

Bihar Consolidation Of Holdings And Prevention Of Fragmentation (Amendment) Act, 1981

35 of 1982

[23 January 1982]

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Bihar Consolidation Of Holdings And Prevention Of Fragmentation (Amendment) Act, 1981

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An Act to amend the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 Be it enacted by the Legislature of the State of Bihar in the Thirty Second year of the Republic of India as follows:- 1. Received assent on 23.1.1982 and published in Bihar Gazette Extra ordinary No. 157 dated January 25, 1982.

1. Short Title And Commencement :-

(1) This Act may be called the Bihar Consolidation of Holdings and Prevention of Fragmentation (Amendment) Act, 1981.

(2) It shall come into force at once.

2. Amendment Of Section 4 Of Bihar Act Xxii Of 1956 :-

In section 4 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956 (Bihar Act XXII of 1956) (hereinafter referred to as the said Act), in the last proviso to subclause (c), for the words, figures and brackets "Chapters XI and XII of the Code of Criminal Procedure, 1898 (Act V of 1898)" the words, figures and brackets sections 144 to 148 of Chapter X. of the Code of Criminal Procedure, 1973 (Act 2 of 1974), the Bihar Tenants Holdings (Maintenance of Records) Act, 1973 (Bihar Act 28 of 1975)" shall be substituted.

3. Amendment Of Section 5 Of Bihar Act Xxii Of 1956 :-

Section 5 of the said Act shall be re-numbered as sub-section (1) of section 5; and after the said sub-section so re-numbered the following sub-section shall be added, and shall be deemed always to have been added, namely:-

"(2) The provision of sub-section (1) shall take effect from the date, the notification under sub-section (1) of section 3 has been issued."

4. Insertion Of A New Section 5-A In Bihar Act Xxii Of 1956 :-

After section 5 of the said Act, the following new section shall be inserted, namely:-

"5A. Temporary exemption from the provisions of section 5(1).--

On being satisfied that the preparation of the scheme of consolidation in any unit or units, after publication of register of land and statement of principles under sub-section (1) of section 10 is likely to take time and enforcement of the provision of sub-section (1) of section 5 shall cause hardship to raiyats or under-raiyats of such unit or units, it will be lawful for the Director of Consolidation to exempt such unit or units from the operation of the provisions of sub section (1) of section 5 for a specified period and such exemption shall be notified in the unit concerned by a general notice."

5. Amendment Of Section 8 Of Bihar Act Xxii Of 1956 :-

In sub-section (1) of section 8 of the said Act, the words, figures and brackets "or the Bihar Tenants Holdings (Maintenance of Records) Act, 1973 (Bihar Act 28 of 1975)" shall be added at the end.

6. Amendment Of Section 9 Of Bihar Act Xxii Of 1956 :-

In sub-clauses (d) and (e) of clause (i) of sub-section (2) of section 9 of the said Act, for the word "raiyats" the word "under-raiyats" shall be substituted.

7. Amendment Of Section 10 Of Bihar Act Xxii Of 1956 :-

In section 10 of the said Act,-

- (i) in sub-section (5), for the words, figures and brackets "sub-section (3) of section 10" the words, figures and brackets "sub-section (2) of section 10" shall be substituted; and
- (ii) in sub-section (6) for the words, figures and brackets "sub-section (4) or (5)" the words, figures and brackets "sub-section (3), (4) or (5)" shall be substituted.

8. Amendment Of Section 10-B Of Bihar Act Xxii Of 1956 :-

For subsection (1) of section 10B of the said Act the following sub-section shall be substituted, namely:-

"(1) All matters relating to changes and transfers affecting any rights or interests recorded in the register of lands published under sub-section (1) of section 16 for which cause of action had not arisen when proceedings under section 8 and 9 were started or were in progress may be raised before the Consolidation Officer within thirty days of cause of action, but not later than the date of notification under section 26-A or under sub-section (1) of section 4A."

9. Insertion Of New Sections 10-C, 10-D And 10-E In Bihar Act Xxii Of 1956 :-

After section 10-B of the said Act, the following new sections 10-C, 10-D and 10-E shall be inserted, namely:-

"10-C. Republication of register of lands, etc. in certain cases.--

After expiry of the specified period of exemption as provided in section 5-A, but before the publication of the draft scheme of consolidation under sub-section (1) of section 12, the register of lands prepared under sub section (2) of section 9 and the statement of principles prepared under section 9-A and published under sub-section (1) of section 10 and corrected under subsection (3), (4), (5) and (6) of section 10, pertaining to the unit or units concerned shall be republished in the manner prescribed and any

person may within twenty days of such republication file before the Assistant Consolidation Officer objections in respect thereof disputing the correctness and nature of entries in the register of land or in the statement of principles, if cause of action for such objections has arisen after publication of the register of lands and the statement of principles under sub-section (1) of section 10.

10-D. Special power of Dy. Director regarding republication of register of lands, etc.--

On being satisfied that in the register of lands published under sub-section (1) or corrected under sub-section (3), (4), (5) or (6) of section 10, a substantial number of raiyats or under-raiyats for sufficient and unavoidable reasons could not avail of the opportunity to place their claims under sub-section (2) of section 10 the Deputy Director of Consolidation for reasons to be recorded in writing may order the republication of the register of lands or the statement of principles or both again in the manner prescribed. Any person may within twenty days of such republication file before the Assistant Consolidation Officer objections in respect thereof disputing the correctness and nature of entries in the register of lands or in the statement of principles or in both, notwithstanding the provisions of section 10-A.

10-E. Disputes decided not to be re-opened on republication of register of land etc.--

The provision of sub-section (2), (3), (4), (5), (6) and (7) of section 10 shall mutatis mutandis apply to the objections of any matter raised under sections 10-C and 10-D but the dispute which has been decided earlier in accordance with the provisions of sub-section (3), (4) or (5) or (6) of section 10 shall not be re-opened on republication of the register of lands or the statement of principles or both.

10. Amendment Of Section 18 Of Bihar Act Xxii Of 1956 :-

In section 18 of the said Act, for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) If any holding included in a scheme of consolidation which has come into operation under section 14 is subject to any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall, with effect from the date on which possession is delivered or entered into under section 17-A, be deemed to be transferred and attached to the holding under the scheme to the raiyat or to such part of it as the Consolidation Officer may direct

and shall cease to have any effect against the holding from which it is so transferred."

11. Amendment Of Section 25 Of Bihar Act Xxii Of 1956 :-

In section 25 of the said Act, in sub-section (2), for the word "Director" the words "Assistant Director" shall be substituted.

12. Repeal And Saving :-

(1) The Bihar Consolidation of Holdings and Prevention of Fragmentation (Third Amendment) Ordinance, 1981 (Bihar Ordinance no. 181 of 1981) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing or action was done or taken.

[Note.-- Amendments brought about by Amending Act 35 of 1982 also incorporated in body of text of Act, XXII of 1956.]