

**Uttar Pradesh Government Estates Thekedari Abolition Act,
1958**

1 of 1959

[14 January 1959]

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**Uttar Pradesh Government Estates Thekedari Abolition Act,
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An Act to provide for the abolition of Thekedari System in Government Estates with a view to facilitating the introduction of land reforms therein. Whereas it is expedient to provide for the abolition of Thekedari System in Government Estates with a view to facilitating the introduction of land reforms therein and for other

matters connected therewith : It is hereby enacted in the Ninth Year of the Republic of India as follows : 1. For Statement of Object and Reasons see U. P. Gazette Extraordinary, dated Oct. 21, 1957. Received the assent of the President on January 14, 1959 and was published in the U. P. Gazette Extraordinary, dated January 20, 1959.

1. Short Title, Extent And Commencement :-

(1) This Act may be called the U. P. Government Estates Thekedari Abolition Act, 1958.

(2) It extends to such districts of Uttar Pradesh as may be notified from time to time.

(3) It shall come into force on such date as the State Government may, by notification in official Gazette, appoint and different dates may be appointed for different areas of the State.

Sub-sections (2) and (3) of Section 1 stand omitted in relation to territories transferred to U. P. from Bihar vide Serial No. 6 of the Schedule to U. P. Act No. 52 of 1976.

2. Definitions :-

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

(1) "Collector" includes an Assistant Collector of the 1st Class incharge of a sub-division and any other Assistant Collector of the 1st Class empowered by the State Government by notification in the official Gazette to discharge all or any of the functions of the Collector under this Act;

(2) "decree" has the meaning assigned to it in the Code of Civil Procedure, 1908;

(3) "Government Estate" means any land owned by the State Government in Uttar Pradesh;

(4) "Land" means land held or occupied for purposes connected with agriculture, horticulture or animal husbandry;

(5) "lease" means a theka or patta in respect of a Government Estate made by or on behalf of the State Government;

(6) "lessee" means a thekedar or pattadar under a lease by whatever name called and includes his heirs and assigns;

(7) "legal representative" has the meaning assigned to it in the Code of Civil Procedure, 1908;

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

(9) "previous agricultural year" means the agricultural year

immediately preceding that in which the date of determination falls;

(10) "State Government" means the Government of Uttar Pradesh;

(11) the words and expressions "cess", "hereditary rights", "hereditary tenant", "Rent", "tenant" and "Sayar" shall have the meaning assigned to them in the U. P. Tenancy Act, 1939 1[and the expression ceiling area shall have the meaning assigned to it in the Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960, as amended from time to time,].

1. In clause 11, at the end, comma substituted for full stop and thereafter above words inserted by U.P. Act No. 28 of 1970, Section 3, (w.e.f. 20-6-1964).

3. Determination Of Leases :-

Notwithstanding anything in any law, contract or other document, it shall be lawful for the State Government by order published in the official Gazette to determine, with effect from a date (hereinafter called the date of determination) to be specified any lease.

4. Consequences Of Determination Of Leases :-

Whenever a lease is determined under and in pursuance of Section 3, the following consequences shall follow, namely :

(a) except as hereinafter provided all the rights, title and interest of the lessee under the lease shall cease (as though the term of the lease had then expired);

1[(b) where under and in accordance with the terms of the lease, the lessee has brought any land included in the lease under his personal cultivation the lessee shall become hereditary tenant of such land, or where such land exceeds the ceiling area, then of so much of such land as in aggregation with any other land held by him in Uttar Pradesh makes up the ceiling area and shall be liable as such to pay rent equal or proportionate, as the case may be, to the rent, if any, payable in terms of the lease;]

Provided that where the total area of such land, held by the lessee exceeds 30 acres, the lessee shall be a hereditary tenant of only 30 acres area and the excess area, to be separated and demarcated from the 30 acres area by the Assistant Collector incharge of the sub-division on the application of the lessee or the Collector, shall become and be deemed to be vacant land and the lessee shall be liable to ejectment from such excess area;

(c) the lessee shall continue to be entitled to recover any arrears of

rent, cesses or other dues in respect of any land included in the lease for the period previous to the date of determination;

(d) all rents, cesses and other dues in respect of any such land for any period after the date of determination, which but for such determination would have been payable to the lessee, shall be payable to the State Government and any payment, whether made before or after such determination, shall not be a valid discharge on the person liable to pay the same without prejudice, however, to the right of such person to recover the same from the lessee;

(e) where under an agreement or contract not being the lease determined as aforesaid, made before the date of determination, any rent, cess or other dues for any period after the said date has been paid to or compounded or realized by the lessee, the same shall, notwithstanding the agreement or the contract, be recoverable by the State Government from the lessee and may, without prejudice to any other mode of recovery, be realized by deducting the amount from the compensation money payable to such lessee under this Act;

(f) all arrears of rents, cesses, taqavi or other dues payable by a lessee in respect of any period prior to the date of determination shall continue to be recoverable from such lessee and may, without prejudice to any other mode of recovery, be realized by deducting the amount from the compensation money payable to such lessee under this Act;

(g) every mortgage, sub-lease or other transfer of lessee rights in force on the date immediately preceding the date of determination shall determine and the provision of sub-section (2) of Section 73 of the Transfer of Property Act, 1882, shall have effect with respect to the compensation awarded under this Act as if the land included in the lease had been acquired under an enactment providing for compulsory acquisition;

(h) all buildings situate on any land included in the lease held by the lessee shall continue to be held by him for the remainder of the period of the lease upon terms and conditions to be prescribed and further that upon the expiry of the period aforesaid the same shall unless a different intention is contained in the lease (and on such a case that intention shall prevail) be vested in the State.

1. Substituted by U. P. Act 28 of 1970, Section 4 (w. e. f. 20-6-1964).

5. Rent Payable :-

Notwithstanding any agreement or contract made or anything done or permitted to be done on or after the 1st day of April, 1955, by or on behalf of the lessee in respect of any land included in the lease the rent payable thereof--

(a) on the date of determination shall be deemed to be an amount equal to the rent payable therefor on the 1st day of April, 1955 and any reduction or remission made therein otherwise than in pursuance of a decree or order of a court shall not be taken into account unless it has been confirmed by the State Government, and

(b) in future after the date of determination shall be an amount equal to the rent deemed to be payable therefor under clause (a) but without prejudice to its being increased or decreased in future in accordance with the law applicable thereto.

6. Collector To Take Over Lease Land :-

Upon the determination of the lease under Section 3, it shall be lawful for the Collector or any officer appointed by him in this behalf --

(a) to take over possession and charge of the lands included in the lease and to take or cause to be taken such steps, and use or cause to be used such force as may, in the opinion of the Collector or the officer so appointed, be necessary for this purpose;

(b) to enter upon any land, building, or other place included in the lease, which has been determined under Section 3 and to make a survey or take measurement thereof for carrying out the purposes of this Act;

(c) to require any person to produce to such authority, as may be specified any books, accounts or other documents relating to any land included in the lease and to furnish to such authority such other information as may be specified or demanded; and

(d) if the books, accounts and other documents are not produced as required, to enter upon any land building or other place and seize and take possession of such books, accounts, and other documents.

6A. Application Of U. P. Act I Of 1961 In Suspect Of Land Under Personal Cultivation Of Lessee :-

1[In respect of any land included in the lease which under and in accordance with the terms of the lease the lessee has brought under his personal cultivation, the determination and demarcation of the ceiling area and the surplus area, the acquisition of and the taking of possession over the surplus area, the determination

and payment of compensation for the acquisition of the surplus area, and all other matters connected therewith shall be governed by the provisions of the Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960.

1. Inserted by U. P. Act 28 of 1970, Section 5 (w. e. f. 20-6-1964).

6B. Enforcement Of U. P. Act I Of 1951 In Respect Of Government Estate Covered By This Act :-

The State Government shall issue a notification under Section 2 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 applying the whole or any provisions of that Act, with exceptions or modifications to Government Estates in respect of which an order is made under section 3 of this Act, not later than three months from the date of such order, and in the case of Government Estates in respect of which an order has been made or purports to have been made before the commencement of the Uttar Pradesh Government Estates Thekedari Abolition (Re-enactment and Validation) Act, 1970, not later than three months from such commencement.]

7. Lessee Entitled To Receive Compensation For Determination Of Lease :-

(1) Except as provided in sub-section (2), no lessee whose lease has been determined under Section 3, shall be entitled to claim or be paid any compensation for loss or damage caused by such determination.

(2) A lessee referred to in sub-section (1), shall be entitled to receive and be paid compensation as hereinafter provided.

8. Compensation Statement :-

For purposes of assessment and payment of compensation under sub-section (2) of Section 7, the Collector shall prepare a compensation statement showing --

(a) the name or names of the lessee with his gross income and net income calculated in accordance with the provisions of Sections 9 and 10;

(b) the rent payable by the lessee in the previous agricultural year in respect of the land included in the lease;

(c) the arrears of rent, cess and other dues referred to in clause (f) of Section 4 payable by him to the State Government in respect of the land included in the lease; and

(d) such other particulars as may be prescribed.

9. Gross Income :-

For purposes of Section 8, the gross income of the lessee in respect of the land included in the lease shall comprise--

(a) the following rents including cesses and other dues payable on the date immediately preceding the date of determination by or on behalf of the tenants or other persons for use and occupation of the land--

(i) rent in cash, w

(ii) where rent is payable in kind or partly in cash and partly in kind, the rent computed in accordance with the provisions of the law applicable thereto, and

(iii) where rent is payable but has not been determined, rent determined at hereditary rates;

(b) the amount on account of rent computed at hereditary rates for land in the personal cultivation of the lessee, and

(c) sayar, which shall be an amount equal to--

(i) where the period for which the lease has been held is ten years or more, one-tenth of the total income for a period of ten years next preceding the date of determination, and

(ii) where the period for which lease has been held is less than ten years, annual average for such period.

10. Net Income :-

For purposes of Section 8, the net income of the lessee in respect of the land included in the lease, which has been determined under Section 3, shall be computed by deducting from his gross income the following, namely--

(i) any sum which was payable in the previous agricultural year by the lessee on account of rent, cesses or other dues in respect of land included in the lease;

(ii) an amount on account of holding tax, if any, paid or to be paid for the previous agricultural year by the lessee in respect of the land included in the lease, and

(iii) cost of management and irrecoverable arrears of rent which shall be deemed to be equal to 25 per cent of the difference between the gross income calculated in accordance with the provisions of Section 9 and the rent payable by the lessee.

11. Amount Of Compensation :-

The amount payable as compensation to the lessee shall be determined in accordance with the following formula :

"N. I. x R. P." = Compensation

"N. I." means net income as determined under Section 10, and

"R. P." means the remainder of the period of the lease to be

computed in full years from the beginning of the agricultural year in which the determination takes effect, and portions of the year shall be ignored:

Provided that R. P. shall in no case exceed five :

Provided further that where the term originally granted in any lease . has expired before the commencement of this Act and the lease is--

- (a) holding over from year to year, R. P. shall be equal to one; and
- (b) holding under any fresh term under or in accordance with the lease, R. P. shall be equal to the remainder of the full years of such term subject, however, to a maximum of five.

12. Preliminary Publication Of Statement :-

The compensation statement prepared under Section 8 shall be published in the manner prescribed and a copy thereof shall also be sent to the lease concerned.

13. Reference To The District Judge :-

(1) Any person interested or the State Government may, in the manner prescribed, file an objection upon such statement within a period of one month from the date of its publication and the Collector shall refer the objection to the District Judge for determination.

(2) In making the reference, the Collector shall state for the information of the District Judge--

- (a) the names of the persons whom he has reason to think interested in such lease;
- (b) the amount of compensation determined under Section 11; and
- (c) such other particulars as may be prescribed.

(3) The Collector shall also forward along with the reference a copy of the lease in question.

14. Disposal Of The Reference By The District Judge :-

(1) The District Judge shall, in the manner prescribed dispose of the objection and may confirm, vary, increase or reduce the amount of compensation determined under Section 11.

(2) The scope of enquiry by the District Judge under sub-section (1) shall be restricted to a consideration of the interest of the persons affected by the objection.

(3) The decision of the District Judge under sub-section (1) shall be

a decree.

15. Final Publication Of The Statement :-

- (1) Where no objection has been filed in regard to the compensation statement published in pursuance of Section 12 or where such objections are filed and have been finally disposed of, the statement shall be amended, altered or modified accordingly and the Collector shall sign the statement and affix his seal thereto.
- (2) The statement so signed and sealed shall become final.
- (3) A copy of the final statement shall be supplied free of charge to the lessee concerned.

16. Payment Of Compensation :-

- (1) The compensation mentioned in the final compensation statement referred to in Section 15 shall be paid in cash.
- (2) The compensation shall be paid to the lessee whose name is entered in the final compensation statement and where the lessee died before it is paid to him it shall be paid to his legal representatives.
- "(3) There shall be paid by the State Government on the amount of compensation mentioned in the final compensation statement referred to in Section 15, interest at the rate of two and half per centum per annum from the date of determination of the lease to the date of payment.

17. Discharge Of Liability Of The State Government :-

The payment of compensation in accordance with provisions of this Act shall be full discharge of any liability of the State Government to make such payment to the person as may have the rightful claim, but shall not prejudice any right in respect of such compensation which any other person may be entitled by due process of law to enforce against the persons to whom payment is so made.

18. Power To Make Rules :-

- (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for--
 - (a) the determination and the management of the land brought

under personal cultivation by the lessee and referred to in clause (b) of Section 4;

(b) the method of calculating rents, cesses and other dues mentioned in clauses (d), (e) and (f) of Section 4;

(c) the matter relating to taking over of lands under Section 6;

(d) the forms and the manner in which the compensation statement under Section 8 shall be prepared;

(e) the manner in which the Collector shall refer the objections to the District Judge under Section 13;

(f) the principles to be followed in determining the hereditary rates in areas where such rates are not already determined;

(g) the time within which applications may be presented under this Act in cases for which no specific provision in that behalf has been made herein;

(h) the application of the provisions of the Indian Limitation Act, 1908, to application under this Act, in cases in which no specific provision in that behalf has been made herein;

(i) the duties of any officer or authority having jurisdiction under this Act, and the procedure to be followed by such officer to authority;

(j) the transfer of proceedings from one authority or officer to another officer or authority;

(k) the procedure to be followed in applications and other proceedings under this Act in cases in which no specific provision has been made herein; and

(l) the matters which are to be or may be prescribed.

(3) The rules made in exercise of the powers conferred under subsections (1) and (2) shall, as soon as possible, be laid before the State Legislature.