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PART III—Acts of the West Bengal Legislature

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION.

No. 833-I.—12th May, 1989.—The following Act of the West Bengal Legislature, having been assented to by the President of India, is hereby published for general information:—

West Bengal Act XXXV of 1986

THE WEST BENGAL LAND REFORMS (THIRD AMENDMENT) ACT, 1986.

[Passed by the West Bengal Legislature.]

[Assent of the President of India was first published in the *Calcutta Gazette, Extraordinary*, of the 12th May, 1989.]

An Act 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 Thirty-seventh 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 Land Reforms (Third Amendment) Act, 1986.

*The West Bengal Land Reforms (Third Amendment)
Act, 1986.*

(Sections 2, 3.)

Substitu-
tion of new
section for
section 3A
of West
Ben. Act X
of 1956.

2. For section 3A of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the principal Act) the following section shall be substituted:—

“Rights of non-3A. (1) The rights and interests agricultural tenants and under-tenants in Bengal Non-Agricultural land to vest in the State. (1) The rights and interests of all non-agricultural tenants and under-tenants under the West Bengal Non-Agricultural Tenancy Act, 1949 shall vest in the State free from all encumbrances, and the provisions of sections 5 and 5A of the West Bengal Estates Acquisition Act, 1953 shall apply, with such modifications as may be necessary, *mutatis mutandis* to all such non-agricultural tenants and under-tenants as if such non-agricultural tenants and under-tenants were intermediaries and the land held by them were estates and a person holding under a non-agricultural tenant or under-tenant were a *raiyat*.”

West Ben.
Act XX of
1949.

West Ben.
Act I of
1954.

Explanation.—Nothing in sections 5 and 5A of the West Bengal Estates Acquisition Act, 1953 shall be construed to affect in any way the vesting of the rights and interests of a non-agricultural tenant or under-tenant under the West Bengal Non-Agricultural Tenancy Act, 1949 in the State under sub-section (1) of this section.

(2) Notwithstanding anything contained in sub-section (1), a non-agricultural tenant or under-tenant under the West Bengal Non-Agricultural Tenancy Act, 1949, holding in his *khas* possession any land to which the provisions of sub-section (1) apply, shall, subject to the other provisions of this Act, be entitled to retain as a *raiyat* the said land which together with other lands, if any, held by him shall not exceed the ceiling area under section 14M.

(3) Every intermediary,—

(a) whose land held in his *khas* possession has vested in the State under sub-section (1), or

(b) whose estates or interests, other than land held in his *khas* possession, have vested in the State under sub-section (1), shall be entitled to receive an amount to be determined in accordance with the provisions of section 14V.

(4) The provisions of this section shall not apply to any land to which the provisions of the Calcutta *Thika* Tenancy (Acquisition and Regulation) Act, 1981, apply.

West Ben.
Act
XXXXVII
of 1981.

(5) This section shall be deemed to have come into force on and from the 9th day of September, 1980.”

Amend-
ment of
section 4B.

3. In section 4B of the principal Act, after the proviso, the following proviso shall be added:—

“Provided further that without prejudice to the provisions of Chapter IIB of the Act the provisions of this section shall not apply to the diminution in area or the change of character of any land or the conversion of any land for any purpose other than the purpose for which it was settled or previously held, if such diminution or change of character or conversion was made in accordance with the provisions of any law for the time being in force.”

*The West Bengal Land Reforms (Third Amendment)
Act, 1986.*

(Sections 4—7.)

Amendment of section 4D.

4. In sub-section (I) of section 4D of the principal Act, after the proviso, the following proviso shall be inserted:—

“Provided further that no prosecution shall lie for any diminution in area or change of character of any land or any conversion in the use of any land if such diminution or change of character or conversion was made in accordance with the provisions of any law for the time being in force.”.

Substitution of new section for section 14J.

5. For section 14J of the principal Act, the following section shall be substituted:—

“Provisions of Chapter IIB to have overriding effect. 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 or in any custom, usage or contract (express or implied) or in any agreement, decree, order, decision or award of any court, tribunal or other authority:

Provided that nothing in this Chapter shall apply to any vacant land in an urban agglomeration as defined in the Urban Land (Ceiling and Regulation) Act, 1976.”.

33 of 1986.

Amendment of section 14K.

6. In section 14K of the principal Act, in clause (f), after sub-clause (ii), the following sub-clause shall be inserted:—

“(iii) in relation to any other land, an extent of land equivalent to 1.40 hectare.”.

Substitution of new section for section 14P.

7. For section 14P of the principal Act, the following section shall be substituted:—

“Land transferred after the 7th day of August, 1969 to be taken into account in determining the ceiling area. 14P. (1) In determining the ceiling area, any land transferred by sale, gift or otherwise or partitioned, by a *raiyat* after the 7th day of August, 1969 but before the date of publication of the West Bengal Land Reforms (Amendment) Act, 1971 in the *Official Gazette*, 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.

Provided that provisions of sub-section (1) shall not apply to transfer or partition of land to which provisions of section 3A apply.

(1a) In determining the ceiling area, any land to which the provisions of section 3A of this Act apply and which was transferred or partitioned after the 7th day of August, 1969, but before the 9th day of September, 1980, shall be taken into account as if such land had not been transferred or partitioned, as the case may be.

(2) The provisions of sub-section (1a) shall not apply to a *bona fide* transfer or partition of any land as aforesaid, and the burden of proving the *bona fides* of such transfer or partition shall lie on the transferor or the person in whose name the land stood recorded before the partition, as the case may be.

(3) For the purposes of sub-section (2), the transfer of any land in favour of one or more of the following relatives of the transferor shall be presumed to be not *bona fide*:—

(a) wife, or

The West Bengal Land Reforms (Third Amendment)
Act, 1986.

(Sections 8—10.)

- (b) husband, or
- (c) child, or
- (d) grand child, or
- (e) parent, or
- (f) grand parent, or
- (g) brother, or
- (h) sister, or
- (i) brother's son or daughter, or
- (j) sister's son or daughter, or
- (k) daughter's husband, or
- (l) son's wife, or
- (m) wife's brother or sister, or
- (n) brother's wife."

Amendment of section 14R. 8. In clause (a) of section 14R of the principal Act, after the words "established by", the words "or under" shall be inserted.

Amendment of section 14S. 9. In section 14S of the principal Act, after the words "this Chapter", wherever they occur, the words "or on any subsequent date" shall be inserted.

Amendment of section 14T. 10. In section 14T of the principal Act,—
(a) for sub-section (5), the following sub-section shall be substituted:—

"(5) The Revenue Officer, on his own motion or upon any information, may, after giving the persons interested an opportunity of being heard, enquire and decide any question of *benami* in relation to any land and any question of title incidental thereto or any interest therein or any matter of transaction made, on being satisfied that such enquiry and decision are necessary for the purpose of preparation, correction or revision of record-of-rights and all matters incidental or consequential thereto or detection and vesting of surplus land over the ceiling area."

(b) after sub-section (9), the following sub-sections shall be inserted:—

"(10) Notwithstanding any return submitted by a *raiyat* under sub-section (1) or sub-section (2) and notwithstanding any order passed by the Revenue Officer under sub-section (3) or sub-section (3A) in respect of the land owned by him, the State Government may, at any time by a notification in the *Official Gazette*, ask every *raiyat* owning land in excess of the ceiling area under section 14M to furnish to the Revenue Officer, in such form as may be prescribed and within such time as may be specified in the notification, 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.

(11) On the publication of the notification under sub-section (10), the provisions of this section shall apply *mutatis mutandis* to every *raiyat* owning land in excess of the ceiling area under sub-Section 14M."

*The West Bengal Land Reforms (Third Amendment)
Act, 1986.*

(Section 11.)

Amend-
ment
of
section
14U.

11. In section 14U of the principal Act,—

(a) in sub-section (1),—

(i) for the words, brackets and figures "West Bengal Land Reforms (Amendment) Act, 1981", the words, brackets and figures "West Bengal Land Reforms (Amendment) Act, 1971" shall be substituted;

West Ben.
Act L of
1981.
President's
Act 3 of
1971.

(ii) the following proviso shall be added at the end:—

"Provided that nothing in this sub-section shall apply to any land to which the provisions of section 3A apply:

Provided further that if a *raiyat* has transferred any land which he retained in pursuance of any order of the Revenue Officer under sub-section (3) or sub-section (3A) of section 14T, such land shall be taken into account in determining, on any subsequent occasion, the ceiling area of the said *raiyat* in pursuance of the provisions of this Act, as if such land had not been transferred.";

(b) for sub-section (2), the following sub-section shall be substituted:—

"(2) Except where he is permitted, in writing, by the Revenue Officer so to do, a *raiyat* owning land to which the provisions of section 3A apply, whether or not such land together with other land, if any, is in excess of the ceiling area under section 14M, shall not on and from the date of coming into force of section 3A of the Act, transfer by sale, gift or otherwise, or make any partition of, any such land or any part thereof until the excess land, if any, which is to vest in the State under section 14S has been determined or re-determined and taken possession of by or on behalf of the State.";

(c) for sub-section (3), the following sub-section shall be substituted:—

"(3) If a *raiyat* makes any transfer, whether by sale, gift or otherwise, of any land in contravention of the provisions of sub-section (1) or sub-section (2), 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 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 (Third Amendment)
Act, 1986.*

(Sections 12—16.)

(d) after sub-section (3), the following sub-section shall be inserted:—

“(4) Any *raiyat* who transfers any land in contravention of the provisions of sub-section (1) or sub-section (2) 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:

Provided that nothing in this sub-section shall apply to any transfer made in accordance with the provisions of any law for the time being in force.”.

Substitu-
tion of new
section for
section
14Y.

12. For section 14Y of the principal Act, the following section shall be substituted:—

“Limitation on future acquisition of land by a *raiyat*. 14Y. If at any time, after the commencement of the provisions of this Chapter, the total area of land owned by a *raiyat* exceeds the ceiling area applicable to him under section 14M, on account of transfer, inheritance or otherwise, the area of land which is in excess of the ceiling area shall vest in the State and all the provisions of this Chapter relating to ceiling area shall apply to such land.”.

Amendme-
nt of sec-
tion 14Z.

13. In sub-section (2) of section 14Z of the principal Act, after the proviso, the following proviso shall be inserted:—

“Provided further that in determining the land required for the purpose of tea cultivation, there shall not be any diminution of the area of a tea garden.”.

Amendme-
nt of sec-
tion 48A.

14. In section 48A of the principal Act,—

(a) in the proviso to sub-section (2), for the words “one hectare”, the figures and word “0.4047 hectare” shall be substituted;

(b) in sub-section (4),—

(i) after the words “necessary for cultivation”, the words “and poultry farming” shall be inserted, and

(ii) after the words “out of its own fund”, the words “or out of the fund raised by it” shall be inserted.

Amendme-
nt of sec-
tion 49.

15. After sub-section (4) of section 49 of the principal Act, the following sub-section shall be inserted:—

“(4A) Notwithstanding anything contained in the foregoing provisions of this section, the State Government, or an officer authorised in this behalf by the State Government, may transfer to, or settle with, a local body or an authority constituted or established by or under any law for the time being in force land which is at the disposal of the State Government, for such purpose and on such terms and conditions as may be decided by the State Government.”.

Amendme-
nt of sec-
tion 50A.

16. To section 50A of the principal Act, the following proviso shall be added:—

“Provided that notwithstanding any order made under sub-section (1) of section 51 in respect of a district or part of a district, the State Government may make

*The West Bengal Land Reforms (Third Amendment)
Act, 1986.*

(Sections 17, 18.)

an order directing the Revenue Officers specially empowered under section 50 to incorporate such changes as may be specified in the said order in the records-of-rights in respect of such district or part of such district under section 50, if the State Government is satisfied that incorporation of such changes is necessary to mitigate the hardship of of a *raiyat*."

Amendment
of sec-
tion 51A.

17. In section 51A of the principal Act,—

(a) for sub-section (4), the following sub-section shall be substituted:—

"(4) An officer specially empowered by the State Government may, on application within one year, or on his own motion within three years, from the date of publication of the record-of-rights under sub-section (2), revise an entry in the record finally published in accordance with the provisions of sub-section (2) after the persons interested are given an opportunity of being heard and after recording reasons therefor."

(b) in sub-section (9), after the word, figures and letter "section 51B", the words, figures and letters "or section 51BB", shall be inserted.

Insertion
of new sec-
tion 51BB.

18. After section 51B of the principal Act, the following section shall be inserted:—

"Revision or correction of entry in record-of-rights before or after final publication. 51BB. An officer specially empowered in this behalf by the State Government may revise or correct any entry in any record-of-rights in respect of a mauza at any stage before or after final publication of such record-of-rights under this Chapter if it is necessary, in his opinion, to do so in pursuance of an order under Chapter IIB or on account of any amendment made in the provisions of this Act:

Provided that no such revision or correction shall be made, except when it is necessary to do so in order to prepare a separate *khatian* as required under sub-section (5) of section 51 by amalgamating the *khatians* in respect of a *raiyat* already prepared or finally published under this Chapter or to correct a *bona fide* mistake, until a notice has been given to the persons interested to appear and be heard in the matter."

By order of the Governor,
S. N. MUKHERJEE,
Secy. to the Govt. of West Bengal.