



The Maharashtra (Vidarbha Region) Agricultural Debtors Relief Act, 1969

Act 22 of 1969

Keyword(s):

Award, Code, Court, Creditor, Debtor, Decree, Financing of Crops, Seasonal Finance

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**THE MAHARASHTRA (VIDARBHA REGION) AGRICULTURAL
DEBTORS RELIEF ACT, 1969.**

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MAHARASHTRA ACT No. XXII OF 1969¹.[THE MAHARASHTRA (VIDARBHA REGION) AGRICULTURAL DEBTORS
RELIEF ACT, 1969.]

[18th April 1969]

Amended by Mah. 55 of 1969.*

Amended by Mah. 7 of 1970.

An Act to provide for the relief of certain agricultural debtors in the Vidarbha region of the State of Maharashtra.

WHEREAS, it is expedient to provide for the relief of certain agricultural debtors in the Vidarbha region of the State of Maharashtra ; It is hereby enacted in the Twentieth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Maharashtra (Vidarbha Region) Agricultural Debtors Relief Act, 1969. Short title,
extent and
commence-
ment.

(2) It extends to the Vidarbha region of the State of Maharashtra.

(3) It shall be deemed to have come into force on the 7th day of March 1969.

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

(1) "award" means an award made under sub-section (4) of section 6 or section 7 or 23 or as confirmed or modified by the Court in appeal ; Definitions.

(2) "Code" means the Maharashtra Land Revenue Code, 1966 ;

(3) "Court" means the court of the Civil Judge (Senior Division), having ordinary jurisdiction in the area where the debtor ordinarily resides, and if there is no such Civil Judge, the court of the Civil Judge (Junior Division), having such jurisdiction and includes any court to which an application may be referred for disposal under section 11 ;

(4) "creditor" means the holder of a decree ;

(5) "debt" means any liability payable by a debtor under or in relation to any decree ;

(6) "debtor" means a person (including an undivided Hindu family) who is a judgment-debtor or defendant against whom all proceedings of the nature referred to in sub-section (1) of section 3 of the Madhya Pradesh Act have been stayed ;

(7) "decree" means any decree referred to in sub-section (1) of section 3 of the Madhya Pradesh Act ;

(8) "financing of crops" means advancing of loans for the cultivation of crops during the ploughing season, or later for ploughing, sowing, harrowing, weeding, harvesting, purchase of seeds, manure or bullocks or for such other purposes and repayable during such periods (not exceeding five years from the date on which a loan is advanced), as may be prescribed ;

(9) "Madhya Pradesh Act" means the Madhya Pradesh Temporary Postponement of Execution of Decrees Act, 1956 ;

(10) "prescribed" means prescribed by rules ;

¹ For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1969, Part V, Page 355.

Maharashtra Ordinance No. XII of 1969 was repealed by Mah. 55 of 1969, s. 3.

(11) "seasonal finance" means advancing of loans for preparation of land for irrigation, for constructing field channels or bunds to save land from erosion, or for removal of silt or for such other purposes and repayable during such periods, as may be prescribed ;

(12) words and expressions used in this Act, but not defined, shall have the meanings respectively assigned to them in the Code of Civil Procedure, 1908, or as the case may be, the Maharashtra Land Revenue Code, 1966.

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CHAPTER II.

PROCEDURE FOR ADJUSTMENT OF DEBTS.

Application
for
adjustment
of debts.

3. (1) Any debtor or his creditor may, subject to the provisions of this Act, make an application before the 4[1st day of April 1970] to the Court for adjustment of the debts of the debtor.

(2) Every application shall be made in writing in the prescribed form, and shall be signed, verified and presented, in the prescribed manner, and shall be accompanied by a copy of the decree and a statement showing the amount paid, if any, in relation to such decree.

Every
creditor and
debtor to
file a true
and correct
statement
before
Court.

4. (1) Notwithstanding the fact that no application has been filed under section 3,—

(a) every creditor, on being required to do so by notice in writing by any of his debtors, shall, within two months from the date of the receipt of such notice, file before the Court a true and correct statement of all his claims under any decree against such debtor, and shall at the same time send a copy thereof to such debtor, and

(b) every debtor, on being required to do so by notice in writing by any of his creditors, shall within two months from the date of the receipt of such notice, file before the Court a true and correct statement—

(i) of all the debts owed by such debtor under any decree;

(ii) whether he holds any land used for agricultural purposes and whether he has been cultivating land personally within the meaning of the Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 ;

(iii) of his income from agriculture and from sources other than agriculture in the year preceding the date of the notice.

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of
1958.

The debtor shall at the same time send a copy of such statement to such creditor :

Provided that, the Court may, for sufficient cause, extend, from time to time, the period within which the creditor or the debtor, as the case may be, may file such statement.

(2) Every debtor or creditor giving a notice under sub-section (1) shall at the same time send a copy thereof to the Court.

(3) In awarding costs of any proceeding in respect of any application made under section 3, the Court may, on being satisfied that the statement required to be filed under sub-section (1) was, without sufficient cause, not filed within the time specified therein, or within the period extended under the proviso to sub-section (1), or incorrectly filed, direct the party in default to bear the whole or any portion of such costs.

¹ These figures, letters and words were substituted for the figures, letters and words " 1st day of October 1969 " by Mah. 53 of 1969, s. 2.

5. No application shall lie under section 3 for adjustment of any debt due from a debtor to whom such debt has been transferred or assigned after the date on which this Act comes into force by any person who is not himself a debtor. Assignees from non-debtor not entitled to benefit of this Act.
6. (1) If any debtor and any or all of his creditors arrive at a settlement in respect of any debt due by the debtor to the creditor or creditors, the debtor or any creditor may, within thirty days from the date of such settlement, make an application to the Court for recording such settlement. Application for recording settlement.
- (2) Every such application shall be in the prescribed form and shall be signed and verified in the prescribed manner.
- (3) On receipt of such application, the Court shall, after giving notice in the prescribed manner to the creditor or creditors or the debtor, as the case may be, and after making such inquiry as it thinks fit, if it is satisfied that the settlement arrived at is *bona-fide* and voluntary, and is not made with intent to defeat or delay any of the creditors of the debtor, and is in the interest of the debtor, record such settlement and certify the same. Every such settlement so recorded and certified shall be binding upon the parties thereto, and shall not, save as otherwise hereinafter provided, be re-opened.
- (4) After the Court has recorded and certified a settlement under sub-section (3), the Court shall call upon the debtor to make a declaration whether there are any other debts due by the debtor which are not included in the settlement. If the debtor makes a declaration that there are no such debts, the Court shall make an inquiry and ascertain that there are no debts other than those included in the settlement and then make an award in terms of such settlement.
- (5) If the Court on making an inquiry under sub-section (4), is satisfied that there are other debts due from the debtor which are not included in the settlement, the Court shall treat the application made under sub-section (1) as an application for adjustment of debts under section 3.
7. Notwithstanding anything contained in the preceding sections, if during the pendency of proceedings before any Court or Court in appeal, as the case may be, a settlement is arrived at between a debtor and all his creditors, and if such Court is satisfied that the settlement has been made by the debtor voluntarily and is for his benefit, such Court may make an award in terms of such settlement. Settlement during pendency of proceedings before Court.
8. Every settlement of a debt due from a debtor to any creditor, which is not certified by the Court under section 6, or in terms of which no award has been made under section 7, shall be void and shall not be recognised by any Court for any purpose whatsoever. Certain settlements to be void.
9. An application for adjustment of debts under section 3 or an application for recording a settlement under section 6 shall not be withdrawn without the leave of the Court. Withdrawal of applications.
10. Where two or more applications for adjustment of debts under section 3 are made by or against the same debtor, all such applications shall be consolidated. Where such separate applications are presented by or against joint debtors, all such applications shall be heard together. Consolidation of applications.

Power of
Civil Judge
to refer
for disposal
certain
applications
to Joint
Civil
Judge.

11. A Civil Judge may refer for disposal any application filed under section 3 or 6 to a Joint Civil Judge.

Service of
notice on
debtors and
creditors
to submit
statement
of debts.

12. On receipt of an application for adjustment of debts, the Court shall—

(a) give notice to the debtor (unless the debtor is himself an applicant) and to every creditor (other than the creditor who is himself an applicant) whose name and address are given in the application, and

(b) publish a general notice,

requiring the debtor and all creditors to submit a statement in the prescribed form within one month from the date of the service of the notice or the publication of the general notice, whichever is later:

Provided that, if the Court is satisfied that the debtor or any creditor is for good and sufficient cause unable to comply with the notice within the time specified therein it may extend the period for the submission of the statement.

Debts in
respect of
which no
application
for adjust-
ment or
settlement
is made to
be extingui-
shed.

13. Every debt due from a debtor in respect of which no application has been made under section 3, before the date specified in that section or in respect of which no application for recording a settlement is made under section 6 within the period specified in the said section 6, or in respect of which an application made to the Court is withdrawn under section 9 and no fresh application is made under section 3 and every debt due from such debtor in respect of which a statement is not submitted to the Court by the creditor in compliance with the provisions of section 12, shall be extinguished.

Duties of
debtors and
creditors.

14. (1) Every debtor by or against whom an application is made under section 3 or who is a party to an application made under section 6, shall produce all books of accounts and shall give such inventories of his property and such lists of his creditors and debtors and of the debts due from and to him, submit to such examination in respect of his property or his creditors, attend at such time before the Court, and generally do all such things as may be required by the Court, or as may be prescribed.

(2) It shall be the duty of every creditor to produce such books of accounts, to submit to such examination and to supply such information in respect of the debt due to him by the debtor and the securities held by him, as may be required by the Court, or as may be prescribed.

Preliminary
issues.

15. (1) On the date fixed for the hearing of an application made under section 3, the Court shall decide the following points as preliminary issues, that is to say:—

(a) whether the person for the adjustment of whose debts the application has been made is a debtor;

(b) whether the creditor or creditors are holding a valid decree against such debtor.

(2) If the Court finds that such person is not a debtor or that the creditor or creditors are not holding a valid decree against the debtor, the Court shall dismiss the application forthwith.

Taking of
accounts.

16. If the Court finds the person making an application under section 3 or the person against whom an application is made under that section to be a debtor, the Court shall proceed to take accounts and reduce the debt in the manner hereinafter provided.

17. In an application for the adjustment of debts if the amount of the creditor's claim is disputed, the Court, shall, when taking accounts, examine both the creditor and the debtor as witnesses, unless for reasons to be recorded, the Court, deems it unnecessary so to do. Examination of creditor and debtor.

18. Notwithstanding any decree referred to in sub-section (1) of section 3 of the Madhya Pradesh Act passed by a civil court, the Court shall determine the amount due to each of the creditors as on the date on which this Act comes into force according to the following provisions, namely :— Mode of taking accounts and reduction of debt or interest or both.

(1) (a) Separate accounts of principal and interest shall be taken ;

(b) In the accounts of principal and interest, there shall be debited the amounts, if any, respectively due for principal (including costs) and interest under or in relation to the decree :

Provided that, if such decree does not specify the amount of principal and interest separately or does not contain any material for determining the same, two-thirds and one-third of the amount awarded by such decree shall, for purposes of this clause, be deemed to be the amount awarded on account of principal (including costs) and interest, respectively.

(2) In respect of the amount due under any decree on the date on which this Act comes into force, in the account of interest, there shall be debited to the debtor simple interest on the balance of principal of the decretal amount for the time being outstanding at the rate agreed upon between the parties, or at the date allowed under such decree or at a rate not exceeding ¹[6 per cent.] per annum, whichever is the lowest. The amount found due under or in relation to such decree in respect of the principal as well as interest shall each separately be reduced by 30 per cent. The amounts so reduced shall be taken to represent the amounts due in respect of principal and interest on the date aforesaid ²[except when the balance appearing due on the interest account exceeds that appearing due on the principal account, in which case, double the latter balance shall be deemed to be the amount then due.]

19. Where any mortgaged property is in the possession of the mortgagee or his tenants other than the mortgagor, and the Court is unable to determine what profits have actually been received, it may fix a fair rent for such property and charge to the mortgagee such rent as profits for the purposes of section 18 : In certain cases rent may be charged in lieu of profits.

Provided that, if it be proved that in any year there was any suspension or remission of rent or land revenue of such land under the Code, an abatement of the whole or part of such amount may be allowed for that year.

20. Notwithstanding anything to the contrary contained in any law, custom or contract, whenever it is alleged during the course of the hearing of an application made under section 3, that any transfer of land by a person whose debts are being adjusted under this Act or any other person through whom he inherited it was a transfer in the nature of a mortgage, the Court shall declare the transfer to be a mortgage, if the Court is satisfied that the circumstances connected with that transfer showed it to be in the nature of a mortgage. Power of Court to declare certain transfers to be in nature of mortgage.

¹ These figure and words were substituted for the figure and words "9 per cent." by Mah. 7 of 1970, s. 2 (a).

² This portion was added, *ibid.*, s. 2 (b)

Provisions of section 20, not to apply to certain transfers and transferees.

21. Nothing in section 20 shall apply to—

(a) any transfer which has been finally adjusted to be a transfer other than a mortgage by a decree of a court, tribunal or other authority of competent jurisdiction ; and

(b) any *bona fide* transferee for value without notice of the real nature of such transfer or his representative, where such transferee or representative holds under a registered deed executed before the date on which this Act comes into force.

Court's duty to determine particulars, value, etc., of property.

21A. After taking accounts under section 18, the Court shall in the manner hereinafter provided determine—

(1) the particulars of the property belonging to the debtor,

(2) the value of the said property,

(3) the particulars of any incumbrances on the said property, and

(4) the paying capacity of the debtor.]

Fraudulent alienations or incumbrances void.

22. (1) If in the course of the hearing of an application made under section 3, the Court finds that the debtor has made an alienation of property or created any incumbrance thereon with intent to defeat or delay any of his creditors, the Court shall, by notice, summon the debtor and the person in whose favour the alienation is made or incumbrance is created to appear before it on a day to be specified in the notice.

(2) On the day specified in the notice, or such other day to which the hearing may be adjourned, the Court shall hear the parties and record evidence as may be produced and if it is satisfied that the alienation was made or the incumbrance was created with intent to defeat or delay any of the creditors of the debtor, the Court shall declare the alienation or incumbrance to be void.

(3) Nothing in this section shall impair the rights of an alienee or the holder of an incumbrance in good faith and for valuable consideration.

Value of property of debtor to be determined by Court in prescribed manner.

22A. (1) Subject to the provisions of sub-sections (2) and (3), the value of the property and other assets of a debtor for the purposes of ascertaining his paying capacity under section 21A shall be determined by the Court in the prescribed manner.

(2) The property or assets which are exempt from attachment in execution of a decree of a civil court under the Code of Civil Procedure, 1908 shall not be taken into account.

(3) The market value of the lands, which under any law for the time being in force, are not transferable or alienable except with the previous sanction of the Collector or the State Government, shall be calculated in such manner as may be prescribed.

Paying capacity of debtor.

22B. The paying capacity of a debtor shall, for the purposes of this Act, be deemed to be 60 per cent. of the market value of all the property of the debtor :

Provided that, when any portion of such property yields income, but the market value of such portion cannot be determined, the value of such portion shall be the amount of the income capitalised at 6 per cent. per annum.

¹ Section 2221A was inserted by Mah. 7 of 1970, s. 3.

² Sections A to 22C were inserted, *ibid.*, s. 4.

22C. (1) Notwithstanding any decree of a civil court referred to in sub-section (1) of section 3 of the Madhya Pradesh Act, the amounts found due under section 18 from a debtor shall be further scaled down in the manner hereinafter provided.

(2) If all the debts found due by a debtor after taking accounts under section 18 are unsecured debts, and the total amount of such debts is more than 60 per cent. of the value of the property belonging to the debtor, such debts shall be further scaled down *pro rata* to the paying capacity of the debtor.

(3) If all the debts found due by a debtor after taking accounts under section 18 are secured debts, and the total amount of such debts is more than 60 per cent. of the value of the property belonging to the debtor, such debts shall be further scaled down *pro rata* to the paying capacity of the debtor.

(4) If the debts found due by a debtor after taking accounts under section 18 are both secured and unsecured, and if the total amount of the secured debts is more than 60 per cent. of the value of the property on which such debts are secured, the secured debts shall be further scaled down *pro rata* to 60 per cent. of the value of the property on which such debts are secured, and the unsecured debts shall be further scaled down *pro rata* to 60 per cent. of the value of the other property belonging to the debtor over which no debts are secured.]

23. (1) After determining the amount of the debts due to the creditor in accordance with the provisions of section 18, the Court shall make an award.

(2) The award shall be in the prescribed form and shall be drawn up subject to the following provisions :—

(i) the amount of the secured debts [scaled down] shall be charged on the properties on which they may have been secured ;

(iii) in fixing the priority in which debts shall be paid, the following order shall be followed :—

(a) debts due to Government which are charged on the immovable property belonging to the debtor or which are recoverable as the current year's land revenue,

(b) debts due to local authorities, which are charged on the immovable property belonging to the debtor or which are recoverable as the current year's dues,

(c) loans given by resource societies or by persons authorised to advance loans under section 50 of this Act,

(d) secured debts in order of priority,

(e) other debts due to co-operative societies not being resource societies,

(f) debts due to notified banks,

(g) unsecured debts:

Provided that, in the case of unsecured debts, they shall be paid *pro rata*.

Explanation.—In this clause, "notified bank" means a bank incorporated in any part of the State and notified by the State Government in the *Official Gazette*, for the purposes of this Act as a notified bank.

(iv) the Total annual instalments shall not exceed twelve :

Provided that, in fixing the amount of instalments in which the debts shall be paid, the Court shall ascertain the net annual income of the debtor, and the annual instalments payable by the debtor shall not exceed his net annual income.

Explanation.—For the purposes of this clause, the net annual income of the debtor means the balance of his annual income after deducting (i) such sum as may be considered necessary for the payment of the liability, if any, imposed on the debtor under a decree or order for maintenance passed by a competent court, (ii) such sum as may be considered necessary for the maintenance of the debtor and his dependants, that is to say, his spouse and his children, whether

¹ These words were inserted by Mah. 7 of 1970, s. 5 (a).

² Clause (ii) was deleted, *ibid.*, s. 5 (b).

married or unmarried, his parents, sisters and daughters-in-law, if such persons (other than the spouse) are depending on him for their maintenance, and (iii) the sum required by the debtor to pay the assessment and taxes in respect of the current year to Government and to local authorities and to pay off loans borrowed for the purpose of the financing of crops or seasonal finance under any law;

(v) the Court may pass an order for the delivery of possession of any property, notwithstanding any law or contract to the contrary;

(vi) the rate of interest shall not exceed 6 per cent. per annum or such less rate as may be notified in this behalf by the State Government or the rate agreed upon between the parties when the debt was originally incurred or the rate allowed by the decree in respect of such debt, whichever is the lowest.

24. The amount of debts reduced under section 18¹ [or further scaled down under Section 22C] shall, for the purposes of this Act, be the amount due by the debtor in respect of the said debts, and the portion of the debts in excess of this amount shall be extinguished.

No recovery of amount in excess of debts reduced.

25. (1) Notwithstanding that the person, for the adjustment of whose debts an application has been made under section 3 or any of his creditors, does not appear on the date fixed for the hearing of the application or on any date to which the hearing may be adjourned, the Court shall proceed *ex-parte* to hear the application, decide the preliminary issues and, if necessary, make the award, on the evidence available.

Ex-parte proceeding, if any party does not appear.

(2) When an application made under section 3 is heard and disposed of *ex-parte* under sub-section (1), the decision on the preliminary issues or the award shall not, except for sufficient reasons, be re-opened merely on the ground that any of the parties thereto did not appear at the hearing.

26. (1) Every award made under this Act if it is in respect of debts charged on the properties of the debtor shall, on payment of the court-fee payable under section 33, be registered in the manner provided in Chapter III.

Award to be registered how executed.

(2) The court-fee on the award shall be paid by the party ordered by the Court to bear the costs:

Provided that, any creditor who is not ordered to bear the costs may pay such court-fee. Such creditor shall be entitled to recover the amount of court-fee paid by him from the debtor with the first instalment payable to him under the award:

Provided further that, no court-fee shall be payable by a co-operative society.

(3) The award shall be executed as follows:-

(i) If the debtor makes default in the payment of any instalment due under the award to any creditor, such creditor may apply in the prescribed form to the Court for execution of the award.

(ii) If the Court, in receipt of such application, is satisfied that the debtor has made default in the payment of the instalment, the Court shall transfer the award for execution to the Collector; and thereupon, the Collector shall recover the amount of the instalment from the debtor as arrears of land revenue:

Provided that, nothing in clauses (i) and (ii) shall affect the right of Government or a local authority or co-operative society to have recourse to any mode of recovery allowable by any law for the time being in force.

(iii) If the Court has passed an order for the delivery of possession of any property under clause (v) of sub-section (2) of section 23, such order shall, on the application, be executed by the Court as if it were a decree passed by it.

¹ These words, figures and letter were inserted by Mah. 7 of 1970, s. 6.

Postponement of payment of instalment in case of remissions, etc.

27. (1) Whenever from any cause, the payment of one-half or more of the land revenue payable to the State Government is suspended or remitted under the Code, the payment of the whole of the instalment due for that year, and the full amount of the instalment due for each subsequent year under an award made under sections 6, 7 or 23 shall be postponed for one year.

(2) Whenever from any cause the payment of any portion less than one-half of the land revenue payable to the State Government is suspended or remitted under the Code, one-half of the amount of the instalment for that year and the full amount of the instalment due for each subsequent year under an award made under sections, 6, 7 or 23 shall be postponed for one year.

No alienation by debtor before discharge of debts valid.

28. Notwithstanding any law or contract but subject to the provisions of section 29 and section 49, no alienation of any property belonging to a debtor, made before all his debts are discharged, shall be valid except with the previous sanction of the Court if the debtor is a party to any proceedings under this Act, or to an award registered under this Act.

Court may order sale of debtor's property in liquidation of his debt.

29. If the Court or the Court hearing an appeal against the award, is at any time satisfied that it is in the interest of a debtor that any part of his property should be sold in liquidation of his debt or part thereof, such Court may permit the debtor to sell such part of the property for such purpose within a specified period. If the debtor fails so to sell it, such Court may order an officer of the Court to sell the same. The property ordered to be sold under this section shall be sold by such officer in the manner prescribed :

Provided that, the part of the property ordered to be sold under this section shall not exceed the part liable to be sold under sub-section (3) of section 42.

Pleaders, etc., excluded from appearance.

30. Except in proceedings under section 22 and sub-section (3) of section 26, no legal practitioner shall be entitled to appear on behalf of any party in any proceeding before the Court or the Court in appeal under this Act :

Provided that, the Court or the Court in appeal in the interest of justice for reasons to be recorded in writing may allow the parties to be represented at their own cost by a legal practitioner :

Provided further that, no fees shall be allowed as part of the costs for the appearance of any legal practitioner in any proceeding under this Act :

Provided also that, if any officer of Government is appointed or declared by a competent court or is authorised, under any law for the time being in force as a guardian, administrator or manager of the property of a person who is under a legal disability or is incompetent or unable to manage or to act, such officer shall be entitled to appear through a representative authorised by him in writing in this behalf in any proceedings before the Court or the Court in appeal. Such representative may also submit any application, and otherwise act on behalf of the officer in any such proceedings.

Appeals.

31. Notwithstanding anything contained in any other law—

(1) an appeal shall lie—

(i) from every order passed under sub-section (3) of section 6 ;

(ii) from every decision or order made under section 15 ;

(iii) from every declaration or order made under section 22 ;

(iv) from every order passed under sub-section (2) of section 25 ;

(v) from every award made under this Act other than an award made in terms of a settlement under sub-section (4) of section 6 or under section 7 ;

(vi) from an order made under sub-section (1) or (2) of section 42 adjudicating the debtor an insolvent: Provided that, no appeal shall lie from such order, except on the ground that the insolvent has failed to disclose all the material facts relating to his assets and liabilities;

(2) an appeal from the Court shall lie to the District Court, and the appeal shall be made within sixty days from the date of the order, decision, declaration or award. In computing the period of sixty days, the provisions contained in sections 4, 5 and 12 of the Limitation Act, 1963, shall, so far as may be, apply;

(3) no second appeal shall lie against any order, decision, declaration or award of the Court under this Act.

32. A District Judge may refer for disposal any appeal filed under the last preceding section to an Assistant Judge or a Civil Judge invested with power to hear appeals under section 27 of the Bombay Civil Courts Act, 1869.

Power of District Judge to refer for disposal certain appeals to Assistant Judge or Civil Judge empowered to hear appeals.

33. (1) Notwithstanding anything contained in the Bombay Court-fees Act, 1959, the court-fees payable in respect of proceedings under this Act shall be at the following rates :—

Court-fees.

(i) on an application under sub-section (1) of section 3 or of section 6 or on an award under sub-section (4) of section 6 or section 7—Re. 1;

(ii) on an award other than an award specified in clause (i)—Re. 1 for every hundred rupees, or part thereof, of the amount of the award, subject to a maximum of Rs. 50;

(iii) on an appeal against a decision of the Court under sub-section (3) of section 6 or sub-section (2) of section 15—Rs. 2;

(iv) on an appeal other than an appeal specified in clause (iii)—Re. 1 for every hundred rupees, or part thereof, of the amount involved subject to a maximum of Rs. 50.

(2) Notwithstanding anything contained in any law, the court-fees payable in respect of proceedings under this Act shall be a first charge on the property of the party ordered to pay the costs and shall be recoverable in such manner as may be prescribed.

34. Any notice required to be served under this Act shall be served in the manner provided in the Code of Civil Procedure, 1908; and when rules are made in that behalf, in such manner as may be prescribed.

Notice how served.

35. Save as otherwise expressly provided in this Act the provisions of the Code of Civil Procedure, 1908, shall apply to all proceedings under this Chapter :

Provisions of Civil Procedure Code to apply to proceedings.

Provided that, the Court may, in a proper case and on such terms as may appear to it to be just, exercise its powers to add or strike out parties under rule 10 of Order I in the First Schedule to the said Code in any proceeding pending before it under section 3, notwithstanding the fact that such addition, or striking out of parties is to be made after the date specified in section 3 has elapsed.

CHAPTER III

REGISTRATION OF AWARDS

Debt Adjustment Register and Index.

36. In all registration offices a book called "Register of Debt Adjustment Awards" and an Index relating thereto shall be kept. The book and index shall be kept in such form and shall contain such particulars as the State Government may prescribe.

Court to send awards and memoranda to Registrars and Sub-Registrars.

37. Where an award is required to be registered under section 26, it shall be the duty of the Court making the award to send to the Sub-Registrar of the sub-district in which the property which is the subject-matter of the award or any part of such property is situated, or if there is no Sub-Registrar for the area, to the Registrar of the district in which the property or its part is situate, a certified copy of the award after the court-fee has been paid thereon in accordance with the provisions of section 33 together with a memorandum containing such particulars as the State Government may prescribe.

Notice of appeals to Registrars.

38. If a party files an appeal against an award under section 31 and if such award has been registered under section 26, it shall be the duty of the Court in which the appeal is filed to send to the Sub-Registrar or the Registrar to whom a certified copy of the award has been sent under section 37, a notice regarding the institution of the appeal.

Registration.

39. After the expiry of the period provided for an appeal against an award, if no appeal is filed, or if an appeal is filed after the disposal of the said appeal, the Sub-Registrar or the Registrar, as the case may be, shall register the award in the Register of Debt Adjustment Awards and shall also enter particulars in the Index kept under section 36.

Notice of awards.

40. Any person acquiring any property or any part of, or any share or interest in, the property of a debtor for the adjustment of whose debts an award has been made and registered shall be deemed to have notice of the award from the date of its registration under this Chapter.

Application of Indian Registration Act.

41. Except as herein provided, the provisions of the Indian Registration Act, XVI of 1908, shall *mutatis mutandis* apply to the registration of awards, and the words and expressions used in this Chapter but not defined in this Act shall have the meanings assigned to them in the Indian Registration Act, 1908.

XVI of 1908.

CHAPTER IV

INSOLVENCY PROCEEDINGS

Court to declare debtor insolvent in certain circumstances.

42. (1) If at any stage of the proceedings under Chapter II, the Court finds that the income of the debtor and his moveable property are not sufficient to allow his debts to be liquidated by annual instalments not exceeding twelve in number, the Court shall make an order adjudicating the debtor an insolvent.

(2) If at any time after the expiration of two years from the date of an award, the debtor satisfies the Court that there is no reasonable probability of his being in a position to pay the remaining amount of instalments fixed under the award, the Court may, notwithstanding anything contained in this Act, after giving notice to the creditor modify the terms of the award, and reduce the amount of the instalment as it may think fit, provided that the total annual instalments in which the balance of the debts shall be paid in such instalments shall not exceed twenty or the Court may make an order adjudicating the debtor an insolvent.

(3) After the debtor has been adjudicated an insolvent, the Court shall direct that such portion of the property of the debtor (being property liable to attachment and sale under section 60 of the Code of Civil Procedure, 1908, excluding such portion thereof as the State Government shall, from time to time, notify in the *Official Gazette* as the minimum necessary for the maintenance of the debtor and his dependants) referred to in section 29 as may be required to liquidate all the debts of the debtor, shall immediately be sold free of all encumbrances in liquidation of all debts outstanding against such debtor.

V of 1908.

V of 1920.

43. The order of adjudication made under sub-section (1) or (2) of section 42 shall have the force of an order made by a competent court in the exercise of its powers under section 27 of the Provincial Insolvency Act, 1920.

Procedure in insolvency proceedings.

44. The proceeds realised by the sale of the property of the insolvent under section 42 shall be distributed in the order of priority specified in clause (iii) of sub-section (2) of section 23.

Distribution of assets of insolvent.

45. No application or proceeding in regard to the insolvency of a debtor shall lie in, or shall be dealt with by, any other court.

Bar to application in insolvency in other courts.

46. Save as provided by sub-clause (vi) of clause (1) of section 31, no appeal shall lie from any order passed under this Chapter.

Appeals barred.

CHAPTER V

MISCELLANEOUS

47. Except as otherwise provided by this Act and notwithstanding anything contained in any other law, no civil court shall entertain or proceed with any suit or proceeding in respect of—

Bar of civil suits or proceedings.

- (i) any matter pending before any Court under this Act, or
- (ii) the validity of any procedure or the legality of any award, order, declaration or decision of the Court under this Act ; or
- (iii) the recovery of any debt made payable under such award.

48. In computing the period of limitation for the institution of any suit or proceeding in respect of any debt due from any person who is held not to be a debtor by the Court or the Court in appeal or an application relating to which has been dismissed by the Court or the Court in appeal, the period during which the proceedings in respect of such debt were prosecuted before the Court or the Court in appeal shall be excluded.

Period of proceeding before Courts under this Act to be excluded.

49. (1) No person, who is or was a party to any proceedings or award under this Act and who is indebted to a resource society or any person authorised to advance loans for the financing of crops or seasonal finance under any law, shall hypothecate or sell the standing crops or the produce of his land without the previous permission of the society, or as the case may be, of the person, until such loan has been repaid in full.

Alienation of standing crops, etc., before repayment of loan prohibited.

(2) Any person who hypothecates or sells the standing crop or the produce of his land in contravention of sub-section (1), shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees.

(3) No criminal court shall take cognizance of any offence under this section except on a complaint in writing of the Court before which the proceedings were held or which made the award.

Power of State Government to authorise any person to advance loans to debtors.

50. (1) The State Government or any officer empowered by it may, by notification in the *Official Gazette*, authorise in any local area any person to advance loans to debtors who are parties to any proceedings under this Act.

(2) The authority granted under sub-section (1) shall be subject to such conditions as may be prescribed.

Rules.

51. (1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication from time to time, make rules for carrying into effect the purposes of this Act.

(2) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty 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, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date of publication of a notification in the *Official Gazette* of such decision, 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 or omitted to be done under that rule.

Repeal of M.P. V of 1956.

52. The Madhya Pradesh Temporary Postponement of Execution of Decrees Act, 1956, is hereby repealed.

M.P.
V of
1956.

Repeal and saving.

53. (1) The Maharashtra (Vidarbha Region) Agricultural Debtors Relief Ordinance, 1969, is hereby repealed.

Mah.
Ord.
VI of
1969.

(2) Anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under this Act.