

THE
Dekkhan Agriculturists' Relief Act.

XVII of 1879—1 of 1902.

WITH COMPLETE CASE LAW, EXPLANATORY NOTES AND
COMMENTS, RULES, NOTIFICATIONS H. C. ORDERS,
AND ABSTRACTS FROM THE PROCEEDINGS
OF THE LEGISLATIVE COUNCIL.

BY

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PREFACE.

When the Dekkhan Agriculturists' Relief Act was passed, it was meant to be in force in certain parts of the Dekkhan, and was enacted with the object of giving relief to the indebted agriculturists in those places where the Act was to be in force. As days went on, and the working of the Act was observed by Government of Bombay to be satisfactory, they used the power given to them by s. 1 of the Act, and from time to time extended some of the important provisions of the Act to various other districts of the Bombay Presidency, and by the notification issued in August last some of the provisions of the Act have been extended almost to the whole Presidency. (Vide p. 8, pt. I, of this book.)

This step of the Local Government has contributed to attract the attention of the public generally and the bench and the bar specially to the provisions of the Act, as it has materially affected the procedure in civil suits as also the rights of contracting parties. Under these circumstances, the want of an exhaustive book on the Act was very badly felt—especially in the mofussil, both by the bench and the bar. We have, therefore, made this humble attempt with a view to remove this want.

We have tried our best to make this little book useful to the reader, and we beg to be excused for not being able to do more. The Act evidently aims at checking and discouraging litigation and barring appeals; the operation of the Act, moreover, even now is of a very much restricted kind; hence many a point of

importance and usefulness in connection with the Act has yet remained undecided by our local High Court. Our task has been thus great and difficult and so far as our humble means and opportunities allowed, we have tried to be faithful to the arduous task undertaken by us.

The book is divided into three parts; the first part is so arranged as to give (1) the section, (2) the law on the point under the old section (if any), and (3) the Commentary. In explaining the scope or object of a section, we have freely drawn upon the proceedings of the Legislative Council, where they do, as a matter of fact, throw some light on the subject. The matter in the commentary has been arranged under appropriate headings—generally selected from the wording of the section to which it relates or from the cases under the same. In giving case-law we have not confined ourselves simply to head-notes of cases but we have faithfully gone through all the cases cited by us and have also given extracts from the judgments whenever needed. So far as the cases decided under this Act are concerned, we have followed the example of some learned authors in giving the names of the Judges who decided the cases, and have also given the years in which the cases cited from the Indian Law Report series were decided. And in order to make the first part a complete book of reference, we have, under appropriate sections, given references to the notifications and the proceedings of the Legislative Council in connection with the Act.

Part II begins with an exhaustive index of notifications under this Act or having some kind of bearing

Preface.

upon it. The important notifications are given at length and grouped under appropriate headings. The notifications are divided into six headings—(1) Rules for the management of the Collector, (2) Procedure before Village-Munsifs, (3) Rules for the guidance of Conciliators, (4) Village-Registration Rules, (5) Miscellaneous notifications including High Court Circular orders, and lastly (6) Exemptions under the Stamp-Laws. These notifications have been corrected up to date and we have carefully denoted the places where amendments have been made and the notifications by which they were made.

Part III contains everything relating to the History of the Act which the reader, who wishes to be thoroughly acquainted with the provisions of the Act, is expected to read. This part contains (1) Statement of Objects and Reasons, (2) Abstract of Speeches of the members who moved the various Bills in respect of the Act in the Legislative Council, (3) Reports of the Select Committees and (4) Abstract of important speeches delivered in the Governor-General's Legislative Council by the learned members who took part in the passing of the enactments. In reporting the speeches, care has been taken to see that nothing important has been omitted and it is hoped that the reader will find this part specially instructive and interesting.

In placing this book before the public we have, we believe, spared no pains in availing ourselves of all the material at hand and we leave it to our kind reader to see how far we have succeeded in performing our humble task.

Before concluding we are bound to acknowledge

our obligations to *Mr. D. G. Gharpure, Special Sub-Judge, F. C. under this Act*, who very kindly enlightened us on various points of importance arising under the Act.

12th July 1906.

P. B. S.

S. K. P.

* * * The rulings appearing in the Bombay Law Reporter are cited as 'Bom. L. R.,' while the letters P. J. refer to the Printed Judgment series. The words, Bom., All., Mad., and Cal., refer to the I. L. R. series.

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THE
Dekkhan Agriculturists' Relief Act,
1879 to 1902.

With the Case-Law, Explanatory Notes & Comments.

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Addenda et Corrigenda.

Add the following as the last note under s. 15B :—

Directions consequent upon default:—In a redemption-decree passed under the provisions of the Dekkhan Agriculturists' Relief Act, 1879, the Subordinate Judge made the decretal amount payable by instalments; and further ordered "on failure to pay any two successive instalments, defendant No. 1 do recover the whole amount due by sale of the mortgaged property and the deficiency, if any, from the plaintiffs personally." On appeal the High Court annulled the above order and substituted in its place the following direction: "If the sum payable under the direction aforesaid is not paid when due, then defendant No. 1 will be at liberty to apply to the Court for such order as he may be entitled to under s. 15(h), sub-s. 2 of the Dekkhan Agriculturists' Relief Act."*

*Pandharinath v. Shankar, (1903) 8 Bom. L. R., 488 (Jenkins, C. J. and Jacob, JJ.)

Part I, p. 28, line 31—for '1893 P. J.,' read '1883 P. J.'

Part I, p. 44, line 30—for '1893 P. J.,' read '1883 P. J.'

Part I, p. 69, line 29—for 'net profits,' read 'net profits.'⁴

Part I, p. 71, line 33—for 'P. J., 216' read '1887 P. J. 216.'

Part I, p. 76, line 13—for 'Janoji,' read 'Janoji.'

Part I, p. 83, line 34—for '1889 P. J.,' read '1889 P. J. 77.'

Part I, p. 95, line 33—for 'without the consent of,' read
'with the consent of.'

Part I, p. 97, line 33—for 'Vol. XVII, p. 47,' read 'Vol.
XVII, p. 147.'

Part I, p. 101, line 18—for 'proviso (e),' read 'proviso (c).'

Part I, p. 104, line 13—for 'transferred' read 'dealt with.'

Part I, p. 126, line 20—for 'in another case,' read 'in another case.'

Part I, p. 127, line 10—for 'Gangadhar v. Mahadu,' read
'Gangadhar v. Mahadu'

Pt. I, 132, foot-note, last line, for 'ordinary reader,' read 'general
reader.'

Part I, p. 163 line 30—for 'defendant, by any one,' read
'defendant, from proving payments made by him by any one.'

Part II, p. 23, lines 23-24, omit the words 'the contract...
notification.'

Part III, p. 67, line 24—for 'or debt,' read 'for debt.'

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