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PART 3]

PART III—Acts of the West Bengal Legislature

GOVERNMENT OF WEST BENGAL

LEGISLATIVE DEPARTMENT

NOTIFICATION

No. 660-L.—24th March, 1986.—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 L of 1981

THE WEST BENGAL LAND REFORMS (AMENDMENT) ACT,
1981.

[Passed by the West Bengal Legislature.]

[Assent of the President of India was first published in the *Calcutta Gazette, Extraordinary*, of the 24th March, 1986.]

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 1955.

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

Short
title and
commen-
cement.

1. (1) This Act may be called the West Bengal Land Reforms (Amendment) Act, 1981.

(2) The provisions of this Act shall be deemed to have come into force on the 7th day of August, 1969, unless the context of any provision otherwise indicates.

Amend-
ment of
the long
title of
West Ben.
Act X
of 1955.

2. In the long title of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the principal Act), after the words "certain rights therein", the following words shall be inserted:—

"and also to consolidate the law relating to land reforms".

Amend-
ment of
section 1.

3. In section 1 of the principal Act, to sub-section (2), the following proviso shall be added:—

"Provided that the State Government may, from time to time by notification in the *Official Gazette*, extend and bring into force the provisions of this Act,

The West Bengal Land Reforms (Amendment) Act, 1981.

(Sections 4—7.)

in whole or in part, to such part or parts of the area described in Schedule I to the Calcutta Municipal Act, 1951, with effect from such date or dates as may be specified in the notification.”

West Ben.
Act
XXXIII
of 1951.

Insertion
of new
section 1A.

4. After section 1 of the principal Act, the following section shall be inserted:—

1A. It is hereby declared that the policy of the State is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution of India.”

Amend-
ment of
section 2.

5. In section 2 of the principal Act,—

(a) in clause (2),—

(i) after the words “known as *kisani*”, the words “or by any other description” shall be inserted,

(ii) the following *Explanation* shall be added:—

“*Explanation*.—A *bargadar* shall continue to be a *bargadar* until cultivation by him is lawfully terminated under this Act;”;

(b) for clause (7), the following clause shall be substituted:—

(7) “land” means land of every description and includes tank, tank-fishery, fishery, homestead, or land used for the purpose of live-stock breeding, poultry farming, dairy or land comprised in tea garden, mill, factory, workshop, orchard, *hat*, *bazar*, *ferries*, tolls or land having any other *sarrati* interests and any other land together with all interests, and benefits arising out of land and things attached to the earth or permanently fastened to anything attached to earth;”;

(c) for clause (10), the following clause shall be substituted:—

(10) “*raiyat*” means a person or an institution holding land for any purpose whatsoever;”.

Substitu-
tion of new
section for
section 3.

6. For section 3 of the principal Act, the following section shall be substituted:—

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or in any custom or usage or contract, express or implied, or agreement or decree or order or decision or award of a court, tribunal or other authority.”

Insertion
of new sec-
tion 3A.

7. In Chapter I of the principal Act, after section 3, the following section shall be inserted:—

3A. (1) The rights 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 incumbrances and the provisions of sections 4, 5 and 5A of Chapter II of the West Bengal Estates Acquisition Act, 1953 shall, with such modification as may be necessary, apply *mutatis mutandis* to non-agricultural tenants and under-tenants within the meaning of the West Bengal Non-Agricultural Tenancy Act, 1949 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.

The West Bengal Land Reforms (Amendment) Act, 1981.

(Sections 8—10.)

- (2) On the vesting of the estates and rights of intermediaries in any non-agricultural land under sub-section (1), the provisions of Chapter IIB of this Act shall apply.
- (3) Every intermediary whose estates or interests 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 of this Act."

Amendment of section 4.

8. In section 4 of the principal Act:—

(a) in sub-section (4):—

- (i) for the words "shall be sold by the prescribed authority in the prescribed manner", the words "shall vest in the State free from all incumbrances under an order of the prescribed authority made in the prescribed manner" shall be substituted,
- (ii) in clause (a), for the word "agriculture", the words "that for which it was held by him or settled by the State or directly incidental thereto" shall be substituted,
- (iii) in clause (b), after the words "personal cultivation", the words "or has failed to utilise the land consistently with the original purpose of the tenancy or for any purpose directly incidental thereto" shall be inserted,
- (iv) in clause (c), after the words "personal cultivation", the words "or has failed to utilise the land consistently with the original purpose of the tenancy or for any purpose directly incidental thereto" shall be inserted.

(b) for sub-section (5), the following sub-section shall be substituted:—

- (5) On the holding of a *raiyat* being vested in the State under sub-section (4), his ownership therein shall cease and the rights of the lessee, if any, shall terminate and the *raiyat* shall be entitled to receive an amount to be determined under section 14V."

Substitution of new section for section 4B.

9. For section 4B of the principal Act, the following section shall be substituted:—

Maintenance and preservation of land. 4B. Every *raiyat* holding any land shall maintain and preserve such land in such manner that its area is not diminished or its character is not changed or the land is not converted for any purpose other than the purpose for which it was settled or previously held except with the previous order in writing of the Collector under section 4C:

Provided that any *raiyat* may plant and grow trees on any land held by him within the ceiling area applicable to him and to his family without any previous order under section 4C, if such land is not cultivated by *bargadar*."

Insertion of new section 4C, 4D and 4E.

10. After section 4B of the principal Act, the following sections shall be inserted:—

Permission for change of area, character or use of land. 4C. (1) A *raiyat* holding any land may apply to the Collector for change of area or character of such land or for conversion of the same for any purpose other than the purpose for which it was settled or was being previously used or for alteration in the mode of use of such land.

*The West Bengal Land Reforms (Amendment) Act, 1981.***(Section 10.)**

- (2) On receipt of such application, the Collector may, after making such inquiry as may be prescribed and after giving the applicant or the persons interested in such land or affected in any way an opportunity of being heard, by order in writing either reject the application or direct such change, conversion or alteration, as the case may be, on such terms and conditions as may be prescribed.
- (3) Every order under sub-section (2) directing change, conversion or alteration shall specify the date from which such change, conversion or alteration shall take effect.
- (4) A copy of the order passed by the Collector directing change, conversion or alteration, if any, under sub-section (2), or in an appeal therefrom shall be forwarded to the Revenue Officer referred to in section 50 or section 51, as the case may be, and such Revenue Officer shall incorporate in the record-of-rights changes effected by such order and revise the record-of-rights in accordance with such order.
- (5) If the Collector is satisfied that any land is being converted for any purpose other than the purpose for which it was settled or was being previously held, or attempts are being made to effect alteration in the mode of use of such land or change of the area or character of such land, he may, by order, restrain the *raiyat* from such act.

Offences and penalties. 4D. (1) Any change, conversion or alteration in the area, character or mode of use of any land, except in accordance with the provisions of section 4C, or any violation of the order of the Collector under sub-section (5) of section 4C, shall be an offence punishable with imprisonment which may extend to three years or with fine which may extend to one thousand rupees or with both:

Provided that no prosecution shall lie for an offence under this sub-section in a case where an action has already been taken by the prescribed authority under sub-section (4) of section 4.

- (2) No court shall take cognizance of any offence punishable under sub-section (1) except on a complaint in writing made by the Collector or by an officer authorised by him in that behalf.

Bar to registration. 4E. No transfer (including sales in execution of a decree of a civil court or for recovery of arrears of land revenue) of any land or interest in such land within an urban agglomeration as defined in the Urban Land (Ceiling and Regulation) Act, 1976, 33 of 1976, or within any part of such urban agglomeration, as may be specified by the State Government by notification in the *Official Gazette* and used mainly for agriculture or as an orchard, without any order in writing of the Collector shall be valid and no registering authority shall, notwithstanding the provisions of the Registration Act, 1908, 16 of 1908, register a document of such transfer unless order of the Collector in writing permitting such transfer is produced:

Provided that an application made to the Collector for permission for any such transfer made of one's own motion or for registration of a transfer in execution of a decree of a civil court shall be disposed of by the Collector within sixty days of the filing of the application failing which it shall be within the rights of the registering authority to register the document of the transfer."

Amendment of section 5.

Amendment of section 5.

The West Bengal Land Reforms (Amendment) Act, 1981.

(Sections 11—13.)

11. In section 5 of the principal Act,—

(1) in sub-section (1)—

(a) in clause (a), the word “and” at the end shall be omitted.

(b) after clause (b), the following clauses shall be added:—

“(c) the purpose for which the land shall be used by the transferee is stated therein; and

(d) such purpose for use of the land by the transferee is consistent with the purpose for which the land was settled or was being used and is not contrary to the provisions of section 4B, section 4C, section 4E or section 4D.

Explanation.—“The purposes under clauses (c) and (d) shall include agriculture, horticulture, animal husbandry, trade, manufacture, entertainment, recreation, sport and such other purposes.”

(2) in sub-section (5), in clause (a) of the *Explanation*, after the word “transferor”, the word “, transferee” shall be inserted.

Amendment of section 5.

Amendment of section 8.

12. In section 8 of the principal Act,—

(1) in sub-section (1),—

(a) after the words “other than a co-sharer in the holding”, the words “the *bargadar* in the holding may, within three months of the date of such transfer, or” shall be inserted,

(b) before the existing first proviso, the following proviso shall be inserted:—

“Provided that if the *bargadar* in the holding, a co-sharer *raiyat* and a *raiyat* possessing land adjoining such holding apply for such transfer, the *bargadar* shall have the prior right to have such portion or share of the holding transferred to him, and in such a case, the deposit made by others shall be refunded to them:”

(c) in the existing first proviso, for the words “Provided that if”, the words “Provided further that where the *bargadar* does not apply for such transfer and” shall be substituted,

(d) in the existing second proviso, for the words “Provided further”, the words “Provided also” shall be substituted;

(2) in sub-section (2),—

(1a) in clause (d), for the words “for any individual.”, the words “for any individual, or,” shall be substituted,

(a) after clause (d), the following clause shall be inserted:—

“(e) a transfer of land in favour of a *bargadar*, in respect of such land if after such transfer, the transferee holds as a *raiyat* land not exceeding one acre (or 0.4047 hectare) in area in the aggregate.”

(b) add the following *Explanation*:—

“*Explanation.*—All orders passed and the consequences thereof under sections 8, 9 and 10 shall be subject to the provisions of Chapter IIB.”

13. In section 14 of the principal Act,—

(1) in sub-section (5),—

(a) for the word “cultivation”, the word “utilisation” shall be substituted,

Amendment of section 14.

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1908.

The West Bengal Land Reforms (Amendment) Act, 1981.

(Sections 14, 15.)

- (b) the word "agricultural" shall be omitted,
 (c) after the word "production", the words "or in the public interest" shall be inserted;
 (2) after sub-section (5), the following sub-section shall be inserted:—

"(6) Notwithstanding anything contained in any other law for the time being in force or in any agreement or any custom or usage or any decree, judgment or award of any court, no partition amongst co-sharer *raiylats* and coparceners of a Hindu Undivided family governed or claiming to be governed by the *Mitakshara* School of Hindu Law shall have any force unless such partition is made by registered instrument or by a decree or order of a Court and is effected by metes and bounds; and both the conditions having been fulfilled, any such partition shall be deemed to have come into force from the date of registration of the deed of partition or the date of final decree or Order of a Court, as the case may be, or from the date of effecting partition by metes and bounds, whichever is later."

Substitu-
tion of new
section for
section
14D.

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

"Transfer in con-
travention of
Chapter IIA shall
not be valid unless
registered.

14D. (7) No transfer of any land or any interest in such land by a *raiylat* belonging to a Scheduled Tribe shall be valid unless made by a registered instrument.

(2) Notwithstanding anything contained in the Regis-
tration Act, 1908 or in any other law for the time
being in force, no instrument of transfer or
dealing with land or interest in such land by a
raiylat belonging to the Scheduled Tribe made in
contravention of the provisions of this Chapter
shall be recognised as valid by any court, officer
or authority exercising civil, criminal or revenue
jurisdiction and no registering officer shall
register any such instrument unless he is satisfied
that the instrument does not contravene any of
the provisions of this Chapter.

(3) If, in course of registration of any instrument
referred to in sub-section (2) or in any proceeding
relating to the registration of such instrument or
in any proceeding before any civil, criminal or
revenue court, any question arises as to whether
the *raiylat* executing such instrument belongs to
the Scheduled Tribe or as to whether such
instrument has been made in contravention of the
provisions of this Chapter, the registering officer
or other officer or authority exercising powers
under the Registration Act 1908 or the civil,
criminal or revenue Court before whom such
question arises, shall refer such question to the
Revenue Officer referred to in section 14C and
shall give effect to the decision of the Revenue
Officer."

Amend-
ment of
section
14E.

15. In section 14E of the principal Act,—

- (1) in the proviso to sub-section (7),—
 (a) for the words "twelve years", in the two places
where they occur, the words "thirty years"
shall be substituted,
 (b) for the words "period of seven years", the words
"period of seven years, notwithstanding
anything contained in the Limitation Act,
1963" shall be substituted;

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16 of 1968

20 of 1963.

The West Bengal Land Reforms (Amendment) Act, 1981.

(Sections 16—18.)

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

“(3) For the purpose of restoration of possession of any land and evicting any person in actual occupation of such land under sub-section (2), any such Revenue Officer may use such force as may be required for evicting the person in actual occupation of such land and may send a written requisition in such form and in such manner as may be prescribed to the officer-in-charge of the local police station having jurisdiction or to any police officer superior in rank to such officer-in-charge; and on receipt of such written requisition, the police officer concerned shall render all necessary lawful assistance for enforcing delivery of possession of such land:

Provided that the provisions of this sub-section shall not be applicable to any person not belonging to the Scheduled Tribe, if he has been owning, possessing or cultivating land not exceeding 0.4047 hectare in area in the aggregate and the transfer was made by a member of the Scheduled Tribe owning, possessing or cultivating land measuring 4 hectares or more in area in the aggregate.”

Amendment of section 14F.

16. Section 14F of the principal Act shall be re-numbered as sub-section (I) of that section and after sub-section (I) as so re-numbered, the following sub-section shall be inserted:—

“(2) Notwithstanding anything contained in the Code of Civil Procedure, 1908 and the Indian Contract Act, 1872, no decree or order relating to any land or interest in such land shall be passed by any court against a *raiyat* belonging to a Scheduled Tribe on the basis of any consent, agreement or compromise. Any such decree or order passed in contravention of this sub-section shall be void.”

Insertion of new section 14FF.

17. After section 14F of the principal Act, the following section shall be inserted:—

“*Benami* transaction or instrument to be void. 14FF. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 or in any other law for the time being in force, any *benami* transaction or instrument relating to any land or any interest therein showing the name of any person belonging to a Scheduled Tribe as the ostensible owner shall be void for all purposes.”

(2) No Court shall entertain any suit to enforce any right in respect of any such land or interest in such land against a person belonging to a Scheduled Tribe by or on behalf of a person claiming to be the real owner of such land or interest therein.”

Substitution of new section for section 14J.

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

“Provisions of Chapter IIB to have overriding effect. 14J. Without prejudice to the provisions contained elsewhere in this Act, the provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith 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 a court, tribunal or other authority.”

*The West Bengal Land Reforms (Amendment) Act, 1981.**(Sections 19—24.)*

Amendment of section 14K.

19. In section 14K of the principal Act,—

- (a) in clause (d), for the words and brackets "State (power-driven deep tubewell) or State (power-driven shallow tubewell)", the words "State power-driven deep tubewell or shallow tubewell or any other State irrigation project" shall be substituted,
- (b) in clause (e), for the words "any agricultural", the words "any other" shall be substituted.

Amendment of section 14M.

20. In section 14M of the principal Act,—

- (a) for sub-section (5), the following sub-section shall be substituted:—

(5) The lands owned by a trust or endowment other than that of a public nature, shall be deemed to be lands owned by the author of the trust or endowment and such author shall be deemed to be a *raiyat* under this Act to the extent of his share in the said lands, and the share of such author in the said lands shall be taken into account for calculating the area of lands owned and retainable by such author of the trust or endowment, and for determining his ceiling area for the purposes of this Chapter.

Explanation.—The expression "author of trust or endowment" shall include the successors-in-interest of the author of such trust or endowment.;

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

"(6) Notwithstanding anything contained in sub-section (1), a trust or an institution of public nature exclusively for a charitable or religious purpose or both shall be deemed to be a *raiyat* under this Act and shall be entitled to retain lands not exceeding 7.00 standard hectares, notwithstanding the number of its centres or branches in the State."

Amendment of section 14P.

21. In section 14P of the principal Act, for the words, brackets and figures "West Bengal Land Reforms (Amendment) Act, 1971", the words, brackets and figures "West Bengal Land Reforms (Amendment) Act, 1981" shall be substituted.

President Act 3 1971.

Amendment of section 14Q.

22. In section 14Q of the principal Act,—

- (a) sub-sections (2) and (2A) shall be omitted,
- (b) in sub-section (3), after the words "as distinct from the income", the words "or usufructs" shall be inserted,
- (c) to sub-section (3), the following proviso shall be added:—

"Provided that the State Government may, at any time on its own motion or on an application, revise an order under this sub-section and may resume the whole or any part of the land in excess of the ceiling area and take possession of such resumed land after giving the parties concerned an opportunity of being heard."

Amendment of section 14R.

23. In section 14R of the principal Act,—

- (a) for the words "any body or", the word "an" shall be substituted,
- (b) the words "or under" shall be omitted.

Amendment of section 14S.

24. In section 14S of the principal Act, in sub-section (2), for the figures and word "1.00 hectare", the figures and words "0.4047 hectare of land used for agriculture" shall be substituted.

The West Bengal Land Reforms (Amendment) Act, 1981.

(Sections 25, 26.)

Insertion
of new
section
14SS.

25. After section 14S of the principal Act, the following section shall be inserted:—

“Power to enter upon and take possession of vested land. 14SS. (1) Upon vesting of any land in the State under any of the provisions of this Act, the

Revenue Officer or the prescribed authority or any other officer or authority who makes the order of vesting shall enter upon and take possession of such vested land by using such force as may be necessary for this purpose.

(2) Any Revenue Officer, prescribed authority or any other officer or authority empowered in this behalf, may enter upon and take possession of any other vested land by using such force as may be necessary for this purpose.

(3) For the purpose of entering upon such land and taking possession thereof, any such officer or authority may send a written requisition in such form and in such manner as may be prescribed to the officer-in-charge of the local police station or to any police officer superior in rank to such officer-in-charge, and on receipt of such written requisition, the police officer concerned shall render all necessary and lawful assistance for taking possession of such land.”

Amend-
ment of
section
14T.

26. In section 14T of the principal Act, after sub-section (4), the following sub-sections shall be inserted:—

“(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 or transaction made with the object of defeating the ceiling provisions of this Chapter, in so far as such enquiry or decision shall be necessary to determine the extent of land which is to vest in the State under section 14S.

(6) 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 as to whether any trust, endowment or institution is of public or private nature or of exclusively religious or charitable in character, or both, and any question of title incidental thereto as may be necessary to determine the extent of land which is to vest in the State under section 14S, by examining the documents, if any, or by taking into account the following, among others:—

(i) actual user of income or usufructs of the land,

(ii) mode of cultivation,

(iii) pattern of utilisation of the land, and

(iv) share of income or usufructs of the land appropriated or enjoyed, or the area of such land occupied or enjoyed, by or on behalf of the manager, *sebait*, *mulwalli*, or any other person managing the trust, endowment or institution.

(7) Any person aggrieved by any order made under sub-section (3), (3A), (5) or (6) may prefer an appeal under section 54.

(8) Notwithstanding anything contained in this Act or in the West Bengal Estates Acquisition Act, 1953 or in any other law for the time being in force or in any agreement, custom or usage or in any

West Ben.
Act I of
1954.

The West Bengal Land Reforms (Amendment) Act, 1981.

(Sections 27, 28.)

decree, judgment, decision or award of any court, tribunal or authority, the provisions of sub-sections (5), (6) and (7) shall operate with retrospective effect from the 5th day of May, 1953.

- (9) Sub-sections (5), (6), (7) and (8) of this section shall be deemed to have always been inserted in the West Bengal Estates Acquisition Act, 1953. Any officer specially empowered in this behalf under the provision of the West Bengal Estates Acquisition Act, 1953 or under the provisions of this Act, may, in exercise of the powers conferred by sub-sections (5) to (8), re-open and decide afresh any proceeding, case or dispute in relation to determination of total land held by an intermediary or a *raiyat* or an under-*raiyat* at any point of time or may determine the quantum of land such intermediary, *raiyat* or under-*raiyat* was or is entitled to retain and also may determine the extent of land which is to vest in the State or which shall remain vested in the State and shall take possession of such land in accordance with the provisions of section 14SS. Notwithstanding any judgment, decision or award of any court, tribunal or authority to the contrary, the rule of *res judicata* shall not apply to such cases of re-opening and fresh determination."

West B
Act I of
1954.

Amend-
ment of
section 1

Amend-
ment
section

Amend-
ment of
section
14U.

27. In section 14U of the principal Act, in sub-section (7), for the words, brackets and figures "West Bengal Land Reforms (Amendment) Act, 1971", the words, brackets and figures "West Bengal Land Reforms (Amendment) Act, 1981" shall be substituted.

President's
Act 3 of
1971.

Insertion
of new
section
14Z.

28. After section 14Y of the principal Act, the following section shall be inserted:—

*Application of
Chapter II B.

14Z. For the removal of doubts
it is hereby declared that—

- (1) notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement, custom or usage or in any decree, judgment, decision or award of any court, tribunal or authority, the provisions of this Chapter shall apply to all lands of all classes and descriptions defined in clause (7) of section 2;
- (2) in the case of land comprised in a tea garden, mill, factory or workshop or land used for the purpose of livestock breeding, poultry farming or dairy, the *raiyat*, or where the land is held under a lease, the lessee, may be allowed to retain (in excess of the prescribed ceiling) only so much of such land as, in the opinion of the State Government, is required for the purpose of the tea garden, mill, factory, workshop, livestock breeding, poultry farming or dairy, as the case may be:

Provided that the State Government may, if it thinks fit so to do, after reviewing the circumstances of a case and after giving the *raiyat* or the lessee, as the case may be, an opportunity of being heard, revise any order made by it under this clause specifying the land which the *raiyat* or the lessee shall be entitled to retain for tea garden, mill, factory, workshop, livestock breeding, poultry farming or dairy, as the case may be.

Explanation.—The expression "land under a lease" includes any land held directly under the State Government under a lease."

The West Bengal Land Reforms (Amendment) Act, 1981.

(Sections 29—32.)

Amendment of section 15. 29. Section 15 of the principal Act shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted:—

- (2) The right of cultivation of land by *bargadar* shall, subject to the provisions of this Chapter, be heritable and shall not be transferable.
- (3) The provisions of this Chapter shall not apply to any person not belonging to a Scheduled Tribe claiming to be a *bargadar* under a *raiyyat* belonging to a Scheduled Tribe."

Amendment of section 17. 30. In section 17 of the principal Act,—

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

"(2) If an owner fails to bring under personal cultivation any land, the cultivation of which by a *bargadar* has been terminated under clause (d) of sub-section (1) within two years from the date of such termination or allows such land to be cultivated by some other person, the land shall vest in the State free from all incumbrances under an order of the prescribed authority in the prescribed manner, and the owner of the land shall be entitled to an amount therefor in accordance with the provisions of section 14V."

(1A) sub-section (3) shall be omitted.

(2) in sub-section (4), for the figures and word "6.00 hectares", the figures and word "4.00 hectares" shall be substituted,

(3) in sub-section (5), for the figures and word "6.00 hectares", in the two places where they occur, the figures and word "4.00 hectares" shall be substituted.

Amendment of section 18.

31. In section 18 of the principal Act,—

- (a) for the proviso to sub-section (1), the following proviso shall be substituted:—

"Provided that no application for decision of any dispute shall be entertained unless such application is presented to the officer or authority within three years from the date on which the claim falls or becomes due."

(b) in sub-section (2A), after the words and figures "the West Bengal Estates Acquisition Act, 1953", the words "or under this Act" shall be inserted.

West Ben.
Act I
of 1984.

Amendment of section 19.

32. In section 19 of the principal Act,—

- (a) for the words "Subdivisional Officer", wherever they occur, the word "Collector" shall be substituted,

(b) in sub-section (1), for the words and figures "under section 17 or section 18 except where such order was made with the consent of the parties to the dispute.", the words and figures "under section 17 or section 18 or sub-section (3) of section 21." shall be substituted,

- (c) after sub-section (1), the following sub-section shall be inserted:—

"(1A) An officer or authority appointed by the State (Government under section 17 or section 18 or an officer specially empowered under sub-section (1) of section 19B shall not pass any interlocutory or final order in any proceedings before him or it on the basis of any consent,

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(Sections 33—35.)

agreement or compromise obtained or effected for the purpose of such proceedings, notwithstanding anything contained in the Indian Contract Act, 1872, or any other law for the time being in force.”.

Amendment of section 19B.

33. In section 19B of the principal Act,—

(a) in clause (b) of sub-section (1),—

- (i) for the words “new bargadar”, in the two places where they occur, the words “person other than the bargadar” shall be substituted,
- (ii) for the words “shall retain fifty per cent.”, the words “shall retain twenty-five per cent.” shall be substituted,
- (iii) for the words “remaining fifty per cent.”, the words “remaining seventy-five per cent.” shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted:—

“(1A) If the produce forfeited under clause (a) of sub-section (1) cannot be recovered from the owner of the land or the person cultivating the land on his behalf other than a bargadar or if the share of produce receivable by the bargadar under clause (b) of sub-section (1) cannot be recovered from any person other than the bargadar, money value of the share of produce so forfeited under clause (a) or share of produce so receivable under clause (b) shall be recovered by the prescribed authority under sub-section (1) as a “public demand” under the Bengal Public Demands Recovery Act, 1913, on a written requisition sent by such prescribed authority to the certificate officer.”

(c) for sub-section (2), the following sub-section shall be inserted:—

“(2) An appeal against any order made under sub-section (1) shall lie to the Collector who shall be superior in rank to the officer from whose order the appeal is preferred.”;

(d) sub-section (3) shall be omitted.

Amendment of section 20B.

34. In section 20B of the principal Act,—

- (a) in sub-section (1), for the words “the person, whose land was cultivated by the bargadar”, the words “the owner of the land or the bargadar or any other person” shall be substituted,
- (b) in sub-section (2), after the words “on receipt of such information”, the words “or on his own motion” shall be inserted.

Amendment of section 21.

35. In section 21 of the principal Act,—

- (a) in sub-section (1), for the words and figures “sections 17 and 18”, the words and figures “sections 17, 18, 19B and 20B” shall be substituted;
- (b) in sub-section (3),—
 - (i) after the words “in the course of any”, the words “suit, case, appeal or other” shall be inserted,
 - (ii) for the words “for decision.”, the following shall be substituted:—

“for decision and such Court shall dispose of the suit, case, appeal or other proceedings in accordance with the decision communicated to it by the officer or authority mentioned in sub-section (1) of section 18 to whom the question was referred.”;

Insertion of new section 21C.

Ben. III of

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(Section 36.)

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

"(4) On a reference being made under sub-section (3) of this section to the officer or authority mentioned in sub-section (1) of section 18 for decision, such officer or authority shall personally make such enquiry as may be prescribed, shall arrive at a decision after giving all the parties to the suit, case, appeal or other proceedings an opportunity of being heard and shall communicate his or its decision in the prescribed manner to the Court which made the reference. After communication of his or its decision to the referring Court such decision shall not be altered or revised except in an appeal under section 19."

Insertion
of new
section
21C.

36. After section 21B of the principal Act, the following section shall be inserted :—

"Constitution of State Land Corporation or Regional Land Corporation. 21C. (1) The State Government may on its own motion, by notification in the *Official Gazette*, constitute a State Land Corporation, or one or more Regional Land Corporations or both.

- (2) The State Land Corporation and each of the Regional Land Corporations (hereafter in this section called as Corporation) shall be body corporate with perpetual succession and common seal, and shall have power to acquire, hold and dispose of property, to advance funds, to enter into contracts, to institute and defend suits, cases and all other legal proceedings and to do all things necessary for the purpose of carrying on its object.
- (3) The object of the Corporation shall be to advance funds in the prescribed manner to a recorded *bargadar* of the land intended to be sold or to a *bargadar* of the land intended to be sold and holding certificate issued under the rules made under this Act or to a person eligible for settlement of land under section 49, to enable him to purchase agricultural land from a *raiyyat* who owns at the material time not exceeding one standard hectare as defined in clause (f) of section 14K of land in the aggregate, whose principal source of income is produce from his land and who being in distress has failed to sell the land in the open market on account of cultivation of the land, which the *raiyyat* intends to sell, by the *bargadar* and the name of the *bargadar* has been recorded or certificate has been issued to the *bargadar*, provided such *bargadar* or such person is otherwise eligible to receive the advance of fund, as may be prescribed.
- (4) The price of the land intended to be purchased by the eligible *bargadar* shall be settled as between the *bargadar* and the owner of the land. Failing such settlement of price, the Corporation, on being requested by the owner of the land or the *bargadar* or on its own motion may assess the market value of the land for assessment thereof, *mutatis mutandis*, in accordance with the principles of the Land Acquisition Act, 1894 taking into account the fact of cultivation by *bargadar*, but assessment of market value shall not include any *solatium* or interest or any other thing except the market value of the land.
- (5) If in such a case the *bargadar* fails or does not intend to buy the land cultivated by him as *bargadar*, the Corporation, on being requested by the owner of the land, may offer the land to a person eligible under section 49 to buy the land at the mutually settled price or at the price assessed by the

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Corporation under sub-section (4). If such person fails or does not intend to buy, the Corporation may, within a period of six months of the request by the owner of the land purchase the land at a price mutually settled between the Corporation and the owner of the land or at the price assessed by the Corporation under sub-section (4) and in case of such purchase the Corporation shall pay the settled or assessed market value, as the case may be, to the owner of the land.

(6) The instrument of purchase shall be by a registered deed of conveyance. If, however, the owner of the land does not register the deed of conveyance within thirty days of payment of the settled or assessed price to him by or on behalf of the *bargadar* or by the person eligible under section 49 or by the Corporation, as the case may be, notwithstanding anything contained in the Registration Act, 1908, the Transfer of Property Act, 1882, or any other law for the time being in force, the issue of notification in the *Official Gazette* by the Corporation shall be the conclusive evidence of sale of the land.

(7) The recorded *bargadar* or the *bargadar* holding a certificate or the person eligible under section 49 who purchases the land shall mortgage the land to the Corporation as security for the loan advanced or to be advanced to him by a registered instrument and the loan along with service or other charges shall be repayable to the Corporation in the prescribed manner.

(8) The land when purchased by the Corporation or acquired by the Corporation in satisfaction of a mortgage shall be sold in public auction in such manner as may be prescribed, for realising the money spent in purchasing or acquiring the land and also for service or other charges, if any.

(9) For the purpose of this section, the word "distress" shall mean—

(a) marriage of a daughter,

(b) performance of an obligatory ceremony due to death of father, mother, husband or wife, as the case may be,

(c) medical treatment of an illness of a very serious nature endangering the life of the owner of the land or the husband or wife of the owner, as the case may be, and minor sons, unmarried daughters and any other relative having no independent source of income and solely dependent on the owner,

(d) maintenance of the owner of the land or the husband or wife of the owner, as the case may be, and minor sons, unmarried daughters and any other relative having no independent source of income and solely dependent on the owner, due to flood, drought or any other natural calamity.

(10) All powers, functions, rights and obligations laid down in this section for the Corporation shall be applicable to and exercised by any institution or organisation as may be notified by the State Government in the *Official Gazette* on such terms and conditions and in such manner as may be prescribed:

Provided that the provisions of this section shall not apply to a *bargadar* who owns and cultivates 4.00 hectares of land in the aggregate."

Insertion
of new sec-
tions 21D
and 21E.

16 of 1908,
4 of 1882,

Amend-
ment of
section 30.

Amend-
ment of
section

Insert
of new
section
48A.

The West Bengal Land Reforms (Amendment) Act, 1981.

(Sections 37—40.)

Insertion
of new sec-
tions 21D
and 21E.

37. After section 21C of the principal Act, the following sections shall be inserted:—

“Names of bargadars to be entered in the record-of-rights.

21D. The names of *bargadars* in respect of every *raiyat* shall be entered in the record-of-rights in such manner as may be prescribed.

Bar to legal practitioners.

21E. In deciding any dispute under the provisions of Chapter III, the officers and authorities may allow any party to the dispute, unable to make submission on its behalf, to be represented by its relative or by a representative of the association or organisation to which the party belongs:

Provided that no Advocate or legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879 shall be allowed to appear, plead or act in any capacity on behalf of the party before any officer or authority, unless such Advocate or legal practitioner himself is a party to the dispute.”

Amend-
ment of
section 30.

38. In section 39 of the principal Act,—

(a) after the words “in any area”, the words “as may be necessary” shall be inserted,

(b) for the words “in the holding in such area”, the words “in the holdings in such area” shall be substituted,

(c) for the existing proviso, the following proviso shall be substituted:—

“Provided that consolidation of lands may be undertaken by the State Government if any seven or more persons being *raiyats* each owning land not exceeding 0.4047 hectare of land in the aggregate or being recipients of lands settled under section 49 or from both such categories make representation therefor.”

Amend-
ment of
section 43.

39. In section 43 of the principal Act, for the words and figures “the Bengal Co-operative Societies Act, 1940”, wherever they occur, the words and figures “the West Bengal Co-operative Societies Act, 1973” shall be substituted.

Ben. Act
XXI of
1940.
West Ben.
Act
XXXVIII
of 1973.

Insertion
of new
section
48A.

40. In Chapter V of the principal Act, after section 48, the following section shall be inserted:—

“Formation of Co-operative Common Service Society.

48A. (1) Any seven or more persons each owning, cultivating or possessing in any capacity agricultural land not exceeding 0.4047 hectare in area in aggregate in any compact block or in different blocks may form themselves into a Co-operative Common Service Society and apply in writing, in the prescribed form, to the Registrar, Co-operative Societies, West Bengal for registration of such society under the West Bengal Co-operative Societies Act, 1973.

West Ben.
Act
XXXVIII
of 1973.

(2) The Registrar may, after such enquiry as he may deem fit, register the society under the West Bengal Co-operative Societies Act, 1973 and grant a certificate, and on such registration the provisions of the West Bengal Co-operative Societies Act, 1973, shall, subject to the special provisions of this Act, apply to such a society and the society may enlist new members in accordance with the rules and bye-laws under the said Act for the time being in force:

Provided that the society shall not enlist any person as its member who owns, cultivates or possesses in any capacity agricultural land exceeding one hectare in the aggregate.

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(Sections 41—44.)

- (3) Notwithstanding anything contained in the West Bengal Co-operative Societies Act, 1973 and the rules made thereunder,—
- (a) the Chairman of any Co-operative Common Service Society shall be nominated from amongst the elected directors of the society by the Collector having jurisdiction on receiving a written requisition from the elected directors of the society. A Chairman so nominated may be removed before expiry of the term of the managing committee of the society and a new Chairman may be nominated in his place;
- (b) the first managing committee of any Co-operative Common Service Society shall hold office for a term not exceeding three years;
- (c) after the expiry of the term of the first managing committee of the society, the Chairman shall be elected by the elected directors of the society.
- (4) A Co-operative Common Service Society shall raise its funds from, among other sources, the State Government, the Central Government, any bank, any insurance corporation and other financial institutions or from among its own members as grant, loan or equity. The society shall acquire by purchase, grant, gift, hiring, or otherwise plough, cattle, manure (including chemical fertilisers), seeds, modern scientific agricultural implements and such other inputs as may be necessary for cultivation and supply or utilise the same among its members in proportion to the area of land held by them. The society may advance loan to the members out of its own fund.
- (5) The society may recover loans, interest, service charges and any other charge for supply of implements and price or part of price of inputs supplied to the members in accordance with the bye-laws of the society specially made for this purpose.
- (6) The society may undertake marketing of produce grown by its members.”.

Amendment of heading under Chapter VII.

41. For the heading under Chapter VII of the principal Act, the following heading shall be substituted:—

“Maintenance of the record-of-rights.”.

Amendment of section 40.

42. In section 49 of the principal Act, in sub-section (1), for the figures and words “0.4047 hectare of land”, the figures and words “0.4047 hectares of land used for the purpose of agriculture” shall be substituted.

Amendment of section 50.

43. In section 50 of the principal Act, for the words “the Revenue Officer specially empowered by the State Government in this behalf”, the words “the prescribed authority” shall be substituted.

Insertion of new Chapter VIIA and section 50A.

44. After section 50 of the principal Act, the following Chapter and section shall be inserted:—

The West Bengal Land Reforms (Amendment) Act, 1981.

(Sections 45—49.)

CHAPTER VIIA

Preparation or revision of record-of-rights.

Section 50 not to apply to certain cases. 50A. Section 50 shall not apply to any district or part of such district where Chapter VIIA has come into force for the purpose of revision or preparation of records-of-rights; but section 50 shall apply to any land in any such district or part of such district after final publication of any such record-of-rights under section 51A."

Amendment of section 51.

45. In section 51 of the principal Act, sub-section (4) shall be omitted.

Amendment of section 51A.

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

- (a) in sub-section (4), for the words "one year", the words "three years" shall be substituted,
- (b) in sub-section (5), for the words "the Additional District Magistrate" in the two places where they occur, the words "the prescribed authority superior in rank to the authority from whose order the appeal is preferred" shall be substituted.

Substitution of new section for section 51B.

47. For section 51B of the principal Act, the following section shall be substituted:—

51B. (1) Any Revenue Officer specially empowered by the State Government in this behalf may, on an application or on his own motion, at any stage of revision or preparation of the record-of-rights under this Chapter but before final publication of any such record-of-rights, revise or correct any entry in such record-of-rights after giving the persons interested an opportunity of being heard and after recording the reasons therefor:

Provided that any order made under this sub-section shall be appealable in accordance with the provisions of sub-section (5) of section 51A."

Amendment of the heading under Chapter VIII.

48. In Chapter VIII of the principal Act, for the existing heading, the following heading shall be substituted:—

"Management of Lands."

Substitution of new section for section 52.

49. For section 52 of the principal Act, the following section shall be substituted:—

52. (1) All lands to which this Act applies shall be deemed to have been held under the State on such terms and conditions as may be prescribed.

- (2) Any land belonging to the State or land which is at the disposal of the State Government or held under the State by virtue of the provisions of the West Bengal Estates Acquisition Act, 1953 or this Act or any other law in force shall, unless the State Government otherwise directs by any general or special order, be managed, in such manner as may be prescribed, by the Collector of the district under whose jurisdiction the lands are situated subject to the control of the State Government.

- (3) If the State Government is of opinion that different sets of rules are necessary for the management

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(Sections 50, 51.)

of different classes or descriptions of lands or lands of different areas, it may make different sets of rules under this section.

- (4) Until rules made under this section come into operation, management of any land covered by this Act shall continue to be made in accordance with the existing law or rules or manual or principles, whichever may apply."

Insertion
of new
sections
52A and
52B.

50. After section 52 of the principal Act, the following sections shall be inserted:—

'Provision for
establishment of
Government
Company, etc.

52A. The State Government may, while making rules under section 52, provide for the establishment of any Government Company or any co-operative society or any institution in the public interest for utilisation of any land.

Power to enter
upon or take pos-
session of land.

52B. Notwithstanding anything in any other law for the time being in force or in any custom, usage or contract or in any agreement, decree, order, decision or award of any court, tribunal or other authority, the State Government shall be entitled to enter upon and take possession of any land which is at the disposal of the State Government by evicting, if necessary, any person therefrom by an order of the prescribed authority in accordance with the provisions of section 49.

Explanation.—The expression "any land at the disposal of the State Government" shall include any land of which any lease, or licence has been determined by the application of any law, by efflux of time, due to rescission of lease, leave or licence or due to violation of the terms of the lease, leave or licence, as the case may be, or for any other reason, and any land which has been abandoned by the lessee or licensee.

Amend-
ment of
section 54.

51. In section 54 of the principal Act,—

- (1) in sub-section (1), for clause (a), the following clause shall be substituted:—

"(a) to a Collector, when the order is made by a Revenue Officer or revenue authority below the rank of a Collector";

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

"(3) After any appeal is preferred to a Collector, he may transfer the appeal to any officer subordinate to him as may be prescribed:

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 against."

- (3) after sub-section (4), the following sub-section shall be inserted:—

"(5) Notwithstanding anything contained elsewhere in this Act, the State Government may, on its own motion, correct any erroneous decision passed by any Revenue Officer or by any officer in an appeal under the foregoing provisions of this section and any such order passed by the State Government shall be final and shall not be called in question in any court."

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(Sections 52, 53.)

Amend-
ment of
section 55

52. In section 55 of the principal Act, in clause (a), for the words "to the Collector or to the Additional District Magistrate", the words "to a Collector" shall be substituted.

Insertion
of new
sections 61,
62 and 63.

53. After section 60 of the principal Act, the following sections shall be inserted:—

"Bar to jurisdic-
tion of court.

61. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law for the time being in force or in any decree, judgment, decision or award of any court, tribunal or authority, no court shall have jurisdiction to determine any question relating to any land or connected with any matter which is required to be or which has been enquired into or decided by any Revenue Officer or prescribed authority or any officer or authority under the provisions of this Act. 5 of 1908.

(2) Any Revenue Officer or prescribed authority or other officer or authority empowered under the provisions of this Act shall have exclusive jurisdiction to enquire into and decide any question relating to any land in connection with any matter which is required to be enquired into or decided by any prescribed authority or other officer or authority under the provisions of this Act.

(3) Nothing in sub-section (1) and sub-section (2) shall be deemed to affect any right which the parties to any dispute may otherwise have against each other.

Power to State
Government to
give directions.

62. The State Government may give such directions, not inconsistent with the provisions of this Act, to any Collector, Revenue Officer or prescribed authority under this Act as may appear to the State Government to be necessary for carrying out the purposes of this Act or any rule made thereunder.

Repeal and savings.

63. (1) With effect from the date of coming into force of the West Bengal Land Reforms (Amendment) Act, 1981 in any district or in any area of Calcutta, such provisions of the West Bengal Non-Agricultural Tenancy Act, 1949, as are repugnant to the provisions of this Act, shall cease to have effect in that district or area. West Ben. Act XX of 1949.

(2) Notwithstanding the provisions of sub-section (1) any proceeding pending on the date of such coming into force before any authority appointed under the West Bengal Non-Agricultural Tenancy Act, 1949 or before any court shall be continued or disposed of as if the West Bengal Land Reforms (Amendment) Act, 1981 had not come into force in that district or area."

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