

Tripura Act No.7 of 2000

THE TRIPURA PUBLIC DEMAND RECOVERY
ACT, 2000

The Tripura Public Demand Recovery Act, 2000

(Tripura Act No.7 of 2000)

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Dated, Agartala, the 21st September,

The following Act of Tripura Legislative Assembly received the assent of the Governor on the 16th September, 2000 and is hereby published for general information:-

A.B. Paul,
L.R. & Secretary to the
Government of Tripura.

THE TRIPURA PUBLIC DEMAND RECOVERY ACT, 2000
AN
ACT

to provide for the speedy recovery of public demand in Tripura.

Be it enacted by the Tripura Legislative Assembly in the Fifty-first year of the Republic of India as follows:-

CHAPTER – I

PRELIMINARY

Short title, extent and commencement:-

1. (1) This Act may be called the Tripura Public Demand Recovery Act, 2000.
2. In this Act, unless the context otherwise requires –
 - (a) “agriculture” includes horticulture, raising of crops, grass or garden produce, animal husbandry, dairy farming, poultry farming and breeding of livestock;
 - (b) “bank” means –
 - (i) a banking company as defined in the Banking Regulation Act, 1949;

- (ii) the State Bank of India constituted under the State Bank of India Act, 1955;
 - (iii) a subsidiary bank as defined in the State Bank of India (subsidiary Banks) Act, 1959;
 - (iv) a corresponding new bank constituted under the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1980;
 - (v) any banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949;
 - (vi) any other financial institution notified by the State Government by a notification in the Official Gazette, as a bank for the purpose of this Act;
- (c) “corporation” means any corporation owned or controlled by the Central or the State Government and specified by the State Government by a notification in the Official Gazette;
- (d) “certificate officer” means a Collector, a Sub-Divisional Officer and nay other officer appointed by the State Government to perform the functions of a certificate officer under this Act;
- (e) “financial assistance” means any kind of financial assistance given –
- (i) for establishing, expanding, modernizing, renovating or running any industrial undertaking; or
 - (ii) for the purpose of vocational training; or
 - (iii) for the development of agriculture or agro-industry; or
 - (iv) for purpose of any other kind of planned development recognized by the State Government; or
 - (v) for relief against distress caused by fire or serious drought, flood or other natural calamities; or
 - (vi) for the purpose of carrying out any state sponsored scheme; or
 - (vii) for any other prescribed purpose
- (f) “government company” means a Government company as defined in section 617 of the Company’s Act, 1956;
- (g) “industrial concern” shall have the same meaning as is assigned to that expression in the State Financial Corporations Act, 1951;

(h) “industrial undertaking” includes any undertaking for the manufacture, preservation, storage or processing of goods, or mining or the hotel industry or the transport of passengers or goods, or the generation or distribution of electricity or any other form of energy, or for the development of any contiguous area of land as an industrial estate.

Explanation – The expression “processing of goods” includes any art or process for producing, preparing or making an article by subjecting any material to a manual, chemical, electrical or any other like operation;

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

(j) “public demand” means –

- (i) any arrear of revenue or land revenue;
- (ii) arrear of rent payable to a court of ward or a revenue authority in relation to property of a private individual when such property is under the charge of such court or authority;
- (iii) any money payable to the Central or State Government or a corporation or a bank of a Government company in repayment of a loan, advance or grant or payment of interest, cost or other dues in cash or in kind under an agreement including an agreement of hire purchase or lease or under any law for the time being in force or under order of any Court or Tribunal;
- (iv) any money due from a purchaser at a sale held in execution of a certificate under this Act where the sale is subsisting or not;
- (v) any money payable to a local authority;
- (vi) any sum payable to Government by a person on account of dues for occupation by such person of any house, tenement or room belonging to the Government;
- (vii) any money which is declared by any law for the time being in force to be recoverable as an arrear of land revenue;

(k) “state sponsored scheme” means a scheme sponsored or adopted by the State Government or an officer authorized by it in this behalf for the development of agriculture or industry and notified as such by the State Government or the authorized officer, by a notification in the Official Gazette;

(l) "State Government" means the State Government of Tripura.

Arrear of public demand, defaulter and Public Demand Recovery Officer –

3. (1) Any public demand which is not paid on the due date shall become an arrear of public demand and the person responsible for the payment shall become a defaulter.

Explanation – "Defaulter" in this sub-section shall not include the Central or the State Government.

(2) The State Government shall authorize one or more officer in the respective department to deal with all matters relating to public demand payable to that department. Similarly, a Corporation, a Government Company or a Bank shall authorize one or more officer to deal with all matters relating to public demand payable to them. Such officer may be known as Public Demand Recovery Officer (PDRO).

CHAPTER II

ARREAR OF PUBLIC DEMAND AND ISSUE OF CERTIFICATE

Requisition for certificate –

4. (1) When there is any arrear of public demand the PDRO concerned may send to the Certificate Officer
- (2) Every such requisition shall be signed and verified by the concerned PDRO in such manner as may be prescribed.

Filing of certificate on requisition –

5. On receipt of any such requisition, the Certificate Officer, if satisfied that the demand is recoverable, may sign a certificate in such Form as may be prescribed stating that the demand is due from the defaulter (who shall be known as the certificate debtor) and shall cause the certificate to be filed in his office.

Service of notice and copy of certificate to Certificate debtor –

6. When a certificate has been filed in the office of a Certificate Officer he shall cause to be served upon the certificate debtor a notice in such Form as may be prescribed and a copy of the certificate.

Effect of the service of notice and the certificate –

7. From and after the service of notice of any certificate under Section 6 upon a certificate debtor –
 - (a) any private transfer or delivery of any of his immovable property or of any interest in such property, shall be void against any claim enforceable in execution of the certificate; and
 - (b) the amount due from time to time in respect of the certificate shall be charged upon the immovable property of the certificate-debtor, wherever situated, to which every other charge created subsequent to the service of eh said notice shall be postponed.

Filling of petition denying liability –

8. The certificate debtor may, within 30 days from the service of the notice required by Section 6, present to the Certificate Officer in whose office the original certificate is filed, a petition in such Form as may be prescribed, signed and verified by him denying his liability, in whole or in part or explaining the circumstances to plead that he is not a willful defaulter.

Hearing and determining of such petition –

9. The Certificate Officer in whose office the original certificate is filed shall hear the petition, take evidence if necessary, and determine whether the certificate debtor is liable for the whole or any part of the amount for which the certificate was signed or whether he is a willful defaulter and may set-aside or modify and certificate accordingly. Such certificate with or without modification after decision under this section shall be the final certificate.

Explanation: A person can not be said to be willful defaulter if he fails to pay public demand for reasons beyond his control, that is, force majeure.

CHAPTER III EXECUTION OF CERTIFICATE

Who may execute certificate –

10. A final certificate may be executed by –
 - (a) the Certificate Officer in whose office the original certificate is filed; or
 - (b) the Certificate Officer to whom, a copy of the certificate is sent for execution under sub-section (1) of Section 11.

Transmission of certificate to another Certificate Officer for execution –

11.(1) A Certificate Officer in whose office the original certificate is filed may send a copy thereof after it becomes a final certificate for execution to any other Certificate Officer.

(2) When a copy of the final certificate is sent to any such officer he shall cause it be filed in his office and thereupon the provisions of Section 7 shall apply as if such copy was an original certificate:

Provided that it shall not be necessary to serve a second notice and copy under Section 6.

When certificate may be executed –

12.(1) A Certificate shall be executed immediately after decision under Section 9 without any further notice to the certificate debtor.

(2) If the Certificate Officer is satisfied that the certificate debtor is likely to conceal, remove or dispose of the whole or any part of his movable properties as would be liable to attachment in execution of a decree of a Civil Court and that the realisation of the amount of the certificate in consequence be delayed or obstructed, he may at any time after filing of the original certificate direct, for reasons to be recorded in writing, attachment of the whole or any part of such movable property;

Provided that if the certificate debtor whose movable property has been so attached furnish a security to the satisfaction of the Certificate Officer, such attachment shall be cancelled from the date on which such security is accepted by the Certificate Officer.

Modes of execution –

13. Subject to such conditions and limitations as may be prescribed, a Certificate Officer may order execution of a certificate –

- (a) by attachment and sale, or by sale without previous attachment, of any property of the certificate debtor; or
- (b) by attachment of any decree or award passed by any Civil Court or, as the case may be, any Tribunal or other authority in favour of the certificate debtor; or
- (c) by arresting the certificate debtor and detaining him in the civil prison; or
- (d) by any two or more of the methods mentioned in clauses (a), (b) & (c).

Notice of sale –

14.(1) Before effecting the sale of any land or other immovable property the Certificate Officer shall issue and publish such notices and proclamation in such Form, in such manner and containing such particulars, as may be prescribed.

(2) A copy of every notice and proclamation issued under sub-section (1) shall be served on the certificate debtor.

Sale by auction –

15.All sales of property, movable or immovable of the certificate debtor shall be by public auction held in such manner as may be prescribed.

Prohibition to bid at auction –

16.No Officer having any duty to perform in connection with any such sale and no person employed by or subordinate to such officer shall, either directly or indirectly, bid for or acquire any such property except on behalf of the Government.

Sale of perishable articles –

17.Perishable articles shall be sold by auction with the least possible delay and such sale shall be finally concluded by the officer conducting the sale.

The sales to be proportionate to the amount of public demand –

18.Every sale of property, movable or immovable, shall, as far as may be practicable, be proportionate to the amount of the arrear of public demand to be recovered together with the interest thereon and the expenses of attachment and sale.

Deposit by purchaser of immovable property –

19.In all cases of sale of immovable property, the party who is declared to be the purchaser shall be required to deposit immediately 25% of the amount of his bid, and the balance within 15 days of the date of sale.

Failure to make deposit –

20.(1) in default of the payment of the deposit referred to in Section 19 the property shall be put up for re-sale and the expenses incurred in connection with the first sale shall be borne by the defaulting bidder.

(2) In default of payment of the balance of the bid amount within the period prescribed in Section 19, the deposit after defraying therefrom the expenses of the sale shall be forfeited and the property shall be re-sold.

(3) When the proceeds of the re-sale are less than the arrear of public demand the difference shall be bridged, as far as practicable, by the balance amount of the deposit forfeited under sub-section (2). However, if there is no difference and the re-sold value is enough to meet the arrear of public demand or the difference is such it does not require entire forfeited amount then the forfeited deposit or part thereof, as the case may be, shall vest with the State Government.

Setting aside of sale –

21. When immovable property has been sold, the defaulter or any person owning such property or holding an interest therein, may, at any time, within 30 days of the date of sale or within such further period not exceeding 15 days as the Certificate Officer may for sufficient cause allow, apply in the prescribed manner to the Certificate Officer to have the sale set-aside –

- (a) on the ground that some material irregularity or mistake or fraud resulted in substantial loss or injury to him, and
- (b) on his depositing to the Certificate Officer the amount of the arrear specified in the proclamation for sale, the cost of sale and for payment to the purchaser, a sum equal to 5% of the purchase money.

Confirmation of sale –

22. If on expiration of 30 days from the date of sale of any immovable property or the further period, if any, allowed under Section 21, no application has been made for setting aside the sale, or if made has been rejected, the Certificate Officer shall make an order confirming the sale unless, for reasons to be recorded, the Certificate Officer sets aside the sale notwithstanding that no application or prayer has been made.

Refunds –

23.(1) The Certificate Officer shall order refund and payment to the purchaser, of –

- (a) the amount deposited by him under Section 19, and
- (b) the sum equal to 5% of the purchase money deposited under Clause (b) of Section 21, if the sale is set-aside.

- (2) The Certificate Officer shall order the refund and payment of all the moneys deposited under Clause (b) of Section 21 to the person who made the deposit if the sale is confirmed.

Certificate of purchase –

24. When a sale held under this Chapter is confirmed, the Certificate Officer shall put the person declared to be the purchaser in possession of the property and shall grant a certificate in the prescribed form to the effect that he has purchased the property specified therein and such certificate shall be deemed to be a valid transfer of such property.

Application of proceeds of sale –

25. The proceeds of the sale of any such property shall be applied to defray the expenses of the sale which shall be determined in the prescribed manner and the balance shall be applied to the payment of the arrears of public demand on account of which the sale was held and the surplus, if any, shall be paid to the person whose property has been sold.

Liability of certified purchaser –

26. The person who has purchased any such land and to whom a certificate of purchase has been granted shall not be liable for the land revenue in respect of that land for any period prior to the date of sale.

Precautionary measures in certain cases –

27. When a crop of any land or any portion of the same is sold, mortgaged or otherwise disposed of, the Certificate Officer may, if he thinks it necessary, prevent its being removed from the land until the demand for the current year in respect of the land is paid, whether the date fixed for the payment of the same has arrived or not.

Attachment of decree –

28. (1) The attachment of decree or award as mentioned in section 13(b) may be made by issue to the Civil Court or the Tribunal or other authority of a notice with request to stay the execution of the decree or payment of the award unless and until –
 - (i) the Certificate Officer cancels the notice; or
 - (ii) the certificate holder or the certificate debtor applies to the Court of execute the attached decree for satisfaction of the certificate from the net proceeds.

- (2) When a Civil Court, Tribunal or other Authority receives an application under Clause (ii) of sub-section (1) it shall subject opt the provisions of the Code of Civil Procedure, 1908, proceed to execute the attached decree and apply the net proceeds for satisfaction of the certificate.
- (3) The Certificate holder shall be deemed to be the representative of the holder of the attached decree, and be entitled to execute such attached decree in any manner lawful for the holder thereof.

Power to arrest and detention –

- 29.(1) Before a Certificate Officer makes order for execution of a certificate by arresting the certificate debtor and detaining him in the civil prison he shall issue and serve a notice upon the certificate debtor calling upon him to appear before the certificate officer on a date to be specified in the notice and to show cause why he should not be committed to civil prison.
 - (a) if the Certificate Officer after considering the cause shown by the certificate debtor, or if no cause is shown within the specified period, is satisfied that the certificate debtor with the object of obstructing or delaying execution of the certificate has, after the filing of the certificate in the office of the Certificate Officer, dishonestly transferred, cancelled or removed any of his property or any part thereof; or
 - (b) that the certificate debtor has or has had since the date of the filing of the certificate the means to pay the amount or any substantial part thereof for which the certificate has been issued and has refused or neglected to pay the same, any issue the order for the arrest and detention in civil prison of the certificate debtor.
- (2) Notwithstanding anything contained in sub-section (1) -
 - (i) a warrant for the arrest against the certificate debtor may be issued by the Certificate Officer if the Certificate Officer is satisfied, by affidavit or otherwise, that with the object of delaying the execution of the certificate the certificate debtor is likely to abscond or leave the local limits of the jurisdiction of the Certificate Officer;
 - (ii) where an appearance is not made in obedience to a notice issued and served under sub-section (1), the Certificate

Officer may issue a warrant of arrest against the certificate debtor.

- (3) Every person arrested in pursuance of a warrant issued under sub-section (2), shall be brought before the Certificate Officer as soon as practicable and in any event within 24 hours of his arrest (exclusive of the time required for journey).

Provided that if the certificate debtor pays the amount entered in the warrant of arrest as due under the certificate and the cost of the arrest to the officer arresting him, such officer shall at once release him.

- (1) When a certificate debtor appears before the Certificate Officer in obedience to a notice to show cause or it brought before the certificate officer under sub-section (3) the Certificate Officer shall proceed to hear as to why he should not be committed to the civil prison.
- (2) Pending conclusion of the hearing under sub-section (4) the Certificate Officer may, in his discretion, order that the certificate debtor be detained in the custody of such officer or authority as the certificate officer may think fit or release him on his furnishing a security to the satisfaction of the Certificate Officer for his appearance when required.
- (3) Upon conclusion of the hearing under sub-section (4) the Certificate Officer may, subject to the provision of Section 31, make an order for the detention of the certificate debtor in the civil prison and shall in that event cause him to be arrested if he is not already in custody.
- (4) When the Certificate Officer does not make any order under sub-section (6) he shall, if the certificate debtor is under arrest, direct his release.

Release from arrest and re-arrest –

- 30.(1) The Certificate Officer may order the release of a certificate debtor who has been arrested in execution of a certificate, upon being satisfied that he has disclosed the whole of his property and has placed it at the disposal of the Certificate Officer and that he has not committed any act of bad faith.
- (2) If the Certificate Officer has ground for believing the disclosure made by a certificate debtor under sub-section (1) to have been

untrue, he may order the re-arrest of the certificate debtor in execution of the certificate, but the period of his detention in the civil prison shall not in the aggregate exceed that authorized by sub-section (1) of Section 31.

Detention in, and release from prison –

31. (1) Every person detained in the civil prison in execution of a certificate may be so detained –

- (a) where the certificate is for a demand of an amount exceeding Rs.5,000/-, for a period which may extend from six months to two years.
- (b) in any other case for a period which may extend to three months.

(2) Notwithstanding the provision of sub-section (1) a certificate debtor may be released from detention -

- (i) on the amount mentioned in the warrant for his detention being paid to the officer in-charge of the civil prison; or
- (ii) on the certificate being otherwise satisfied, or cancelled; or
- (iii) on the omission of the PDRO on whose requisition the certificate was filed to pay the subsistence allowance fixed by the Certificate Officer.

Provided that the certificate debtor shall not be so released from detention except under an order of the Certificate Officer.

(3) A certificate debtor released from detention under clause (iii) of sub-section (2) shall not, merely by reason of his release, be discharged from his debt, but he shall not be liable to be re-arrested and detained in the civil prison in execution of the same certificate.

Release on ground of illness –

32. (1) At any time after a warrant for the arrest of a certificate debtor has been issued, the Certificate Officer may cancel it on the ground of his serious illness or that he is not in a fit state of health to be detained in the civil prison or on ground of any infections or contagious disease.

(2) A certificate debtor released under this section may be rearrested, but the period of his detention in the civil prison shall not in the aggregate exceed that authorized by sub-section (1) of Section 31.

Bar to civil court jurisdiction –

33. No suit or other proceeding against any person acting under this Act for the recovery of any public demand shall lie in any civil court, and no injunction shall be granted in respect of any action taken or intended to be taken in pursuance of the provisions of this Act.

Act shall not affect interest created by mortgage charge, pledge etc. –

34. (1) Nothing in this Act shall affect any interest of the State Government, a Corporation, a Government Company or a bank in any mortgage, charge, pledge or other encumbrance.

(2) Where the property of a certificate debtor is subject to any mortgage, charge, pledge or other encumbrance in favour of the State Government, a Corporation, a Government Company or a bank then -

(a) in every case of a pledge of goods, proceedings shall first be taken for sale of the goods pledged, and if the proceeds of such sale are less than the sum due, then proceedings shall be taken for recovery of the balance;

(b) in every case of a mortgage, charge or other encumbrance on immovable property, such property or, as the case may be, the interest of the certificate debtor therein, shall first be sold in proceedings for recovery of the sum due from his as if it were an arrear of land revenue, and any other proceedings may be taken thereafter only if Certificate Officer certifies that there is no prospect of realization of the entire sum due through the first mentioned process within a reasonable time.

CHAPTER IV MISCELLANEOUS

Appeal –

35. Any person aggrieved by any order of the Certificate Officer may file appeal within a period of 30 days from the date of passing such order. If the Certificate Officer is of the rank of the Deputy Collector the appeal shall lie to the District Collector and if the District Collector himself is the Certificate Officer, the appeal shall lie to the Revenue Secretary to the State Government.

Act not to debar recovery of dues by bank under any other law –

36.(1) Nothing in this Act shall debar the recovery of dues in respect of financial assistance given to an agriculturist or the security of a charge or mortgage created by the agriculturist on any land or interest therein in favour of a Corporation, bank or other institution where such dues are recoverable under the provisions of any other law for the time being in force.

(2) The provision of this Act is not in derogation of any of the provisions of the TLR and LR Act, 1960 relating to recovery of land revenue and other money mentioned therein but may be enforced or resorted to in the alternative.

Power of State government to make rules –

37.(1) The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act.

(2) All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to such decision or modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any decision or modification so made by the State Legislature shall be published in the Official Gazette, and shall, thereupon, take effect.

Transitory provision –

38. All suits of the nature for recovery of money falling within the definition of public demand pending in any civil court immediately before coming into force of this Act shall abate so however that such abatement shall be without prejudice to the right of the State Government, Corporation, Government Company or bank, as the case may be, to recover such demand in accordance with the provisions of this Act or any other law for the time being in force.

A.B. Paul
L.R. & Secretary to the
Government of Tripura

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