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West Bengal Act XV of 1969¹

THE WEST BENGAL ACQUISITION AND SETTLEMENT OF HOMESTEAD LAND ACT, 1969.

AMENDED

West Ben. Act XXXIV of 1972.

[11th August, 1969.]

An Act to provide for the acquisition of land on which homestead has been constructed and settlement of such land with the person in possession thereof.

WHEREAS it is expedient to provide for the acquisition of land on which homestead has been constructed and settlement of such land with the person in possession thereof;

It is hereby enacted in the Twentieth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Acquisition and Settlement of Homestead Land Act, 1969.

Short title
and extent.

(2) It extends to the whole of West Bengal, except the areas to which the provisions of the Calcutta Municipal Act, 1951, the Howrah Municipal Act, 1965, the Bengal Municipal Act, 1932, the Cooch Behar Town Committee Act, 1903, the Cooch Behar Municipal Act, 1944, the Chandernagore Municipal Act, 1955, and the Cantonments Act, 1924 apply.

West Ben.
Act XXXIII
of 1951.
West Ben.
Act XVII of
1965.
Ben. Act XV
of 1932.
Cooch Behar
Act IV of
1903.
Cooch Behar
Act III of
1944.
West Ben.
Act XVIII of
1955.
II of 1924.

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

Definitions.

- (a) "agricultural land" means land ordinarily used for purposes of agriculture or horticulture and includes such land, notwithstanding that it may be lying fallow for the time being;

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IVA of the 25th June, 1969, page 2053; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on 8th July, 1969.

(Sections 3, 4.)

- (b) "Collector" means the Collector of a district and includes an Additional District Magistrate or any other officer appointed by the State Government to discharge any of the functions of a Collector under this Act;
- (c) "holding" means the land or lands held by a *raiyat* and treated as a unit for assessment of revenue;
- (d) "homestead" has the same meaning as in the West Bengal Estates Acquisition Act, 1953;
- (e) "land" includes both agricultural land and non-agricultural land;
- (f) "non-agricultural land" means land other than agricultural land or other than land comprised in a forest;
- (g) "non-agricultural tenant" means a non-agricultural tenant as defined in the West Bengal Non-Agricultural Tenancy Act, 1949;
- (h) "occupier" means a person who is in possession of any land of another person without any interest therein based on title and who holds no land or not more than 8094 hectare of land either as owner or tenant thereof and includes the heirs of such person;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "*raiyat*" means a person who holds land for purposes of agriculture.

West Ben.
Act I of
1954.

West Ben.
Act XX of
1949.

Act not to
apply to
certain
lands.

3. Nothing in this Act shall apply to any land—

- (a) belonging to, or taken on lease or requisitioned by, Government;
- (b) belonging to, or taken on lease by, any local authority.

Application
to the
Collector.

4. Where an occupier has constructed a homestead on the land in his possession and has been residing therein '[from before the commencement of this Act, he may, within five years from the date of such commencement], make an application, in such manner and containing such particulars as may be prescribed, to the Collector having jurisdiction—

- (a) if the land in his possession does not exceed 0334 hectare, for settling the land with him; and
- (b) if the land in his possession exceeds 0334 hectare, for settling 0334 hectare of such land with him on which his homestead has been constructed.

¹Words within the square brackets were substituted for the words "continuously for a period of not less than three years immediately before the date of coming into force of this Act, he may, within two years from such date" by s. 2 of the West Bengal Acquisition and Settlement of Homestead Land (Amendment) Act, 1972 (West Ben. Act XXXIV of 1972).

XV of 1969.]

(Sections 5-8.)

5. (1) On receipt of an application under section 4 the Collector shall make an inquiry in such manner as may be prescribed to determine whether an occupier has constructed a homestead on the land in his possession and has been residing therein ¹[from before the commencement of this Act].

Inquiry by
the
Collector.

(2) Notwithstanding anything contained in section 4, the Collector may, on his own motion, make any inquiry referred to in sub-section (1):

Provided that no such inquiry shall be started after the expiry of ²[five years] from the date of coming into force of this Act.

(3) For the purpose of an inquiry under sub-section (1) the Collector shall have all the powers of a civil court while trying a suit in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits.

6. If the Collector is satisfied on an inquiry under section 5 that an occupier has constructed a homestead on the land in his possession and has been residing therein ³[from before the commencement of this Act], he shall make an order for demarcating such land or where such land exceeds .0334 hectare, for demarcating .0334 hectare of such land on which the homestead has been constructed.

Demarcation
of the land.

7. (1) After demarcation of the land under section 6 the Collector shall, by publishing in the *Official Gazette* and in such other manner as may be prescribed a notice in this behalf, acquire the land so demarcated with effect from such date as may be specified in the notice.

Acquisition
of land by
the
Collector.

(2) When a notice is published under sub-section (1) in respect of any lands such land shall, with effect from the date specified in the notice, vest absolutely in the State Government free from all encumbrances.

8. When any land is acquired under section 7 there shall be paid compensation for such acquisition to every person interested and the amount of compensation shall be equivalent to twenty times of the annual revenue or rent, as the case may be, of such land to be determined by the Collector in the prescribed manner for the purpose of such compensation.

Compensa-
tion.

¹Words within the square brackets were substituted for the words and figure "continuously for the period referred to in section 4" by s. 3(1) of the West Bengal Acquisition and Settlement of Homestead Land (Amendment) Act, 1972 (West Ben. Act XXXIV of 1972).

²Words within the square brackets were substituted for the words "two years" by s. 3(2), *ibid.*

³Words within the square brackets were substituted for the words "continuously for the period referred to in section 4" by s. 4, *ibid.*

(Sections 9, 10.)

Explanation.—The expression “person interested” includes all persons claiming an interest in compensation to be paid on account of the acquisition of land under the provisions of this Act and a person shall be deemed to be interested in land if he is interested in an easement affecting the land.

Apportion-
ment of
compensa-
tion.

9. Where there are several persons interested in the land acquired under section 7, the Collector shall by order apportion the compensation among such persons in accordance with the nature and extent of interest held by each such person.

Occupier not
liable to be
evicted.

10. (1) An occupier shall not be liable to be evicted or dispossessed from the land demarcated under section 6, notwithstanding any judgment, decree or order of any court for such eviction or dispossession.

(2) In any suit or proceeding in any court for the eviction of an occupier from the land in his possession, including any such suit or proceeding pending on the date of coming into force of this Act, the occupier may—

- (a) if he has made an application under section 4, file a petition to the court supported by a certificate from the Collector to the effect that he has done so;
 - (b) if an inquiry has been started by the Collector on his own motion under sub-section (2) of section 5, file a petition to the court supported by a certificate from the Collector to the effect that the Collector has started the inquiry;
 - (c) if he has not made an application under section 4 and if no inquiry has been started by the Collector on his own motion under sub-section (2) of section 5, file a petition to the court stating that he intends to make an application under section 4.
- (3) On receipt of a petition under sub-section (2), the court shall,—
- (a) if the occupier has made an application under section 4, stay the suit or the proceeding till the disposal of the application;
 - (b) if an inquiry has been started by the Collector on his own motion under sub-section (2) of section 5, stay the suit or the proceeding till the inquiry is made.
 - (c) if the occupier has not made an application under section 4 and if no inquiry has been started by the Collector on his own motion under sub-section (2) of section 5, direct the occupier to file a certificate from the Collector within a period of three months or within such further period as the court may grant stating that an application under section 4 has been made and on the filing of such certificate stay the suit or the proceeding till the disposal of the application by the Collector.

XV of 1969.]

(Sections 11-14.)

(4) The certificate referred to in clauses (a) and (b) of sub-section (2) shall, on application by an occupier, be issued by the Collector in such manner as may be prescribed.

11. (1) When land is acquired under section 7, the Collector shall settle it with the occupier who has made the application under section 4.

Settlement
of land and
status of
occupier.

(2) The occupier to whom any land is settled under sub-section (1) shall have the status—

- (i) of a *raiyat*, if such land is agricultural land, or
- (ii) of a non-agricultural tenant, if such land is non-agricultural land:

Provided that such occupier shall not be liable to pay any revenue or rent for such land.

12. Any person whose land has been acquired under the provisions of section 7 shall be entitled—

Abatement
of revenue
or rent.

- (a) if the land is included in any holding, to have the revenue payable by him abated by such amount as bears the same proportion to such revenue as the area of the land acquired bears to the area of such holding, and
- (b) if the land is included in any non-agricultural tenancy, to have the rent payable by him abated by such amount as bears the same proportion to such rent as the area of the land acquired bears to the area of such tenancy.

13. An appeal shall lie from an order under this Act,—

Appeal.

- (a) to the Collector of the district, where the order is made by an officer below the rank of an Additional District Magistrate, and
- (b) to the Commissioner of the Division, where the order is made by the Collector of a district or an Additional District Magistrate,

if preferred within thirty days from the date of the order appealed against and the decision of the Collector or of the Commissioner, as the case may be, shall be final.

14. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or in any contract express or implied or in any instrument and notwithstanding any usage or custom to the contrary.

Act to
override
other laws.

Power to
make rules.
2.

15. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form and manner of making application under section 4;
- (b) the manner of making inquiry under sub-section (1) of section 5;
- (c) the manner of publishing a notice under sub-section (1) of section 7;
- (d) the manner of determining revenue or rent under section 8;
- (e) the manner of issuing a certificate referred to in section 10;
- (f) any other matter which has to be, or may be, prescribed.

Repeal and
savings.

16. (1) The West Bengal Acquisition and Settlement of Homestead Land Ordinance, 1969, is hereby repealed.

West Ben.
Ord. VII of
1969.

(2) Anything done or any action taken under the West Bengal Acquisition and Settlement of Homestead Land Ordinance, 1969, shall be deemed to have been validly done or taken under this Act as if this Act had commenced on the 22nd day of May, 1969.
