

Bihar Displaced Persons Rehabilitation (Acquisition Of Land) Act, 1950

38 of 1950

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PREAMBLE

An Act to provide for the speedy acquisition of land for the rehabilitation of displaced persons from Pakistan, and for matters incidental thereto.

Whereas it is expedient to provide for the speedy acquisition of land for the rehabilitation of displaced persons from Pakistan, and for matters incidental thereto;

It is thereby enacted as follows:-

1. Published to the Bihar Gazette, Extraordinary, of the 23rd November, 1950.

1. Short title, extent and commencement :-

(1) This Act may be called the ¹Bihar Displaced Persons Rehabilitation (Acquisition of Land) Act, 1950.

(2) It extends to the whole of the State of ¹Bihar.

(3) It shall come into force at once.

1 Ed.-This may now be read as Jharkhand.

2. Definitions :-

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

(a) "Competent authority" means the Collector and includes any person appointed or empowered by the State Government, by notification, to perform all or any of the functions of a competent authority under this Act;

(b) "Displaced person" means a person displaced from the territories now comprised in Pakistan, who is, for the time being resident in the State of ¹Bihar and-

(i) who has been registered under Section 4 of the ¹Bihar Refugees Registration and Movement Ordinance, 1948; or

(ii) who in the opinion of the State Government, or of such authority as may be prescribed from time to time by the State Government has migrated from Pakistan after the first day of March, 1947;

(c) "Land" means land lying fallow and in which no crops have been raised for a continuous period of three years immediately preceding the 31st December, 1949, and includes benefits arising out of, and things attached to, the land; and

(d) "Prescribed" means prescribed by rules made under this Act.

1 Ed.-This may now be read as Jharkhand.

3. Notice of acquisition of land :-

(1) Whenever it appears to the State Government that it is necessary or expedient to acquire speedily any land required for the rehabilitation of displaced persons or for any matter incidental thereto, a notification to that effect shall be published in the Official Gazette stating the area and boundaries of the land proposed to be acquired.

(2) The publication of a notification under the provisions of Section 4 of the Land Acquisition Act, 1894, for the acquisition of land for the purposes specified in sub-section (1), before the

commencement of this Act, shall be deemed to be publication of the notification under sub-section (1).

4. Service of notice to owner or occupier of land affected by notice of acquisition :-

(1) As soon as may be after the publication of the notification under Section 4, the competent authority shall cause to be served a notice to the same effect in the prescribed form and in the prescribed manner on the owner of the land and also on the occupier where the owner is not in occupation of the land.

(2) The giving of public notice under the provisions of Section 4 of the Land Acquisition Act, 1894, for the acquisition of land for the purposes specified in subsection (1) of Section 3, before the commencement of this Act, shall be deemed to be a service of notice under sub-section (1).

5. Vesting and taking possession of land :-

(1) Subject to the provisions contained in sub-section (1) of Section 6, when a notice of acquisition of land is served under Section 4, the land shall vest absolutely in the State Government free from all incumbrances.

(2) The competent authority may, at any time after the land has so vested, proceed to take possession thereof.

6. Completion of acquisition not compulsory, but compensation to be awarded for damage suffered by the owner in consequence of the notification of acquisition :-

(1) The State Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever a person is deprived of the use of his land at any time after the publication of the notification under Section 3 and prior to the payment of compensation by the competent authority, such person shall be entitled to, and shall be paid, such reasonable interim compensation as may be determined by the Collector at the time of such deprivation and periodically thereafter until the compensation is assessed and paid under Section 8 or the acquisition proceedings are withdrawn under sub-section (1).

7. xxx xxx xxx :-

(1) Where any land has been acquired under this Act, there shall

be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter so out, that is to say,-

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached-

(i) the State Government shall appoint as arbitrator a person qualified for appointment as a Subordinate Judge or an Additional District Magistrate; and it may, in any particular case, nominate a person having expert knowledge as to the nature and condition of the land acquired to assist the arbitrator and, where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;

(ii) at the commencement of the proceedings before the arbitrator, the State Government and the person to be compensated shall state what in their respective opinions, is a fair amount of compensation;

(iii) the arbitrator, in making his award, shall take into consideration the provisions of Section 23 of the Land Acquisition Act, 1894:-

Provided-

firstly, that the market value referred to in the first clause of sub-section (1) of Section 23 of the said Act shall be to the market value of such land on the date of publication of the notification under Section 3, or, as the case may be, the preliminary notification under sub-section (8) of Section 4 of the Land Acquisition Act, 1894;

secondly, that where, under any law or custom having the force of law, the land is not saleable, the market value of such land shall be such multiple as may be prescribed of the deducted rent to be calculated in the prescribed manner with an addition of fifty per centum;

thirdly, that where such land has been held by the owner thereof under a purchase made by a registered document or under a decree for pre-emption before the first day of April, 1947, and after the first day of September, 1939, the market value shall be the price actually paid by the purchaser or the amount on payment of which he may have acquired the land under the decree for pre-emption, as the case may be; and

fourthly, that when such land has been held by the owner thereof under a purchase made after the first day of April 1947, the market value shall not exceed the market value of such land before the

first day of April, 1947.

(2) The arbitrator shall in awarding any compensation under this section, apportion the amount thereof between such person, if any, as may appear to him to be entitled thereto.

(3) An appeal shall lie to the High Court from the award of the arbitration appointed under this Act, and decision of the High Court shall be final.

8. Payment of compensation :-

The compensation awarded shall be paid by the competent authority to the person entitled thereto according to the award:

Provided that nothing herein contained shall effect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

9. Power to secure information :-

The State Government or the competent authority may with a view to determining the compensation payable under this Act, by order require any person to furnish such information or to produce such documents in his possession and to such authority as may be specified in the order.

10. Penalty :-

Whoever willfully obstructs any person in lawfully taking possession of any land under this Act, or refuses to furnish any information or to produce any documents as required by Section 9, shall be punishable with imprisonment which may extend to fifty rupees or with both.

11. Application of Section 51 of Act (I of 1894) :-

The provisions of Section 51 of the Land Acquisition Act, 1894, shall apply in respect of the stamp duty chargeable on any award or agreement made under this Act.

12. Bar of legal proceedings :-

No suit, prosecution or other legal proceedings 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 order made thereunder.

13. Savings as to orders :-

(1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a Court shall presume, within the meaning of the Indian Evidence Act, 1872, that such order was so made by that authority.

14. Power to make rules :-

(1) The State Government may make rules to carry out the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe-

(a) the procedure to be followed in arbitration under this Act;

(b) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal;

(c) the principles to be followed in determining the mode of fixing and the mode of payment of compensation as respects different classes of or different descriptions of interests held in lands;

(d) the manner in which deduced rent in respect of non-saleable lands is to be calculated and what multiple of such deduced rent shall be the market value of such lands.