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Act No. 25 of 1992

An Act made to amend the Financial Loan Court Act, 1990

Whereas it is expedient to amend the Financial Loan Court Act, 1990 (Act No. 4 of 1990) for the purposes hereinafter appearing;

Now, therefore, it is enacted as follows:-

1. Short title.-

This Act may be called the Financial Loan Court (Amendment) Act, 1992.

2. Amendment of section 2 of Act No. 4 of 1990.-

After sub-clause (7) of clause (a) of section 2 of the Financial Loan Court Act, 1990 (Act No. 4 of 1990), hereinafter referred to as the said Act, shall be inserted the following sub-clauses, namely:- "(8) leasing companies founded for the purpose of granting such financial loans and leasing such machinery and implements to industrial institutions as may be helpful to develop such institutions;

(9) the International Finance Corporation;

(10) the Commonwealth Development Corporation;

(11) the Asian Development Bank;

(12) any other international financial institution which grants loans."

3. Amendment of section 5 of Act No. 4 of 1990.-

At the end of sub-section (1) of section 5 of the said Act, for a full stop shall be substituted a colon and after that colon shall be inserted the following condition, namely:- "Provided further that nothing contained in this section shall be applicable in the case of any suit relating to the recovery of loans granted to the Government by the financial institutions referred to in sub-clause (9), (10), (11) and (12) of clause (a) of section 2."

4. Insertion of a new section of Act No. 4 of 1990.-

After section 5 of the said Act shall be inserted the following new section 5A, namely:-

"5A. Special provision for the service of notices.-Notwithstanding anything contained in any other Act, the complainant in any suit filed at the Financial Loan Court may, after approval of the Court, by putting down to writing the name and address of the defendant, the amount of the money claimed

and the reasons for which the suit did arise, publish in a Bengali and an English local daily or weekly newspaper or, if no such newspapers exist, in a Bengali and an English national daily newspaper a notice on the institution of the suit, and the notice published in the newspapers shall, if there arises any question of whether or not a notice of the suit has been served on the defendant, be used as an evidence for such notice having been served."

5. Amendment of section 6 of Act No. 4 of 1990. -

The existing provision of section 6 of the said Act shall be sub-section (1) of that section and after sub-section (1) shall be inserted the following new sub-section, namely: -

"(2) Notwithstanding anything contained in sub-section (1), if a defendant wishes, in accordance with the provisions of Rule 13 of Order IX of the Code of Civil Procedure (Act V of 1908), to apply at a court for the annulment of any ex parte decree issued by the Financial Loan Court against him, he shall deposit at the court, together with the application, a sum which amounts to at least one half of the sum decreed against him or a bank security for a sum of equal amount, and his application shall not be acceptable without such deposit."

6. Amendment of section 7 of Act No. 4 of 1990. -

In section 7 of the said Act -

a) shall be substituted for sub-section (2) the following sub-section (2), namely: -

"(2) If any defendant wishes -

- i) to file an appeal against the final decision of the Financial Loan Court on an application submitted under section 6 (2); or,
- ii) not filing such appeal, to file an appeal against the verdict or decree of the original suit -

he may, within thirty days from the date on which the final decision has been passed, after having deposited at the court who passed the decree a sum which amounts to at least one half of the sum which remains after the subtraction of the deposit made under the said section from the sum decreed in the original suit, submit an appeal to the High Court Division.", b) shall be inserted after sub-section (2) the following new sub-sections, namely: -

"(3) If a defendant wishes to submit an appeal against any verdict or decree of the Financial Loan Court, he may, within the period determined in sub-section (1), after having deposited at the court which passed the decree -

- i) a sum which amounts to at least one half of the sum decreed against

him, if no application against the said verdict or decree has been submitted by him under section 6 (2);

ii) a sum which amounts to at least one half of the sum which remains after the subtraction of the deposits made under section 6 (2) and sub-section (2) (a) from the sum decreed in the original suit, if an application under section 6 (2) and an appeal under sub-section (2) (a) against the said verdict or decree has been submitted by him-

submit an appeal to the High Court Division.

(4) The appeal of a defendant shall not be acceptable if he does not deposit at the

bank which passed the decree the sum determined in sub-section (2) and (3).

7. Amendment of section 8 of Act No.4 of 1990.-

For the full stop at the end of section 8 of the said Act shall be substituted a colon and thereafter shall be inserted the following condition, namely:-

"Provided that the court shall, if an instalment has been approved, direct the debtor of the decree to pay for the period of the instalment interests at such rate as may be determined in an contract made with a financial institution."

8. Repeal and savings.-

(1) The Financial Loan Court (Amendment) Ordinance, 1992 (Ordinance No. 3, 1992) is herewith repealed.

(2) Notwithstanding such repeal, any action done or any measure taken under the said Act amended by the repealed Ordinance shall be deemed to have been done or taken under the said Act amended by this Act.

