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Government of West Bengal

Ministry of Law

(Legislative Department)

President's Act No. 3 of 1971

**West Bengal Land Reforms
(Amendment) Act, 1971**

Superintendent, Government Printing
West Bengal Government Press, Alipore, West Bengal
1971

Price—40 P.

DL-0-110
167

President's Act No. 3 of 1971

THE WEST BENGAL LAND REFORMS (AMENDMENT) ACT, 1971.

[8th February, 1971.]

Enacted by the President in the Twenty-second Year of the Republic of India.

An Act further to amend the West Bengal Land Reforms Act, 1955.

17 of 1970. In exercise of the powers conferred by section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1970, the President is pleased to enact as follows:—

1. (1) This Act may be called the West Bengal Land Reforms (Amendment) Act, 1971.

Short title and commencement.

(2) The provisions of this Act shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act, and any reference to the commencement of any provision of this Act shall be construed as referring to the date on which that provision comes into force.

West Bengal Act X of 1956.

2. In section 2 of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the principal Act),—

Amendment of section 2.

(i) in clause (2), after the words "to that person", the following shall be inserted, namely:—

"and includes a person who under the system generally known as *kisani* cultivates the land of another person on condition of receiving a share of the produce of such land from that person";

(ii) in sub-clause (c) of clause (8), after the words "in kind", the brackets and words "(not being as a share of the produce)" shall be inserted.

3. Sub-section (3) of section 4 of the principal Act shall be omitted.

Amendment of section 4.

4. In section 5 of the principal Act, in the *Explanation*, in clause (b), after the words "usufructuary mortgage", the words "or mortgage by deposit of title deeds" shall be inserted.

Amendment of section 5.

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Omission
of section
6.

5. Section 6 of the principal Act shall be omitted.

Amend-
ment of
section 7.

6. In section 7 of the principal Act, in sub-section (1),—

(i) in clause (b), after the words "fifteen years," the word "or" shall be inserted;

(ii) after clause (b), the following clause shall be inserted, namely :—

"(c) a mortgage by deposit of title deeds in favour of a scheduled bank, a co-operative land mortgage bank or a corporation, owned or controlled by the Central or State Government, or by both, for the purpose of obtaining loan for the development of land or improvement of agricultural production,".

Amend-
ment of
section 8.

7. In section 8 of the principal Act,—

(i) in sub-section (1), for the words, brackets and figures "sub-section (3) of section 4" the word, figures and letter "section 14-M" shall be substituted;

(ii) in sub-section (2), in clause (c), the word "usufructuary" shall be omitted.

Amend-
ment of
section 9.

8. In section 9 of the principal Act,—

(i) in sub-section (6), for the word "Munsif", wherever it occurs, the words "Additional District Magistrate" shall be substituted;

(ii) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) Every appeal pending before a Munsif at the commencement of section 8 of the West Bengal Land Reforms (Amendment) Act, 1971, shall, on such commencement, stand transferred to, and be disposed of by, the Additional District Magistrate having jurisdiction in relation to the area in which the land is situated and on such transfer, every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act, as amended by the West Bengal Land Reforms (Amendment) Act, 1971."

Amend-
ment of
section 10.

9. In section 10 of the principal Act, in clause (a), after the word "Munsif", the words, figures and brackets "or, after the commencement of section 8 of the West Bengal Land Reforms (Amendment) Act, 1971, by the Additional District Magistrate," shall be inserted.

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10. In section 14C of the principal Act—

Amend-
ment of
section
14C.

(i) in sub-section (1),—

(a) in clause (a), for the words "to the same Scheduled Tribe to which the transferor belongs", the words "a Scheduled Tribe" shall be substituted;

(b) after clause (c), the following clause shall be inserted, namely:—

"(cc) by simple mortgage or mortgage by deposit of title deeds in favour of a scheduled bank, a co-operative land mortgage bank or a corporation, owned or controlled by the Central or State Government, or by both, for the development of land or improvement of agricultural production;"

(c) for clause (e), the following clause shall be substituted, namely:—

"(e) by sale or exchange in favour of any person belonging to a Scheduled Tribe:

Provided that any such *raiyat* may, with the previous permission, in writing, of the Revenue Officer, transfer by sale his holding or any part thereof to a person not belonging to any Scheduled Tribe:

Provided further that no such permission shall be granted by the Revenue Officer unless he is satisfied that no purchaser belonging to a Scheduled Tribe is willing to pay the fair market price of the holding or any part thereof and that the proposed sale is intended to be made for one or more of the following purposes, namely:—

(a) for the improvement of any other part of the holding, or

(b) for investment, or

(c) for such other purposes as may be prescribed;"

(ii) sub-section (2) shall be omitted.

11. In section 14E of the principal Act, in sub-section

(1),—

Amend-
ment of
section
14E.

(i) after the words, figures and letter "provisions of section 14C", the words "or if the permission for the transfer is found, after an inquiry in the prescribed manner, to have been obtained by misrepresentation or fraud" shall be inserted;

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- (ii) the words, brackets and letter "or clause (a)", wherever they occur, shall be omitted;
- (iii) after the words "by an order in writing," the words "annul the transfer, where necessary, and" shall be inserted.

Amendment of section 14H.

12. In section 14H of the principal Act, for the figures and letter "14C", the figures, letters and words "14C or section 14E" shall be substituted.

Insertion of new Chapter II-B.

13. After Chapter IIA of the principal Act, the following Chapter shall be inserted, namely:—

'CHAPTER II-B

CEILING ON HOLDINGS

Provisions of Chapter II-B to override other provisions of law.

14-J. The provisions of this Chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act or in any other law for the time being in force.

Definitions.

14-K. In this Chapter,—

- (a) "ceiling area" means the extent of land which a *raiyat* shall be entitled to own;
- (b) "charitable purpose" includes relief of the poor, medical relief or the advancement of education or of any other object of general public utility;
- (c) "family", in relation to a *raiyat*, shall be deemed to consist of—
 - (i) himself and his wife, minor sons, unmarried daughters, if any,
 - (ii) his unmarried adult son, if any, who does not hold any land as a *raiyat*,
 - (iii) his married adult son, if any, where neither such adult son nor the wife nor any minor son or unmarried daughter of such adult son holds any land as a *raiyat*,
 - (iv) widow of his pre-deceased son, if any, where neither such widow nor any minor son or unmarried daughter of such widow holds any land as a *raiyat*,
 - (v) minor son or unmarried daughter, if any, of his pre-deceased son, where the widow of such pre-deceased son is dead and any minor son or unmarried daughter of such pre-deceased son does not hold land as a *raiyat*, but shall not include any other person.

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Explanation I.—For the purposes of this Chapter, an adult unmarried person shall include a man or woman who has been divorced and who has not remarried thereafter:

Provided that where such divorced man or woman is the guardian of any minor son, or unmarried daughter, or both, he or she, together with such minor son or unmarried daughter, or both, shall be deemed to be a separate family.

Explanation II.—References in this clause to wife, son or daughter shall, in relation to a *raiyat* who is a woman, be construed as references to the husband, son or daughter, respectively, of such woman;

(d) "irrigated area" means an area specified as such by the State Government, by notification in the Official Gazette, being an area which is, or is in the opinion of the State Government capable of being, irrigated, at any time during the agricultural year commencing on the 1st day of *Baisakh*, 1377 B.S., from any State canal irrigation project or State (power driven deep tubewell) irrigation project;

(e) "orchard" means a compact area of land having fruit bearing trees grown thereon in such number that they preclude, or when fully grown would preclude, a substantial part of such land from being used for any agricultural purpose;

(f) "standard hectare" means,—

(i) in relation to an agricultural land, an extent of land equivalent to—

(a) 1.00 hectare in an irrigated area,

(b) 1.40 hectare in any other area;

(ii) in relation to any land comprised in an orchard, an extent of land equivalent to 1.40 hectare.

14-L. On and from the commencement of the provisions of this Chapter, no *raiyat* shall be entitled to own, in the aggregate, any land in excess of the ceiling area applicable to him under section 14-M.

No *raiyat* to hold land in excess of the ceiling area.

14-M. (1) The ceiling area shall be,—

Ceiling area.

(a) in the case of a *raiyat*, who is an adult unmarried person, 2.50 standard hectares;

(b) in the case of a *raiyat*, who is the sole surviving member of a family, 2.50 standard hectares;

(c) in the case of a *raiyat* having a family consisting of two or more, but not more than five members, 5.00 standard hectares;

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(d) in the case of a *raiyat* having a family consisting of more than five members, 5.00 standard hectares, plus 0.50 standard hectare for each member in excess of five, so, however, that the aggregate of the ceiling area for such *raiyat* shall not, in any case, exceed 7.00 standard hectares;

(e) in the case of any other *raiyat*, 7.00 standard hectares.

(2) Notwithstanding anything contained in sub-section (1), where, in the family of a *raiyat*, there are more *raiyats* than one, the ceiling area for the *raiyat*, together with the ceiling area of all the other *raiyats* in the family shall not, in any case, exceed,—

(a) where the number of members of such family does not exceed five, 5.00 standard hectares;

(b) where such number exceeds five, 5.00 standard hectares, plus 0.50 standard hectare for each member in excess of five, so, however, that the aggregate of the ceiling area shall not, in any case, exceed 7.00 standard hectares.

(3) For the purposes of sub-section (2), all the lands owned individually by the members of a family or jointly by some or all the members of such family shall be deemed to be owned by the *raiyats* in the family.

(4) In determining the extent of land owned by the *raiyats* in a family or the sole surviving member of a family or an adult unmarried person, the share of such *raiyat* or *raiyats*, or such sole surviving member, or such adult unmarried person, as the case may be, in the lands owned by a co-operative society, company, co-operative farming society, Hindu undivided family or a firm shall be taken into account.

Explanation.—For the purposes of this sub-section, the share of a *raiyat* in a family or the sole surviving member of a family or an adult unmarried person in the lands owned by a co-operative society or a joint family shall be deemed to be the extent of land which would be allotted to such *raiyat* or person had such lands been divided or partitioned, as the case may be.

(5) The lands owned by a private trust, endowment or institution shall be deemed to be lands owned by the *raiyat* creating the trust or endowment or establishing the institution, as the case may be, or, if he is not alive, by his successors-in-interest.

Determina-
tion of
irrigated
area.

14-N. (1) If any question arises as to whether any land is or is not within an irrigated area, such question shall be determined by the prescribed authority in such manner as may be prescribed.

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(2) The State Government shall prescribe such authority as it may think fit for the determination of the question referred to in sub-section (1).

14-O. (1) Any person who is aggrieved by any determination made by the prescribed authority under section 14-N may, within thirty days from the date of such determination or within such further time as the appellate authority may, on sufficient cause being shown, allow, prefer an appeal to such authority as the State Government may, by notification in the Official Gazette, specify in this behalf, against such determination.

Appeal.

(2) On receipt of such appeal, the appellate authority may, after giving a reasonable opportunity to the appellant of being heard, confirm, modify or reverse the determination made by the prescribed authority.

14-P. In determining the ceiling area, any land which was transferred, by sale, gift or otherwise or partitioned, by a *raiyat* after the 7th day of August, 1969, but before the date of publication, in the Official Gazette, of the West Bengal Land Reforms (Amendment) Act, 1971, shall be taken into account as if such land had not been transferred or partitioned, as the case may be.

Land transferred after 7th August, 1969, to be taken into account for determining the ceiling area.

14-Q. (1) Subject to the provisions of sub-section (2), the ceiling area for a co-operative society, company, co-operative farming society, Hindu undivided family or a firm, as the case may be, shall not exceed the sum total of the ceiling areas of each member of such co-operative society, company, co-operative farming society, Hindu undivided family or each partner of such firm :

Ceiling areas in special cases.

Provided that for the purpose of determining the ceiling area referred to in this sub-section, any land held separately by a person, who is a member of a co-operative society, company, co-operative farming society or Hindu undivided family or a partner of a firm, shall be deducted from the ceiling area referred to in section 14-M, so that the sum total of the area of land held by such person, whether as such member or partner or individually or as a member of a family, may not, in any case, exceed the ceiling area applicable to him under section 14-M.

(2) Where a *raiyat* owns land comprised in orchards, whether or not in addition to other land, the ceiling area in relation to such *raiyat* shall be increased by 2.00 standard hectares or the actual area of the land comprised in orchards, whichever is the lesser.

(3) If the State Government, after having regard to all the circumstances of the case, is satisfied that a corporation or institution established exclusively for a charitable or religious purpose, or both, or a person holding any land in trust, or in pursuance of any other endowment, creating a legal obligation exclusively for a purpose which is charitable or

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religious, or both, requires land, as distinct from the income derived from such land, for the due performance of its obligations, it may, by notification in the Official Gazette, increase the ceiling area for such corporation or institution or person to such extent as it may think fit.

Exemption.

14-R. The provisions of section 14-M shall not apply—

(a) to any land owned as a *raiyat* by a local authority or any body or authority constituted or established by or under any law for the time being in force ;

(b) for such period as may be specified by the State Government, by notification in the Official Gazette, to any land in such hilly portion of the district of Darjeeling as may be specified in the said notification.

Vesting of land in excess of ceiling area.

14-S. (1) On the commencement of the provisions of this Chapter, any land owned by a *raiyat* in excess of the ceiling area applicable to him shall vest in the State free from all incumbrances.

(2) Where any land vested in the State under sub-section (1) is being cultivated by a *bargadar*, the right of cultivation of such *bargadar* in relation to any such vested land which is in excess of 1.00 hectare, including any other land owned or cultivated by him, shall, on the commencement of the provisions of this Chapter, stand terminated.

(3) Every *bargadar* shall, in relation to the land which he is authorised by sub-section (1) to retain under his cultivation, become, on and from the date of commencement of the provisions of this Chapter, a *raiyat*.

Duty of *raiyat* to furnish return.

14-T. (1) Every *raiyat* owning land in excess of the ceiling area shall furnish to the Revenue Officer, in such form and within such time as may be prescribed, a return containing the full description of the land which he proposes to retain within the ceiling area applicable to him under section 14-M and a full description of the land which is in excess of the ceiling area and such other particulars as may be prescribed.

(2) Where there are more *raiyats* than one in a family, the return referred to in sub-section (1) shall be furnished by the head of the family or any other *raiyat* in accordance with the provisions of that sub-section.

(3) The Revenue Officer may, on receipt of a return submitted under sub-section (1) or sub-section (2), or on his own motion, determine the extent of land which is to vest in the State under section 14-S and take possession of such lands.

(4) If a *raiyat* fails to furnish, without any reasonable excuse, the return referred to in sub-section (1), or sub-section (2), within the prescribed time or wilfully makes any omission or incorrect statement in such return, he shall be punishable with fine which may extend to one thousand rupees.

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Amend-
ment of
section 48.

17. In section 43 of the principal Act, in sub-section (3), for the words "exceeds twenty-five acres so long as he continues to be a member of the society", the words, figures and letter "exceeds the ceiling area applicable to him under Chapter II-B" shall be substituted.

Amend-
ment of
section 49.

18. In section 49 of the principal Act,—

(i) for the words "two acres", the figures and word "1.00 hectare" shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely :—

"Provided further that settlement of any such lands may be made with other persons where such settlement is, in the opinion of the State Government, necessary for a public purpose connected with agriculture on such terms and conditions as the State Government may think fit."

Amend-
ment of
section
51A.

19. In section 51A of the principal Act, in sub-section (5), for the words, figures and letter "a Special Judge appointed under section 51D for the purpose of this section", the following shall be substituted, namely :—

"the Additional District Magistrate of the district in which the land is situated :

Provided that every appeal pending before a Special Judge appointed under section 51D at the commencement of section 19 of the West Bengal Land Reforms (Amendment) Act, 1971, shall, on such commencement, stand transferred to, and be disposed of by, the Additional District Magistrate and on such transfer, every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act, as amended by the West Bengal Land Reforms (Amendment) Act, 1971."

Omission
of section
51D.

20. Section 51D of the principal Act shall be omitted.

Insertion
of new
section
53A.

Revenue
Officer
to be a
necessary
party in all
suits, etc.

21. After section 53 of the principal Act, the following section shall be inserted, namely :—

"53A. Notwithstanding anything contained elsewhere in this Act or in any law for the time being in force, the Revenue Officer having jurisdiction in the area in which any land is situated shall be a necessary party to all suits of a civil nature relating to any such land or portion thereof in which one of the parties to the suit is a member of any Scheduled Tribe and the other party is not a member of any Scheduled Tribe."

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22. Section 54 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

Amend-
ment of
section 54.

(i) in sub-section (1), as so re-numbered, clause (c) and the proviso thereto shall be omitted;

(ii) after sub-section (1), as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) Where, at the commencement of section 22 of the West Bengal Land Reforms (Amendment) Act, 1971, any appeal is pending before the Member, Board of Revenue, such appeal shall, notwithstanding anything contained in sub-section (1), be disposed of by such Member.

(3) Where any appeal is preferred to a Collector of the district, he may transfer the appeal to any officer subordinate to him, not being below the rank of a Sub-Deputy Collector:

Provided that the officer to whom the appeal is transferred is superior in rank or position to the officer or authority making the order appealed from.

(4) An order passed in appeal shall be final.”.

23. In section 55 of the principal Act,—

Amend-
ment of
section 55.

(i) in clause (a), after the word “Collector”, the words “or to the Additional District Magistrate” shall be inserted;

(ii) clause (c) shall be omitted.