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PART III—Acts of the West Bengal Legislature

GOVERNMENT OF WEST BENGAL

Legislative Department

NOTIFICATION

No. 57L. — 8th January, 1958. — The following Act of the West Bengal Legislature, having been assented to by the President, is hereby published for general information:—

West Bengal Act XXV of 1957

THE WEST BENGAL ESTATES ACQUISITION (SECOND AMENDMENT) ACT, 1957

[Passed by the West Bengal Legislature.]

[Assent of the President was first published in the Calcutta Gazette, Extraordinary, of the 8th January, 1958.]

An Act to amend the West Bengal Estates Acquisition Act, 1953.

WHEREAS it is expedient to amend the West Bengal Estates Acquisition Act, 1953, for the purposes and in the manner hereinafter appearing; West Ben. Act I of 1954.

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

Short title. 1. This Act may be called the West Bengal Estates Acquisition (Second Amendment) Act, 1957.

Amendment of section 2 of West Ben. Act I of 1954. 2. In section 2 of the West Bengal Estates Acquisition Act, 1953 (hereinafter referred to as the said Act),—

(a) in clause (h), after the words "or of a non-agricultural tenant" the words "but shall, except in the case of land allowed to be retained by an intermediary under the provisions of section 6, include all rights or interests of whatever nature, belonging to intermediaries or other persons, which relate to lands comprised in estates or to the produce thereof" shall be added and be deemed always to have been added; and

(b) in clause (j), after the words "other than agricultural land" the words "or other than land comprised in a forest" shall be added and be

The West Bengal Estates Acquisition (Second Amendment) Act, 1957.

(Sections 3—6.)

Amend-
ment of
section 5.

3. In section 5 of the said Act,—

(a) in sub-clause (ii) of clause (a), the word "forests," shall be omitted and be deemed always to have been omitted; and

(b) after clause (a), the following clause shall be inserted and be deemed always to have been inserted, namely:—

"(aa) all lands in any estate comprised in a forest together with all rights to the trees therein or to the produce thereof and held by an intermediary or any other person shall, notwithstanding anything to the contrary contained in any judgment, decree or order of any court or Tribunal, vest in the State;"

Amend-
ment of
section 6.

4. In section 6 of the said Act,—

(a) in the *Exception* at the end of sub-section (1), after the words "entitle an intermediary" the words "or any other person" shall be inserted and be deemed always to have been inserted;

(b) after sub-section (3), the following sub-sections shall be inserted and be deemed always to have been inserted, namely:—

"(4) In the case of lands comprised in a forest and held by a person other than an intermediary which vest in the State, such person shall, for the purpose of assessment of compensation, be deemed to be an intermediary.

(5) An intermediary shall exercise his choice for retention of land under sub-section (1) within such time and in such manner as may be prescribed. If no choice is exercised by him during the prescribed period, the Revenue Officer shall, after giving him an opportunity of being heard, allow him to retain so much of the lands as do not exceed the limits specified in clauses (c), (d) and (j) of that sub-section:

Provided that nothing in this sub-section shall require an intermediary to exercise the choice if he has already done so before the date of coming into force of the West Bengal Estates Acquisition (Second Amendment) Act, 1957."

Amend-
ment of
section 26.

5. In sub-section (3) of section 26 of the said Act, after the words "sub-section (2) of section 23" the words ", and no such sum shall be deducted from the amounts payable under sub-section (1) or sub-section (2) of section 12" shall be added and be deemed always to have been added.

Amend-
ment of
section 42.

6. In section 42 of the said Act, the following proviso shall be added at the end and be deemed always to have been added, namely:—

"Provided that in the case of an intermediary, who immediately before the date of vesting held any tenure comprising exclusively of non-agricultural lands, he shall, subject to any law for the time being in force for assessment or re-assessment of rent,

(a) pay the same rent as he was paying immediately before the date of vesting if he retains all such lands;

(b) pay as rent an amount which shall bear the same proportion to the rent he was paying immediately before the date of vesting, as the area of the land retained by him bears to the area of all the lands which were comprised in the tenure if he retains only part of such lands;

The West Bengal Estates Acquisition (Second Amendment) Act, 1957.

(Sections 7, 8.)

- (c) pay no rent for the land retained by him if he held such land rent-free immediately before the date of vesting."

Amend-
ment of
section 44.

7. In section 44 of the said Act,—

- (a) after sub-section (2), the following sub-section shall be inserted and be deemed always to have been inserted, namely:—

"(2a) An officer specially empowered by the State Government may, on application or of his own motion, within six months from the date of final publication of the record-of-rights or from the date of coming into force of the West Bengal Estates Acquisition (Second Amendment) Ordinance, 1957, whichever is later, revise an entry in the record finally published in accordance with the provisions of sub-section (2) after giving the persons interested an opportunity of being heard and after recording reasons therefor:

West Ben.
Ord. X of
1957.

Provided that nothing in the foregoing paragraph shall be deemed to empower such officer to modify or cancel any order passed under section 5A, while revising any entry:

Provided further that no such officer shall entertain any application under this sub-section or shall of his own motion take steps to revise any entry, if an appeal against an order passed by a Revenue Officer on any objection made under sub-section (1), has been filed before the commencement of the West Bengal Estates Acquisition (Second Amendment) Ordinance, 1957 before a Tribunal appointed for the purpose of this section, and, notwithstanding anything in this section, any such appeal may continue and be heard and disposed of as if the West Bengal Estates Acquisition (Second Amendment) Ordinance, 1957 had not been promulgated."

- (b) in sub-section (3), for the words "by a Revenue Officer on any objection made under sub-section (1)" the words "in revision under sub-section (2a)" shall be substituted and be deemed always to have been substituted;

- (c) for sub-section (4), the following sub-section shall be substituted and be deemed always to have been substituted, namely:—

"(4) Every entry in the record-of-rights finally published under sub-section (2) including an entry revised under sub-section (2a) or corrected under section 45 or section 45A shall, subject to any modification by an order on appeal under sub-section (3), be presumed to be correct until it is proved by evidence to be incorrect."

Amend-
ment of
section 46.

8. In section 46 of the said Act,—

- (a) the words "until after the final publication of the record-of-rights under sub-section (2) of section 44," shall be omitted and be deemed always to have been omitted;

- (b) for the words "if any such suit or application is pending" the words "if any suit or application in which any of the aforesaid matters is in issue is pending" shall be substituted and be deemed always to have been substituted;

*The West Bengal Estates Acquisition (Second Amendment)
Act, 1957.*

(Section 9.)

(c) for the words "on the date of such order it shall be stayed:" the words "on the date of such order, it shall be stayed, and it shall, on the expiry of the period prescribed for an appeal under sub-section (3) of section 44 or when an appeal has been filed under that sub-section, as the case may be, on the disposal of such appeal, abate so far as it relates to any of the aforesaid matters." shall be substituted and be deemed always to have been substituted;

(d) the proviso shall be omitted and be deemed always to have been omitted.

Savings.

9. Any application made, any order passed, any action taken or anything done under the said Act as amended by the West Bengal Estates Acquisition (Second Amendment) Ordinance, 1957, shall, on the said Ordinance ceasing to operate, be deemed to have been made, passed, taken or done under the said Act as amended by this Act, as if this Act had commenced on the 4th day of November, 1957.

West Ben.
Ord. X of
1957.

By order of the Governor,
S. K. D. GUPTA,
Secy. to the Govt. of West Bengal.