

## **Bihar Land Reforms (Fixation Of Ceiling Area And Acquisition Of Surplus Land) (Amendment) Act, 1976**

**22 of 1976**

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## **Bihar Land Reforms (Fixation Of Ceiling Area And Acquisition Of Surplus Land) (Amendment) Act, 1976**

**22 of 1976**

An Act to Amend the Bihar Land Reforms(Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961. Be it enacted by the Legislature of the State of Bihar in the twenty seventh year of the Republic of India, as follows:- 1. Published in Bihar Gazette (Ex-ord.) dated 1.11.1976.

### **1. Short Title :-**

This Act may be called the Bihar Land Reforms (Fixation of Ceiling

Area and Acquisition of Surplus Land) (Amendment) Act, 1976.

## **2. Amendment Of Section 2 Of Bihar Act Xii Of 1962 :-**

In sub-section 2 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962) hereinafter referred to as the said Act-

(i) the following clause shall be inserted, namely:-

"(a) appointed day means the 9th day of September, 1970."

(ii) the existing clause (a) shall be renumbered as clause (aa);

(iii) clause (c) shall be omitted;

(iv) in clause (ee) the existing Explanation shall be renumbered as Explanation 1 and after the said Explanation as so renumbered, the following Explanation shall be added, namely:-

Explanation II.--The personal law shall not be relevant or be taken into consideration in determining the composition of the family for the purposes of the Act; and

(v) for, clause (eee) the following clause shall be substituted, namely:-

"(eee) "minor child" in relation to a family whose ceiling area is determined under Section 4 with reference to the land held by it on the 9th September, 1970, shall mean a person who has not attained the age of eighteen years on that date" and in respect of future acquisition as contemplated in Section 18 the date on which such acquisition takes place.

## **3. Amendment Of Section 4 Of The Bihar Act Xii Of 1962 :-**

In Section 4 of the said Act for the words "The following shall be the ceiling area of land for one family consisting of not more than five members for the purposes of this "Act" the words On the appointed day, the following shall be the ceiling area of land for one family consisting of not more than five members for the purposes of this Act" shall be substituted.

## **4. Insertion Of New Sections 4A And 4B In Bihar Act Xii Of 1962 :-**

After Section 4 of the said Act, the following sections shall be inserted, namely:-

4A Re-determination of ceiling area.--

Where the ceiling area of the land for any family or any member of the family constituting the family on the appointed day has been

determined by any order passed by any authority in accordance with the provisions of this Act prior to the commencement of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1972 (Bihar Act 1 of 1973), the ceiling area of such family or member of the family shall be re-determined under this Act with reference to the appointed day in accordance with the amended provisions.

Explanation.--In this section authority includes the Collector, Commissioner of the Division and the Board of Revenue.

4B. Validation.--

Notwithstanding anything to the contrary contained in any judgment, decree or order of any court the determination of ceiling area of any family with reference to the appointed day in any proceeding under this Act shall be deemed to be valid and effective."

#### **5. Amendment Of Section 5 Of The Bihar Act Xii Of 1962 :-**

In Section 5 of the said Act-

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

"(i) It shall not be lawful, for any family to hold except as otherwise provided under this Act any surplus land acquired from such family by the State Government under Chapter IV of this Act"; and

(b) for clause (i) of sub-section (3), the following clause shall be substituted, namely:-

"(i) Where the number of members in a family on the appointed day exceeds five the family may hold in addition to the Ceiling area determined under Section 4 land not exceeding one-tenth of the ceiling area for that class of land for every such additional members :

Provided that in no case shall the aggregate of the land held by the family exceed one and a half times the ceiling area."

#### **6. Amendment Of Section 8 Of Bihar Act Xii Of 1962 :-**

Sub-section (3) of Section 8 of the Act shall be omitted.

#### **7. Insertion Of New Section 8-A In Bihar Act Xii Of 1962 :-**

After Section 8 of the said Act, the following section shall be inserted, namely:-

"8A. Proceeding not to be invalidated.--No proceeding shall be

invalid merely because of any irregularity in the publication of any notice under Section 6 or Section 8."

### **8. Substitution Of New Section For Section 9 Of Bihar Act Xii Of 1962 :-**

For Section 9 of the said Act, the following section shall be substituted, namely:-

"9. Option of family to select its ceiling area.--Where the area of land held by a family exceeds the ceiling area, it shall have, subject to the other provisions, of this Act, the option to select, within the period prescribed in sub-section (3) of Section 10, the land which it desires to retain in accordance with the provisions of Section 5."

### **9. Amendment Of Section 15 Of Bihar Act Xii Of 1962 :-**

After sub-section (6) of Section 15 of the said Act, the following sub-section shall be added, namely:-

"(7) If the mortgagor becomes entitled to recover possession of his mortgaged land under Section 12 of the Bihar Money-Lenders Act, 1974 (Bihar Act XXII of 1975) and the area of such mortgaged land together with the land, if any, held by him any where in the State, exceeds the ceiling area, then the provisions of Section 18 shall apply thereto as if such mortgage of lands were an acquisition under that section and thereafter the land which the mortgagor is not entitled to retain shall be deemed to have been acquired for the purposes of this Act and vested in the State in accordance with subsection (2)."

### **10. Amendment Of Section 20 Of Bihar Act Xii Of 1962 :-**

For sub-section (1) of Section 20 of the said Act, the following sub-section shall be substituted, namely:-

(1) Subject to the provision of the tenancy law of the area and other provisions of this Act, and the Rules made by the State Government under this section, a raiyat, who is minor or a widow or an unmarried, divorced or separated woman or a person suffering from mental or physical disability or a person in the service of the Army, Navy or Air Force of the Union of India or a public servant in receipt of a substantive salary not exceeding two hundred and fifty rupees a month, may sublet any land during the period the raiyat remains a minor or a widow or unmarried or divorced or separated woman or suffers from mental or physical

disability or remains in the service of the Army, Navy or Air Force of the Union of India or remains a public servant in receipt of a substantive salary not exceeding two hundred and fifty rupees a month.

Explanation.--(i) When a land is held by a raiyat mentioned in this subsection jointly with another person who is not entitled to the benefit thereof in respect of his own share of the land in the joint family.

(ii) Any person who is either remunerated out of the revenue of the Central Government or any State Government or any local authority or by any other public body including an educational institution recognised in this behalf by the State Government shall, for the purpose of sub-section (1) be deemed to be a public servant.

(iii) Where any question arises as to whether any person is or is not a public servant or in the service of the Army, Navy or Air Force of the Union of India, the question shall be referred to the State Government and the decision of the State Government which shall be made after giving the person concerned reasonable opportunity of representing his case shall be final."

### **11. Amendment Of Section 22 Of Bihar Act Xii Of 1962 :-**

For sub-section (1) of Section 22 of the said Act, the following sub-section shall be substituted, namely:-

"(1) If there is an under raiyat on the surplus land and on the date it vests in the State Government under the provisions of this Act, such under raiyat shall if he makes an application in this behalf in the prescribed manner be allowed to retain as occupancy raiyat, subject to the payment in the prescribed manner and within the prescribed period to the State Government the amount specified in this behalf in the Schedule, land not exceeding one hectare including his own land held by him anywhere in the State as a raiyat and if prior to the commencement of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus land) (Amendment) Act 1976 the under-raiyat has been allowed to retain as an occupancy raiyat any such land the total area of which inclusive of his own land exceeds one hectare the same shall be determined in accordance with this sub-section :

Provided that if any land is found to be in excess of the area specified in sub-section (1), the same shall be deemed to be surplus land and notwithstanding anything to the contrary contained in the Tenancy Laws of the State, the under-raiyat shall

cease to have any right, whatsoever on such land.

## **12. Amendment Of Section 27 Of Bihar Act Xii Of 1962 :-**

In Section 27 of the said Act-

(i) in sub-section (1), after clause (vi), the following clause shall be inserted, namely:-

"(vii) the residue of such land as is left out after settlement with the categories of persons mentioned in clauses (i) to (vi) with persons belonging to Scheduled Castes, Scheduled Tribes or Backward Classes among the repatriates of Bihar origin from Burma; and"

(ii) after sub section (2), the following sub-section shall be inserted, namely;

"(2a) The State Government may, if it considers necessary, set apart such surplus land or portion thereof as is acquired under Section 15 or Section 15-A, if such land or portion thereof is required for any public purpose and the same shall not be used for agricultural purposes."

## **13. Amendment Of Section 30 Of Bihar Xii Of 1962 :-**

In Section 30 of the said Act-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) An appeal from any final order passed by any officer below the rank of the Collector of the district while discharging the functions of a Collector under this Act shall be, to the Collector of the district or any other officer specially authorised in this behalf by the State Government within thirty days of such an order;

(2) An appeal from any final order passed by the Collector of the district shall lie to the Board of Revenue within thirty days of such order;" and

(ii) the existing sub-section (2) shall be renumbered as sub-section (3).

## **14. Substitution Of A New Section For Section 32 Of The Bihar Act Xii Of 1962 :-**

For Section 32 of the said Act, the following Section shall be substituted, namely:-

"32. Revision to the Board of Revenue.--

(1) A revision shall lie to the Board of Revenue from any appellate

order passed by a Collector.

(2) When a reference is made to the Board of Revenue under Section 38 or a revision is filed under sub-section (1) of this Section, the Board may, after hearing the parties, confirm, modify, or set aside the order.

(3) The Board of Revenue may of its own motion or on an application made to it, call for from the Collector any document or record in connection with any enquiry conducted by the Collector or may direct the Collector to institute, for the purpose of this section, an enquiry and to submit his findings to the Board."

#### **15. Insertion Of A New Section After Section 32 Of Bihar Act Xii Of 1962 :-**

After Section 32 of the said Act, the following Section shall be inserted, namely:-

"32-A. Abatement of pending appeals and revisions.--Any appeal or revision pending before any authority other than the Board or Collector of the district on the date of the commencement of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1976 shall abate save and except those appeals and revisions which are maintainable under Section 30 or Section 32 as the case may, be against an order passed under sub-section (3) of Section 10 or Section 38."

#### **16. Amendment Of Section 38 Of Bihar Act Xii Of 1962 :-**

In Section 38 of the said Act-

(a) in clause (i) of sub-section (1), for the word and figure "Section 6" the word and figure "Section 8" shall be substituted; and

(b) to clause (iv) of sub-section (1) the following proviso shall be added, namely:-

"Provided that such an order of the Collector shall take effect on confirmation by the Board of Revenue as provided in sub-section (2) of Section 32."

#### **17. Amendment Of Section 43 Of Bihar Act Xii Of 1962 :-**

In Section 43 of the said Act, the word "the Commissioner" wherever they occur, shall be omitted.

#### **18. Insertion Of Section 45-A And 45-B In Bihar Act XII Of 1962 :-**

After Section 45 of the said Act, the following sections shall be inserted, namely:-

"45-A. Direction by the State Government.-The State Government may from time to time, give to the Collector of the district such general or special directions as the State Government may think fit.

"45-B. State Government to call for and examine records.-The State Government or the Collector of the district who may be authorised in this behalf may at any time, call for and examine any record of any proceedings disposed of by a "Collector under the Act and may, if it thinks fit, direct that the case be reopened and disposed of afresh in accordance with the provision of Act."

**19. Amendment Of Section 13 Of Bihar Act 1 Of 1973 :-**

In Section 13 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1972 (Bihar Act 1 of 1973), in sub-section (3), the following words shall be added at the end and shall be deemed always to have been added namely:-

"In so far as such action is not inconsistent with the provision of this Act and all proceedings pending before the commencement of this Act shall be continued or modified or brought in consonance with the provisions of the said Act as amendment by this Act."