THE TAMIL NADU CULTIVATING TENANTS (PAYMENT OF FAIR RENT) ACT, 1956

ACT XXIV OF 1956

*(As Subsequently Amended)**

An Act to provide for the payment of Fair Rent by Cultivating Tenants in certain areas in the State of Tamil Nadu

WHEREAS it is expedient to provide for the payment of fair rent by cultivating tenants in certain areas in the State of Tamil Nadu.

BE it enacted in the Seventh Year of the Republic of India as follows:-

***1. Short title, extent and commencement.-**(1) This Act may be called The Tamil Nadu Cultivating Tenants (Payment of Fair Rent) Act, 1956.

(2) It extends to the whole of the State of Tamil Nadu other than the areas to which the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), extends.

(3) It shall be deemed to have come into force on the 1st day of October 1956;

Provided that in the Shencottah taluk of the Tirunelveli district it shall come into force on the 2nd March, 1960:

Provided further that in the added territories, it shall come into force on the date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension of Added Territotics) Act 1963, is first published in the Fort St.George Gazette:

Provided also that in the Kanyakumari district, it shall come into force on the date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Kanayakumari District) Act, 1972, is first published in the Tamil Nadu Government Gazette.

***2. Interpretation.-**(1) In this Act, unless the context otherwise, requires-

(a) "added territories" means the territories specified in the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act LVI of 1959);

(aa) "agricultural year' means the year commencing on the 1st day of April, or, in respect of the whole or any part of any district on such other date as the Collector of the district may specify in that behalf by notification in the District Gazette;

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(b) 'cultivating tenant'-

(i) 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; and

(ii) includes-

(a) any such person who continues in possession of the land after the determination of the tenancy agreement.

(b) 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;

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

(d) any such sub-tenant who continues in possession of the land notwithstanding that the person who sublet the land to such sub-tenant ceases to have the right to possession of such land; but

(iii) does not include a mere intermediary or his heir;

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

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

(e) 'Government' means the State Government.

(f) 'land owner' 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;

(g) 'normal gross produce in respect of any land' means the produce which would be obtained, if the rainfall and the seasons were of a normal character, from lands of the same class as the land in question, similarly situated and possessing similar advantages;

(h) 'paid; includes "delivered" ;

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

(2) If any question arises whether any land is wet or dry or garden land, the question shall be decided on the actual facts on the date with reference to which the question arises.

***3. Rights and liabilities of cultivating tenant and land - owner.-** (1) With effect from the 1st day of October, 1956, every cultivating tenant shall be bound to pay to the land owner and every land owner shall be entitled to collect from the cultivating tenant fair rent payable under this Act:

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Provided that the provisions in respect of fair rent shall apply also in respect of crops which are normally due for harvest during the month of September in the year 1956.

Explanation I.- In relation to the Shencottah taluk of the Tirunelveli district, the expression 1st day of October, 1956' and 'month of September in the year 1956' occurring in this sub-section shall be constructed respectively as referring to 2nd March, 1960, and months of January and February in the year 1960;

Explanation II.- In relation to the added territories—

(i) the expression '1st day of October, 1956' occurring in this sub-section except in Explanation I shall be construed as referring to 'date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Added Territories) Act, 1963, is first published in the Fort St.George Gazette; and

(ii) the provisio to this sub-section shall be deemed to have been omitted.

Explanation III.- In relation to the Kanyakumari district,-

(i) the expression 'first day of October, 1956', occurring in this sub-section except in Explanation I and II shall be construed as referring to 'date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Kanayakumari District) Act, 1972, is first published in the Tamil Nadu Government Gazette; and

(ii) the proviso to this sub-section shall be deemed to have been omitted.

(2) Where the irrigation of any land is irregular the landowner may, at his option, either take his share of the produce and bear the excess water-cess in respect of the irregular irrigation proportionate to his share or take the share of the produce which would have been obtained but for the irregular irrigation in which case the entire excess watercess shall be borne by the cultivating tenant.

(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) 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.

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(7) Subject to the provisions of the Tamil Nadu Cultivating Tenants Protection Act, 1955 (Tamil Nadu Act XXV of 1955), 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 clause (iii) of sub section (7) shall not apply.

Explanation III. In relation to the Shencottah taluk of the Tirunelveli district, the expression 'commencement of this Act, occurring in this sub-section shall be construed as referring to 2nd March, 1960.

Explanation IV. In relation to the added territories, the expression 'commencement of this Act' occurring in this sub-section except in Explanation III shall be construed as referring to 'date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Added Territories) Act, 1963, is first published in the Fort St.George Gazette.

Explanation V – In relation to the Kanyakumari district, the expression 'commencment of this Act', occurring in this sub-section except in Explanations III and IV shall be construed as referring to 'date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Kanyakumari District) Act, 1972, is first published in the Tamil Nadu Government Gazette'

(8) Omitted by Madras A.O. 1957

(9) Any landowner, 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.

(10) A landowner may advance to his cultivating tenant who is not a member of any co-operative society for better farming such loan as may be necessary for

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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.

(11) Notwithstanding anything contained in sub-section (4) and (10) the landowner may with the consent of the 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 normal gross produce and recover the same from the cultivating tenant. The amount payable by the cultivating tenant under this sub-sectin shall be in addition to the fair rent payable under this Act.

*__4. What is fair rent.-__ (1) Fair rent shall be 25 per cent of the normal gross produce or its value in money.

(2) [Omitted by Act 17 of 1980]

(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 alone shall be payable during the contract period.

4.A. Kaiaeruvaramdar or a mattuvaramdar deemed to be a cultivating tenant.- (1) A Kaiaeruvaramdar or a mattuvaramdar in the district of Tiruchirapalli engaged by the landlord to work on a land remuneration or such work by a share in the crop on such land in respect of which such work is done shall be deemed to be a cultivating tenant in respect of that land with effect from the commencement of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Amendment) Ordinance, 1958, and all the provisions of this Act shall apply to him subject to the provision of sub-section (2).

(2) The landowner shall be entitled to take from the produce of the crop that is standing at the commencement of the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Amendment) Ordinance, 1958, the cost of cultivation of that crop and the balance shall be share in accordance with the provisions of this Act.

*__5. Fair rent may be in cash or in kind.-__(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 the terms of the contract between the landowner and the cultivating tenant; in the absence of such a contract, the fair rent may be paid at the option of the cultivating tenant in any one of the above ways.

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Provided that the option shall be exercised in the case of a tenancy in force on the date on which this Act is first published in the *Fort St.George Gazette,* within three months from that date 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 way in which the fair rent shall be paid by the cultivating tenant.

Provided further that the option once exercised or the way 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.

Explanation I – In relation to the Shencottah taluk of the Tirunelveli district the expression ‘ the date on which this Act is first published in the *Fort St.George Gazette.* occurring in the first proviso to this sub-section shall be construed as referring to ‘the date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Amendment) Act, 1961, is first published in the *Fort St.George Gazette.*

Explanation II. In relation to the added territories, the expression ‘ the date on which this Act is first published in the *Fort St.George Gazette’* occurring in the first proviso to this sub-section shall be construed as referring to ‘the date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension t Added Territories) Act, 1963 is first published in the *Fort St.George Gazette.*

Explanation IIII – In relation to the Kanyakumari district, the expression ‘ the date on which this Act is first published in the *Fort St.George Gazette.* occurring in the first proviso to this sub-section shall be construed as referring to ‘the date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Kanyakumari District) Act,1972, is first published in the *Tamil Nadu Government Gazette.*

(2) Whenever adverse seasonal conditions result in the reduction of the gross produce from any particular crop to the extent of more than 25 per cent 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 conditions as to deposit of admitted rent which has become due.

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SECTION 5 – NOTES

The scope of the enquiry under section 5 (2) of the Act is restricted and compact, and permits consideration of remission in the rent on the ground of adverse seasonal conditions which result in the reduction of the gross produce from any particular crop to the extent of more than 25 per cent. A reading of section 5 (2) bring out the contingencies on which remission could be claimed. *N.S.S. Sivanu Mudaliar v.Sivapakia Nadar, AIR 1985 NOC 130 (Mad).*

The pendency of proceedings for fixation of fair rent before the Rent Tribunal can be no bar to the Rent Court's going into the merits of the application filed by the tenant for revision of rent under section 5(2) of the Act. *Govinda Gounder v. Deenappa Gounder, Air 1981 Mad 240.*

***6. Alteration or revision of fair rent.**(1) 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 purposes 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 land owner, the produce of the land has increased.

(2) Where fair rent has been determined under this Act, in respect of any land before the date of the publication of the Tamil Nadu Cultivating Tenants (Payment of Fair Rent) Amendment Act, 1980, in the *Tamil Nadu Government Gazette,* and such fair rent is in excess of the fair rent specified in section 4, as amended by the said Amendment Act, then, notwithstanding anything contained in sub-section (1), on and from the said date, the fair rent so determined shall, in respect of that date and any period after that date stand reduced to the fair rent specified in the said section 4, as amended by that Amendment Act.

7. Sharing of produce. 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.

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8. Construction of Rent Courts and Rent Tribunal.- (1) The Government may, by notification, 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 Tahsildar and every Rent Tribunal shall be presided over by an officer not below the rank of District Munsif.

9. Application to Rent Courts and appeals to Rent Tribunals.- (1) Notwithstanding any agreement between a landowner and the cultivating tenant, or any decree or order of a Court, either party may apply to the Rent Court for fixation of fair rent or for deciding any dispute arising under this Act.

(2) From every decision of a Rent Court, an appeal shall, within such time as may be prescribed, lie to the Rent Tribunal whose decision shall be final, subject to revision, if any, under section 11.

SECTION 9 – NOTES

Fair rent under the Act has got to be fixed by the Rent Court or the Rent Tribunal as the case may be, in terms of the formula laid down by section 4 of the Act. Where the land in question is of a category, which falls under section 4 (1) (iii), the fair rent for the land is to be fixed as equivalent to 33 $^{1/3}$ per cent of the normal gross produce or its value in money. Normal gross produce in respect of any land is defined under the Act to mean the produce which would be obtained, if the rainfall and the seasons were of the normal character, from lands of the same class a the land in question, similarly situated and possessing similar advantages. In order to enable the Rent Court and the Rent Tribunal determine the fair rent for any land on the above basis, the legislature had made appropriate provision in the Act. It had also empowered the rule making authority to lay down guidelines in this regard in rules to be prescribed for the purpose. The relevant rules framed by the State Government under the Act make more elaborate provision for enabling the Rent Court and Rent Tribunal to determine the fair rent it particular cases by reference to relevant data. The Rules also confer requisite powers on the Rent Court and Rent Tribunal, by the exercise of which, they could get at the relevant data and information. The rules make it quite clear that the be all and end all of the power , both of the Rent Court and Rent Tribunal, is to fix a fair rent on the basis of all available and relevant data. Both the statute and statutory rules have been made to the end that these two authorities are supplied with such data without the inhibitions of any formalisms of procedure cluttering up the enquiry. The provisions relating to the furnishing of figures of average market prices of the main crops of a district, gazetting them in the District Gazette and making available the copies of the District Gazette to the Rent Court and Rent Tribunal, have all got to be understood only from the stand point that the task of these two authorities is essentially to get at the requisite material to arrive at the fair rent in the given case. The proceedings for fixation of fair rent and the

subsequent enquiry as such cannot be likened in all respects to a judicial proceedings before a common law court. Where the Rent Tribunal had remanded the whole case for no other reason that the landlord, for his part, did not produce before the Tribunal the District Gazette containing the data of market prices, held, that finding fault with the landlord for not producing a copy of the gazette is an act of the Rent Tribunal which is founded on a thorough misconception of what its role is under the statutory scheme of things. Likewise, the Tribunal could not remand the case on the ground that the landlord had not called in the testimony of neighbowring property owners and cultivators of adjacent lands. Even if the parties do not call them to the witness box, it would still be the bounden duty of the Rent Court or the Rent Tribunal to call for their evidence, if it thinks it would be relevant and it would assist the determination of the fair rent in given case. *Govinda Gounder v. Deenappa Gounder, AIR 1981 Mad 240.*

10. Costs.- The cost of and incident to all proceedings before the authorities referred to in section 8 and 9 shall be in the discretion of the respective authority.

11. Revision by High Court.- The Rent Tribunal shall be deemed to be a Court subordinate to the High Court for the purposes of section 115 of the Code of Civil Procedure, 1908 (Central Act V of 1908), and its orders shall be liable to revision by the High Court under the provisions of that section.

12. Collector to publish list of prices.- (1) The Collector of the district shall publish in the month of January, April, July and October every year in the District Gazette the average market price during the immediately preceding three months at the headquarters of each taluk of the main crops of the district.

(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), the market price at the taluk headquarters last published under sub-section (1) before the date when such fair rent became payable;

(b) in the case of any other crop 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.

13. Act to override contract and other laws, etc,- 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.

***14. Surrender of land in excess of certain extent.** – The provisions of this Act shall not apply to any cultivating tenant who owns, or who cultivates either as tenant or as owner or as both, an extent of land in excess of one veli (6-2/3 acres) of wet land.

(2) Any cultivating tenant who owns, or who cultivates either as tenant or as owner or as both, an extent of land exceeding that specified in sub-section (1) but not exceeding 10 acres of wet land may, by notice in writing addressed to the landowner, relinquish at the end of the agricultural year ending in 1957 the tenancy, in respect of such portion of the land aforesaid, as may be necessary to entitle him to all the benefits of a cultivating tenant under this Act. Such cultivating tenant shall be entitled to all the benefits of this Act till the end of the agricultural year ending in 1957 and shall thereafter be entitled to all the rights of a cultivating tenant under this Act only on such relinquishment.

Expalanation I – In relation the Shencottah taluk of the Tirunelveli district, the expression 'the agricultural year ending in 1957' in both places where it occurs in this sub-section shall be construed as referring to 'the agricultural year ending in 1962'.

Explanation II – In relation to the added territories, the expression 'the agricultural year ending in 1957' wherever it occurs in this sub-section except in Explanation I shall be construed as referring to 'the agricultural year ending in 1964.

Explanation III – In relation to the Kanniyakumari district, the expression 'the agricultural year ending in 1957' wherever it occurs in the sub-section except in Explanations I and II shall be construed as referring to 'the agricultural year ending in 1979'.

(3) For the purpose of computing the land owned or cultivated by a person all the lands owned or cultivated by him whether wet, dry or garden shall be taken into account and 3 acres of dry land or 1-1/2 acres of garden land shall be taken as equivalent to one acre of wet land.

***15. Exemption.**- Nothing in this Act shall apply to any land during the period when such land is used for raising as main crop, […….] plantation or betel vines or any crop which does not give any yield for a continuous period of two years or more from the time of cultivation or to any contract merely for collection or harvesting of the produce of any kind.

16. Act to over-ride Madras Act XIV of 1952.- If any provisions contained in the Tanjore Tenants and Pannaiyal Protection Act, 1952 (Madras Act XIV of 1952), is repugnant to any provisions contained in this Act, the latter provisions shall prevail and the former provision shall, to the extent of the repugnancy, be of no effect.

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***17. Power to make rules.**- (1) The Government may, [….] 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 normal 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) (a) All rules made under this Act shall be published in the *Fort St.George Gazette* and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day come into force on the day on which they are published.

(4) Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification 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 or notification.

18. Power to remove difficulties.- If any difficulty arises in giving effect in the provisions of this Act, the Government may, as occasion may require, by order, do anything which appeals to them necessary for the purpose of removing the difficulty. A copy of every order passed under this section shall be laid before each House of the Legislature.

***19. Act not to apply to lands owned by Central Government, State Governments, etc.**- Nothing contained in this Act shall apply to any land owned or taken on lease by :-

(i) the Central Government or any State Government or any local authority; or

(ii) any company or corporation owned or controlled by the Central Government or any State Government; or

(iii) any University constituted by any law.

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