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MONDAY, APRIL 24, 1972

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IVA—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly

GOVERNMENT OF WEST BENGAL

LEGISLATIVE DEPARTMENT

NOTIFICATION

1007-L.—24th April, 1972.—The Governor has been pleased to order, under rule 66 of the Procedure and Conduct of Business in the

West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum which accompany it, in the *Calcutta Gazette*, the Bill, the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information :—

Bill No. 14 of 1972

THE WEST BENGAL LAND REFORMS (AMENDMENT) BILL, 1972.

A

BILL

to amend the West Bengal Land Reforms Act, 1955.

WHEREAS it is expedient to amend the West Bengal Land Reforms Act, 1955, for the purposes and in the manner hereinafter appearing ;

West Ben.
Act X of
1956.

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

Short title
and
commence-
ment.

1. (1) This Act may be called the West Bengal Land Reforms (Amendment) Act, 1972.

*The West Bengal Land Reforms (Amendment)
Bill, 1972.*

(Clauses 2-7.)

(2) Sections 14, 15, section 16 except sub-clause (c) of clause (i) and clauses (i) and (ii), sections 17, 18, sub-section (1) of section 19 and section 20 shall be deemed to have come into force on the 13th day of July, 1970; sections 2, 3, 4, 5, 6, clause (ii) of section 7, sections 8, 9, 10, 11, 12, sub-section (2) of section 19, sections 22, 23, 24, 25, 26 and 27 shall be deemed to have come into force on the 12th day of February, 1971; and the remaining provisions shall be deemed to have come into force on the 15th day of February, 1971.

Amend-
ment of
section 2.

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

West Ben.
Act X of
1956.

(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 clause (7), after the words "includes homesteads", the words "but does not include tank" shall be added;

(iii) 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;

(iv) in clause (10), for the words "a person who holds", the words "a person or an institution holding" shall be substituted.

Amend-
ment of
section 9.

Amend-
ment of
section 4.

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

Amend-
ment of
section 5.

4. In section 5 of the said Act, in the *Explanation*, in clause (b), for the words "partition or simple or usufructuary mortgage", the words "simple or usufructuary mortgage or mortgage by deposit of title deeds" shall be substituted.

Omission of
section 6.

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

Amend-
ment of
section 7.

6. In section 7 of the said 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 10.

Amend-
ment of
section 8.

7. In section 8 of the said Act,—

(i) in sub-section (1),—

(a) for the words "Revenue Officer specially empowered by the State Government in this behalf", the words "Munsif having territorial jurisdiction" shall be substituted.

Amend-
ment of
section
14C.

The West Bengal Land Reforms (Amendment) Bill, 1972.

(Clauses 8—10.)

- (b) 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),—
 - (a) in clause (b), after the word "gift", the words "or *heba-bil-ewaz*" shall be added;
 - (b) in clause (c), the word "usufructuary" shall be omitted;
- (iii) after sub-section (2), the following sub-section shall be added, namely:—

"(3) Every application pending before a Revenue Officer at the commencement of section 7 of the West Bengal Land Reforms (Amendment) Act, 1972, shall, on such commencement, stand transferred to, and be disposed of by, the Munsif having jurisdiction in relation to the area in which the land is situated and on such transfer every such application 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, 1972."

Amendment of section 9.

8. In section 9 of the said Act,—
- (i) for the words "Revenue Officer", wherever they occur, the word "Munsif" shall be substituted;
 - (ii) in sub-section (6), for the word "Munsif", wherever it occurs, the words "District Judge" shall be substituted;
 - (iii) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) Every appeal pending before an Additional District Magistrate at the commencement of section 8 of the West Bengal Land Reforms (Amendment) Act, 1972, shall, on such commencement, stand transferred to, and be disposed of by, the District Judge 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, 1972."

Amendment of section 10.

9. In section 10 of the said 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, or, after the commencement of the West Bengal Land Reforms (Amendment) Act, 1972, by the District Judge," shall be inserted.

President's Act 3 of 1971.

Amendment of section 14C.

10. In section 14C of the said Act,—
- (i) in sub-section (1),—
 - (a) in clause (a), for the words "to the same Scheduled Tribe to which the transferor belongs", the words "to a Scheduled Tribe" shall be substituted;

Clause (c) 18, sub-sections 2, 12, sub-section 27 shall of Feb- deemed to 1971.

Reforms Act, West Ben. Act X of 1956.

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The West Bengal Land Reforms (Amendment) Bill, 1972.

(Clauses 11, 12.)

(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 said Act, in sub-section (1),—

(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;

(ii) the words, brackets and letter “or clause (e)”, 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.

12. In section 14H of the said Act,—

(i) for the words “to the Collector of the district”, the words “to the Munsif having jurisdiction” shall be substituted;

(ii) for the figures and letter “14C”, the figures, letters and words “14C or section 14E” shall be substituted;

(iii) in the first proviso, for the words “Collector on appeal shall lie to the Commissioner”, the words “Munsif on appeal shall lie to the District Judge” shall be substituted.

Amendment of section 14E.

Amendment of section 14H.

Insertion of new Chapter II-B.

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

Definitions.

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*The West Bengal Land Reforms (Amendment)
Bill, 1972.*

(Clause 13.)

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

‘CHAPTER II-B

Ceiling on Holdings

14J. 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.

14K. 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 predeceased 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 predeceased son, where the widow of such predeceased son is dead and any minor son or unmarried daughter of such predeceased son does not hold any land as a *raiyat*,

but shall not include any other person.

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;

Insertion
of new
Chapter
II-B.

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

Definitions.

*The West Bengal Land Reforms (Amendment)
Bill, 1972.*

(Clause 13.)

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.

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

14L. 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 14M.

Ceiling area.

14M. (1) The ceiling area shall be,—

- (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;
- (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.

Determination of irrigated area.

Appeal.

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

The West Bengal Land Reforms (Amendment) Bill, 1972.

(Clause 13.)

(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 trust or endowment other than of a public nature, shall be deemed to be lands owned by the beneficiaries under the trust or endowment and each such beneficiary shall be deemed to be a *raiyat* under this Act to the extent of the share of his beneficial interest in the said trust or endowment.

Determination of irrigated areas.

14N. (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.

(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).

Appeal.

14-O. (1) Any person who is aggrieved by any determination made by the prescribed authority under section 14N 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.

(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.

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

14P. 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.

President's Act 3 of 1971.

*The West Bengal Land Reforms (Amendment)
Bill, 1972.*

(Clause 13.)

Ceiling
area in
special
cases.

14Q. (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:

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 14M, 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 14M.

(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 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.

14R. The provisions of section 14M 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.

14S. (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, including any other land owned or cultivated

Duty of
raiyat to
furnish
return.

Restriction
on transfer
of land by
a *raiyat*.

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The West Bengal Land Reforms (Amendment) Bill, 1972.

(Clause 13.)

by him is in excess of 1.00 hectare, 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 (2) 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.

14T. (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 14M 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 14S 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.

Restriction
on transfer
of land by
a *raiyat*.

14U. (1) Except where he is permitted, in writing, by the Revenue Officer so to do, a *raiyat* owning land in excess of the ceiling area applicable to him under section 14M, shall not, after the publication, in the *Official Gazette*, of the West Bengal Land Reforms (Amendment) Act, 1971, transfer, by sale, gift or otherwise or make any partition of any land owned by him or any part thereof until the excess land, which is to vest in the State under section 14S, has been determined and taken possession of by or on behalf of the State.

President's
Act 3 of
1971.

(2) If a *raiyat* makes any transfer, whether by sale, gift or otherwise, of any land in contravention of the provisions of sub-section (1), the State Government may, in the first instance, take possession of land, equal in area to the land which is to vest in the State, from out of the land owned by such *raiyat*, and where such recovery from the *raiyat* is not possible, from the transferee:

Provided that where the transferee is a person who is eligible for allotment of surplus land in accordance with the provisions of this Act, the State Government may, instead of enforcing its right to recover the land or an equal amount of land, recover from the transferor the amount which he had received as consideration for the transfer of such land.

*The West Bengal Land Reforms (Amendment)
Bill, 1972.*

(Clause 14.)

(3) Any *raiyat* who transfers any land in contravention of the provisions of sub-section (1) shall be punishable with fine which may extend to two thousand rupees; or with imprisonment for a term which may extend to six months, or with both.

Compensa-
tion.

14V. The principles on which, and the manner in which, compensation for the vesting of any land in the State under the provisions of this Chapter is to be determined and given shall be such as are specified in Chapter III of the West Bengal Estates Acquisition Act, 1953.

West Ben.
Act I of
1954.

Damages
for use
and occu-
pation of
land.

14W. (1) A *raiyat* who possesses, after the commencement of the provisions of this Chapter, any land in excess of the ceiling area shall be liable to pay to the State Government, for the period for which he has possessed such land, such compensation for the use and occupation of such land as the Collector may fix in the prescribed manner.

(2) Any sum payable by a *raiyat* as damages for use and occupation of any land shall be recoverable as a public demand.

Bar of
jurisdic-
tion of
Civil
Courts.

14X. No Civil Court shall have jurisdiction to decide or deal with any question or to determine any matter which is by or under this Chapter required to be decided or dealt with or to be determined by the Revenue Officer or other authority specified therein and no orders passed or proceedings commenced under the provisions of this Chapter shall be called in question in any Civil Court.

Amend-
ment of
section 16.

Limitation
on future
acquisition
of land.

14Y. If any *raiyat* acquires any land, whether by transfer, inheritance or otherwise, after the commencement of the provisions of this Chapter, and such land, together with the land owned by him, exceeds the ceiling area applicable to him under section 14M, the area of land which is in excess of such ceiling area shall vest in the State and all the provisions of this Chapter relating to ceiling on holding shall apply to such land.

Insertion
of new
section
15A.

14. After section 15 of the said Act, the following section shall be inserted, namely:—

“Continuation of right of cultivation on *bargadar's* death. 15A. (1) Notwithstanding anything contained in any law for the time being in force or in any contract to the contrary, where a *bargadar*, cultivating any land, dies at a time when cultivation of such land by the *bargadar* was continuing, the cultivation of such land may be continued by the lawful heir of the *bargadar* or where there are more than one lawful heir, by such lawful heir of the *bargadar* as all the lawful heirs of the *bargadar* may determine within the prescribed period:

Provided that where the lawful heirs of the *bargadar* omit or fail to make a determination as required by this sub-section, the officer or authority appointed under sub-section (1) of section 18 may nominate one of the lawful heirs of the *bargadar*, who is in a position to cultivate the land personally, to continue the cultivation thereof.

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*The West Bengal Land Reforms (Amendment)
Bill, 1972.*

(Clause 15.)

(2) The lawful heir of the *bargadar* who is determined or nominated for the cultivation of the land shall cultivate the land subject to such terms and conditions as may be prescribed.

(3) Where—

(a) no lawful heir of the *bargadar* is in a position to cultivate the land personally, or

(b) the lawful heirs of the *bargadar* fail to determine, within the prescribed period, the heir by whom the cultivation of the land will be continued and the officer or authority appointed under sub-section (1) of section 18 also omits or fails to nominate, within the prescribed period, any lawful heir of the deceased *bargadar* for the continuation of the cultivation of the land, or

(c) the person determined or nominated under sub-section (1) omits or fails to take any steps, within the prescribed period, for the continuation of the cultivation of the land,

cultivation of the land may be continued by such person, whether an heir of the deceased *bargadar* or not, as may be nominated by the person whose land was cultivated by the deceased *bargadar*.”

Amendment of section 16.

15. In section 16 of the said Act,—

(i) in clause (b) of sub-section (1), for the figures “60:40”, the figures “75:25” shall be substituted;

(ii) for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

“(2) The *bargadar* shall tender, within the prescribed period, to the person whose land he cultivates, the share of the produce due to such person.

(3) Where any share of produce tendered under sub-section (2) is accepted by the person whose land is cultivated by the *bargadar*, each party shall give to the other a receipt, in such form as may be prescribed, for the quantity of the produce received by him.

(4) If the person whose land is cultivated by the *bargadar* refuses to accept the share of the produce tendered to him by the *bargadar*, or to give a receipt therefor, the *bargadar* may deposit, within the prescribed period, such share of the produce with such officer or authority as may be prescribed and such deposit shall discharge the *bargadar* from his obligation to deliver the share of the produce to the person whose land he cultivates:

Provided that where the quantity of the produce deposited by the *bargadar* is lesser than the quantity of the produce due to the person whose land he cultivates, the obligation of the *bargadar* with regard to the delivery of the deficiency in relation to the produce shall continue.

West Ben.
Act I of
1954.

The West Bengal Land Reforms (Amendment) Bill, 1972.

(Clause 16.)

- (5) Where a deposit referred to in sub-section (4) has been made, the prescribed officer or authority shall—
- (a) give to the *bargadar* a receipt in such form as may be prescribed stating therein the quantity of the produce deposited by the *bargadar* and the particulars of the person for whom the produce has been deposited; and
 - (b) give intimation of such deposit, in such form and in such manner as may be prescribed, to the person for whom the produce has been deposited.
- (6) Where any produce is deposited under sub-section (4) and the person for whom the produce has been deposited does not (the delivery of such produce within fifteen days from the date of service on him of the intimation of such deposit, the officer or authority referred to in sub-section (4) may sell such produce and deposit the proceeds of such sale, after deducting therefrom the cost of conducting the sale, in the treasury, in revenue deposit, to the credit of the person for whom the produce has been deposited and give intimation of such deposit to such person, in such form and in such manner as may be prescribed.
- (7) The *bargadar* shall store or thresh the produce—
- (a) at such place as may be agreed upon between him and the person whose land he cultivates, or
 - (b) where there is disagreement between them, at such place as may be fixed by him after giving notice, in writing, served in the prescribed manner, to the person whose land he cultivates:
- Provided that the person whose land is cultivated by the *bargadar* may, at any time during the storage or threshing of the produce, enter the place where the produce has been stored or is being threshed for the purpose of inspecting the storage or threshing, as the case may be, of the produce.”

16. In section 17 of the said Act,—

- (i) in sub-section (1)—
 - (a) in clause (a), the words “or has neglected to cultivate it properly” shall be omitted;
 - (b) for clause (c), the following clause shall be substituted, namely:—
 - “(c) that the *bargadar* has failed to tender or deposit to the full extent the share of the produce as required by sub-section (2), or sub-section (4), as the case may be, of section 16:

Provided that no order for the termination of cultivation, made on the ground specified in this clause, shall be given effect to if the *bargadar* delivers to the person, whose land he cultivates, the share of the produce due to such person, or pays to him the market price thereof, within such time and in such instalments as the officer or authority making the order may, having regard to all the circumstances of the case, specify in this behalf.”;

Amendment of section 17.

Amendment of section 18.

Amendment of section 19.

17. In
(i) in
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“(

*The West Bengal Land Reforms (Amendment)
Bill, 1972.*

(Clauses 17, 18.)

(c) for the proviso to clause (d), the following provisos shall be substituted, namely:—

“Provided that the person owning the land shall be entitled to terminate cultivation by a *bargadar* of only so much of land as, together with any other land in the personal cultivation of such person, does not exceed 3.00 hectares:

Provided further that such person shall not be entitled to so terminate cultivation by a *bargadar* as to reduce the aggregate area of the land cultivated by the *bargadar* to less than 1.00 hectare.

Explanation.—In determining the areas specified in the foregoing provisos no transfer of land made after the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, shall be taken into account.”

President's
Act 16 of
1970.

(ii) in sub-sections (4) and (5), for the words “twenty-five acres”, wherever they occur, the figures and word “6.00 hectares” shall be substituted;

(iii) after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) Where any land cultivated by a *bargadar* is in excess of the limit specified in sub-section (4), the person whose land is cultivated by such *bargadar* shall, if the excess land is within the ceiling area applicable to such person in accordance with the provisions of Chapter II-B, have the land cultivated by any person referred to in section 49 who is willing to cultivate the said land as a *bargadar*.”

Amend-
ment of
section 18.

17. In section 18 of the said Act,—

(i) in sub-section (1), clause (c) shall be omitted;

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

Amend-
ment of
section 19.

18. In section 19 of the said Act,—

(a) in sub-section (1), for the word “Munsif”, wherever it occurs, the words “Sub-Divisional Officer” shall be substituted;

(b) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) Every appeal pending before any Munsif at the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, shall, on such commencement, stand transferred to, and be disposed of by, the Sub-Divisional Officer 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, 1972.

President's
Act 16 of
1970.

The West Bengal Land Reforms (Amendment)

Bill, 1972.

(Clause 19.)

(2B) The Sub-Divisional Officer may transfer any appeal, whether transferred to, or filed before, him, for disposal to any officer not below the rank of a Sub-Deputy Collector, subordinate to him, but senior in rank and position to the officer or authority against whose order the appeal has been preferred and 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, 1972.”;

(c) in sub-sections (3) and (4), for the word “Munsif”, the words “Sub-Divisional Officer or other officer” shall be substituted.

Insertion
of new
sections
20A
and 20B.

19. (1) After section 20 of the said Act, the following section shall be inserted, namely:—

“Setting aside
of order for
termination of
cultivation by
bargadars,

20A. Notwithstanding anything contained in any law for the time being in force, where, before the commencement of the West Bengal Land Reforms (Amendment) Act, 1969, an order for the termination of cultivation of any land by a *bargadar* had been made under clause (b) of sub-section (1) of section 18 but such order has not been given effect to (whether by reason of the operation of any law or otherwise), before the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, then, such order shall, on such commencement, stand vacated and the officer or authority by whom such order was made shall, after giving notice to the parties concerned, decide the dispute in accordance with the provisions of section 17 as amended by the West Bengal Land Reforms (Amendment) Act, 1972.”.

West Ben.
Act XI of
1969.

President's
Act 16 of
1970.

Amend-
ment of
section 21.

Amend-
ment of
section 43.

Amend-
ment of
section 49.

(2) After section 20A of the said Act as so inserted, the following section shall be inserted, namely:—

“Surrender or
abandonment by
bargadar.

20B. (1) If a *bargadar*—

(a) surrenders his right to cultivate in relation to any land cultivated by him as a *bargadar*, or

(b) voluntarily abandons cultivation of such land,

the person, whose land was cultivated by the *bargadar*, may give information in writing of such surrender or abandonment to the officer or authority appointed under sub-section (1) of section 18, having jurisdiction in the area in which such land is situated.

Amend-
ment of
section 51A.

(2) On receipt of such information, such officer or authority shall issue a notice, in the prescribed form, to the *bargadar*, and after giving the *bargadar* and the person whose land was cultivated by the *bargadar*, an opportunity of being heard and making such inquiries as he or it may deem necessary, determine whether the *bargadar* had voluntarily surrendered or abandoned his right of cultivation in relation to such land.

*The West Bengal Land Reforms (Amendment)
Bill, 1972.*

(Clauses 20—23.)

(3) If such officer or authority determines that the *bargadar* had not voluntarily surrendered or abandoned the cultivation of the land which was being cultivated by him as such and that he had been compelled by force or otherwise to surrender or abandon the cultivation of such land, such officer or authority shall restore the *bargadar* to the cultivation of the land, or where the *bargadar* is not available or is not willing to be restored to the cultivation of such land, the person whose land was so cultivated shall not resume personal cultivation of the land but he may, with the permission of such officer or authority, get the land cultivated by any person, referred to in section 49, who is willing to cultivate the land as a *bargadar*.

(4) If such officer or authority determines that the *bargadar* had voluntarily surrendered or abandoned the cultivation of the land which was cultivated by him as such, the person whose land was being so cultivated shall not resume personal cultivation of such land but he may, with the permission of such officer or authority, have the land cultivated by any person, referred to in section 49, who is willing to cultivate the land as a *bargadar*.

(5) Any contravention of the provisions of sub-section (3) or sub-section (4) shall be an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

Amend-
ment of
section 21.

20. In section 21 of the said Act, in sub-section (1), the words "Save as provided in section 19" shall be omitted.

Amend-
ment of
section 43.

21. In section 43 of the said 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.

22. In section 49 of the said 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.

23. In section 51A of the said 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,

President's
Act 3 of
1971.

West Ben.
Act XI of
1969.

President's
Act 16 of
1970.

The West Bengal Land Reforms (Amendment)

1972.

(Clauses 21-28.)

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, 1972.

Omission
of section
51D.

24. Section 51D of the said Act shall be omitted.

Insertion
of new
section
53A.

25. After section 53 of the said Act, the following section shall be inserted, namely:—

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

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.”

Amend-
ment of
section
54.

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

- (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.

President's
Act 3 of
1971.

(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.”

Amend-
ment of
section 55.

27. In section 55 of the said Act,—

- (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.

Repeal and
savings.

28. (1) The West Bengal Land Reforms (Amendment) Ordinance, 1972, is hereby repealed.

West Ben.
Ord. IX
of 1972.

(2) Anything done or any action taken (including any order made, proceeding commenced, obligation or liability incurred), or demed to have been done or taken, under the West Bengal Land Reforms Act, 1955, as amended by the said Ordinance shall continue to be in force and shall be deemed to have been done, taken, made, commenced or incurred, as the case may be, under the West Bengal Land Reforms Act, 1955, as amended by this Act, as if this Act were in force on the date on which such thing was done, such action was taken, such order was made, such proceeding was commenced and such obligation or liability was incurred.

West Ben.
Act X of
1956.

STATEMENT OF OBJECTS AND REASONS.

The West Bengal Land Reforms (Amendment) Act, 1970 (President's Act 16 of 1970) and the West Bengal Land Reforms (Amendment) Act, 1971 (President's Act 3 of 1971), were enacted by the President during the term of President's Rule in West Bengal from the 19th March, 1970 to the 1st April, 1971. The life of these two Acts was due to expire on the 1st April, 1972.

2. By the West Bengal Land Reforms (Amendment) Act, 1970, the position of the bargadar had been safeguarded. The grounds for termination of cultivation by a bargadar had been restricted, the security of the tenure of a bargadar in respect of at least 1 hectare of land had been ensured, the right of cultivation by a bargadar had been made hereditary and the bargadar's share of the produce had been raised from 60 per cent. to 75 per cent. where the owner did not supply plough, cattle, manure and seeds.

3. By the West Bengal Land Reforms (Amendment) Act, 1971 the ceiling on agricultural land had been fixed on a family basis on the aggregate area of land held by all the raiyats in a family. The scope of exemption from the operation of the law of ceiling had been curtailed. The amendment also safeguarded further the interests of bargadars and of tribal raiyats and permitted a raiyat to execute equitable mortgage for obtaining credit from banks and other financial institution.

4. The West Bengal Land Reforms (Amendment) Ordinance, 1972 (West Bengal Ordinance No. IX of 1972), was promulgated to keep alive the provisions made by the two President's Acts.

5. The Bill seeks to enact the provisions made by the said Ordinance, subject to certain modifications to plug loopholes and to expedite disposal of cases.

CALCUTTA,

The 18th April, 1972.

GURU PADA KHAN,
Member-in-charge.

FINANCIAL MEMORANDUM.

As a result of the new ceiling on holdings envisaged in the Bill it has been estimated that about two to three lakh acres of land may be made available for distribution among the landless cultivators and others for which rupees twenty to thirty crores may have to be paid as compensation to the land owners. A portion of this amount of compensation will be in the shape of annuity where the land is held exclusively for religious or charitable purpose or both. The exact amount of liability in cash and in the form of bonds cannot be estimated at the present stage. Section 49 of the West Bengal Land Reforms Act, 1955, specifically provides that no premium shall be charged for settlement of the land with persons holding no land or less than one hectare of land. In view of this specific provision the entire compensation amount will have to be borne by the State Exchequer.

CALCUTTA,

The 18th April, 1972.

GURU PADA KHAN,
Member-in-charge.

By order of the Governor,

K. K. MOITRA,

Secy. to the Govt. of West Bengal.