

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD

Dated the 15th July, 1992.

No. 766-70/LD/Leg/92. The following Act of the Assembly received the assent of the President on 8th July, 1992, is hereby published for general information:-

(Act XXI of 1992)

AN

ACT

to amend the Co-operative Banks (Re-payment and Recovery of Loans) Act, 1987

WHEREAS, it is expedient to amend the Co-operative Banks (Repayment and Recovery of Loans) Act, 1987 (Act LX of 1987) for the purpose hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and Commencement.- (1) This Act may be called the Co-operative Banks (Repayment and Recovery of Loans) (Amendment) Act, 1992.

(2) It shall come into force at once.

2. Amendment of Section 2, Act IX of 1987.- (1) In Co-operative Banks (Repayment and Recovery of Loans) Act, 1987 (Act IX of 1987) hereinafter referred to as said Act, in Section 2, after clause (e) the full stop at the end shall be substituted by a semi-colon and thereafter the following new clause (ee) shall be added:-

“(ee) ~ “Special Tribunal” means a Special Tribunal established under this Act.

3. Amendment of Section 5, Act IX of 1987.- In the said Act,-

(a) sub-section (2) of Section 5 shall be substituted as follows:-

“(2) On receipt of information under sub-section (1) in respect of any loan or where such information has not been furnished for any reason and the Registrar gets information from any other source about any un-paid loan borrowed, the Registrar may cause notice to be issued to borrower requiring him to re-pay and secure,

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the loan alongwith interest stipulated by the lending bank upto the date of recovery.”

(b) sub-sections (4), (5) and (6) of Section 5 shall be omitted.”

Addition of Section 5-A to 5-D, Act IX of 1987. - In the said Act, after Section 5, the following new Sections shall be added,-

“5-A. Special Tribunal.- (1) For the purposes of this Act, the Government may appoint as many Special Tribunals as may be necessary.

(2) A Special Tribunal shall consist of a person who,-

(a) is or has been a Judge of the High Court; or

(b) is qualified to be a Judge of the High Court; or

(c) is not below the status of the Secretary to Government.

(3) Any decision, declaration, order or notice of the Registrar under this Act, shall be appealable. before the Special Tribunal, within thirty days of such decision, declaration, order, or notice.

“5-B. Power of Tribunals. - (1)»The Tribunal may, on appeal confirms, set aside, vary or modify the order appealed against.

(2) The Tribunal shall for the purposes of deciding any appeal be deemed to be a Civil Court and shall have the same powers as are vested in such Court under the Code of Civil Procedure, 1908 (Act-V of 1908) including powers of,-

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents; and

(c) issuing commission for the examination of witnesses and documents.

“5-C. Appeal. - Any party aggrieved by a final order passed by the Special Tribunal, may prefer an appeal to the Supreme Court within thirty days of such order.

“5-D. Application of Limitation Act, 1908. - Sections 5 to 12 of the Limitation Act, 1908, as adapted in Azad Jammu and Kashmir, shall apply mutatis mutandis, in respect of cases under this Act.

Amendment of Section 9, Act IX of 1987.- In the said Act, in Section 9, for the words “The Registrar” in the first line the

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words “notwithstanding anything contained in any other law for the time being in force, the Registrar shall be substituted.

Am

endment of Section 10, Act IX of 1987.- In the said Act,-

(a)

“D

(b)

sub-section (1) of Section 10 shall be substituted as follows:-

Where any borrower has on or after the 7th day of January, 1977 alienated any property by sale, exchange, gift, mortgage or will, otherwise than by or under an order or decree of a Court not being, a decree or order which in the opinion of Special Tribunal is collusive or fraudulent, or with the Special permission of the Government, granted by an order in writing, subject to such conditions as may be specified therein, such alienation shall not operate to transfer any right, title or interest in the property of the borrower unless the loan due from the borrower has been repaid.”

sub-section (3) shall be omitted.

Amendment of Section 14, Act IX of 1987. - In the said Act, in Section 14,-

(a)

(b)

in sub-section (1) for the words and figures “sub-section (6) of Section 5” the»words and figures “sub-section (3) of Section 5-A” shall be substituted; and

for sub-section’ (3) the following shall be substituted, namely:-

“(3) Any proceeding pending before any Court, in the absence of remedy under Section 5-A, in respect of any matter to which this Act relates, can be challenged before Special Tribunal within thirty days of the establishment of Tribunal.”

Repeal.- The Co-operative Banks (Repayment and Recovery of Loans) (Amendment) Ordinance, 1992 (Ordinance XXXV of 1992) is hereby repealed.

Sd/-
(Syed Shakir Shah)
Deputy Secretary Law.