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ODISHA ACT 3 OF 1939

THE ORISSA MONEY-LENDERS' ACT, 1939

[Received the assent of the President on the 20th December 1975 First published in an extraordinary issue of the Orissa Gazette dated the 21st December 1975]

An [**] Act to regulate money-lending transactions and to grant relief to debtors in the State of Orissa.

Preamble. - Whereas it is expedient to regulate money-lending transactions and to grant relief to debtors in the State of Orissa;

It is hereby enacted as follows :

CHAPTER-I

Preliminary

Short title,
extent and
commen-
cement

1.(1) This Act may be called the Orissa Money lenders' Act, 1939.

(2) It extends [***] to the whole of the State of Orissa.

(3) All or any of the provisions of this Act shall come into force throughout the whole or any part of the State on such date or dates as the Governor may, by notification, appoint [****] and different dates may be so appointed for different provisions and different areas.

Definitions:

2. In this Act, unless there is anything repugnant in the subject or context-

(a) "Bank" means-

(i) a banking company as defined in the Banking Companies Regulation Act, 1949 ;

10 of 1949

(ii) the State Bank of India, constituted under the State Bank of India Act, 1955 (23 of 1955);

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks,) Act, 1959;

(38 of 1959

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 ;

(v) the Industrial Development Bank of India constituted under the Industrial Development Bank of India Act, 1964 ;

18 of 1964

(vi) the Agricultural Refinance Corporation constituted under the agricultural Refinance Corporation Act, 1963 ;

(vii) the Life Insurance Corporation of India, constituted under the Life Insurance Corporation Act, 1956 ;

31 of 1956

(viii) the Industrial Finance Corporation of India, constituted under the Industrial Finance Corporation Act, 1948;

15 of 1948

(ix) the Orissa State Financial Corporation, constituted under the State Financial Corporation Act, 1951 ;

68 of 1951

(x) any other banking or financial institution notified in this behalf by the State Government;

(b) "business of money-lending" means the business of advancing loans;

(c) "capital" means that which a money-lender invests in the business of money-lending whether in money or in kind;

(d) "company" means a company registered under the Companies Act, 1956; 5 of 1956

(e) "Co-operative Society" means a society registered or deemed to have been registered under the Orissa Co-operative Societies Act, 1962 and includes a Land Development Bank as defined in that Act;

Orissa Act
2 of 1963

(f) "Court" includes a Court acting in-the exercise of insolvency jurisdiction and also a Court or other authority to which a decree is sent for execution;

(f-1) "debtor" means a person to whom a loan is advanced and includes his successor-in-interest or surety;

(g) "decree" means a decree as defined by the Code of Civil Procedure, 1908 and includes decree passed by an Agency Court under the Agency Rules, an award enforceable as a decree or a Court under the Indian Arbitration Act, 1899 and also preliminary decrees and final decrees in the case of secured loans;

[(g) "decree" means a decree as defined by the Code of Civil Procedure, 1908 V of 1908 and includes an award enforceable as a decree of a Court under the Indian Arbitration Act, 1899 and also preliminary decrees in the case of secured loans;]

IIX of 1899

(h) "interest" means a rate of interest and includes the return to be made over and above what was actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise;

(i) "loan" means an advance whether of money or in kind or interest made by a money-lender and shall include a transaction on a document bearing interest executed in respect of a past liability and any transaction which in substance, is a loan, but shall not include-

(1) a loan advanced by the State Government or by any local body authorised by the State Government or by a Co-operative Society;

(2) a deposit of money in a Post Office Savings Bank or a deposit of money or other property in any other Bank, in a company or with a Co-operative Society;

(3) the amount or the proportionate, amount as the case may be, payable under a mortgage by the purchaser at a sale in execution of a decree of a Court or otherwise of the whole or part of the properties subject to a mortgage, the purchase having been made prior to the coming into force of this Act;

(4) any loan or loans due to a widow on the 1st February, 1930, who on that date did not own any other property; provided that the principal amount of the loan or loans does not exceed rupees two thousand.

Explanations - (1) A bond bearing interest executed in respect of goods taken on credit constitutes a loan;

(2) A supply of goods-

(i) on khata carrying interest up to six and a quarter per centum simple per annum;

or

(ii) on credit;

is not a loan;

(3) For the purposes of this clause "purchaser" includes his legal representatives and successors-in-interest, whether by inheritance, assignment or otherwise;

(4) For the purposes of this clause, the house in which the creditor-widow lived or any furniture therein or her household utensils, wearing apparel, jewellery or such like personal belongings shall not be regarded as property;

(j) "money-lender" means a person whose business is that of advancing loans but does not include a Bank or Co-operative Society and the expression "money-lending" shall be constituted accordingly;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "principal" means in relation to a loan the amount actually lent to the debtor;

(m) "registered money-lender" means a person to whom registration certificate has been granted under Section 5, and shall include a Hindu undivided family and the legal representatives and successors-in-interest, whether by inheritance, assignment or otherwise, of a registered money-lender;

(n) "rules" means rules made under this Act;

(o) "secured loan" means a loan for which the money-lender holds a mortgage, charge, lien, or pledge on the property of the debtor or any part thereof as a security for that loan;

(p) "Sub-Registrar" means a Sub-Registrar appointed under the Indian Registration Act, 1908 ;

XVI of 1908

(q) "suit" includes an appeal;

(q-1) "Tahasildar" includes an Additional Tahasildar;

