

WEST BENGAL ESTATES ACQUISITION ACT, 1953

1 of 1954

[12th February, 1954]

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WEST BENGAL ESTATES ACQUISITION ACT, 1953

1 of 1954

[12th February, 1954]

An Act to provide for the State acquisition of estates, of rights of intermediaries therein and of certain rights of raiyats and under-raiyats 1[and of the rights of certain other persons in lands comprised in estates.] It is hereby enacted as follows :

CHAPTER 1

Preliminary

1. Short title and extent :-

(1) This Act may be called the West Bengal Estates Acquisition Act, 1953.

(2) It extends to the whole of West Bengal except the areas described in Schedule I of the Calcutta Municipal Act.1951, as deemed to have been amended under section 594 of that Act.

2. Definitions :-

In this Act unless there is anything repugnant in the subject or

context,

(a) "agricultural year" means the Bengali year Commencing on the first day of Baisakh;

(b) "agricultural land" means land ordinarily used for purposes of agriculture or horticulture and includes such land, notwithstanding that it may be lying fallow for the time being;

(c) "charitable purpose" includes the relief of the poor, medical relief or the advancement of education or of any other object of general public utility;

(d) "Collector" means the Collector of a district or any other officer appointed by the State Government to discharge any of the functions of the Collector under this Act;

(e) "date of vesting" means the date mentioned in the notification under sub-section (1) of section 4;

(f) "estate" or "tenure" includes part of an estate or part of a tenure; ¹* *****

(g) "homestead" means a dwelling house together with any courtyard, compound, garden, out-house, place of worship, family grave-yard, library, office, guest-house, tanks, wells, privies, latrines, drains and boundary walls annexed to or appertaining to such dwelling house;

(h) "incumbrance" in relation to estates and rights of intermediaries therein does not include the rights of a raiyat or of an under-raiyat or of a non-agricultural tenant ²[, 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];

³(i) "intermediary" means a proprietor, tenure-holder, under-tenure-holder or any other intermediary above a raiyat or a non-agricultural tenant and includes a service tenure-holder and, in relation to mines and minerals, includes a lessee and a sublessee;

(j) "non-agricultural land" means land other than agricultural land ⁴[or other than land comprised in a forest];

¹(j), West Bengal Estates Acquisition Act. Fakir us. L. K. Jha, 74

CWN 946. Status of tenant in the Record of Right Dakhalkqreven if the tanks are used for agricultural purpose, it would' not be taken away from the purview of Non- agricultural Tenancy Act. Debidas Ghosh us. Ramani Mohan Roy, 75 CWN 399.

(k) "non-agricultural tenant" means a tenant of non-agricultural land who holds under a proprietor, a tenure-holder ⁶ [, a service tenure-holder] or an under-tenure-holder;

(l) "notified area" means a district or part of a district in respect of which a notification has been duly published under section 4;

(m) "prescribed" means prescribed by rules made under this Act;

(n) "religious purpose" means a purpose connected with religious worship, teaching or service or any performance of religious rites;

(o) "rent" means whatever is lawfully payable or deliverable in money or kind or both, by a tenant to his landlord, on account of the use or occupation of the land held by the tenant and includes also money recoverable under any enactment for the time being in force as if it was rent;

(p) expressions used in this Act and not otherwise defined have in relation to the areas to which the Bengal Tenancy Act, 1885, applies, the same meaning as in that Act and in relation to other areas meaning as similar thereto as the existing law relating to land tenures applying to such areas, permits.

1. Words subs, for the words "an officer not below the rank of by W.B. Act 17 of 1960.

2. Words ins. by W.B. Act 35 of 1955.

3. Sec. 55A ins. by W.B. Act 17 of 1960.

4. Sec. 57A ins. by W.B. Act 4 of 1957.

6. Sec. 57B ins. by W.B. Act 33 of 1973.

3. Act to override other laws, etc :-

The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or in any contract express or implied or in any instrument and notwithstanding any usage or custom to the contrary :

1 Provided that nothing in this Act shall apply to any land held by a Corporation, not being a local authority or a Company, established by or under any law for the time being in force :

2 Provided further that nothing in this Act shall affect any land

possession of which was taken by the State Government³ [before the date mentioned in the notification issued under section 4,] in furtherance of any proposal for acquiring such land, whether any formal proceedings for such acquisition were started or not, and proceedings for acquisition of such land may be continued or commenced as if this Act had not been passed.

1. Chapter VIII containing sees. 60 and 61 ins. by W.B. Act 40 of 1963.

2. Provisos ins. by W. B. Act 17 of 1960.

3. Clauses (iv) and (v) ins. by W.B. Act 14 of 1966.

CHAPTER 2

Acquisition of estates and of the rights of intermediaries therein

4. Notification vesting estates and rights of intermediaries

:-

(1) The State Government may from time to time by notification declare that with effect from the date mentioned in the notification, all estates and the rights of every intermediary in each such estate situated in any district or part of a district specified in the notification, shall vest in the State free from all incumbrances.

(2) The date mentioned in every such notification shall be the commencement of an agricultural year, and the notifications shall be issued so as to ensure that the whole area to which this Act extends, vests in the State on or before the 1st day of Baisakh of the Bengali year 1362.

(3) Every such notification shall be published in the first instance, in at least two issues of each of two newspapers (one of which must be in the Bengali language) circulating in West Bengal and also by affixing at each police-station and sub-registry office within the district or part of the district, specified in the notification and by beat of drums and in any other manner, if any, as may be prescribed.

(4) When the State Government is satisfied that the notification has been published in the first instance as required under sub-section (3), it shall issue the notification in the Official Gazette.

(5) The publication of the notification in the Official Gazette shall be conclusive evidence that all requirements relating to publication in the first instance as mentioned in sub-section (3) have been complied with and also of the due publication of the notification and

of notice to all persons affected by the notification.

1 (6) Notwithstanding anything contained in the foregoing subsections, an intermediary may, at any time before the 15th day of February, 1955, apply to the State Government to have all his estates, tenures, under-tenures and other rights as intermediary, to be vested in the State and the State Government may, after considering the facts and circumstances of the case, if it thinks fit, make an order granting the application. Upon the order being made, all such estates, tenures, under-tenures and rights of the intermediary, shall vest in the State Government on and from the date of the order, free from all incumbrances (other than the rights of subordinate intermediaries, if any) and the provisions of this Act, except the foregoing sub-sections and clauses (a) and (b) of section 5, shall, with necessary modifications, apply as if, in relation to such estates, tenures, under-tenures and rights of the intermediary, references to the publication of a notification under section 4 or to the date of vesting were references to the order granting the application or to the date of such order, and references to the vesting under section 5 were references to the vesting under this sub-section. The State Government shall have also power to make such other orders for giving effect to the provisions of this sub-section as it deems necessary.

1. Words and figures ins. by W.B. Act 22 of 1963.

5. . :-

1(1) Effect of notification. Upon the due publication of a notification under section 4, on and from the date of vesting

(a) the estates and the rights of intermediaries in the estates, to which the declaration applies, shall vest in the State free from all incumbrances; in particular and without prejudice to the generality of the provisions of this clause, every one of the following rights which may be owned by an intermediary shall vest in the State, namely :

(i) rights in sub-soil, including rights in mines and minerals,

(ii) rights in hats, bazars, ferries, ^{2*} fisheries, tolls and other sairati interests;

3(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 **4*** * * ** * * vest in the State;

(b) all grants of, and confirmation of titles to, estates and rights therein, to which the declaration applies and which were made in favour of intermediaries shall determine;

(c) **5**[(15Subject to the provisions of sub-section (3) of section 6, every non-agricultural tenant holding any land) under an intermediary, and until the provisions of Chapter VI are given effect to, every raiyat holding any land under an intermediary], shall hold the same directly under the State, as if the State had been the intermediary, and on the same terms and conditions as immediately before the date of vesting :

6Provided that if any non-agricultural tenant pays rent wholly in kind or partly in kind and partly in cash, then, notwithstanding anything contained in the foregoing clause, he shall pay such rent as a Revenue Officer specially empowered by the State Government in this behalf may determine in the prescribed manner and in accordance with the principle laid down in clause (ii) of section 42 :

6Provided further that any person aggrieved by an order passed by the Revenue Officer determining rent under the first proviso may appeal to such authority and within such time as may be prescribed.

(d) **8**[every non-agricultural tenant holding under an intermediary and until the provisions of Chapter VI are given effect to, every raiyat holding under an intermediary,] shall be bound to pay to the State his rent and other dues in respect of his land, accruing on and from the date of vesting, and every payment made in contravention of this clause shall be void and of no effect.

9(2) For the removal of doubts it is hereby declared that notwithstanding anything to the contrary contained in any judgment, decree or order of any court or Tribunal or in any other law, all rights and interests in mines and minerals of all intermediaries, being lessees and sub-lessees, in any notified area shall be deemed to have vested in the State with effect from the date of vesting mentioned in the notification under section 4 in respect of such notified area.

10 (3) It is further declared that notwithstanding anything to the

contrary contained in any judgment or decree or order of any court or tribunal or in any other law, all lands in any estate comprised in a forest with all rights to the trees or to the produce thereof as mentioned in clause (act) of sub-section (1) in any notified area shall be deemed to have vested in the State with effect from the date of vesting mentioned, in the notification under section 4 in respect of that area.

1. Sub-sec. (1) first subs, by W.B. Act 9 of 1961 and thereafter the present sub-sec. (1) subs, by W.B. Act 19 of 1961. Previous sub-sec. (1) was as under : "(1) As soon as may be after the date of final publication of a Compensation Assessment Roll under section 21, the Compensation Officer shall, in the prescribed manner, make an offer of payment of the compensation to the intermediary who is entitled to such compensation in terms of the Compensation Assessment Roll together with interest at the rate of three per centum per annum of such compensation accruing from the date of vesting to the date of the offer of payment under this subsection : Provided that such payment shall be without prejudice to the right of the intermediary to file an appeal under section 20.".

2. Words subs, for the words "make an offer of payment" by W.B. Act 22 of 1964.

3. Words subs, for the words "the date of the offer of payment under this sub-section" by W.B. Act 22 of 1963.

4. Provisos ins. by W.B. Act 22 of 1963.

5. Words and figures subs, for the words and figures "until the provisions of Chapter VI are given effect to every raiyat. or non-agricultural tenant, holding any land under an intermediary "by W. B. Act 4 of 1957.

6. Words subs, for the words "non-negotiable bonds" by W.B. Act 19 of 1961.

8. Words and figures "subject to any deduction from such payment of any sum which the Collector may order to be made under section 7 or any ad interim payment made under section 12 or any other sum recoverable from such compensation under section 8 or under an order of attachment" om. by W.B. Act 35 of 1955.

9. Words ins. by W.B. Act 19 of 1961.

10. Words, figure and brackets subs, for the words, figures and brackets "anything contained in sub-section (2), the entire amount of the compensation in respect of any interest or portion referred to under the proviso to sub-section (1) of section 17, shall be payable in perpetual annuity bonds," by W.B. Act 9 of 1961.

5A. Restriction on certain transfers :-

1

(1) The State Government may after the date of vesting enquire into any case of transfer of any land by an intermediary made between the 5th day of May, 1953 and the date of vesting, if in its

opinion there are prima facie reasons for believing that such transfer was not bona fide.

(2) If after such enquiry the State Government finds that such transfer was not bona fide, it shall make an order to that effect and thereupon the transfer shall stand cancelled as from the date on which it was made or purported to have been made:

Provided that, subject to such cancellation, nothing in this subsection shall be deemed to affect any rights which the transferor or the transferee may otherwise have against each other.

(3) If after such enquiry the State Government finds that the transfer was bona fide, it shall make an order to that effect and thereupon the following consequences shall ensue, namely :

(i) the land shall, without prejudice to any rights which the transferor or the transferee may have against each other, be deemed to be the land of the transferee for the purpose of this Act;

(ii) if any such land or any part thereof is retained by the transferee under the provisions of this Chapter, such land or such part thereof may be taken into account in calculating the land which may be retained by the transferor under this Chapter as if such land or such part thereof had never been transferred and were retained by the transferor or chosen by him as land to be retained by him.

(4) The State Government may delegate all or any of its powers under this section to such officers in its service as it may deem fit.

(5) The procedure to be followed in such enquiry shall be such as may be prescribed : Provided that

(i) no order shall be passed in an enquiry held under this section except after giving the transferor and the transferee an opportunity of being heard;

(ii) in conducting such enquiry the State Government and any officer to whom any powers have been delegated under subsection (4), shall have all the powers of a civil court for the purposes of taking evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents and shall be deemed to be a civil court within the meaning of sections 480, 481 and 482 of the Code of Criminal Procedure, 1898.

(6) An appeal against any order passed by the State Government under sub-section (2) or sub-section (3), or passed under any of those sub-sections as read with sub-section (4) by an officer to whom powers have been delegated under sub-section (4), if preferred within sixty days of such order ²[or within sixty days from the date of appointment of the Special Judge, whichever is later], shall lie to a Special Judge ³ (being a person who is or has been a District Judge or an Additional District Judge) appointed by the State Government for the purpose of this section and such Special Judge shall dispose of the appeal according to the prescribed procedure.

(7) In this section,

(i) a transfer shall be held to be not bona fide if it was made principally or partially with the object of increasing the amount of land which a person may retain under this Chapter or principally or partially with the object of increasing the amount of compensation payable under Chapter III or Chapter IV;

(ii) a transfer in favour of one or more of the following relatives of the transferor, that is to say, a wife, a husband, a child, a grand-child, a parent, a grandparent, a brother, a sister, a brother's son, a sister's son, a daughter's husband, a son's wife, a wife's brother or sister, or a brother's wife., made between the 5th day of May, 1953 and the date of vesting shall be presumed to be not bona fide until the contrary is proved:

Provided that no such presumption shall be made in respect of transfer of land by an intermediary if the aggregate area of such land owned by the intermediary at any time between the 5th day of May, 1953 and the date of transfer did not exceed twenty acres in extent in the case of non-agricultural land and twenty-five acres in extent in the case of agricultural land;

(iii) 'transfer' means a transfer by sale, mortgage, lease, exchange or gift;

(iv) 'transferor' and 'transferee' include the successors in interest of a transferor or a transferee.

1. Words subs, for the words "such annuity shall be payable in bonds. Such bonds shall be deposited with the Collector of the district and such Collector shall make the annual payment in respect of such bonds" by W.B. Act 22 of 1964.

2. Words subs, for the words "entitled to the management of such interest or the portion of such interest" by W.B. Act 9 of 1961.

3. Proviso ins. by W.B. Act 22 of 1964.

5B. Estate or tenure not liable to be sold under Act 11 of 1859, Cooch Behar Act 5 of 1897, Bengal Regulation 8 of 1819 and Act 8 of 1885 :-

¹ On and from the 1st day of June 1954, no estate, tenure or under-tenure shall be liable to be sold under the Bengal Land Revenue Sales Act, 1859 or the Cooch Behar Revenue Sales Act, 1897 or the Bengal Patni Taluks Regulation, 1819, or the Bengal Tenancy Act, 1885, as the case may be, and any sale which took place on or after that day under any of those Acts or that Regulation shall be deemed to have been void and of no effect: Provided that where by reason of the foregoing provision of this section, any estate, tenure or under-tenure is not sold, or where such sale is void and of no effect, the arrears for which the estate, tenure or under-tenure would have been sold or were sold, shall, notwithstanding anything to the contrary in any other law, bear simple interest at the rate of ten per centum per annum from the date on which they become or became payable or from which the sale is deemed to have been void and of no effect, as the case may be up to the date immediately preceding the date of vesting of such estate, tenure or under-tenure.

1. Words ins. by W.B. Act 22 of 1964.

6. Right of intermediary to retain certain lands :-

(1) Notwithstanding anything contained in sections 4 and 5, an intermediary shall, except in the cases mentioned in the proviso to sub-section (2) but subject to the other provisions of that sub-section, be entitled to retain with effect from the date of vesting

(a) land comprised in homesteads;

(b) land comprised in or appertaining to buildings and structures ¹[owned by the intermediary or by any person, not being a tenant, holding under him by leave or license];

²Explanation. For the purposes of this clause 'tenant' shall not include a thika tenant as defined in the Calcutta Thika Tenancy Act, 1949;

(c) non-agricultural land in his khas possession ³[including land held under him by any person, not being a tenant, by leave or

license], not exceeding fifteen acres in area, and excluding any land retained under clause (a) :

Provided that the total area of land retained by an intermediary under clauses (a) and (c) shall not exceed twenty acres, as may be chosen by him :

Provided further that if the land retained by an intermediary under clause (c) or any part thereof is not utilised for a period of five consecutive years from the date of vesting, for a gainful or productive purpose, the land or the part thereof may be resumed by the State Government subject to payment of compensation determined in accordance with the principles laid down in sections 23 and 24 of the Land Acquisition Act, 1894;

(d) agricultural land in his khas possession, not exceeding twenty-five acres in area, as may be chosen by him :

4 Provided that in such portions of the district of Darjeeling as may be declared by notification by the State Government to be hilly portions, an intermediary shall be entitled to retain all agricultural land in his khas possession, or any part thereof as may be chosen by him;

(e) tank-fisheries;

Explanation. "tank fishery" means a reservoir or place for the storage of water, whether formed naturally or by excavation or by construction of embankments, which is being used for pisciculture or for fishing, together with the sub-soil and the banks of such reservoir or place, except such portion of the banks as are included in a homestead or in a garden or orchard and includes any right of pisciculture or fishing in such reservoir or place;

(f) **5**[subject to the provisions of sub-section (3),] land comprised in tea gardens or orchards or land used for the purpose of livestock breeding, poultry farming or dairy;

(g) **6**[subject to the provisions of sub-section (3),] land comprised in mills, factories, or workshops;

(h) where the intermediary is a local authority, land held **7*** * * * by such authority, notwithstanding such land or any part thereof may have been let out by such authority :

8 Provided that where any land which has been let out by any local

authority is retained by such authority under this clause, no person holding such land shall have any right of occupancy therein, and every such person shall be bound to deliver possession of the land to the local authority when required by it for its purposes;

9(i) where the intermediary is a corporation or an institution established exclusively for a religious or a charitable purpose or both, or is a person holding under a trust or an endowment or other legal obligation exclusively for a purpose which is charitable or religious or both land held in khas by such corporation or institution, or person, for such purpose **10**[including land held by any person, not being a tenant, by leave or license of such corporation or institution or person];

(j) where the intermediary is a co-operative society registered or deemed to have been registered under the Bengal Co-operative Societies Act, 1940, or a company incorporated under the Indian Companies Act, 1913, engaged exclusively in farming (and in business, if any, connected directly with such farming), agricultural land in the khas possession of the society or the company on the 1st day of January, 1952, and chosen by the society or the company, not exceeding in area the number of acres which persons, who were the members of the society or the company on such date, would have been entitled to retain in the aggregate under clause (d), if every such person were an intermediary : Provided that where any such person retains any land under clause (d), such person shall not be taken into account in calculating the aggregate area of the land which the society or the company may retain.

11(k) so much of requisitioned land as the intermediary would be entitled to retain after taking into consideration any other land which he may have retained under the other clauses; Explanation. 'requisitioned land' means any land which was in the khas possession of the intermediary and which was requisitioned by Government under the provisions of any law for the time being in force or was occupied by Government in pursuance of rule 49 of the Defence of India Rules and continued to be subject to requisition or occupation on the date mentioned in the notification issued under section 4;

12(l) so much of land in the unauthorised occupation of refugees from East Bengal immediately before the date of vesting as an

intermediary would be entitled to retain after taking into consideration any other land which he may have retained under the other clauses;

Explanation. 'Refugees from East Bengal' includes those who are displaced persons within the meaning of the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act, 1951.

"Exception. ¹³[Subject to the provisions contained in subsection (3), nothing in this sub-section] shall entitle an intermediary ¹⁴[or any other person] to retain any land comprised in a forest ¹⁵[or any land comprised in any embankment as defined in the Bengal Embankment Act, 1882, the proper maintenance of which should, in the opinion of the State Government, be taken over by the State Government in the public interest.]

(2) An intermediary who is entitled who is entitled to retain possession of any land under sub-section (1) shall be deemed to hold such land directly under the State from the date of vesting as a tenant, subject to such terms and conditions as may be prescribed and subject to payment of such rent as may be determined under the provisions of this Act and as entered in the record-of-rights finally published under Chapter V except that no rent shall be payable for land referred to in clause (h) or (i) :

Provided that if any tank fishery or any land comprised in a teagarden, orchard, mill, factory or workshop was held immediately before the date of vesting under a lease, such lease shall be deemed to have been given by the State Government on the same terms and conditions as immediately before such date ¹⁶[subject to such modification therein as the State Government may think fit to make.]

¹⁷(3) In the case of land comprised In a tea-garden, mill, factory or workshop the Intermediary, or where the land is held under a lease, the lessee, shall be entitled to retain only so much of such land as, in the opinion of the State Government, is required for the tea-garden, mill, factory or workshop, as the case may be, and a person holding under a lease shall, for the purpose of assessment of compensation, be deemed to be an intermediary:

¹⁸Provided that the State Government may, if it thinks fit so to do after reviewing the circumstances of a case and after giving the

intermediary or the lessee, as the case may be, an opportunity of being heard, revise any order made by it under this sub-section specifying the land which the intermediary or the lessee shall be entitled to retain as being required by him for the tea-garden, mill, factory or workshop, as the case may be.

19Explanation. The expression 'land held under a lease' includes any land held directly under the State under a lease.

19Exception. In the case of land allowed to be retained by an intermediary or lessee in respect of a tea-garden, such land may include any land comprised in a forest if, in the opinion of the State Government, the land comprised in a forest is required for the tea-garden.

21(3A) Land which may be retained under clause (k) or clause (0 of sub-section (1) shall, if necessary, be demarcated in such manner as may be prescribed and shall be specified in an order made in this behalf by a Revenue Officer specially empowered for the purpose by the State Government.

20(3B) In executing any order for eviction of persons in unauthorised occupation of land in pursuance of proceedings under the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act, 1951, possession shall be given to the intermediary of only so much of such land as he is entitled to retain under clause (i) of sub-section (1) and possession of any land in excess thereof shall be given to the Revenue Officer having jurisdiction over the area in which the land is situated.

23(3C) For the purpose of sub-section (3B) the officer or authority executing the order for eviction shall ascertain from the Revenue Officer referred to in sub-section (3A) particulars of the land possession of which may be given to the intermediary.

21(3D) Except as otherwise specifically provided in this Act or in the rules made thereunder, the provisions of the Bengal Tenancy Act, 1885 or the Cooch Behar Tenancy Act, 1910 shall not apply in the case of any land referred to in sub-section (2).

25(4) In the case of lands comprised in a forest **26**[or in any embankment, referred in the Exception to sub-section (1)] 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.

27 (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.

1. Words "Hindu widow or other" om. by W.B. Act 22 of 1964.
2. Words subs, for the words and figures "Notwithstanding anything contained elsewhere in this Act or in any Compensation Assessment Roll as finally published under section 21 but subject always to the provisions of Chapter IV. no intermediary" by W.B. Act 22 of 1964.
3. Words subs, for the words "prepared for any notified area, ascertain from such intermediary in the prescribed manner if any amount has been paid to him on account of compensation in respect of any other notified area and" by W.B. Act 9 of 1961.
4. Sub-sec. (3) ins. by W.B. Act 17 of 1960.
5. Sub-sees. (3A) and (3B) ins. by W.B. Act 22 of 1964.
6. Words, brackets and figure ins. by W.B. Act 35 of 1955.
7. Sub-sec. (4) ins. by W.B. Act 17 of 1960.
8. Words, brackets and figures subs, for the words "No portion" by W.B. Act 35 of 1955.
9. Words, brackets and figures ins. by W.B. Act 21 of 1975.
10. Sub-sec. (3) ins. by W.B. Act 35 of 1955.
11. Words, brackets and figures ins. by W.B. Act 9 of 1961.
12. Words, figures and brackets "or as the result of any adjustment made under sub-section (1) of section 12 or the second proviso thereto" om. by W.B. Act 22 of 1964.
13. Words, figure and brackets ins. by W.B. Act 22 of 1964.
14. Words, figures and brackets ins. by W.B. Act 25 of 1957.
15. Words and brackets "(including sub-soil rights therein)" om. by W.B. Act 9 of 1961.
16. Words ins. by W. B. Act 9 of 1961.
17. Words and brackets ins. by W.B. Act 9 of 1961.
18. Words, letters and brackets subs, for the words "with the additional condition " by W.B. Act 9 of 1961.
19. Words subs, for the words "if he fails to do so" by W.B. Act 9 of 1961.
21. Words ", in respect of any notified area," om. by W.B. Act 17 of 1960.
23. Sub-sections (3A) to (3D) ins. by W. B. Act 19 of 1961.
25. Sub-section (2) om. by W.B. Act 17 of 1960. The sub-section

was as under : "(2) For the purpose of the preparation of a Compensation Assessment Roll as aforesaid, the Compensation Officer may require an intermediary to submit a statement in the prescribed form."

26. Sec. 32 renumbered as sub-sec. (1) of that sec. by W.B. Act 4 of 1957.

27. Words subs, for the words "such probable gross income" by W.B. Act 9 of 1961.

7. Arrears of land revenue, cesses, taxes and impositions due from any intermediary :-

1

(1) All arrears of land revenue, cesses, taxes and other impositions by the State relating to any period prior to the date of vesting lawfully recoverable from any intermediary in respect of ²[his share in] any estate which vests in the State under section 5 shall, after the date of vesting, continue to be recoverable from such intermediary, and shall, without prejudice to any other mode of recovery, be recoverable under an order of a Collector by deduction of the amount of such arrears from the money ³[which such intermediary is entitled to receive as compensation] under this Act :

4 Provided that where the intermediary agrees in writing that the whole of the compensation money payable to him including the amount recovered by the State Government under the provisions of section 9, if any, may be adjusted against the arrears recoverable from the intermediary under this sub-section, no other mode of recovery shall be adopted for the recovery of any such arrears, except the balance, if any, remaining due after such adjustment, and suits and proceedings, if any, pending for the recovery of any such arrears shall remain stayed until such adjustment has been made.

(2) In computing the period of limitation for the institution of any suit or proceeding for the recovery of any arrears referred to in subsection (1), the time taken for adjustment of the arrears in accordance with the proviso to sub-section (1) shall be excluded.

1. Words subs, for the words "Mining Expert" by W.B. Act 9 of 1961.

2. Words subs, for the words "such probable gross income" by W.B. Act 9 of 1961.

3. Sub-sec. (2) ins. by W.B. Act 4 of 1957.

4. Words subs, for the words "an officer not below the rank of a

district Judge" by W.B. Act 17 of 1960.

8. Arrears of rent due to an intermediary and decrees for such arrears :-

All arrears of rent and cesses ¹[together with interest thereon and other amounts lawfully recoverable by] any intermediary on the date of vesting from any person, in respect of any interest of such intermediary which vests under section 5, and all sums due from such person in respect of any decree for arrears of rent in respect of such interest, whether having the effect of a rent-decree or money-decree and whether obtained before or after the date of vesting, and the execution of which is not barred by limitation, shall continue to be recoverable by such intermediary ²* * *:

³Provided that if such person be himself an intermediary, the recovery of such arrears from the compensation payable to him shall be subject to the provisions of section 26 of this Act:

⁴ Provided further that if on the date of vesting a notification under section 99 of the Cess Act, 1880, was in force in respect of any interest of an intermediary or if any interest of an intermediary was let in farm or managed by a Collector under clause (b) or clause (c) of section 73 of the Bengal Embankment Act, 1882, then in computing the period of limitation for the institution of any suit or proceeding by the intermediary for the recovery of any arrears of rent or cesses in respect of such interest, the period during which such notification was in force or during which the interest was let in farm or managed by the Collector, shall be excluded.

1. Figures subs, for the figures "15,". by W.B. Act 17 of 1960.

2. Figures and letter ins. by W.B. Act 19 of 1961.

3. Figures ins. by W.B. Act 4 of 1957.

4. Figures "18" om. by W.B. Act 17 of 1960.

9. Option to have arrears collected through the State Government on certain conditions :-

¹(1) An intermediary may ²* * * apply to the State Government for recovery by the State Government of all sums recoverable by him under the provisions of section 8.

(2) The State Government may grant or refuse such application as it thinks fit ³[but no such application shall be granted if made after the expiry of twelve months from the date of vesting unless the intermediary makes an agreement in writing referred to in the

proviso to sub-section (1) of section 7).

(3) If the State Government grants the application, it shall be competent for the State Government to recover⁴[all such sums] as if they were public demands, or in any other manner as if the State Government were the intermediary : 59 Provided that if any such sum be recoverable from more persons than one who are co-sharers and who are jointly and severally liable to pay such sum, the extent of liability of each such co-sharer shall first of all be ascertained by the Court in which, or the Officer before whom, proceedings in execution are taken, and no such proceedings, shall, after the passing of the West Bengal Estates Acquisition (Amendment) Act, 1961, be continued against all the co-sharers until the proceedings against each co-sharer in respect of his individual liability as so ascertained have been wholly or partially unsuccessful.

(4) The State Government shall, from time to time in accordance with such rules as may be prescribed, send to the intermediary, accounts of the⁵[amount recovered in pursuance of sub-section (3)],⁶[and shall, subject to the terms of the agreement made in compliance with subsection (2), where such an agreement is made, pay] to the intermediary⁷[the amount so recovered after deducting therefrom the actual cost of recovery subject to a minimum of twenty per centum of the amount recovered]. Such accounts shall be treated as conclusive and shall not be questioned in any manner.

(5) The State Government shall not be liable if it fails to recover the whole or any portion of⁸ [the sums referred to in sub-section (1)].

1. Figures and brackets "20(1)," om. by W.B. Act 4 of 1957.

2. Figures ins. by W.B. Act 19 of 1961.

3. Sub-sec. (4) subs, by W.B. Act 4 of 1957. Original sub-sec. (4) was as under : "(4) Where any proceedings in respect of the preparation of record-of- rights have been commenced under Chapter X of the Bengal Tenancy Act. 1885, before this Act comes into force and such record-of-rights has not been finally published before such date, any further proceedings required for the completion and final publication of such record-of-rights shall be undertaken in accordance with such rules as may be prescribed. Such record-of-rights shall thereupon be deemed to have been duly prepared and finally published under this Chapter."

4. Sec. 40 subs, by W.B. Act 9 of 1961. Original sec. 40 was as

under : "40 Raiyat paying rent in kind, etc. (1) If any raiyat pays for a holding rent in kind or rent payable partly in kind and partly in cash or rent on the estimated value of a portion of the crop, the Revenue Officer shall, in the prescribed manner, determine the sum deemed to be payable as money-rent and record such rent in the record-of-rights. (2) In making the determination the Revenue Officer shall have regard to the average value of the rent actually received by the landlord during the preceding seven years or during any shorter period for which evidence may be available."

5. Words subs, for the words "When an intermediary is entitled" by W.B. Act 22 of 1964.

6. Words subs, for the words "paid by raiyats for lands" by W.B. Act 9 of 1961.

7. Words ins. by W.B. Act 22 of 1964.

8. Proviso ins. by W.B. Act 25 of 1957.

10. Collector to take charge of estates and rights of intermediaries vested in the State :-

(1) Upon the publication of any notification under section 4, the Collector shall take charge of estates and interests of intermediaries which vest in the State under section 5.

(2) For the purpose as aforesaid, the Collector may, by a written order served in the prescribed manner, require any intermediary or any person in possession (khas or symbolical) of any such estate or of any such interest, to give up such possession by a date to be specified in the order (which shall not be earlier than sixty days from the date of service of the order) and to deliver by that date any documents, registers, records and collection papers connected with the management of such estate or of such interest which are in his custody and to furnish a statement in the prescribed form in respect of such estate or such interest.

(3) The Collector or any other officer authorised by him in this behalf may take such steps or use such force, as may be necessary to enforce compliance with the order and may also enter any building or place for the purpose of taking possession of documents, registers, records or collection papers referred to in sub-section (2).

(4) An intermediary shall be entitled in accordance with such rules may be prescribed, to take inspection of any documents, registers, records or collection papers which have been delivered to or taken possession of by the Collector, to make notes therefrom or to have certified copies thereof granted to him. No fees shall be charged for

taking inspection or for making notes but fees may be charged according to the prescribed scale for certified copies. Certified copies granted under this sub-section shall be admissible in evidence.

(5) Nothing in this section shall authorise the Collector to take khas possession of any estate or of any right of an intermediary therein, which may be retained under section 6.

1(6) If after any estate or any interest therein of an intermediary has vested in the State under section 5, the intermediary or any other person possesses any land which was in the khas possession of the intermediary before the date of vesting but which the intermediary has not retained or cannot retain under section 6, then, whether possession of such land has been taken by the Collector in pursuance of subsection (2) or not, the intermediary or such other person shall be liable for the period for which he is in possession of such land to pay

(a) where such possession is authorised by the licence of the Collector, such licence fee as may have been agreed upon between him and the Collector or, in the absence of any agreement, as shall be calculated at the rate of Rs. 10 per acre per annum, or

2(b) where such possession is not authorised by the Collector, such damages for use and occupation of such land as may be determined by the Collector, after giving the intermediary or such other person an opportunity of being heard, at a rate not exceeding

(i) in the case of agricultural land, twenty-five per centum of the money value of the gross annual produce of such land;

(ii) in other cases, ten per centum of the market value of the land per annum;

1(7) Any amount payable under sub-section (6) on account of licence fee or damages, as the case may be, shall be recoverable as a public demand: **4** Provided that where damages are due from an intermediary, the same may, without prejudice to any other mode of recovery, be set off under an order of the Collector against the compensation payable to the intermediary under this Act.

1. Sub-sec. (2) ins. by W.B. Act 22 of 1964.

2. Sub-sees. (3) and (4) ins. by W.B. Act 31 of 1969.

4. Sec. 42A ins. by W.B. Act 19 of 1961.

11. Penalty for non-compliance of Collectors order :-

(1) If any person on whom an order has been served under sub-section (2) of section 10, wilfully fails or neglects to comply with all or any of the directions given in such order within the time specified therein or within such further time as the Collector may allow or withholds any documents, registers, records or collection papers, or wilfully furnishes any incorrect statement, it shall be lawful for the Collector, after giving such person an opportunity of being heard, to impose a fine upon such person. Such fine may extend

(a) in the case of a proprietor, to five times the annual revenue and cess payable by him or to one thousand rupees, whichever is greater;

(b) in the case of an intermediary who is not a proprietor, to five times the annual rent payable by him or to" one thousand rupees, whichever is greater;

(c) in other case's, to one thousand rupees.

(2) An appeal against any order of the Collector under sub-section (1) if preferred within sixty days of such order, shall lie to a Special Judge appointed for the purpose of this section and such Special Judge shall dispose of the appeal according to the prescribed procedure.

(3) The fine imposed under sub-section (1) or as confirmed or varied on any appeal therefrom shall be paid within sixty days of the order imposing the fine, or the order on appeal, as the case may be, and in default of such payment shall be recoverable as a public demand.

12. Payment of ad interim compensation :-

¹(1) Every intermediary whose estate or interests have vested in the State and have been taken charge of by the Collector under section 10 shall be entitled to receive in cash, in respect of such estate or interests at such time and in such manner as may be prescribed, an annual ad interim payment of ²[such amount as may be prescribed). Such payments shall be deemed to be part of the compensation payable to such intermediary and shall, at the time of payment of such compensation, be deducted and adjusted against it, so however that where such compensation is payable

partly in cash and partly in ³[bonds, the adjustment shall be first against the compensation payable in cash ⁴(and the interest on such compensation payable under this Act) and then, if necessary, against the compensation payable In bonds:]

Provided that the first annual ad interim payment shall be made within eighteen months from the date of vesting ⁵[and no ad interim payment shall be made ⁶(after assessment of the compensation payable to the intermediary and publication of the Compensation Assessment Roll under sub-section (1) of section 14 or sub-section (5) of section 15, as the case may be:)]

⁷Provided further that where having regard to the financial position and other circumstances, if any, of an intermediary or a class of intermediaries or of a person or a class of persons entitled to receive compensation under the provisions of this Act, the State Government considers it necessary so to do, the State Government may, by order, direct ad interim payment to such intermediary or such class of intermediaries or to such person or such class of persons of such amounts and at such intervals as may be specified in the order, the amount so paid being adjusted in the manner laid down in the foregoing provisions of this sub-section.

⁸(2) Notwithstanding anything contained in sub-section (1), where the estate or interest of an intermediary referred to in clause (i) of subsection (1) of section 6 has vested in the State and has been taken charge of by the Collector under section 10, such intermediary shall be entitled to receive an annual ad interim payment of the approximate net annual income from the estate or interest excluding the portion thereof which the intermediary has retained under the provisions of subsection (1) of section 6, subject to deduction or adjustment in such manner as may be determined in this behalf by the Compensation Officer against the annuity payable under the proviso to sub-section (1) of section 17.

⁹(3) It shall be competent, notwithstanding anything to the contrary elsewhere in this Act or in any enactment or any general principle of law, to make any payment of any compensation (ad interim or final) under this Act,

(a) in the case of a minor, to the guardian of such minor, and

(b) in the case of a lunatic, to the manager of the estate of such

lunatic appointed under the Indian Lunacy Act, 1912 :

Provided that except in the case of the following classes of guardians, that is to say,

(i) a natural guardian,

(ii) a guardian appointed by the will of a minor's father or mother,

(iii) a guardian appointed or declared by a court, and

(iv) a person empowered to act as or exercise the powers of a guardian by or under any enactment relating to court of wards, no payment as aforesaid shall be made unless the guardian furnishes security in accordance with prescribed rules.

10 (4) An intermediary who is a limited owner shall be entitled to receive ad interim payment to the extent of the amount of interest calculated in accordance with the provisions of this Act on the estimated total compensation payable for the estate or interests vesting in the State.

1. Words and figures ins. by W.B. Act 19 of 1961.

2. Words "as aforesaid" om. by W.B. Act 19 of 1961.

3. Proviso ins. by W.B. Act 35 of 1955.

4. Proviso to sub-sec. (2) om. by W.B. Act 19 of 1961. The Proviso was as under : "Provided that such final publication shall be made within three years of the date of the order made by the State Government under section 39."

5. Sub-sec. (2a) ins. by W.B. Act 19 of 1961.

6. Sub-sec. (2a) ins. by W.B. Act 25 of 1957.

7. Words subs, for the words "on application or of his own motion, within nine months" by W.B. Act 19 of 1961.

8. Substitutions were made here by several Acts i.e. W.B. Act 22 of 1963, W.B. Act 9 of 1967, W.B. Act 1 of 1973, W.B. Act 21 of 1975, W.B. Act 22 of 1978, W.B. Act 20 of 1982, W.B. Act 11 of 1987, W.B. Act 28 of 1992. Finally, the present words subs, for the words "forty years" by W.B. Act 20 of 1997.

9. Words, figures, brackets and letter subs, for the words, figures and brackets "by a Revenue Officer on any objection made under sub-section (1)" by W.B. Act 25 of 1957.

10. Sub-sec. (4) ins. by W.B. Act 9 of 1961.

13. Management of estates and interests of intermediaries vested in the State :-

All estates and all interests of intermediaries therein, which have vested in the State under a notification under section 4 and which have been taken possession of by the Collector under section 10

shall be managed according to such rules as the State Government may from time to time make in this behalf:

Provided that the State Government may at any time, if it so thinks fit, entrust the management of such estates and such interests to any statutory authority on such terms and conditions, as it may, by general or special order, fix, and the statutory authority shall manage such estates and such interests in accordance with rules made by the State Government in this behalf.

CHAPTER 3

Assessment and payment of compensation

14. Preparation of Compensation Assessment Roll :-

1

(1) The Compensation Officer shall ² * * * prepare in respect of all intermediaries having lands in the notified area or in any part thereof over which the Compensation Officer has jurisdiction, a Compensation Assessment Roll on the basis of the records-of-rights prepared and finally published under Chapter V and publish the same in such manner as may be prescribed.

(2) The Compensation Assessment Roll shall contain particulars about the gross income and the net income of each intermediary from all his estates and interests within the area, the amount of compensation payable in accordance with the provisions of this Act and such other particulars as may be prescribed.

(3) Every intermediary who had a share in any estate or interest, which has vested in the State under section 5, shall be treated separately for assessment of compensation:

Provided that any intermediary who acquired by a voluntary transfer made after the 1st day of January, 1952, a share in any estate or interest, not being the entire share of the transferor, shall not be treated separately.

1. Secs. (3a) to (3c) ins. by W.B. Act 4 of 1957.

2. Words, figures, brackets and letter subs, for the words, figures and brackets "by a Revenue Officer on any objection made under sub-section (1)" by W.B. Act 25 of 1957.

15. Pilling and disposal of objections to Compensation Assessment Roll prepared under section 14, and preparation of roll in respect of intermediaries having interests in more than one area :-

(1) Within one month of the publication of the Compensation Assessment Roll under section 14

(a) an intermediary may file before the Compensation Officer an objection in writing in the prescribed form in respect of any entry therein, or any omission therefrom relating to his estates, interests or income;

(b) an intermediary having estates or interests in any other area or areas shall submit to the Compensation Officer a statement in the prescribed form containing particulars of all his estates and interests wherever situated and the income therefrom.

(2) The Compensation Officer shall, except in a case where an intermediary has filed a statement under clause (b) of sub-section (1), hear and dispose of any objection filed under clause (a) of the said sub-section according to such procedure as may be prescribed.

(3) When an intermediary files a statement under clause (b) of subsection (1), the Compensation Officer shall forward it to the Collector **2 * * ***—

(4) On receipt of any statement forwarded to him under sub-section (3), the Collector shall

(a) refer the case to such Compensation Officer as may be specially appointed by the State Government in this behalf for assessment of compensation when it appears from the statement that all the estates and interests of the intermediary are situated within the district;

(b) refer the case to such Compensation Officer as may be specially appointed by the State Government in this behalf for assessment of compensation when it appears from the statement that the estates and interests of the intermediary are situated in more than one district.

(5) When cases have been referred to a Compensation Officer under clause (a) or clause (b) of sub-section 4, such Compensation Officer shall prepare a Compensation Assessment Roll in respect of all the intermediaries whose cases have been so referred and publish it in such manner as may be prescribed. The provisions of section 14 shall apply mutatis mutandis to the preparation of such Compensation Assessment Roll.

1. Words, figures and letter ins. by W.B. Act 19 of 1961.
2. Words "until it is proved by evidence to be incorrect" om. by W.B. Act 33 of 1973.

15A. Filling and disposal of objections to Compensation Assessment Roll prepared under sub-section (5) of section 15 :-

¹²[An intermediary may, within three months] of the publication of the Compensation Assessment Roll referred to in sub-section (5) of section 15, ³* * * file before the Compensation Officer an objection in writing in respect of any entry therein or any omission therefrom relating to his estates, interests or income and the Compensation Officer shall ⁴ [thereupon] hear and dispose of such objection according to such procedure as may be prescribed.

1. Words subs, for the words "or of his own motion within one year" by W.B. Act 9 of 1961.
2. Words subs, for the words "within five years" by W.B. Act 22 of 1963.
3. Sec. 45A ins. by W.B. Act 4 of 1957.
4. Words, figure and letter ins. by W.B. Act 9 of 1961.

16. Gross income and net income :-

(1) For the purpose of the preparation of the Compensation Assessment Roll ¹* * *,

(a) the gross income of an intermediary shall be taken to consist of

(i) the aggregate of the rents and cesses payable or deemed to be payable to him for the previous agricultural year by his immediately subordinate tenants including ²(the average value of any rent in kind which was payable by such tenants during seven years immediately preceding the date of vesting commuted and determined] in the prescribed manner ³* * * * *;

⁴(ii) in respect of khos land which the intermediary does not retain under sub-section (1) of section 6, the annual income of such land determined in the prescribed manner;

(iii) the income derived from hats, bazars, ferries, fisheries, tolls and other satrati interests, calculated on the basis of the average annual income for five agricultural years immediately preceding the agricultural year in which the date of vesting falls or for such shorter period for which evidence is available;

5(iv) in respect of forests the average annual income from the forests for twenty-five agricultural years immediately preceding the agricultural year in which the date of vesting falls as determined by an Officer appointed in this behalf by the State Government, on the following basis :

(I) for the period after the commencement of the West Bengal Private Forests Act, 1948,

(A) where the forests have been under the management of private owners in accordance with working plans approved under that Act, the annual income yielded by the forests, and

(B) in other cases, the annual income calculated on the basis of the income determined under sub-paragraph (A) for similar forests in the area or in the district or, if there is no similar forest in the area or in the district, for similar forests in any other area or district,

(II) for the period before the commencement of the West Bengal Private Forests Act, 1948,

(A) where evidence as to the income yielded by the forests is available, the annual income according to such evidence, and

(B) where no such evidence is available, the annual income calculated on the basis of the income determined under sub-paragraph (A) for similar forests in the area or in the district or, if there is no similar forest in the area or in the district, for similar forests in any other area or district;

(v) the annual income derived during the previous agricultural year from any other interest of such intermediary not expressly mentioned in sub-clauses (i) to (iv). but excluding income derived from mines directly worked by the intermediary or from leases of mines and minerals granted by him.

(b) The net income of an intermediary shall be computed by deducting from his gross income the following, namely:

(i) any sum payable ⁶[or deemed to be payable] by such intermediary during the previous agricultural year as land revenue, cesses or rent, ⁶[including the average value of any rent in kind which was payable by him during seven years immediately preceding the date of vesting commuted and determined in the prescribed manner,] if any, to the State Government or to his

immediately superior landlord, as the case may be, in respect of the interests to which his gross income relates;

8(ii) the average of all sums payable as tax under the Bengal Agricultural Income-tax Act, 1944, or the Indian Income-tax Act, 1922, in respect of the interest to which his gross income relates, for the seven years ending on the 31st day of March, 1955 or any shorter period for which evidence is available;

(iii) the expenditure calculated on the basis of the average expenditure for five agricultural years immediately preceding the agricultural year in which the date of vesting falls or for such shorter period for which evidence is available, incurred by such intermediary on account of the of the irrigation or protective works which he is bound by law or under any agreement to maintain, in respect of interests to which his gross income relates or where such expenditure should have been incurred but was not so incurred, an amount calculated in the prescribed manner;

(iv) charges on account of management and collection at the following rates, namely:

Table

Amount of gross income.	Rate
	.

9Provided that where deduction of such charges, at the rates specified above, from gross income yields no net income, the Collector shall, notwithstanding anything contained in this clause,

fix by actual figures, subject to the approval of the State Government, such charges on account of management and collection as he may consider to be reasonable having regard to the circumstances of each particular case.

10(v) any sum payable by such intermediary out of the income from his estates or interests which have vested in the State under section 5 to any person or institution exclusively for a religious or a charitable purpose or both by virtue of any charge on such income created by operation of law or by a decree of any court or by an instrument in writing;

11 (vi) any sum payable by such intermediary out of the income of an estate or interest which has vested in the State under section 5, to a corporation or an institution established exclusively for a religious or a charitable purpose or both, or a person holding under a trust or an endowment or other legal obligation exclusively for a purpose which is charitable or religious or both, where such estate or interest was held partly for a religious or charitable purpose and partly for a purpose other than religious or charitable.

Explanation- Any income from wakf, trust or an endowment which is payable for the support of the founder or his family or descendants shall not be deemed to be income payable for a religious or charitable purpose.

(2) In the case of a recusant proprietor of a temporarily-settled estate, the malikana received by such proprietor in respect of the previous agricultural year shall be deemed to be the net income of such proprietor.

Explanation. For the purposes of this section "previous agricultural year" means the agricultural year immediately preceding the agricultural year in which the date of vesting falls.

1. Words, figure and letter ins. by W.B. Act 9 of 1961.

2. Sec. 46 om. by W.B. Act 33 of 1973. The sec. was previously as under : "Bar to jurisdiction of Civil Court in respect of certain matters. Where an order has been made under sub-section (1) of section 39 directing the preparation or revision of a record-of-rights, no Civil Court shall entertain any suit or application for the determination of rent or determination of the status of any tenant or the incidents of any tenancy to which the record-of-rights relates, and if any suit or application, in which any of the aforesaid matters in issue, is pending before a Civil Court 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. Explanation. In this section suit includes an appeal."

3. 'Heading' subs, by W.B. Act 35 of 1955. Original 'heading' was as under : "Acquisition of certain khas lands and rent-receiving interests."

4. Sec. 49 subs, by W.B. Act 35 of 1955. Original sec. 49 was as under : "49. When this Chapter is to come into force. The provisions of this Chapter shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint."

5. Sec. 52 subs, by W.B. Act 35 of 1955. Original sec. 52 was as under : "52. Consequences of notification. The provisions of Chapters II to V and of Chapter VII shall, with such modifications as may be necessary, apply mutatis mutandis to khas lands referred to in clause (a) of sub-section (1) of section 51 and rent-receiving interests referred to in clause (b) .of that sub-section as if the notification under that section had been a notification under section 4."

6. Proviso first ins. by W.B. Act 4 of 1957. Thereafter the present proviso subs, by W.B. Act 9 of 1961. Previous Proviso was as under : "Provided that if a raiyat or an under-raiyat retains all lands of a holding under section 6. read with this section, he shall pay the same rent as he was paying immediately before the date of vesting and in cases where the land retained by a raiyat or an under-raiyat forms part of the lands in a holding held by him before the date of vesting, the rent payable by him 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 of the holding."

8. Words and figures subs, for the words and figures "provisions of section 42" by W.B. Act 22 of 1963.

9. Clause (c) ins. by W.B. Act 22 of 1963.

10. Words and figures subs, for the words and figures "provisions of section 40" by W.B. Act 22 of 1964.

11. Clause (d) ins. by W.B. Act 22 of 1964.

16A. Exclusion of estates and interests relating to mines and minerals :-

¹ A Compensation Officer shall, in preparing under section 14 or section 15 a Compensation Assessment Roll, exclude from the income of an intermediary whose rights in mines and minerals have vested in the State his income from such mines and minerals and shall after assessment of compensation for his other estates and interests refer the case to the Compensation Officer appointed under Chapter IV for assessment of compensation in accordance

with the provisions of that Chapter.

1. Sec. 53 renumbered as sub-sec. (1) of that sec. by W.B. Act 17 of 1960.

17. Assessment of compensation :-

(1) After the net income has been computed under section 16, the Compensation Officer shall ¹* * * * * proceed to determine the amount of compensation payable to intermediaries in accordance with the following table, nemely :

Net income.	Amount of compensation payable.

²Provided that in the case of an intermediary referred in clause (i) of sub-section (1) of section 6, compensation payable to such intermediary shall be a perpetual annuity, ³[or where the interest of the intermediary is terminable or is liable to be exhausted, an annuity for such number of years as ⁴(may be prescribed)], having regard to the circumstances, equal to the net annual income from the estate or interest of such intermediary excluding the portion thereof which the intermediary has retained under the provisions of sub-section (1) of section 6 :

⁵Provided further that in the case of an intermediary

(a) whose income consisted only of rent in kind the commuted

value of which does not exceed Rs. 1,000 per year, or

(b) whose income from rent in kind taking the commuted value thereof together with his other income from his estates or interests which have vested in the State under section 5 does not exceed the sum mentioned in clause (a), the compensation payable to such intermediary shall be an annuity, payable for a period of twenty-five years, equal to the net annual income from the estates or interests in respect of which the intermediary received rent in kind and in the case of an intermediary mentioned in clause (b), the amount of such annuity shall be excluded from his net income for the purpose of assessing the compensation payable to him under the general provisions of sub-section (1).

(2)

(a) Where an intermediary is the holder of a temporary interest the compensation payable to such intermediary in respect of such interest ⁶[shall not exceed the amount of net income which the intermediary would have derived from such interest during the unexpired period thereof], or

(b) where the interest of intermediary is subject to a usufructuary mortgage, the compensation payable to such intermediary shall be apportioned between him and his usufructuary mortgagee ⁷[in such proportion as may be just and fair having regard to the unexpired period of the usufructuary mortgage]; ⁸* * * * *

⁹ (3) The sum referred to in sub-clause (v) or sub-clause (vi) of clause (b) of sub-section (1) of section 16 shall be payable to the coporation, institution or person, as the case may be, as a perpetual annuity.

1. Clause (ff) ins. by W.B. Act 19 of 1961.

2. Sub-sec. (2) ins. by W.B. Act 17 of 1960.

3. Words ins. by W.B. Act 25 of 1958.

4. Sub-sec. (1) subs, by W.B. Act 17 of 1960. Previous sub-sec. (1) was as under : "(1) The State Government may appoint one or more officers not below the rank of a District Judge to be a Special Judge or Judges appointed for the purpose of section 11 or to be a Special Judge or Judges appointed for the purpose of section 20."

5. Words subs, for the words "an officer not below the rank of by W.B. Act 17 of 1960.

6. Words ins. by W.B. Act 35 of 1955.

7. Sec. 55A ins. by W.B. Act 17 of 1960.

8. Sec. 57A ins. by W.B. Act 4 of 1957.

9. Sec. 57B ins. by W.B. Act 33 of 1973.

18. . :-

1 * * * * *

1. Sec. 18 om. by W.B. Act 17 of 1960. The sec. was as under :
"18 Preliminary publication of Compensation Assessment Roll and disposal of objections. (1) After the amount of compensation has been determined in accordance with the provisions of section 17 and entered in the Compensation Assessment Roll, the Compensation Officer shall cause a draft of such roll to be published in the prescribed manner and for the prescribed period. The Compensation Officer shall send relevant portion of the draft of such roll to each intermediary and shall receive and consider any objections, which may be made within three months of the receipt of the relevant portion of the Compensation Assessment Roll, to any entry therein or to any omission therefrom. The Compensation Officer shall dispose of such objections within a period of six months from the date of filing thereof in accordance with such rules as the State Government may make in this behalf. (2) Separate draft Compensation Assessment Roll may be prepared and published under sub-section (1) for different villages or group of villages in a notified area."

19. Contents of the order of Compensation Officer :-

The order of the Compensation Officer deciding an objection under ¹ [section 15 or section ISA] or an order under sub-section (2) of section 25 shall contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision.

1. Chapter VIII containing sees. 60 and 61 ins. by W.B. Act 40 of 1963.

20. Appeals :-

(1) An appeal, if presented within ninety days from the date of the order appealed against, shall lie from every order passed by a Compensation Officer under ¹ [section 15 or section ISA] or under proviso (b) of sub-section (2) of section 25 to a Special Judge appointed for the purpose of this section.

(2) An appeal shall lie to the High Court from every order passed on appeal by a Special Judge under sub-section (1) on any of the grounds specified in section 100 of the Code of Civil Procedure, 1908.

1. Chapter VIII containing sees. 60 and 61 ins. by W.B. Act 40 of 1963.

21. Final publication of the Compensation Assessment Roll

:-

(1) When no objection has been filed or when all such objections have been disposed of, the Compensation Officer shall make such alterations, if any, in the ¹* * * Compensation Assessment Roll as may be necessary to give effect to any order passed on objections made under ²[section 15 or section ISA] and shall cause the said roll or the roll as so altered to be finally published in the prescribed manner and make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same with his name and official designation.

(2) The publication of the Compensation Assessment Roll under subsection (1) shall be conclusive evidence that the said roll has been duly made under this Chapter and every entry in such roll so finally published shall, subject to any modification by any order on appeal under section 20 ³ [or on revision under section 22], be conclusive evidence of the matters referred to in such entry.

1. Clauses (iv) and (v) ins. by W.B. Act 14 of 1966.

2. Chapter VIII containing sees. 60 and 61 ins. by W.B. Act 40 of 1963.

3. Words and figures ins. by W.B. Act 22 of 1963.

22. Correction of bona fide mistakes :-

A Compensation Officer may, on application or of his own motion at any time before payment of compensation under section 23, correct any entry in the Compensation Assessment Roll, which he is satisfied has been made owing to bona fide mistake :

Provided that no such correction shall be made if an appeal affecting such entry has been presented under section 20 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter. •

23. Manner of payment of compensation :-

¹(1)

(a) As soon as may be after the date of the final publication of a Compensation Assessment Roll under section 21, the Compensation Officer shall, in the prescribed manner, ²[proceed to make payment] of the compensation to the intermediary who is entitled to such compensation in terms of the Compensation Assessment

Roll together with interest at the rate of three per centum per annum of such compensation accruing from the date of vesting to ³[the date of final publication of the Compensation Assessment Roll]:

⁴Provided that in assessing interest under this clause, interest on all ad interim payments made under section 12 shall, from the date of any such payment to the date of final publication of the Compensation Assessment Roll, be excluded:

⁴Provided further that in any case where the amount of compensation is enhanced as a result of an appeal under section 20, interest shall, subject to the provisions of the first proviso, be calculated from the date of vesting to the date of final publication of the Compensation Assessment Roll on the amount- as determined on appeal.

(b) Where the compensation to which an intermediary is entitled is in respect of interests which vested in the State on two different dates, interest shall be calculated on such compensation from the later of such dates and to the interest so calculated there shall be added the interest on the net net income of the intermediary from his interest which vested in the State on the earlier date calculated at the same rate from such earlier date of vesting up to the later date of vesting:

Provided that such payment shall be without prejudice to the right of the intermediary to file an appeal under section 20.

⁶(1 A) Where the intermediary is a limited owner, the Compensation Officer shall make payment to such intermediary of only the amount of interest calculated at the rate mentioned in sub-section (1) on the compensation payable for the estates or interests vesting in the State less such amount, if any, as may have been paid under the provisions of sub-section (4) of section 12, before depositing the amount of compensation with the Collector under section 24.

(2) ⁷(Subject to the provisions of section 12 and sub-section (3) of section 26, all sums payable] as compensation to an intermediary shall be paid in the manner following, that is to say:

(a) payment in cash shall be made in accordance with the following table, namely:

Net income.	Payment to be made in cash.
	100 per centum of the amount of compensation payable in respect of such net income.
	50 per centum of the amount of compensation payable in respect of such net income.
	45 per centum of the amount of compensation payable in respect of such net income.
	40 per centum of the amount of compensation payable in respect of such net income.
	30 per centum of the amount of compensation payable in respect of such net income.
	25 per centum of the amount of compensation payable in respect of such net income.
	20 per centum of the amount of compensation payable in respect of such net income.
	15 per centum of the amount of compensation payable in respect of such net income.
	12 per centum of the amount of compensation payable in respect of such net income.

(b) the balance of the compensation shall be paid in ⁸[negotiable and transferable bonds of not less than fifty rupees each] carrying interest at three per centum per annum with effect from the date of issue and payable in the prescribed manner in twenty equal annual instalments ⁹* * * * * ¹⁰[and the remainder, if any, below fifty rupees, shall be paid in cash]:

Provided that the State Government may at anytime pay the commuted value of the bond in one instalment.

(3) Notwithstanding ¹¹[anything to the contrary contained in subsection (2), where the compensation payable to an intermediary or other person is an annuity. ¹²(the Collector of the district shall make the annual payment in respect of such annuity in the prescribed manner) to the trustee or other person ¹³[entitled for the time being to receive such payment]:

14 Provided that having regard to the financial position and other circumstances of an intermediary referred to in clause (a) or clause (b) of the second proviso to sub-section (1) of section 17, the State Government may pay to such intermediary the commuted value of the annuity payable to him calculated in the prescribed manner, in one or more instalments.

1. Sub-sec. (1) first subs, by W.B. Act 9 of 1961 and thereafter the present sub-sec. (1) subs, by W.B. Act 19 of 1961. Previous sub-sec. (1) was as under : "(1) As soon as may be after the date of final publication of a Compensation Assessment Roll under section 21, the Compensation Officer shall, in the prescribed manner, make an offer of payment of the compensation to the intermediary who is entitled to such compensation in terms of the Compensation Assessment Roll together with interest at the rate of three per centum per annum of such compensation accruing from the date of vesting to the date of the offer of payment under this subsection : Provided that such payment shall be without prejudice to the right of the intermediary to file an appeal under section 20."

2. Words subs, for the words "make an offer of payment" by W.B. Act 22 of 1964.

3. Words subs, for the words "the date of the offer of payment under this sub-section" by W.B. Act 22 of 1963.

4. Provisos ins. by W.B. Act 22 of 1963.

6. Words and figures subs, for the words and figures "until the provisions of Chapter VI are given effect to every raiyat. or non-agricultural tenant, holding any land under an intermediary "by W. B. Act 4 of 1957.

7. Words, figures and brackets subs, for the words "every non-agricultural tenant holding any land" by W. B. Act 22 of 1964.

8. Words subs, for the words "non-negotiable bonds" by W.B. Act 19 of 1961.

9. Words and figures "subject to any deduction from such payment of any sum which the Collector may order to be made under section 7 or any ad interim payment made under section 12 or any other sum recoverable from such compensation under section 8 or under an order of attachment" om. by W.B. Act 35 of 1955.

10. Words ins. by W.B. Act 19 of 1961.

11. Words, figure and brackets subs, for the words, figures and brackets "anything contained in sub-section (2), the entire amount of the compensation in respect of any interest or portion referred to

under the proviso to sub-section (1) of section 17, shall be payable in perpetual annuity bonds," by W.B. Act 9 of 1961.

12. Words subs, for the words "such annuity shall be payable in bonds. Such bonds shall be deposited with the Collector of the district and such Collector shall make the annual payment in respect of such bonds" by W.B. Act 22 of 1964.

13. Words subs, for the words "entitled to the management of such interest or the portion of such interest" by W.B. Act 9 of 1961.

14. Proviso ins. by W.B. Act 22 of 1964.

24. Compensation due to persons incompetent to alienate :-

If any intermediary entitled to receive such compensation in respect of any interest be a person incompetent to alienate such interest, the Compensation Officer shall keep the amount of compensation payable for such interest whether in cash or bonds¹[, after deducting therefrom any amount recoverable under section 7,] in deposit with the Collector of the district and such Collector shall arrange to invest the cash and the income from the bonds in the purchase of such Government or other approved securities as such Collector thinks fit and shall direct the payment of the income from such investment to the intermediary who would for the time being have been entitled to hold and enjoy such interest if it had not vested in the State and such bonds and securities shall remain so deposited until they are made over to any person or persons becoming absolutely entitled thereto:

Provided that nothing in this section shall affect the right of a ²* *
* * limited owner to receive the whole or any part of such compensation in circumstances where such ²* * * limited owner would be entitled under the law to spend the corpus of the interest:

Provided further that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation made under this Act to pay the same to the person lawfully entitled hereto.

1. Words ins. by W.B. Act 22 of 1964.

2. Words "Hindu widow or other" om. by W.B. Act 22 of 1964.

25. Certain restrictions as to amounts payable as compensation :-

(1) ¹[No intermediary] shall be entitled to receive on account of compensation any amount in excess of the amount calculated on his total net income from all his interests held by him within the

State at the rate specified in the table contained in section 17.

(2) The Compensation Officer shall, before making any payment under section 23 of any compensation payable in terms of a Compensation Assessment Roll 26I, ascertain from the intermediary in the prescribed manner if any amount has already been paid to him on account of compensation and, if so, shall, by order,] adjust the payment by making any deduction he considers necessary:

Provided that

(a) no such deduction shall be made until a reasonable notice has been given to the intermediary to appear and be heard in the matter; and

(b) any such order for deduction shall be subject to appeal in the manner provided under section 20.

2(3) If any intermediary having estates and interests in an area or areas other than the one in respect of which his Compensation Assessment Roll has been prepared and published does not submit a statement under clause (b) of sub-section (1) of section 15 or does not include in such a statement filed by him full and correct details regarding all his estates and interests and the income therefrom, with a view to getting higher compensation than what is admissible under the provisions of sub-section (1), the State Government may, by order made in this behalf, direct that such intermediary shall forfeit the whole or such part of the compensation payable to him as may be specified in the order.

3(3A) If an intermediary executes any instrument purporting to transfer any khas land which he has not retained under sub-section (1) of section 6 to any person and puts such person in possession of such land at any time before the payment of the compensation under section 23 to him, then, without prejudice to its right to recover possession of such land from such person, the State Government may, by order made in this behalf, direct that such intermediary shall forfeit such part of the compensation payable to him as may be specified in the order.

3(3B) An appeal against any order of forfeiture passed under subsection (3) or sub-section (3A), if preferred within sixty days of such order, shall lie to a Special Judge, being a person who is or has been a District Judge or an Additional District Judge, appointed

by the State Government for the purpose of hearing appeals under this sub-section and such Special Judge shall dispose of the appeal according to the prescribed procedure.

5 (4) If, in any case, it is found that the amount of compensation paid to an intermediary is in excess of what is payable to him under the provisions of this Act, the excess amount so paid shall be adjusted against future instalments, if any, so payable to him, and, if no such adjustment is possible, may be recovered from the intermediary as a public demand.

1. Words subs, for the words and figures "Notwithstanding anything contained elsewhere in this Act or in any Compensation Assessment Roll as finally published under section 21 but subject always to the provisions of Chapter IV. no intermediary" by W.B. Act 22 of 1964.

2. Sub-sec. (3) ins. by W.B. Act 17 of 1960.

3. Sub-sees. (3A) and (3B) ins. by W.B. Act 22 of 1964.

5. Sub-sec. (4) ins. by W.B. Act 17 of 1960.

26. Extent of recovery of compensation money by attachment :-

(1) ¹(Save as otherwise provided in the proviso to sub-section (1) of section 7 ²(or the proviso to sub-section (7) of section 10), no portion] of the compensation payable to any intermediary in terms of any Compensation Assessment Roll finally published under section 21, in excess of fifty per centum thereof shall

(a) be liable to be deducted under an order of a Collector made under section 7, or

(b) be liable to attachment at any one time in execution of decrees including decrees for arrears of rent.

(2) Where there are several orders of attachment and the aggregate of the sums to be attached under such orders exceeds the limit referred to in sub-section (1), the orders shall be enforceable to the extent of such limit and the priority amongst them shall be decided, as far as practicable, in accordance with the principles laid down in section 73 of the Code of Civil Procedure, 1908:

Provided that any sum which is required to be deducted under the order of a Collector under section 7 shall have priority before any order of attachment.

³(3) Except (a) in a case covered by the proviso to sub-section (1) of section 7 ²[or the proviso to sub-section (7) of section 10], or (b) when the entire amount of compensation is payable in cash ⁵[under clause (a) of sub-section (2) of section 23 ⁶* * * *], all sums to be deducted under section 7 or recoverable under an order of attachment under sub-section (1) shall be deducted from the amount of compensation payable in ⁷* * * bonds under the provisions of clause (b) of sub-section (2) of section 23 ⁸[or from the annuity payable under sub-section (3) of that section]. ⁹ [, and no such sum shall be deducted from the amounts payable under sub-section (1) or sub-section (2) of section 12].

1. Words, brackets and figures subs, for the words "No portion" by W.B. Act 35 of 1955.

2. Words, brackets and figures ins. by W.B. Act 21 of 1975.

3. Sub-sec. (3) ins. by W.B. Act 35 of 1955.

5. Words, brackets and figures ins. by W.B. Act 9 of 1961.

6. Words, figures and brackets "or as the result of any adjustment made under sub-section (1) of section 12 or the second proviso thereto" om. by W.B. Act 22 of 1964.

7. Word "non-negotiable" om. by W.B. Act 19 of 1961.

8. Words, figure and brackets ins. by W.B. Act 22 of 1964.

9. Words, figures and brackets ins. by W.B. Act 25 of 1957.

CHAPTER 4

Mines and Minerals

27. Provisions of Chapter IV to override other provisions of the Act :-

The provisions of this Chapter shall have effect notwithstanding anything to the contrary elsewhere in this Act.

28. Right of intermediaries directly working mines :-

So much of the land ¹* * * * in a notified area held by an intermediary immediately before the date of vesting ² [(including sub-soil rights therein, but excluding rights in hats and bazars not in the khas possession of the intermediary and lands comprising forests, if any)] as was comprised in or as appertained to any mine which was being directly worked by him immediately before such date shall with effect from such date be deemed to have been leased by the State Government to such intermediary. The terms and conditions of such lease shall be as agreed upon between him and the State Government, or in default of agreement as may be settled by the Mines Tribunal:

Provided that all such terms and conditions shall be consistent with the provisions of any Central Act for the time being in force relating to the grant of mining leases.

1. Words and brackets "(including sub-soil rights therein)" om. by W.B. Act 9 of 1961.

2. Words and brackets ins. by W.B. Act 9 of 1961.

29. Subsisting leases of mines or minerals :-

(1) All leases of mines and minerals in a notified area granted by an intermediary and subsisting immediately before the date of vesting shall, with effect from such date, be deemed to have been granted by the State Government to the holder of the said subsisting lease on the same terms and conditions as of the subsisting lease ¹[, so, however, that

(ai) rights in hats and bazars not in the khas possession of the holder of the lease and lands comprising forests, if any, shall be excluded from such lease;)

(i) in cases where the holder of the lease had not in the opinion of the State Government done any prospecting or development work before the date of vesting, that he shall be allowed one year's time from the date of vesting, to begin prospecting or development work, and ² [if, in the opinion of the State Government, he has failed to do so] the State Government shall be entitled to terminate the lease at any time after the expiry of such period by giving three months' notice in writing, unless sufficient cause is shown to the satisfaction of the State Government,

(ii) in other cases, that if the holder of the lease has developed or done any prospecting work in respect of any part of the land included in the lease but has, in the opinion of the State Government, failed to do any prospecting or development work within three years from the date of vesting in respect of the remaining part of the land included in the lease, the State Government shall be entitled to resume the whole or any portion of such remaining part of the land together with the minerals lying thereunder, after giving three months' notice in writing, but in so resuming, the State Government shall have regard to the reasons for such failure and to the requirements, as appear to it to be reasonable, for the future development of the mining concern of the lease:

Provided that nothing in this sub-section shall prevent any modifications being made in the terms and conditions of the said lease consistent with the provisions of any Central Act for the time being in force regulating the modifications of existing mining leases.

(2) Where in pursuance of additional conditions mentioned in subsection (1), any lease of mines and minerals is terminated by the State Government under clause (i) of sub-section (1) or any land is resumed by the State Government under clause (ii) of that sub-section, the lessee shall be entitled to compensation calculated in accordance with the principles laid down in section 32, as far as they are applicable, together with an amount not exceeding what has been expended by the lessee in works or operations connected with such lease or such resumed land included in the lease, less the value of any assets used or employed by him in such connection taken away by him.

1. Words, letters and brackets subs, for the words "with the additional condition " by W.B. Act 9 of 1961.

2. Words subs, for the words "if he fails to do so" by W.B. Act 9 of 1961.

30. Provision for lands comprised in works, buildings, etc :-

Where any land is deemed to have been leased by the State Government to an intermediary under section 28 or where a lease is deemed to have been granted by the State Government under section 29 to the holder of a subsisting lease, any land not included in such lease, which vests in the State by the operation of this Act and is in the use or occupation of the lessee for purposes connected with the working of any mine or the extraction of any minerals, including the land comprised in any works, buildings, machinery, tramways, siding, roads, streets or thoroughfares, connected with such purpose, shall be deemed to have been included in such lease with effect from the date of vesting 42{subject to the payment of rent at the rate of rupees forty-five per 0.4047 hectare per annum unless a different amount is agreed upon between the State Government and the intermediary or the lessee.]

31. Compensation Officer to prepare Compensation Assessment Roll for mines and minerals for three classes of intermediaries :-

(1) The Compensation Officer shall ¹* * * * * prepare in the prescribed form and in the prescribed manner a Compensation

Assessment Roll showing the compensation payable for mines and minerals

(a) to every intermediary in whose land [not being land deemed to have been leased under section 28 or land included in a lease referred to in section 29J there is, in the opinion of the State Government, reason to believe that there are minerals not yet prospected or developed or partially prospected and developed and then abandoned;

(b) to every intermediary to whom any land is deemed to have been leased under section 28;

(c) to every intermediary, who granted a lease of mines and minerals and such lease was subsisting immediately before the date of vesting.

2 (2)* *****

1. Words ", in respect of any notified area," om. by W.B. Act 17 of 1960.

2. Sub-section (2) om. by W.B. Act 17 of 1960. The sub-section was as under : "(2) For the purpose of the preparation of a Compensation Assessment Roll as aforesaid, the Compensation Officer may require an intermediary to submit a statement in the prescribed form."

32. Determination of compensation for intermediaries referred to in section 31(I)(a) :-

1(1) In preparing the Compensation Assessment Roll for every intermediary referred to in clause (a) of sub-section (1) of section 31, the Compensation Officer shall **2**[calculate the gross annual income] of such intermediary on the probable income out of royalty which might have been derived by the grant of lease of such land based on the opinion of **3**[a Mining Expert], appointed by the State Government, as regards the nature, quantity and the value of the minerals, likely to exist in the land and capable of being worked and developed and other matters that may be prescribed. An amount equal to five per centum of **4**[such gross income] shall be deemed to be the net income of such land; and the Compensation Officer shall determine four times such net income as the amount of compensation payable.

5 (2) Where such intermediary as aforesaid has estates and interests for which compensation is payable under Chapter III, the

Compensation Officer shall calculate the total amount which would have been payable in accordance with the table contained in sub-section (1) of section 17 as if the net income had been the aggregate of the net income calculated in respect of the estates and interests for which compensation is payable under Chapter III and the net income calculated under this section; the Compensation Officer shall also calculate the total amount which would have been payable as compensation if compensation for such estates and interests and compensation for mines and minerals had been calculated separately; and the lesser of the two total amounts of compensation so calculated shall be the amount of compensation payable.

1. Sec. 32 renumbered as sub-sec. (1) of that sec. by W.B. Act 4 of 1957.
2. Words subs, for the words "calculate the probable gross annual income" by W.B. Act 9 of 1961.
3. Words subs, for the words "Mining Expert" by W.B. Act 9 of 1961.
4. Words subs, for the words "such probable gross income" by W.B. Act 9 of 1961.
5. Sub-sec. (2) ins. by W.B. Act 4 of 1957.

33. Determination of compensation for intermediaries referred to in section 31(l)(b) :-

(1) In preparing the Compensation Assessment Roll for every intermediary referred to in clause (b) of sub-section (1) of section 31, the Compensation Officer shall take the gross income of such intermediary to be the average annual income calculated on the basis of annual returns filed by him for the assessment of cess or income-tax during the period of eight agricultural years immediately preceding the agricultural year within which the date of vesting falls, or any shorter period for which returns have been filed ; and an amount equal to five per centum of such gross income shall be deemed to be the net income from such mines.

(2) The Compensation Officer shall then determine the amount of compensation payable to the intermediary as aforesaid, after taking into consideration his net income and the opinion of a Mining Expert appointed by the State Government as regards the extent of the mining operations carried on, the minerals obtained and the estimated quantity and value of the minerals not yet worked or operated, and as regards any other matter that may be prescribed. Where the intermediary has no estates or interests for which he is

entitled to compensation under Chapter III, the compensation payable to him shall be eight times the net income as calculated under this section. Where the intermediary has estates or interests for which compensation is payable under Chapter III, the Compensation Officer shall calculate the total amount which would have been payable in accordance with the table contained in sub-section (1) of section 17 as if the net income had been the aggregate of the net income calculated in respect of the estates or interests for which compensation is payable under Chapter III and the net income calculated under this section ; the Compensation Officer shall also calculate the total amount which would have been payable as compensation if compensation for estates and interests and compensation for mines and minerals had been calculated separately ; and the lesser of the two total amounts of compensation so calculated shall be the amount of compensation payable.

34. Determination of compensation for intermediaries referred to in section 31 (1) (c) :-

(1) In preparing the Compensation Assessment Roll for every intermediary referred to in clause (c) of sub-section (1) of section 31, the gross income of the intermediary shall be the average annual gross income received (excluding any sum received by way of salami or premium) calculated on the basis of the annual returns filed by such intermediary for the assessment of cess or income-tax during the period of eight agricultural years immediately preceding the agricultural year within which the date of vesting falls, or any shorter period for which such returns have been filed ; and the net income shall be computed by deducting from the gross income so determined the average of the income tax payable thereon during the said period and the cost of the collection at such rates as may be prescribed.

(2) The Compensation Officer shall determine the amount of compensation payable to the intermediary as aforesaid after taking into consideration his net income, the duration of the unexpired portion of the lease, and the opinion of a Mining Expert appointed by the State Government with regard to the extent of the mining operations carried on, the minerals obtained and the estimated quantity and value of the minerals not yet worked or operated, and as regards any other matter that may be prescribed. Where the intermediary has no estates or interests for which he is entitled to

compensation under Chapter III, the compensation payable to him shall be eight times the net income as calculated under this section. Where the intermediary has estates or interests for which compensation is payable under Chapter III, the Compensation Officer shall calculate the total amount which would have been payable in accordance with the table contained in sub-section (1) of section 17 as if the net income had been the aggregate of the net income calculated in respect of the estates or interests for which compensation is payable under Chapter III and the net income calculated under this section ; the Compensation Officer shall also calculate the total amount which would have been payable as compensation if compensation for estates and interests and compensation for mines and minerals had been calculated separately ; and the lesser of the two total amounts of compensation so calculated shall be the amount of compensation payable.

35. Reference to Mines Tribunal :-

If the amount of compensation determined under sub-section (2) of section 29, section 32, section 33 or section 34, is not agreed to by the intermediary, the Compensation Officer shall refer the question of the determination of the amount of compensation to the Mines Tribunal.

36. Mines Tribunal :-

(1) The Mines Tribunal appointed for the purposes of this Chapter shall consist of a Chairman who shall be ¹ [a person who is or has been a District Judge or an Additional District Judge] and another member who shall be a Mining Expert. Both the Chairman and the Mining Expert Member shall be appointed by the State Government with the previous approval of the Central Government.

(2) The Tribunal shall follow such procedure as may be prescribed.

(3) In regard to any matter of compensation referred to the Tribunal by the Compensation Officer under section 35, the Tribunal at the commencement of the proceedings before it may require the State Government and the intermediary to state what in their respective opinions is the amount of compensation payable ; and in giving its decision as to the amount of compensation to be paid, the Tribunal shall follow the principles laid down in sub-section (2) of section 29, section 32, section 33 or section 34, as the case may be.

(4) In settling the terms and conditions of a lease by the State Government under section 28, the Tribunal shall have power to determine the area of land to be comprised in the lease and in so doing shall have regard to the amount of land reasonably required for the future development of the mining concern and also to the provisions of section 30.

(5) If there is a difference of opinion between the Chairman and the other member in respect of any matter, the matter shall be referred to a Judge of the High Court to be nominated by the Chief Justice and the decision of such Judge shall be binding on the Tribunal and shall be final and conclusive.

1. Words subs, for the words "an officer not below the rank of a district Judge" by W.B. Act 17 of 1960.

37. Appeal against orders of the Tribunal :-

An appeal, if presented within two months from the date of the order appealed against, shall lie against any order of the Tribunal to the High Court except in respect of matters of difference disposed of under sub-section (5) of section 36.

38. Payment of compensation for mines :-

The provisions of sections ¹[14, 15] ²[15A,] ³[17,] ⁴* 19, ⁵* ⁶ [21, 22] 23, 24 and 26 shall apply mutatis mutandis in regard to the procedure of preparation of Compensation Assessment Roll and the manner of payment of compensation for mines and minerals under this Chapter.

1. Figures subs, for the figures "15,". by W.B. Act 17 of 1960.
2. Figures and letter ins. by W.B. Act 19 of 1961.
3. Figures ins. by W.B. Act 4 of 1957.
4. Figures "18" om. by W.B. Act 17 of 1960.
5. Figures and brackets "20(1)," om. by W.B. Act 4 of 1957.
6. Figures ins. by W.B. Act 19 of 1961.

CHAPTER 5

Preparation of Record-of-rights

39. Preparation of record-of-rights :-

(1) Subject to the provisions of sub-section (4), the State Government may, for carrying out the purposes of this Act make an order directing

(a) that a record-of-rights be prepared in respect of any district, or part of a district, or

(b) that the record-of-rights prepared and finally published under Chapter X of the Bengal Tenancy act, 1885, in respect of any district, or part of a district be revised, by a Revenue Officer in accordance with the provisions of this Chapter and such rules as may be made in this behalf by the State Government.

(2) A notification in the Official Gazette of an order under sub-section (1) of this section shall be conclusive evidence that the order has been duly made.

(3) When an order is made under sub-section (1), the Revenue Officer shall record in the record-of-rights to be prepared or revised in pursuance of such order, such particulars as may be prescribed.

1 {4) Where any proceedings in respect of the preparation of the record-of-rights have been commenced under Chapter X of the Bengal Tenancy Act, 1885, before the date on which this Act comes into force and such record-of-rights has not been finally published, steps shall be taken for the completion and final publication of such record-of-rights. In taking such steps, the proceedings may be continued from the stage at which they rested on such date or may be reopened and recommenced from any earlier stage as may be decided by the Revenue Officer in his discretion having regard to the facts and circumstances of the case. The proceedings shall be in accordance with such rules as may be prescribed by the State Government. The record-of-rights shall thereupon be deemed to have been duly prepared and finally published under this Chapter.

Explanation. Where before the commencement of the West Bengal Estates Acquisition (Amendment) Ordinance, 1957, any proceedings were reopened or recommenced by any Revenue Officer, such proceedings,

(i) shall not be invalid merely on the ground of the proceedings being reopened and recommenced or not being in accordance with the rules prescribed under this sub-section, and

(ii) shall be deemed to be proceedings under this sub-section.

1. Sub-sec. (4) subs, by W.B. Act 4 of 1957. Original sub-sec. (4) was as under : "(4) Where any proceedings in respect of the preparation of record-of-rights have been commenced under Chapter X of the Bengal Tenancy Act. 1885, before this Act comes into force and such record-of-rights has not been finally published before such date, any further proceedings required for the completion and final publication of such record-of-rights shall be

undertaken in accordance with such rules as may be prescribed. Such record-of-rights shall thereupon be deemed to have been duly prepared and finally published under this Chapter."

40. Raiyat paying rent in kind, etc :-

¹ If, in respect of a holding, a raiyat pays rent wholly in kind or partly in kind and partly in cash, the Revenue Officer shall assess as rent for the land comprised in the holding,

(a) where the raiyat pays rent wholly in kind, an amount calculated at the rate of nine rupees per acre, and

(b) where the raiyat pays rent partly in kind and partly in cash, an amount calculated at the prevailing average rate of cash rent for lands of similar description and with similar advantages in the vicinity or at the rate of nine rupees per acre, whichever is less, and record such rent in the record-of-rights.

Explanation. In this section 'rent in kind' includes rent which is the cash equivalent of a specified portion of the produce.

1. Sec. 40 subs, by W.B. Act 9 of 1961. Original sec. 40 was as under : "40 Raiyat paying rent in kind, etc. (1) If any raiyat pays for a holding rent in kind or rent payable partly in kind and partly in cash or rent on the estimated value of a portion of the crop, the Revenue Officer shall, in the prescribed manner, determine the sum deemed to be payable as money-rent and record such rent in the record-of-rights. (2) In making the determination the Revenue Officer shall have regard to the average value of the rent actually received by the landlord during the preceding seven years or during any shorter period for which evidence may be available."

41. Raiyat or under-tenant holding land free of rent :-

In preparing or revising any record-of-rights under this Chapter, the Revenue Officer shall fix in respect of any land held free of rent by a person who holds such land free of rent in consideration of some service to be rendered, a rent determined on the basis of the rent paid by raiyats or non- agricultural tenants for lands of similar description and with similar advantages in the vicinity.

42. Intermediary liable to pay rent :-

¹(1) ²[Save as otherwise provided in sub-section (2), when an intermediary is entitled] to retain possession of any land under sub-section (1) of section G, then except in cases of land retained under clause (h) or (i), and except in the cases referred to in the proviso to sub-section (2) of section 6, the Revenue Officer shall determine

the rent payable in the prescribed manner and in accordance with the following principles, that is to say

(i) if the land be agricultural land, on the basis of the rate of rent ³[paid by raiyats or other persons holding lands] of similar description and with similar advantages in the vicinity;

(ii) if the land be non-agricultural land, at a rate which the Revenue Officer may deem fair and equitable having regard to the rent generally paid for non-agricultural lands of similar description and with similar advantages in the vicinity ⁴[or where such non-agricultural lands are not available in the vicinity or the rent generally paid for such non-agricultural lands cannot be readily ascertained, at such rate, not exceeding five per centum of the net annual income from the land estimated in the prescribed manner, as the Revenue Officer may deem fair and,, equitable] :

⁵Provided 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 ;

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

⁶(2) When an Intermediary is entitled to retain possession of any land comprised in a tea garden under clause (f) of sub-section (1) as read with sub-section (3) of section 6, the Revenue Officer shall determine the rent payable in respect of such land in the following manner, that is to say

(a) for land under cultivation of tea or covered by factories, office buildings or quarters for labourers of the tea garden, at twice the average rate of rent paid for the highest class of agricultural lands in the vicinity, subject to a maximum of Rs. 6.50 per acre,

(b) for land under cultivation of cardamom, at Rs. 15 per acre,

(c) for land under cultivation of any other crop, at one and a half times the average rate of rent paid for the average class of agricultural lands in the vicinity,

(d) for land under hate or markets, at the average rate of rent paid for the highest class of agricultural lands in the vicinity, plus an amount equivalent to 50 per centum of the net profits from such hate or markets, and

(e) for any other land, at the average rate of rent paid for the average class of agricultural lands in the vicinity.

7(3) Notwithstanding anything to the contrary contained in the proviso to sub-section (2) of section 6 or in any contract, where any land comprised in a tea-garden is held under a lease, the rent payable by the lessee in respect of such land shall be the rent determined by the Revenue Officer in the manner specified in sub-section (2).

Explanation, In this sub-section "lease" includes a lease granted directly by the State Government.

7 (4) Notwithstanding anything to the contrary contained in any judgment, decree or order of any court of tribunal or in any law, the rent determined under sub-section (2) or sub-section (3) shall take effect and shall be deemed always to have taken effect from the date of vesting.

1. Sec. 42 renumbered as sub-sec. (1) of that section by W.B. Act 22 of 1964.

2. Words subs, for the words "When an intermediary is entitled" by W.B. Act 22 of 1964.

3. Words subs, for the words "paid by raiyats for lands" by W.B. Act 9 of 1961.

4. Words ins. by W.B. Act 22 of 1964.

5. Proviso ins. by W.B. Act 25 of 1957.

6. Sub-sec. (2) ins. by W.B. Act 22 of 1964.

7. Sub-sees. (3) and (4) ins. by W.B. Act 31 of 1969.

42A. Determination of rent after draft publication of record-of-rights :-

1

(1) If, for any reason, the rent payable in respect of any land retained by an intermediary under sub-section (1) of section 6 has

not been determined before the draft or final publication of the record- of-rights under this Chapter, then, notwithstanding anything contained elsewhere in this Act, the Revenue Officer may, at any time, after giving notice to the person concerned, determine the rent in accordance with the provisions of sections 40, 41 and 42 and enter the rent so determined in the record-of-rights.

(2) Any person aggrieved by an order of the Revenue Officer determining rent under sub-section (1) may appeal to such authority and within such time as may be prescribed.

(3) The decision of the Appellate Authority on such appeal shall be final and the Revenue Officer shall, if necessary, correct, in accordance with such decision, the entry relating to rent made by him in the record-of-rights.

1. Sec. 42A ins. by W.B. Act 19 of 1961.

43. Effect of rents settled under this Chapter :-

All rents determined under this Chapter, and entered in the record-of-rights shall be deemed to have been correctly determined and to be fair and equitable for the purposes of this Act ¹ [and shall be payable at such times and in such instalments as may be prescribed, and the period of limitation for the institution of suits relating to the recovery of arrears of rent shall be as provided in article 149 of the First Schedule to the Indian Limitation Act, 1908.]

1. Words and figures ins. by W.B. Act 19 of 1961.

44. Draft and final publication of the record-of-rights :-

(1) When a record-of-rights has been prepared or revised ¹* *, the Revenue Officer shall publish a draft of the record so prepared or revised in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made to any entry therein or to any omission therefrom during the period of such publication :

² Provided that no order passed under section 5A shall be liable to be reopened in pursuance of an objection made under this sub-section.

(2) When all such objections have been considered and disposed of according to such rules as the State Government may make in this behalf, the Revenue Officer shall finally frame the record and cause

such record to be finally published in the prescribed manner and make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same under his name and official designation : **3* *******

4(2a) Separate publication of different parts of draft or final records may be made under sub-section (1) or sub-section (2).

5(2a) An officer specially empowered by the State Government may, **6**[on application within nine months, or of his own motion within 74(fifty years,)] 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 subsection (2) after giving the persons interested an opportunity of being heard and after recording reasons therefor :

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.

(3) Any person aggrieved by an order passed **7**[in revision under subsection (2a)] may appeal in the prescribed manner to a Tribunal appointed for the purpose of this section, and within such period **8**[and on payment of such court fees] as may be prescribed.

9(3a) The certificate of final publication referred to in sub-section (2), or in the absence of such certificate, a certificate signed by the Collector of any district in which the area to which the record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published on a specified date, shall be

conclusive proof of such publication and of the date thereof.

9(3b) The State Government may, by notification, declare with regard to any specified area, that a record-of-rights has been finally published for every village included in such area and such notification shall be conclusive proof of such publication.

9(3c) In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter, or a duly certified copy thereof or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published unless such publication is expressly denied.

12(4) Every entry in the record-of-rights finally published under subsection (2) including an entry revised under sub-section (2a) **13**[, made under section 42A] 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 **14** * * * * *

1. Words "as aforesaid" om. by W.B. Act 19 of 1961.
2. Proviso ins. by W.B. Act 35 of 1955.
3. Proviso to sub-sec. (2) om. by W.B. Act 19 of 1961. The Proviso was as under : "Provided that such final publication shall be made within three years of the date of the order made by the State Government under section 39."
4. Sub-sec. (2a) ins. by W.B. Act 19 of 1961.
5. Sub-sec. (2a) ins. by W.B. Act 25 of 1957.
6. Words subs, for the words "on application or of his own motion, within nine months" by W.B. Act 19 of 1961.
7. Words, figures, brackets and letter subs, for the words, figures and brackets "by a Revenue Officer on any objection made under sub-section (1)" by W.B. Act 25 of 1957.
8. Sub-sec. (4) ins. by W.B. Act 9 of 1961.
9. Secs. (3a) to (3c) ins. by W.B. Act 4 of 1957.
12. Sub-sec. (4) subs, by W.B. Act 25 of 1957. Original sub-sec. (4) was as under : "(4) Every entry in the record-of-rights finally published under subsection (2) shall, subject to any modification by any order on appeal under sub-section (3), be presumed to be correct."
13. Words, figures and letter ins. by W.B. Act 19 of 1961.
14. Words subs, for the words "an officer not below the rank of a district Judge" by W.B. Act 17 of 1960.

45. Correction of bona fide mistakes in record-of-rights :-

Any Revenue Officer empowered by the State Government in this behalf may, on application ¹ [within one year, or of his own motion 82(within nine years),] from the date of certificate of the final

publication of the record- of-rights under sub-section (2) of section 44, correct any entry in such record-of-rights under sub-section (2) of section 44, correct any entry in such record-of-rights which he is satisfied has been made owing to a bona fide mistake :

Provided that no such correction shall be made if an appeal affecting such entry has been presented under sub-section (3) of section 44 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

1. Words subs, for the words "or of his own motion within one year" by W.B. Act 9 of 1961.

45A. Correction of entry in record-of-rights :-

¹Any Revenue Officer specially empowered by the State Government in this behalf may correct any entry in any record-of-rights if it is necessary in his opinion to do so ²[in pursuance of an order under section 5A or) on account of any amendment made in the provisions of this Act or the rules made thereunder:

Provided that no such correction shall ³ [,except where it is made in pursuance of an order under section 5A,] be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

1. Sec. 45A ins. by W.B. Act 4 of 1957.

2. Words, figure and letter ins. by W.B. Act 9 of 1961.

3. Words, figure and letter ins. by W.B. Act 9 of 1961.

46. . :-

1 *****

1. Sec. 46 om. by W.B. Act 33 of 1973. The sec. was previously as under : "Bar to jurisdiction of Civil Court in respect of certain matters. Where an order has been made under sub-section (1) of section 39 directing the preparation or revision of a record-of-rights, no Civil Court shall entertain any suit or application for the determination of rent or determination of the status of any tenant or the incidents of any tenancy to which the record-of-rights relates, and if any suit or application, in which any of the aforesaid matters in issue, is pending before a Civil Court 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. Explanation. In this section suit includes an appeal."

47. Modification of the finally published record-of-rights :-

The record-of-rights prepared and finally published under the provisions of this Chapter or deemed to have been so prepared and finally published, for any district or part of a district in respect of which a notification under section 4 has been duly published, shall as soon as may be after the date of vesting be modified by eliminating therefrom all the interests of the intermediaries which have vested in the State and showing therein only the tenants who hold directly under the State as a result of vesting of such interests in the State. One or more numbers to be borne on the revenue roll of the district shall be assigned by the Collector in respect of the areas to which such record-of-rights relates in accordance with such rules as the State Government may make in this behalf and the Revenue Officer shall make a certificate that the record-of-rights has been so modified and shall date and subscribe the same under his name and official designation :

Provided that entries in record-of-rights eliminated under the foregoing paragraph shall be deemed to be in force for the purpose of the preparation of the Compensation Assessment Roll and for all proceedings connected therewith or arising therefrom.

48. Costs of preparation of record-of-rights :-

The cost of preparation of record-of-rights prepared or deemed to have been prepared under this Chapter shall be borne by the State Government.

CHAPTER 6

Acquisition of interests of raiyats and under-raiyats

49. When this Chapter is to come into force :-

¹ The provisions of this Chapter shall come into force on such date and in such district or part of a district as the State Government may, by notification in the Official Gazette, appoint and for this purpose different dates may be appointed for different districts or parts of districts.

1. Sec. 49 subs, by W.B. Act 35 of 1955. Original sec. 49 was as under : "49. When this Chapter is to come into force. The provisions of this Chapter shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint."

50. . :-

*****1

1. Sec. 50 om. by W.B. Act 35 of 1955. The sec. was as under : "50. Certain persons to be deemed to be intermediaries. For the purposes of this Chapter the following classes of persons, not being intermediaries within the meaning of clause (i) of section 2, shall be deemed to be intermediaries within the meaning of this Act, namely : (1) persons who hold lands which they cultivate by bargadars as defined in the West Bengal Bargadars Act, 1950, or which they do not cultivate themselves or by members of their families, or by servants or labourers, (2) persons who have sub-let their holdings in part or in whole." 88b. Sec. 51 om. by W.B. Act 35 of 1955. The sec. was as under : "51. Notification vesting certain khas lands and rent-receiving interests. (1) If the State Government is of opinion that it is expedient so to do, it may by notification in the Official Gazette declare that as from a date specified in the notification (hereinafter referred to as the date of vesting), in any notified area specified in the notification (a) so much of the khas lands of persons referred to in clause (1) or (2) of section 50 which on the date of vesting they cultivate by bargadars as defined in the West Bengal Bargadars Act, 1950, or which they do not cultivate themselves or by 'members of their families or by servants or labourers, and (b) the rent-receiving interests of persons referred to in clause (2) of section 50. shall vest in the State. Explanation. "rent-receiving interest" in clause (b) means the interest of the person in a holding to the extent he had sub-let it. (2) Notwithstanding anything contained in sub-section (1), a person whose lands vest in the State under that sub-section, shall be entitled to retain khas lands not exceeding thirty-three acres in the aggregate, as a tenant under the State Government, on the same terms and conditions as he was holding such khas lands immediately before the date of vesting.".

51. . :-

52. Application of Chapters II, III, V and VII to raiyats and under-ratyats :-

¹On the issue of a notification under section 49 the provisions of Chapters II, III, V and VII shall, with such modifications as may be necessary, apply mutatis mutandis to raiyats and under- raiyats as if such raiyats and under-ratyats were intermediaries and the land held by them were estates and a person holding under a raiyat or an under-raiyat were a raiyat for the purposes of clauses (c) and (d) of section 5 :

²Provided that, where a raiyat or an under-raiyat retains, under section 6 read with this section, any land comprised in a holding, then notwithstanding anything to the contrary contained in sub-section (2) of section 6, he shall pay,

(a) in cases where he was paying rent for the lands comprised in the holding and held by him immediately before the date of vesting (hereafter in this proviso referred to as the holding lands),

(i) if he retains all the holding lands, the same rent as he was paying therefor immediately before the date of vesting, and

(ii) if the land retained by him forms part of the holding lands, such rent as bears the same proportion to the rent which he was paying for the holding lands immediately before the date of vesting as the area of the land retained by him bears to the area of all the holding lands ;

(b) in cases where he was liable to pay rent but was not paying any rent for the holding lands immediately before the date of vesting on the ground that the rent payable by him therefor was not assessed, such rent as may be assessed, mutatis mutandis, in accordance with the ³[provisions of section 42 ; ⁴*] ;

⁵(c) in cases where he was liable to pay rent wholly in kind or partly in kind and partly in cash, then, notwithstanding anything contained in clause (c) of section 5, such rent as may be assessed in accordance with the ⁶[provisions of section 40 ; and]

⁷ (d) in cases where he was liable immediately before the date of vesting to pay for the holding lands a variable cash rent periodically assessed, such rent as may be assessed, mutatis mutandis, in accordance with the provisions of section 42.

1. Sec. 52 subs, by W.B. Act 35 of 1955. Original sec. 52 was as under : "52. Consequences of notification. The provisions of Chapters II to V and of Chapter VII shall, with such modifications as may be necessary, apply mutatis mutandis to khas lands referred to in clause (a) of sub-section (1) of section 51 and rent-receiving interests referred to in clause (b) .of that sub-section as if the notification under that section had been a notification under section 4."

2. Proviso first ins. by W.B. Act 4 of 1957. Thereafter the present proviso subs, by W.B. Act 9 of 1961. Previous Proviso was as under : "Provided that if a raiyat or an under-raiyat retains all lands of a holding under section 6. read with this section, he shall pay the same rent as he was paying immediately before the date of vesting and in cases where the land retained by a raiyat or an under-raiyat forms part of the lands in a holding held by him before the date of vesting, the rent payable by him 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 of the holding."

3. Words and figures subs, for the words and figures "provisions of section 42" by W.B. Act 22 of 1963.

4. Word "and" om. by W.B. Act 22 of 1964.

5. Clause (c) ins. by W.B. Act 22 of 1963.

6. Words and figures subs, for the words and figures "provisions of section 40" by W.B. Act 22 of 1964.

7. Clause (d) ins. by W.B. Act 22 of 1964.

CHAPTER 7

Supplemental and Miscellaneous

53. Authorities for the purposes of this Act :-

1(1) There shall be the following authorities for the purposes of this Act, namely :

(a) The Board of Revenue ;

(b) Director of Land Records and Surveys ;

(c) Settlement Officers ;

(d) Assistant Settlement Officers ;

(e) Compensation Officers ;

(f) Revenue Officers ;

2(ff) Officers appointed by the State Government for the purposes of sub-clause (iv) of clause (a) of sub-section (1) of section 16 ;

(g) Mining Experts for the purposes of sections 32, 33 or 34.

3 (2) The State Government may appoint any person as a Compensation Officer or a Revenue Officer or may vest any officer with the powers of a Compensation Officer or a Revenue Officer under this Act.

1. Sec. 53 renumbered as sub-sec. (1) of that sec. by W.B. Act 17 of 1960.

2. Clause (ff) ins. by W.B. Act 19 of 1961.

3. Sub-sec. (2) ins. by W.B. Act 17 of 1960.

54. Delegation of powers by the State Government and powers and duties of the authorities :-

(1) The State Government may, by notification in the Official Gazette, delegate any of the powers under this Act, except the power of making rules under section 59, to the Board of Revenue ¹

[, the Commissioner of a Division or a Collector] subject to such reservations, if any, as may be specified in the notification.

(2) All authorities referred to in section 53 shall exercise such powers and perform such duties under this Act or any rules made thereunder as may be conferred or imposed on them.

1. Words ins. by W.B. Act 25 of 1958.

55. Appointment of Special Judges and Tribunals :-

¹(1) The State Government may appoint a person who is or has been a District Judge or an Additional District Judge to be a Special Judge for the purpose of section 11 or of section 20.

(2) The State Government may appoint one or more Tribunals for the purpose of section 44. Such Tribunal shall be composed of a single member who shall be ²[a person who is or has been] a District Judge ³ [or an Additional District Judge] and shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908.

1. Sub-sec. (1) subs, by W.B. Act 17 of 1960. Previous sub-sec. (1) was as under : "(1) The State Government may appoint one or more officers not below the rank of a District Judge to be a Special Judge or Judges appointed for the purpose of section 11 or to be a Special Judge or Judges appointed for the purpose of section 20."

2. Words subs, for the words "an officer not below the rank of by W.B. Act 17 of 1960.

3. Words ins. by W.B. Act 35 of 1955.

55A. Limitation :-

¹ The provisions of sections 5 and 12 of the Indian Limitation Act, 1908, shall apply to any appeal or application under this Act.

1. Sec. 55A ins. by W.B. Act 17 of 1960.

56. Power to enter upon land, to make survey, etc :-

A Revenue Officer, subject to any rules made under this Act, may, at any time after giving previous notice, enter upon any land with such officers or other persons as he considers necessary, and make a survey of the land or take measurements thereof or do any other acts which he considers to be necessary for carrying out any of his duties under this Act or any rules made thereunder.

57. Power to compel production of statements and documents and to enforce attendance of witnesses :-

(1} Subject to any rules made under this Act, a Revenue Officer

may, for the purposes of this Act, by notice require any person to make and deliver to him a statement or to produce records or documents in his possession or control relating to any interest whatsoever in any land at a time or place specified in the notice.

(2) Every person required to make or deliver a statement or produce any record or document under this section shall be deemed legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

(3) For the purposes of an inquiry under this Act a Revenue Officer shall have power to summon and enforce the attendance of witnesses or of any person having any interest whatsoever in any land and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

57A. Power of State Government to invest certain authorities with powers of a Civil Court :-

¹ The State Government may by order invest any authority referred to in section 53 with all or any of the powers of a Civil Court under the Code of Civil Procedure, 1908.

1. Sec. 57A ins. by W.B. Act 4 of 1957.

57B. Bar to jurisdiction of Civil Court in respect of certain matters :-

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(1) Where an order has been made under sub-section (1) of section 39 directing the preparation or revision of a record-of-rights, no Civil Court shall entertain any suit or application for the determination of rent or determination of the status of any tenant or the incidents of any tenancy to which the record-of-rights relates, and if any suit or application, in which any of the aforesaid matters is in issue, is pending before a Civil Court 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.

(2) No Civil Court shall entertain any suit or application concerning any land or any estate, or any right in such estate, if it relates to

(a) alteration of any entry in the record-of-rights finally published,

revised, made, corrected or modified under any of the provisions of Chapter V,

(b) a dispute involving determination of the question, either expressly or by implication, whether a raiyat or an intermediary, is or is not entitled to retain under the provisions of this Act such land or estate or right in such estate, as the case may be, or

(c) any matter which under any of the provisions of this Act is to be, or has already been, enquired into, decided, dealt with or determined by the State Government or any authority specified therein, and any such suit or application which is pending before a Civil Court immediately before the commencement of the West Bengal Estates Acquisition (Second Amendment) Act, 1973, shall abate so far as it relates to all or any of the matters referred to in clause (a), clause (b) or clause (c).

(3) Any dispute referred to in clause (b) of sub-section (2) may be decided by a Revenue Officer not below the rank of an Assistant Settlement Officer, specially empowered by the State Government in this behalf, who shall dispose of the same in such manner as may be prescribed :

Provided that in deciding a dispute under this sub-section the Revenue Officer shall not re-open any matter which has already been enquired into, investigated, determined or decided by the State Government or any authority under any of the provisions of this Act.

(4) Any person aggrieved by a decision of the Revenue Officer made under sub-section (3) may appeal to the prescribed authority not below the rank of a Settlement Officer, within such time, in such manner and subject to payment of such fees as may be prescribed.

(5) A decision made by the Appellate Authority under sub-section (4) shall be final. Explanation. In this section

(i) suit includes an appeal, and

(ii) an authority includes an authority to hear an appeal.

1. Sec. 57B ins. by W.B. Act 33 of 1973.

58. Protection of action taken under the Act :-

(1) No suit, prosecution or other legal proceeding shall lie against

any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or any rules made thereunder or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

59. Power to make rules :-

(1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which, under any provision of this Act, are required to be prescribed or to be provided for by rules.

CHAPTER 8

Application of the Act to transferred territories

60. When this Chapter is to come into force :-

¹ The provisions of this Chapter shall come into force on such date and in such area of the transferred territories as the State Government may, by notification in the Official Gazette, appoint, and for this purpose different dates may be appointed for different areas.

Explanation. In this Chapter 'transferred territories' means the territories transferred from the State of Bihar to the State of West Bengal by section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956.

1. Chapter VIII containing sees. 60 and 61 ins. by W.B. Act 40 of 1963.

61. Application of the Act to transferred territories :-

¹ On the issue of a notification under section 60, in the area in respect of which such notification is issued,

(1) the Bihar Land Reforms Act, 1950, shall stand repealed and the provisions of the foregoing Chapters of this Act shall mutatis mutandis apply :

Provided that any reference in the foregoing Chapters of this Act to the Bengal Tenancy Act, 1885, or any provision thereof shall, as the case may be, be construed as a reference,

(i) in the case of application of such Chapters to the area comprised in the district of Purulia, to the Chota Nagpur Tenancy Act, 1908, or the corresponding provision thereof, and

(ii) in the case of application of such Chapters to any other area of the transferred territories, to the Bihar Tenancy Act, 1885, or the corresponding provision thereof;

(2) estates or interests vested in the State Government under the provisions of the Bihar Land Reforms Act, 1950, prior to the date of issue of the notification shall be deemed to have vested in the State Government under the provisions of this Act :

Provided that

(i) no intermediary shall be allowed to retain any land other than, or in excess of what is permitted under the provisions of section 6 or any other provision of this Act ;

(ii) any land or interest which has vested in the State Government under the provisions of the Bihar Land Reforms Act, 1950, but which the ex-intermediary shall be entitled to retain under the provisions of this Act shall, if possible, be restored to him and no compensation shall be payable for any land or interest so restored;

(iii) assessment of compensation already made or in progress on or before the date of issue of the notification shall be reopened and assessment of compensation for. all lands and interests vested or deemed to have been vested in the State Government under this Act shall be made afresh under the provisions of this Act;

2(iv) if an intermediary had possessed any land other than, or in excess of, what is permitted under the provisions of section 6 or any other provisions of this Act, he shall be liable to pay to the State Government for the period for which he has continued in possession of such land after his estate or interest vested in the State Government, such damages for use and occupation of such land as shall be calculated at the rate of Rs. 10 per acre per annum ;

2 (v) any sum payable by an intermediary as damages under

clause (iv) shall be recoverable as a public demand.

1. Chapter VIII containing sees. 60 and 61 ins. by W.B. Act 40 of 1963.

2. Clauses (iv) and (v) ins. by W.B. Act 14 of 1966.