THE TAMIL NADU CULTIVATING TENANTS PROCECTION ACT, 1955

ACT XXV OF 1955

(As Subsequently Amended)

An Act for the protection from eviction of cultivating tenants in certain areas in the State of Tamil Nadu

WHEREAS it is necessary to protect cultivating tenants in certain area in the State of Tamil Nadu from unjust eviction;

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

*__1. Short title and extent__.- (1) This Act may be called the Tamil Nadu Cultivating Tenants Protection Act, 1955.

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

(3)Omitted by Act VIII of 1965.]

SECTION I – NOTES

This Act was extended to the Shencottah Taluk of the Tirunelveli district by the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Shencottah taluk) Act, 1959 (Tamil Nadu Act 28 of 1959) repeating the corresponding law in force in that taluk.

This Act was extended to the added territories by the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Added Territories) Act, 1963 (Tamil Nadu Act 33 of 1963) repealing the corresponding law in force in those territories.

This Act was extended to the Kanyakumari district by the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension to Kanyakumari district) Act, 1972 (Tamil Nadu Act 4 of 1976) repealing the corresponding law in force in that district.

The Tamil Nadu Cultivating Tenants Act, 1955 was made a permanent Act by the Tamil Nadu Cultivating Tenants Protection (Continuance) Act, 1965. Earlier the life of this Act was extended from time to time by Tamil Nadu Acts 19 of 1958, 12 of 1959, 26 of 1961 and 15 of 1963.

The provisions of this Act shall, except in so far as they are inconsistent with any of the provisions of Chapter VIII of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58 of 1961), continue in force by virtue of section 71 of that Act.

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*See Table of Amendments

Section 68 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58 of 1961) provides that nothing contained in Chapter VIII of that Act shall be deemed to affect the right of any land owner under the Tamil Nadu Cultivating Tenants Protection Act, 1955, to resume possession for purposes of personal cultivation of the land the possession of which has been taken by the Government and for the purposes of such resumption the Government shall be deemed to be the cultivating tenant in respect of the land aforesaid.

This Act in its application to cultivating tenant in respect of any land held by him under a public trust, stands repealed on and from the date of commencement of the Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Tamil Nadu Act 57 of 1961) by virtue of section 62 of that Act.

The Tamil Nadu Cultivating Tenants Protection Act was a beneficent legislation for granting security of tenure to cultivating tenants of agricultural lands. It is a well settled canon of construction that in construing the provisions of such enactments the court should adopt the construction which advances, fulfils and furthers the object of the Act rather than the one which would defeat the same and render the protection illusory, *Chinnamakathian v. Ayyavoor, AIR 1982 SC 137.*

2. **Definitions.-** 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) “Cultivating tenant”-

(i) means of 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

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(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;

(b) “Cultivation” means the use of lands for the purpose of agriculture or horticulture;

(bb) “garden land” means dry land irrigated by lifting water from wells or other sources;

(c) “holding” means a parcel or parcels of land held by a cultivating tenant;

(d) “land” means land used for the purpose of agriculture or horticulture and includes any building, or any waste, vacant or forest land, appurtenant thereto, and any house-site belonging to the landlord and let to the cultivating tenant under the same agreement of tenancy;

(e) “landlord” in relation to a holding or part thereof means the person entitled to evict the cultivating tenant from such holding or part;

(ee) a person is said to carry on personal cultivation on a land when he contributes his own physical labour or that of the members of his family in the cultivation of that land;

(f) “Revenue Divisional Officer” means the Revenue Divisional Officer in whose jurisdiction the holding in question or part thereof is situate or an officer of the Revenue Department not lower in rank than the Revenue Divisional Officer, empowered by the State Government in this behalf;

(g) one acre of wet land shall be deemed to be equivalent to one and a half acres of garden land or three acres of dry land and any reference to acres of wet land shall be deemed to include a reference to dry or garden land reduced to their equivalent extent of wet land.

SECTION 2 (aa) – NOTES

The act of the Receiver in letting out the land in the suit is an act of the court itself and it is done on behalf of the court, the whole purpose of the court taking possession through Receiver appointed by it is to protect the property for the benefit of the ultimate successful party. If that is the essence and purpose of appointment of a Receiver, by a literal application of the Tamil Nadu Cultivating Tenants Protection Act, it could not be put beyond the reach of the court to give relief to the successful party entitled to possession. Not only actus curiae nominem gravabit (an act of the court shall prejudice no man) but also the doctrine of the property being in custodia legis coupled

with public policy in rendition of proper justice and conservance of power therefor would be valid and effective reasons for the view that the intention of the Act is not to extend the protection to the tenant of the Receiver and thus defeat justice eventually. An act of the Receiver done on behalf of the court is done pendente lite and anyone who gets possession through such act can only do so subject to the directions and orders of the court. A tenant let into possession of land an incidental immovable property by a Receiver appointed by court pending a suit would not be entitled to protection under the Tamil Nadu Cultivating Tenants Protection Act. *Arumugha Gounder v. Ardhanari Mudaliar, AIR 1975 Mad 231 (FB).*

A lessee from a Receiver who was authorized to lease the property for a limited period during the pendency of certain proceedings or from a guardian during the period of guardianship subject to the directions of the court could not obtain the benefits of the Cultivating Tenants Protection Act, unless the court by appropriate directions conferred by its order such benefit at the time of granting the lease. In a case of a lease of agricultural land for one year from property guardian of a minor under the directions of court, it was held that the lessee was not entitled to protection under the Act. *Ramaswamy Gounder v.Kalliappa Gounder. (1964) I Mad LJ 368.*

In the case of a joint family, if one of the members of a joint family contributes his labour that would suffice to hold that the family is entitled to the protection under the Act *Sudalaimuthu v. Palaniyandavan. AIR 1966 SC 469.*

The effect of the inclusive definition is that it brings about a statutory tenancy for purposes of protection. To bring about that result, the precedents are that there should have been in the origin a tenancy agreement, express or implied, and under that agreement to which the person is a party, he should carry on personal cultivation on the land. If these premises are granted, though the agreement of tenancy, express or implied, has terminated but the person mentioned in the first part of the definition continues in possession of the land, he will be a cultivating tenant. The first part of the definition does not specify as between whom and whom the tenancy agreement mentioned is contemplated. The lease may have been granted by the owner or a usufrutuary mortgagee or even a lessee of the land. But the person who carries on personal cultivation of the land, should derive his right under a tenancy agreement, express or implied, with a person entitled to enter into it who may be any one of those persons mentioned above. To attract the inclusive definition, the two requisites are determination of a tenancy agreement and the person, who was within the first part of the definition, continues in possession of the land. If these requisites are satisfied, the person continuing in possession of the land will be a cultivating tenant. The inclusive definition does not visualise that, after determination of the tenancy if the person as defined in the first part of the definition continues in possession of the land, he would not be a cultivating tenant unless there is a contractual relationship, express or implied, with his landlord. A landlord is defined not in terms of a person who let out the land but as a person entitled to evict the cultivating tenant. No contractual relationship is

necessary or is implied for purposes of the definition. Even though the usufructuary mortgage on the strength of which the mortgagee let out to the tenant has been redeemed, since the tenancy originated in an agreement and since because of the redemption such an agreement came to an end but the tenant continued to be in possession, he will squarely be within the inclusive definition of the term “cultivating tenant”. The tenants under a usufrutuary mortgagee are entitled, after redemption of the usufructuary mortgage, to claim protection under the Act, as against the mortgagor *Chandrasekaran v..Kunju Vanniar, AIR 1975 Mad 227 (FB).*

By Amending Act IX of 1969, a sub-tenant was brought within the vortex of the inclusive definition. But on principle, the position of usufructuary mortgagee is not different from that of a lessee who sub-lets, because in either case the tenancy results from a valid agreement and after its termination the tenant continuing in possession becomes entitled to statutory protectin *Chandrasekaran v. Kunju Vanniar, AIR 1975 Mad 227 (FB).*

A tenant of a usufructuary mortgage with whom the tenancy agreement came to an end would be entitled to statutory protection under the Act, if he continues to be in possession and cultivate the land *Chandrasekaran v. Kunju Vanniar, AIR 1975 Mad 227 (FB).*

In order to get the benefits of the Act, the legal representatives also should satisfy the condition of personal cultivation as required in the definition of cultivating tenant. *Venkataswami Reddiar v. Sundaramurthy, AIR 1972 Mad 171: (1971) 2 Mad LJ 445.*

On the death of the cultivating tenant, his legal representatives would be entitled to claim the protection of the Act if any one of them satisfied that the had personally contributed his labour in the cultivation of such land. *Rasappa Gounder v. G.N.Ramaswami, AIR 1975 Mad 386.*

The defendant leased the suit properties to the plaintiff and his father. Both these lessees were contributing their physical labour and, therefore, they were cultivating tenants within the meaning of the Act. On the death of the plaintiff’s father, his legal representatives were entitled to claim the protection of the Act, as one of the legal representatives, namely, the plaintiff satisfied that he has personally contributed his labour in the cultivation of the land. The legal representatives of the father are also cultivating tenant within the meaning of the Act *Rasappa Gounder v. G.N.Ramaswami, AIR 1975 Mad 386.*

In the sub-lessee continues in possession but the tenancy agreement originally entered into had not terminated, then the inclusive definition may not apply and, therefore, the sub-lessee may not be entitled to protection. If, on the other hand, by the time the sub-lessee claims protection under the Act, the tenancy agreement with his

lessor had terminated, then it will be a different matter to which the inclusive definition will have application. *Chandrasekaran v. Kunju Vanniar, AIR 1975 Mad 227 (FB).*

The statutory definition of the term "landlord" relates not only to the person who created the lease but contemplates and takes in every successive holder who could be entitled to evict a tenant. That person can only be one who has the right, at the time of filing the suit, to realize rents or evict persons in wrongful occupation. There is nothing in the Act itself to show that the protection given to the cultivating tenant, as defined in the Act, was given only against the original lessor and did not extend to subsequent holders of land occupying the capacity of the landlord. *G.Ponniah Thevar v. Nalleyam Perumal Pillai, AIR 1977 SC 244.*

***2-A Construction of certain expressions.-** (1) In relation to the Shencottah taluk of the Tirunelveli district, the expressions 'the commencement of this Act, 'the day this Act comes into force,' 'the date of coming into force of Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956,' 'the day the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956, comes into force' and 'the coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956' wherever they occur in this Act except in clause (a) of, and *Explanation II,* to sub-section (2) and sub-section (3) section 3 shall be construed as referring to the 2nd March, 1960; and expression '31st March, 1954,' wherever it occurs in this Act, shall be construed as referring to 31st March, 1959.

(2) In relation to the added territories, the expressions 'the commencement of this Act, ' such commencement', 'the day this Act comes into force,' 'the date of coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956,' 'the day the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956, comes into force,' and 'the coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956' wherever they occur in this Act except in sub-section (1) of this section and clause (a) of, and *Explanation II,* to sub-section (2) of section 3 shall be construed as referring to 'the date on which the Tamil Nadu Cultivating Tenants Protection and Payment of Fair Rent (Extension of Added Territories) Act, 1963, is first published in the *Fort St.George Gazette.*

(3) In relation to the Kanyakumari district, the expressions 'the commencement of this Act', 'such commencement', 'the day this Act comes into force', 'the date of coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956', 'the day the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956 comes into force,' and 'the coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956' wherever they occur in this Act except in sub-section (1) and (2) of this section and clause (a) of, and *Explanation* II to, sub-section (2) of section 3 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.*

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*See Table of Amendments

***3. Landlords not to evict cultivating tenants.-** (1) Subject to the next succeeding sub-sections, no cultivating tenant shall be evicted from his holdings or any part thereof, [……..] by or at the instance of his landlord, whether in execution of a degree or order of a Court or otherwise.

(2) Subject to the next succeeding sub-section, sub-section (1) shall not apply to a cultivating tenant-

(a) who, in the areas where the Tanjore Tenants and Pannaiyal Protection Act, 1952 (Tamil Nadu Act XIV of 1952), was in force immediately before the date of coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956, if in arrear at the commencement of this Act, with respect to the rent payable to the landlord does not pay such rent within six weeks after such commencement or who in respect of rent payable to the landlord after the commencement of this Act, does not pay such rent within a month after such rent becomes due; or

(aa) who, in the other areas of the State of Tamil Nadu, if in arrear at the commencement of this Act, with respect to the rent payable to the landlord and accrued due subsequent to the 31st March, 1954, does not pay such rent within a month after such commencement or who in respect of rent payable to the landlord after such commencement, does not pay such rent within a month after such rent becomes due; or

(b) who has done any act or has been guilty of any negligence which is destructive of, or injurious to, the land or any crop thereon or has altogether ceased to cultivate the land; or

(c) who has used the land for any purpose not being an agricultural or horticultural purpose; or

(d) who has willfully denied the title of the landlord to the land.

Explanation I: A denial of the landlord's title under a bona fide mistake of fact is not willful within the meaning of this clause.

Explanation II : The expression 'commencement of this Act' wherever it occurs in this Act, shall be construed as referring—

(a) In relation to areas where the Tanjore Tenants and Pannaiyal Protection Act, 1952 (Tamil Nadu Act XIV of 1952), was in force immediately before the date of coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956 (Tamil Nadu Act XIV of 1956), to the date aforesaid, and

(b) In relation to persons who became cultivating tenant by virtue of the Tamil Nadu Cultivating Tenants Protection (Amendment) Ordinance, 1958, to the date of the commencement of that Ordinance.

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*See Table of Amendments

Explanation III: In relation to the added territories, clause (aa) of this sub-section shall have effect as if the following clause had been substituted, namely:-

"*(aa)* who, if in arrear on the date on which the Tamil Nadu Cultivating Tenants Projection and Payment of Fair Rent (Extension to Added Territories) Act, 1963, is first published in the *Fort St.George Gazette,* with respect to the rent payable to the landlord and accrued due during a period of one month before such date does not pay such rent within a month after such date, or who in respect of rent payable to the landlord after such date, does not pay such rent within a month after such rent becomes due, or"

Explanation IV: In relation to the Kanyakumari district, clause (aa) of this sub-section shall have effect as if the following clause had been substituted, namely:-

"(aa) who, if in arrear on 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,* with respect to the rent payable to the landlord and accrued due during a period of one month before such date does not pay such rent within a month after such date, or who in respect of rent payable to the landlord after such date, does not pay such rent within a month after such rent becomes due; or":

(3) (a) A cultivating tenant may deposit in Court the rent or, if the rent be payable in kind, its market value on the date of deposit, to the account of the landlord-

(i) in the case of rent accrued due subsequent to the 31st March, 1954, within a month after the commencement of this Act;

(ii) in the case of rent accrued due after the commencement of this Act, within a month after the date on which the rent accrued due.

(b) The Court shall cause notice of the deposit to be issued to the landlord and determine, after a summary enquiry, whether the amount deposited represents the correct amount of rent due from the cultivating tenant. If the Court finds that any further sum is due, it shall allow the cultivating tenant such time as it may consider just and reasonable having regard to the relative circumstances of the landlord and the cultivating tenant for depositing such further sum inclusive of such costs as the Court may allow. If the Court adjudges that no further sum is due, or if the cultivating tenant deposits within the time allowed such further sum as is ordered by the Court, the cultivating tenant shall be deemed to have paid the rent within the period specified in the last foregoing sub-section. If, having to deposit a further sum, the cultivating tenant fails to do so within the time allowed by the Court, the landlord may evict the cultivating tenant as provided in sub-section (4).

(c) The expression “Court” in this sub-section means the Court which passed the decree or order for eviction, or, where there is no such decree or order, the Revenue Divisional Officer.

Explanation I.—In relation to the Shencottah taluk of the Tiruneveli district the expression ‘commencement of this Act’, wherever it occurs in clause (a) of 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 ‘rent accrued due subsequent to the 31st March 1954’ occurring in sub-clause (i) of clause (a) of this sub-section shall be construed as referring to ‘rent accrued due during a period of one month before the 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 III.—In relation to the Kanyakumari district, the expression ‘rent accrued due subsequent to the 31st March, 1954’, occurring in sub-clause (i) of clause (a) of this sub-section shall be construed as referring to ‘rent accrued due during a period of one month before 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.*

(4) *(a)* Every landlord seeking to evict a cultivating tenant falling under sub-section (2) shall, whether or not there is an order or decree of a Court for the eviction of such cultivating tenant, make an application to the Revenue Divisional Officer and such application shall bear a Court-fee stamp of one rupee.

(b) On receipt of such application, the Revenue Divisional Officer shall, after giving a reasonable opportunity to the landlord and the cultivating tenant to make their representations, hold a summary enquiry into the matter and pass an order either allowing the application or dismissing it and in a case falling under clause (a) or clause (aa) of sub-section (2) in which the tenant had not availed of the provisions contained in sub-section (3), the Revenue Divisional Officer may allow the cultivating tenant such time as he considers just and reasonable having regard to the relative circumstances of the landlord and the cultivating tenant for depositing the arrears of rent payable under this Act inclusive of such costs as he may direct. If the cultivating tenant deposits the sum as directed, he shall be deemed to have paid the rent under sub-section (3) (b). If the cultivating tenant fails to deposit the sum as directed, the Revenue Divisional Officer shall pass an order for eviction;

Provided that the Revenue Divisional Officer shall not direct the cultivating tenant to deposit such arrears of rent as have become time barred under any law of limitation for the time being in force.

SECTION 3 – NOTES

Unless there is anything in the Tamil Nadu Cultivating Tenants Protection Act, or the rules prohibiting the application of any provisions of the C.P. Code, the Code is applicable to the proceedings in the revenue court. The provisions of the C.P. Code ought not to be strictly iron-jacketed and rendered inelastic. *Muthiah Nattar v. Ibrahim Rowther, (1967) 80 Mad LW 419.*

The provisions of the Civil Procedure Code are in all force applicable to the service of summons in respect of parties before the revenue court. *Kandaswamy Gounder v. Vannimuthu Gounder, AIR 1976 Mad 269.*

The terms of the statutory protection apply clearly to all tenancies governed by the Act irrespective of the nature of rights of the person who leased the land so long as the lessor was entitled to create a tenancy. The view that a tenancy created by a life-estate holder could not last beyond the life of a life-estate holder, if applied to statutory tenancies, would run counter not only to the principles underlying creation of statutory tenancy rights in agricultural land, but would also be in conflict with the particular statutory protection conferred protection upon cultivating tenants govern the rights of the appellants, the Court is not concerned with any rights under any general or persona law which may enable the remainder-men to evict a tenant of a life-estate holder. *G.Ponniah Thevar v. Nalleyam Perumal Pillai, AIR 1977 SC 244.*

The value of the land would be adversely affected if only a single crop is cultivated in a double crop land. There will be injury to the land value and the injury to the land value be injurious to the land itself which would justify an order for eviction, *Rethinam v.Kuppuswami Odayar, AIR 1981 Mad 170.*

Sub-section (4) of section 3 gives the Revenue Divisional Officer Power either to allow the application of the landlord or to dismiss it after he has held a summary enquiry into the matter. If the application is allowed an order of eviction has to be passed. If it is dismissed the proceedings again come to an end. However, if the ground of eviction is non-payment of rent, the RDO is clothed with power to allow the cultivating tenant to deposit the arrears and costs as directed. The power is discretionary and, while exercising the same it is not incumbent on the RDO to grant time. If the legislature intended to make it obligatory on the part of the RDO to fix a time for deposit of the arrears in all cases covered by clause (a) or clause (aa) of sub-section (2), there is no reason why it should have used the word “may” in relation to the grant of time. If may be seen that in clause (b) of sub-section (3) the legislature has directed that “if the Court finds that any sum is due it shall allow the cultivating tenant such time as it may consider just and reasonable…….” While the opportunity of depositing the arrears of rent cannot be defined to cultivating tenant during the court of proceedings under sub-

section (3), the same is not available as of right under clause (b) of sub-section (4): The difference in the language used by the legislature is significant and not without purpose. The intention of the legislature appears to be that normally a defaulting tenant must seek the help of the court all by himself and that if he does so he must be protected; but that a defaulting tenant who waits for payment of rent till he is sought to be evicted by the landlord is not necessarily entitled to the same protection. An example of a case in which no time should be allowed would be that of a tenant who, although in affluent circumstances at all relevant points of time, has failed to make payment of rent year after year in spite of repeated demands from an otherwise indigent landlord and whose conduct is, therefore, contumacious calling for no sympathy or concession. The extension to him of the same facility which is afforded to a willing tenant under sub-section (3) would be uncalled for and in fact unjust. The word "may" occurring in clause (b) of sub-section (4), cannot be equated with "shall" so as to make it obligatory on him to grant time to the cultivating tenant. *Chinnamarkathian v. Ayyavoo,AIR 1982 SC 137.*

When the Revenue Divisional Officer allows time to a cultivating tenant for depositing the arrears of rent in pursuance of the provisions of clause (b) of sub-section (4) of section 3 of the Act, he cannot simultaneously pass a condional order for eviction which is to take effect on a default to occur in futuro. An order of that type can, in terms of the section, only be passed" if the cultivating tenant fails to deposit the sum as directed *Chinnamarkathian v. Ayyavoo,AIR 1982 SC 137.*

A reading of section 3 (4)(b) of the Act shows that on receipt of an application, the Revenue Divisional Officer shall after giving reasonable opportunity to the landlord and the cultivating tenant to make their representation shall hold a summary enquiry into the matter and pass an order either allowing the application or dismissing it and in a case falling under clause (a) or clause (aa) of sub-section (2) in which the tenant has not availed of the provisions contained in sub-section (3), the Revenue Divisional Officer may allow the cultivating tenant such time as he considers just and reasonable for depositing the arrears of rent payable by the cultivating tenant under the Act and on such payment, the tenant shall be deemed to have paid the rent and if he does not pay the rent, the Revenue Divisional Officer may order evicting him. It is therefore obvious that the officer acting under the Act has either to allow the application or to dismiss it after hearing the representations of the parties who have been served and in case he finds the tenant is in arrears, he may, in his direction grant some time for depositing such arrears and if the cultivating tenant does not comply with the order, he may pass an order of eviction. There is nowhere any provision in the Act for the Authorized Officer to pass an order reducing the fair rent fixed and directing the cultivating tenant to pay proportionate rate of tent even assuming that the crops were damage by rain and pests. The Authorised Oficer will not have jurisdiction to grant ermission of the rent fixed in other proceedings. *R.Seshier v. T.Ayyachi Ambalam, AIR 1982 Mad 270.*

A Revenue Court under the Tamil Nadu Cultivating Tenants Protection Act will not have the power to remit the rent due by a tenant on the ground of failure of crop. *Ramaswamy Gounder v. Perianna Moopan, (1959) I Mad LJ 122.*

Where the defendants are cultivating tenants, the Civil Court has no jurisdiction to execute the decree for possession in view of the specific provisions of section 3 (4) of the Act and the matter has to be gone into only by the Revenue Divisional Officer for the relief asked for namely, recovery of possession. *N.Sreedharan Thampi v. Velayadhan Pillai, AIR 1984 Mad 100.*

*__4. Right to restoration of possession.-__(1) Every cultivating tenant who was in possession of any land on the 1st December, 1953 and who is not in possession thereof at the commencement of this Act shall, on application to the Revenue Divisional Officer, be entitled to be restored to such possession on the same terms as those applicable to the possession of the land on the 1st December, 1953.

(2) Nothing in sub-section (1) shall be deemed to entitle any such cultivating tenant to restoration of possession-

(i) if, on the day this Act comes into force, he is in possession either as owner or as tenant or as both, of land exceeding the extent specified in the Explanation below or if he has been assessed to any sales tax, profession tax or income-tax under the respective laws relating to the levy of such taxes during 1953-54 or 1954-55; or

(ii) if the landlord, after evicting such cultivating tenant from the land has been carrying on personal cultivation on the land, provided as follows:-

(a) the total extent of land held by such landlord inclusive of the land, if any, held by him as a tenant does not exceed the extent specified in the Explanation below; and

(b) the landlord has not been assessed to any sales tax, profession tax or income-tax under the respective laws relating to the levy of such taxes during 1953-54 or 1954-55; or

(iii) if subsequent to the 1st December, 1953, the landlord has *bonafide* admitted some other cultivating tenant to the possession of land and such other tenant has cultivated the land before the commencement of this Act:

Provided that where such other tenant is in possession, either as owner or as tenant or as both, of any other land which exceeds the extent specified in the Explanation below and the cultivating tenant who was evicted is not in possession of any land or is in possession of any other land which is less than the extent specified in the said Explanation, the cultivating tenant shall be entitled to restoration of possession.

Explanation.- The extent referred to in clauses (i) to (iii) above is 6 2/3 acres of wet land.

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*See Table of Amendments

(3) Every application to Revenue Divisional Officer under sub-section (1) shall be made within thirty days from the commencement of this Act, and shall bear a court-fee stamp of one rupee.

Provided that the application may be received after the period of thirty days aforesaid, if the applicant satisfies the Revenue Divisional Officer that he had sufficient cause for not making the application within that period.

(4) On receipt of an application under sub-section (3), the Revenue Divisional Officer shall, after giving a reasonable opportunity to the landlord and the cultivating tenant, if any, in possession of the land, to make their representations, hold a summary inquiry into the matter and pass an order either allowing the application or dismissing it. In passing an order allowing the application, the Revenue Divisional Officer may impose such conditions as he may consider just and equitable including conditions in regard to-

(i) the payment by the applicant of any arrear of rent already due from him to the landlord, but not exceeding in amount one year's rent, and

(ii) the reimbursement by the applicant of the landlord or the other cultivating tenant in respect of the expenses incurred or the labour done by him during the period when the applicant was not in possession, on any crop which has not been harvested, it an agreement is not reached between the parties as regards the rates and manner of such reimbursement.

Explanation.- In lieu of imposing any condition relating to reimbursement as provided in clause (ii), the Revenue Divisional Officer may, in his discretion, postpone the restoration of the applicant to possession of the land, until any crop which is being grown thereon at the time when the order is passed, has been harvested.

(5) Any cultivating tenant who after the commencement of this Act has been evicted except under the provisions of sub-section (4) of section 3 shall be entitled to apply to the Revenue Divisional Officer within two months from the date of such eviction or within two months from the date of coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956, for the restoration to him of the possession of the lands from which he was evicted and to hold them with all the rights and subject to all the liabilities of a cultivating tenant. The provisions of sub-section (4) shall, so far as may be, apply to such an application.

Explanation I.- In relation to the Shencottah taluk of the Tirunelveli district, the expression '1st December 1953' and '1953-54 or 1954-55' wherever they occur in this section shall be construed respectively as referring to '31st March, 1958' and '1957-58 or 1958-1959'.

Explanation II. Nothing in sub-sections (1), (2) and (3) shall apply to the added territories.

Explanation III. Nothing in sub-section (1), (2) and (3) shall apply to the Kanyakumari district.

4-A [Omitted by Act 18 of 1976.]

***4.AA. Special privileges for member of the Armed Forces.-** (1) A cultivating tenant who is enrolled as a member of the Armed Forces, may, on or after such enrolment, sublet the lands held by him as a cultivating tenant [……..]

(2) A cultivating tenant who is enrolled as a member of the Armed Forces, on discharge or retirement from service or on being sent to Reserve, shall on application for resumption made within the prescribed period to the Revenue Divisional Officer, be entitled to resume possession of the land sub-let by him under sub-section (1).

(3) A landlord who is enrolled as a member of the Armed Forces, shall on discharge or retirement from service or on being sent to Reserve, be entitled to resume possession from any cultivating tenant for purposes of personal cultivation of that extent of land, which together with the extent of land, if any, already in his possession does not exceed the ceiling area which he is entitled to hold under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act LVIII of 1961).

(4) *(a)* Any person desiring to resume any land under sub-section (2) or, as the case may be, under sub-section (3) (hereafter in this sub-section referred to as the applicant) shall apply to the Revenue Divisional Officer and on receipt of such application, the Revenue Divisional Officer shall, after giving a reasonable opportunity to the applicant and the person in possession of the land (hereafter in this sub-section referred to as the possessor) to make their representations, hold a summary inquiry into the matter and pass an order either directing the possessor to put the applicant in possession of the land or dismissing the application.

*(b)*Where a Revenue Divisional Officer passes an order under clause *(a)* directing the possessor to put the applicant in possession of the land, the Revenue Divisional Officer may impose such conditions as he may consider just and equitable including conditions in regard to the reimbursement by the applicant to the possessor in respect of the expenses incurred by the possessor or the labour contributed by him on any crop which has not been harvested, if an agreement is not reached between the parties as regards the rates and manner of such reimbursement.

Explanation.- In lieu of imposing any condition relating to reimbursement as provided in clause (b), the Revenue Divisional Officer may, in his discretion, postpone the restoration of the applicant to possession of the land, until any crop which is being grown thereon, at the time when the order is passed, has been harvested.

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*See Table of Amendments

(5) Where a member of the Armed Forces dies while in service, the special privileges conferred by this section on such member shall be available to the widow of such member, or any person dependent upon such member immediately before his death.

(6) The provision of this section shall have effect notwithstanding anything inconsistent therewith contained in any other provisions of this Act or of any other Act.

Explanation.- For the purposes of this Act—

(a) 'member of the Armed Forces' shall have the same meaning as in clause (29) of section 3 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act LVIII of 1961);

(b) a member of the Armed Forces who has been discharged or retired from service or who has been sent to reserve is said to carry on personal cultivation on a land when he contributes his own physical labour or that of the members of his family in the cultivation of that land; and

(c) a member of the Armed Forces in service shall be deemed to carry on personal cultivation on a land if such land is cultivated by the members of his family or by his own servants or by hired labour, with his own or hired stock.

SECTION 4.AA-NOTES

Sub-section (3) of section 4-AA gives special privilege to the landlord who got himself enrolled as a member of the Armed Forces, to resume lands for personal cultivation after his discharge or retirement from service or his being sent to Revenue from the Armed Forces. Strictly interpreted, the language of sub-section (3) of section 4-AA clearly shows that at the time of joining the Armed Forces, the person who wants to get resumption of lands ought to have been the ';landlord"; if he becomes landlord subsequent to his joining the Armed Forces, sub-section (3) cannot be invoked. Sub-section (3) begins thus : 'A landlord who is enrolled as a member of the Armed Forces.." This shows that a person must be a landlord before he is enrolled as a member of the Armed Forces, to get resumption under sub-section (3) of Section 4-AA. A plain, normal grammatical meaning of sub-section (3) of section 4-AA is that a person who is enrolled as a member of the Armed Forces must be the owner of the land at the time of enrolment to get the benefit of sub-section (3). Even though sub-section (3) confers a special privilege on personnel of Armed Forces, there is no ambiguity in it give a different meaning. A landlord who opts to serve the Armed Forces is given a special privilege to get his land resumed on his discharge or retirement from service subject to the ceiling area of the land. In short, it is in the nature of restitution, since the landlord who would otherwise enjoy the benefit of personal cultivation gets it suspended in order to serve the country in the Armed Forces. If the benefit under sub-section (3) are made available to those who become landlords subsequent to their joining the Armed Forces, an unscrupulous landlord may sell his land to a military personnel in order to deprive the

cultivating tenant of his enjoyment of the land by making the military personnel get the land resumed under sub-section (3) after his discharge or retirement from the Armed Forces. Sub-section (3) of section 4-AA is available only to those persons who were landlords at the time they join the Armed Forces. *P.Somasundaram v. M.Govindaswamy, AIR 1982 Mad 117.*

*__4-B. Execution of lease.-__ (1) In the case of every tenancy agreement entered into after the coming into force of the Tamil Nadu Cultivating Tenants Protection (Amendment) Act, 1956, between a cultivating tenant and a landlord, a lease deed shall be executed in triplicate in the prescribed form, within the reasonable time after the commencement of such tenancy, specifying the name and description of the cultivating tenant, the name (if any), survey number description and extent of the land leased out, and the terms of the tenancy; and shall be signed both by the landlord or his agent and by the cultivating tenant. One of the three copies shall be kept by the landlord, one shall be kept by the cultivating tenant and the third shall be caused to be lodged in the Taluk office by the landlord or his agent within a fortnight of the date on which the cultivating the tenant signs it.

Provided that if the landlord or the cultivating tenant refuses or delays unreasonably to execute the lease deed, it shall be open to the cultivating tenant or the landlord, as the case may be, to lodge the deed in the Taluk office with a declaration that the other party has refused or delayed unreasonably to execute it.

(2) No stamp need be affixed to the lease deed.

(3) In the case of any tenancy, if the landlord or his agent or the cultivating tenant refused to sign or fails to lodge the lease deed in accordance with the provisions of sub-section (1), the Revenue Divisional Officer may impose on the landlord or the cultivating tenant, as the case may be, a penalty which may extend to fifty rupees; and any penalty so imposed may be recovered as if it were an arrear of land revenue.

5. [Omitted by Tamil Nadu Act VIII of 1965.]

6.Bar of jurisdiction of civil Courts. – No civil Court shall, except to the extent specified in section 3 (3), have jurisdiction in respect of any matter which the Revenue Divisional Officer is empowered by or under this Act to determine and no injunction shall be granted by any Court in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

6.A. Transfer of certain suits to the Revenue Divisinal Officer by civil Courts.- If in any suit before any Court for possession of, or injunction in relation to any land, it is proved by affidavit or otherwise that the defendant is a cultivating tenant entitled to the benefits of this Act, the Court shall not proceed with the trial of the suit but shall transfer it to the Revenue Divisional Officer who shall thereupon deal with and dispose of it as though it were an application under this Act and all the provisions of this Act shall apply to such an application and the applicant.

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*See Table of Amendments

SECTION 6-A – NOTES

The clear import of section 6-A is that in any suit before Civil Court for possession, if the defendant proves not only that he is a cultivating tenant but also he is entitled to the benefits of the Acts, the Civil Court is bound to transfer it to the Revenue Divisional Officer and cannot proceed to try and dispose of it itself. In order to attract the applicability of section 6-A both the conditions must co-exist, namely, the defendant must be a cultivating tenant within the meaning of the Act and he should be entitled to the benefits of the Act. If both these conditions are satisfied no question of any transfer under section 6-A will arise. The Civil Court may have to determine for the purpose of coming to the conclusion whether a suit has to be transferred under section 6-A, certain questions which are within the jurisdiction of Revenue Court under the Act. But that cannot affect the interpretation of the words'cultivating tenant' entitled to the benefits of the Act. *Chinnamuthu Goudner v. Perumal Chettiar, AIR 1970 SC 1197 (1970) 2 Mad LJ (SC)114.*

*__6.B. Revision by High Court.-__ The Revenue Divisional Officer 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 his orders shall be liable to revision by the High Court under the provisions of the section.

SECTION 6-B - NOTES

An application was filed for a declaration that the amount deposited by the respondent therein represented the correct amount of rent due from him. There was a controversy whether the respondent was a cultivating tenant at all. The Revenue Court held that the respondent was not a cultivating tenant of the appellant and could not claim the benefit of section 3(3) of the Act and dismissed the application. The respondent filed a petition in revision before the High Court under section 6-B of the Act read with section 115 of the Code of Civil Procedure. The High Court came to the conclusion that the respondent was a cultivating tenant and therefore allowed the revision petition and declared that the amount deposited by the respondent represented the correct amount due from him to the appellant. In the appeal before the Supreme Court the question that was argued was that the finding of the Revenue Court that the respondent was not a cultivating tenant was a finding of fact and that the High Court had no jurisdiction to set it aside on revision. The Supreme Court observed. The Act gives generous protection to cultivating tenants from eviction, and severely restricts the right of landlords to resume possession of their land from their cultivating tenants. In case of dispute between the landlord and the cultivating tenant, the Revenue Divisinal Officer is authorized to entertain and decide applications by the landlord for eviction and resumption and possession and by the cultivating tenant for restoration of possession and to impose penalties on the landlord or the tenant for infraction of section 4-B.

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*See Table of Amendments

To attract the jurisdiction of the Revenue Divisional Officer, there must be a dispute between a landlord and cultivating tenant. The existence of the relation of landlord and cultivating tenant between the contending parties is the essential condition for the assumption of jurisdiction by the Revenue Divisional Officer in all proceedings under the Act. The Tribunal can exercise its jurisdiction under the Act only if such relationship exists. If the jurisdiction of the Tribunal is challenged, it must enquire into the existence of the preliminary fact and decide if it has jurisdiction. But its decision on the existence of this preliminary fact is not final; such a decision is subject to review by the High Court in its revisional jurisdiction under section 6-B. The enquiry by the Tribunal is summary; there is no provision for appeal from its decision and the Legislature could not have intended that its decision on the preliminary fact involving a question of title would be final and not subject to the overriding powers of revision by the High Court. *Rama Iyer v. Sundaresa Ponnapoondar, AR 1966 SC 1431.*

The civil revision petition under section 6-B of the Act was filed by the tenant aggrieved by the order of the Revenue Court on the petition filed under section 3 (4) (a) of the Act, for evicting the tenant from the lands for non-payments of lease rents. A preliminary order was passed by the Revenue Court directing the tenant to deposit a certain sum together with costs on or before the date specified. On the adjourned date the tenant was absent and no payment or deposit was also made. In the circumstances, the Revenue Court held that the tenant had rendered himself liable to be evicted from the lands. The Revenue Court directed the tenant to hand over peaceful possession of the lands to the landlord. In the revision petition, the tenant contended that the Revenue Court has failed to exercise its judicial discretion to grant further time for the payment of arrears and the denial of a further chance makes the order in question revisable under section 6-B. Held, that the ex parte order becomes liabale to be set aside by the revisional court and the order becomes revisable on the ground that a reasonable opportunity should be given to the tenant for putting forth his case. The Revenue Court had to take the matter afresh on file and deal with the matter or merits by allowing both sides to adduce evidence both oral and documentary. *P.Silamban v. G.Ramamurthy Iyer, AIR 1983 Mad 258.*

Where the Authorised Officer passed the order passed the order under section 3 (4) (b) of the Act on the failure of the tenant to deposit the rent within the time stipulated by the earlier order, the order of the Authorised Officer is unexceptionable. So long as the order of the Authorized Officer is unexceptionable and is not vitiated by any one of the factors enumerated in section 115 of the Code of Civil Procedure, the High Court will have no jurisdiction to interfere with that order. *Kuppanna Chettiar v. Ramachandran. AIR 1981 Mad 35.*

Under section 3 (4)(b) of the Act, once a cultivating tenant has failed to comply with the direction to deposit the rent into the Revenue Court within the time given by the Revenue Divisional Officer, the Revenue Divisional Officer has no option but to pass an order for eviction. If, for any reason, the tenant was not able to deposit the rent within the given time, certainly he could approach the Revenue Divisional Officer for extension of time, and if he unreasonably refused to extend the time, the tenant may then have a

grievance with respect thereto. When the Revenue Divisional Officer has passed an order for eviction, and a revision petition is preferred to the High Court against that order, the High Court can only examine whether the Revenue Divisional Officer has committed any error of jurisdiction so as to attract either clause (a) or clause (b) or clause (c) of section 115 of the Code of Civil Procedure. In these cases, the High Court will have a first find out whether the orders of the Revenue Divisional Officer suffer from any of the vitiating factors mentioned in section 115 of the Code of Civil Procedure and if they do not suffer, the High Court cannot interfere with these orders and consequently any interim order that might have been passed by the High Court will not have the effect of destroying or negativing the orders passed by the Revenue Divisional Officer, *Kuppanna Chettiar v. Ramachandran, AIR 1981 Mad 35.*

The fact that during the pendency of the civil revision petition the tenants applied for and obtained orders of interim stay of the execution of the order of eviction on condition of the deposit of the rent and did deposit the rent, will not in any way invalidate the order passed by the Authorized Officer. The question that has to be considered in respect of the default is not with reference to any date subsequent to the order of the Authorized Officer, but with reference to the date fixed by him prior to his passing the order for eviction. The default contemplated by the statutory provision is one occurring and existing on the date of the passing of the order for eviction by the Revenue Divisional Officer himself and not at any stage subsequent to the said order. If the cultivating tenant does not deposit the rent as directed, default has occurred and there is no question of that default being cured or wiped out by the tenant depositing the rent pursuant to any interim order of the High Court during the pendency of the revision petition preferred against the order of eviction and any such deposit made during the pendency of the proceedings in the High Court pursuant to an interim order of the High Court will be one in compliance with the interim order of the High Court and can never be a deposit in compliance with the original order of the Revenue Divisional Officer. Once the failure of the tenant to comply with the direction of the Revenue Divisional Officer is admitted and the consequential order of the Revenue Divisional Officer is unexceptionable, there will be no occasion for the High Court to give an opportunity to the cultivating tenant to comply with the original direction of the Revenue Divisional Officer to deposit the amount, because the original direction no longer stands and that direction has worked itself out in the form of the final order for eviction. Any deposit made by the tenant in terms of the interim order of stay passed by the High Court staying the execution of the order for eviction passed by the Authorized Officer can never be tantamount to compliance with the conditional order passed by the Authorized Officer. Such payment may be taken into account in cases where the tenant approaches the High Court complaining that the Revenue Divisional Officer has unreasonably or illegally declined to extend the time applied for by him for the deposit of the amount, as in those cases, the High Court may, in proper cases, have power to interfere with the order complained against, and extend the time for payment. *Kuppanna Chettiar v. Ramachandran, AIR 1981 Mad 35.*

The High Court is not concerned in revision proceedings with the original default committed by the cultivating tenant in payment of the rent to the landlord. It is because

of this original default, the Revenue Divisional Officer directs the tenant to deposit the rent into the court before a particular date and the subject matter of the civil revision proceedings in the High Court therefore will not be the original default, but only the failure of the tenant to comply with the direction of the Revenue Divisional Officer. Once that failure is admitted and the consequential order of the Revenue Divisional Officer is unexceptionable, there will be no occasion for the High Court to give an opportunity to the cultivating tenant to comply with the original direction of the Revenue Divisional Officer to deposit the amount, because the original direction no longer stands and that direction has worked itself out in the form of a final order for eviction, which, on merits, is not challenged. If the matter is understood in this manner, certainly, any deposit made by the tenant in terms of the interim order of stay passed by the High Court staying the execution of the order for eviction passed by the Authorized Officer can never be tantamount to compliance with the conditional order passed by the Authorized Officer. *Kuppanna Chettiar v. Ramachandran, (1980) 93 Mad LW 656 : AIR 1981 Mad 35.*

In a revision petition against the order evicting the tenant for non-payment of arrears, the High Court cannot set aside the order of eviction on the ground that the arrears have been paid as directed by the High Court. *Baluchamuy v. Thayammal, AIR 1982 Mad 375.*

*__6.BB. High Court to direct restoration in certain cases.-__ Where any cultivating tenant has been evicted in execution of an order for eviction passed under sub-section (4) of section 3, and where such order for eviction is set aside in revision by the High Court, the High Court shall direct restoration to such cultivating tenant of the possession of lands from which he was evicted with all the rights and subject to all the liabilities of a cultivating tenant. The High Court may also impose such condition as may be imposed by the Revenue Divisional Officer under clause *(ii)* of sub-section (4) of section 4 and the Explanation thereto.

*__6.C. Transfer of application or other proceeding by High Court.-__(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the High Court may at any stage transfer any application or other proceeding under this Act pending before any Revenue Divisional Officer in any district for disposal to any other Revenue Divisional Officer in the same district.

(2) Where any application or other proceeding has been transferred under sub-section (1), the Revenue Divisional Officer who thereafter holds the inquiry may, subject to any special directions in the case of an order of transfer, either hold the inquiry *de novo* or proceed from the point at which the said application or other proceeding stood when it was transferred.

*__7. Power to make rules.-__ (1) The State Government may, […….] make rules to carry out the purposes of this Act.

(2) 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.

(3) Every rule made under this Act shall, as soon as possible, after it is made, 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 both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

***8. 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.

*** See Table of Amendments**