

Land Acquisition (Bihar Amendment) Act, 1960

11 of 1961

[25 May 1961]

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PREAMBLE

An Act to amend the Land Acquisition Act, 1894, in its application to the State of Bihar

B e it enacted by the Legislature of the State of Bihar in the Eleventh Year of the Republic of India as follows:-

1. Published in the Bihar Gazette, Extraordinary dated 25th May, 1961.

1. Short title and Application :-

(1) This Act may be called the Land Acquisition (Bihar Amendment) Act, 1960.

(2) It shall apply to acquisitions of land made by the State Government except for the purposes of the Union.

2. Repeal, revival and saving :-

(1) The Land Acquisition (Bihar Amendment) Act, 1951 (Bihar Act XVII of 1951), the Land Acquisition (Bihar Amendment) Act, 1956 (Bihar Act XXI of 1956) and the Land Acquisition (Bihar Second Amendment) Act, 1956 (Bihar Act XXXIV of 1956), and all amendments whether by omission, insertion or substitution of any matter made by them in the Land Acquisition Act, 1894 (I of 1894) are hereby repealed.

(2) All provisions of the Land Acquisition Act, 1894 (I of 1894) which were omitted or substituted by the Acts repealed under sub-section (1) shall be deemed to have revived.

(3) The repeal of the Acts under sub-section (1) shall not affect their previous operation, and subject thereto, anything purported to have been done or any action purported to have been taken in the exercise of any powers conferred by or under any of the aforesaid Acts, shall be deemed to have been done or taken in the exercise of the powers conferred by or under the corresponding provisions of this Act as if this Act were in force on the day on which such thing was done or action taken.

3. Amendment of Section 3 of Act I of 1894 :-

In Section 3 of the Land Acquisition Act, 1894 (I of 1894) as so amended (hereinafter referred to as the said Act)-

(i) for clause (c), the following clause shall be substituted, namely:-

"(c) the expression Collector means the Collector of a district and includes a Deputy Commissioner, Additional Collector, Additional Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the functions of a Collector under this Act except the functions under Section 4, 5-A, 6, 35 and

38"; and

(ii) for clause (f), the following clause shall be substituted, namely:-

"(f) the expression public purpose includes provisions for or in connection with-

(i) sanitary improvements of any kind including reclamation; and

(ii) the laying out of village sites or townships, or the extension, planned development or improvement of existing village sites or townships; and."

4. Amendment of Section 4 of Act I of 1894 :-

In Section 4 of the said Act, -

(a) for sub-section (1), the following sub-section shall be substituted, namely:-(1) Whenever it appears to the appropriate Government or the Collector that land in any locality is needed or is likely to be needed for any public purpose, a notification to that effect shall be published at the office of the Collector, at the office of the Sub-divisional officer, at the offices of the smallest revenue administrative unit and Gram Panchayat, if any constituted under the Bihar Panchyat Raj Act, 1947 (Bihar Act VII of 1948) and at some conspicuous place in the village in which the land is situated; and the Collector shall cause copies of the notification to be served on all persons known or believed to be interested in the land.

Explanation.-For the purposes of this section the expression smallest revenue administrative unit shall mean the revenue administrative unit next below that of a sub division whether known for the time being, as N. E. section Block, Circle Anchal or otherwise"; and

(b) in sub-section (2), after the words "such Government", the words "or the Collector" shall be inserted.

5. Amendment of Section 5-A of Act 1 of 1894 :-

In Section 5-A of the said Act-

(i) in sub-section (1), for the words "within thirty days after the issue of the notice", the following words shall be substituted, namely;-

"within thirty days after the publication of the notification referred to in the said sub-section at some conspicuous place in the village in which the land is situated or of the service of the copy thereof on him, whichever is later,"; and

(ii) for sub-section (2), the following sub-section shall be substituted, namely:-

"(2)(i) Every objection under sub-section (1) shall be made in writing to the Collector who shall give the objector an opportunity of being heard, either in person or by pleader and shall after hearing all such objections and making such further enquiry, if any, as he thinks necessary, decide the objection:

Provided that the appropriate Government may, either of its own motion or on the application of any person interested in the land, call for the record of the proceedings held by the Collector and pass such order as it may think fit.

(ii) The order of the appropriate Government and subject to such order, the decision of the Collector, under clause (i) shall be final.

6. Amendment of Section 6 of Act I of 1894 :-

In Section 6 of the said Act -

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

"(1) Subject to the provisions of Part VII of this Act, where the appropriate Government is satisfied after considering the Collectors report, if any, under the proviso to sub-section(2) of Section 5-A, or the Collector is satisfied after hearing the objections, if any, under Section 5-A, that any particular land is needed for a public purpose, or for a Company, a declaration shall be made by the appropriate Government or the Collector, as the case may be, to that effect in writing:

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of the Consolidated Fund of the State or some fund controlled or managed by a local authority; and

(ii) in sub-section (3), after the words appropriate Government, the words or the Collector, as the case may be, shall be inserted."

7. Amendment of Section 7 of Act I of 1894 :-

In Section 7 of the said Act, for the words "so declared", the words "so declared by the appropriate Government" shall be substituted.

8. Insertion of new Section 12-A in Act I of 1894 :-

After Section 12 of the said Act, the following section shall be inserted, namely:

"12-A. Correction of award.-

(1) The Collector may, before a reference if any, is made under

Section 18,-

(i) on his own motion, within six months from the date of the award, or

(ii) on the application of the person interested made within six months from the date of the award, correct any clerical or arithmetical error in the award.

(2) The Collector shall give immediate notice of any correction made in the award to all persons interested.

(3) Where as a result of a correction made under sub-section(1), it appears to the Collector that any amount has been paid in excess to any person, such person shall, after having been given an opportunity of being heard, be liable to refund the excess and if, on an order made by the Collector in this behalf, he fails or refuses to pay it, the same shall be realised as a public demand."

9. Substitution of new Section for Section 17 of Act I of 1894 :-

For Section 17 of the said Act, the following section shall be substituted, namely:-

"17. Special powers in cases of urgency.-

(1) In cases of urgency whenever the appropriate Government so directs the Collector, though no such award has been made, may on the expiration of fifteen days from the publication of the declaration mentioned in Section 6, or with the consent in writing of the person interested, at any time after the publication of the notification under Section 4 in the village in which the land is situated, take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest

absolutely in the Government free from all encumbrances."

Explanation.-This sub-section shall apply to any waste or arable land, notwithstanding the existence thereon of forest, orchard or trees.

(2) Whenever it becomes necessary for the purpose of protecting life or property from flood, erosion or other natural calamities or for the maintenance of communication other than a railway communication or it becomes necessary for any Railway Administration (other than the Railway Administration of the Union), owing to any sudden change in the channel of any navigable river or other unforeseen emergency for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or providing convenient connection with or access to any such station, to acquire the immediate possession of any land, the Collector may, immediately after the publication of the declaration mentioned in Section 6 or, with the consent in writing of the person interested, given in the presence of headman of the village or Mukhiya and Sarpanch as defined in the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948), at any time after the publication of the notification under Section 4 in the village in which the land is situated and with the previous sanction of the appropriate Government, enter upon and take possession of such land which shall thereupon vest absolutely in the Government free from all encumbrances:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours notice of his intention to do so, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) In every case under the preceding sub-section the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops on such land and for any other damage sustained by them caused by such sudden dispossession and not accepted in Section 24; and, in case such

offer is not accepted, the value of such crops and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

(4) In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-section(1) or sub-section (2) are applicable, the provisions of Section 5-A shall not apply where the appropriate Government so directs or where possession of land has been taken with the consent of the person interested.

10. Amendment of Section 23 of Act I of 1894 :-

At the end of clause first of sub-section(1) of Section 23 of the said Act, the words, brackets and figures "or the market value of the land at the date of the publication of the declaration under Section 6 if there has been no Notification under Section 4, sub-section(1)" shall be added.

11. Amendment of Section 35 of Act I of 1894 :-

In sub-section (1) of Section 35 of the said Act-

(a) (i) after the words "whenever it appears to the appropriate Government", the words "or the Collector", shall be inserted;

(ii) after the words "the appropriate Government may direct the Collector to", the words "or the Collector may," shall be inserted; and

(iii) after the words "for sum term as it", the words "or he" shall be inserted.

(b) the following Explanation shall be added at the end, namely:-

"Explanation.-This sub-section shall apply to any waste or arable

land, notwithstanding the existence thereon of forest, orchard or trees."

12. Amendment of Section 38 of Act I of 1894 :-

In sub-section (1) of Section 38 of the said Act, after the word "Government", the words "or the Collector, as the case may be," shall be inserted.