

Power of
State Go-
vernment to
make rules.

28. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) All rules under this Section shall be laid for not less than fourteen days before the Assam Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the Session in which they are so laid or the Session immediately following.

ASSAM ACT No. XXVI OF 1961

THE SYLHET TENANCY (AMENDMENT) ACT, 1961

(As passed by the Assembly)

(Received the assent of the Governor on the 27th December 1961)

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An
Act

further to amend the Sylhet Tenancy Act, 1936

Preamble.

WHEREAS it is expedient further to amend the Sylhet Tenancy Act, 1936, hereinafter called the Principal Act, in the manner hereinafter appearing :—

Assam Act
XI of 1936.

It is hereby enacted in the Twelfth Year of the Republic of India as follows :—

Short title
and com-
mencement.

1. (1) This Act may be called the Sylhet Tenancy (Amendment) Act, 1961.

(2) It shall come into force at once.

(3) It shall have the like extent as the Principal Act.

Amendment
of Section 3
of Assam Act
XI of 1936.

2. In Section 3 of the Principal Act,—

(1) in clause (16), the colon after the word "person" shall be deleted and the following words and colon shall be added, namely :—

"and includes a person who holds land of another person under the system known as

"Chakran", "Kiran", "Non-kar", "Etmander", "Bhandari" or the like on condition of rendering service to that person":

(2) for the explanation, the following shall be substituted,—

"Explanation.—A person who cultivates the land of another person under the system generally known as 'Adhi', 'Barga' or 'Bhag' on condition of delivering a share of the produce to that person is not a tenant".

Amendment
of section 5
of Assam Act
XI of 1936.

3. In section 5 of the Principal Act, in sub-section (2), the full-stop at the end shall be deleted and the following words and full-stop shall be added, namely :—

"and also includes a person who holds lands of another person under the system known as 'Chakran', 'Kiran', 'Non-kar', 'Etmander', 'Bhandari' or the like on condition of rendering service to that person :"

Deletion of
section 26 of
Assam Act
XI of 1936.

4. Section 26 of the Principal Act shall be deleted.

Substitution
of new section
30 of
Assam Act
XI of 1936.

5. For Section 30 of the Principal Act, the following section shall be substituted, namely :—

Manner of
transfer and
notice to
landlord.

30. (1) Every transfer shall be made by registered instrument, except in the case of a bequest or a sale in execution of a decree or a certificate signed under the Bengal Public Demands Recovery Act, 1913.

Bengal Act
III of 1913

(2) A registering officer shall not admit for registration any such instrument unless it is accompanied by—

(a) a notice giving particulars of the transfer in the prescribed form ; and

(b) the process fee prescribed for the service of such notice on the landlord or his common agent, if any.

(3) Where any such instrument is admitted to registration, the registering officer shall send to the Deputy Commissioner the notice of the transfer in the prescribed form, and the Deputy Commissioner shall cause the notice to be served on the landlord named in the notice or his common agent, if any, in the prescribed manner :

Provided that when a sole landlord purchases a holding or a share or a portion thereof no notice need be served.

(4) In case of a bequest, the Court shall, before granting a probate or letters of administration, require the applicant to file a notice giving particulars of transfer in the prescribed form and to deposit a process fee of the prescribed amount for service on the landlord or his common agent, if any. When probate or letters of administration have been granted, the Court shall send to the Deputy Commissioner the notice :

Provided that in case of a bequest by a Mahomedan, where no probate is applied for, the executor or legatee shall file the notice and deposit the process fee in the Court of the Deputy Commissioner."

Deletion of section 31 of Assam Act XI of 1936.

6. Section 31 of the Principal Act shall be deleted.

Substitution of new section for section 32 of Assam Act XI of 1936.

7. For section 32 of the Principal Act, the following section shall be substituted, namely :—

"Procedure on sale in execution of a decree, certificate or foreclosure of mortgage.

32. (1) When the holding of an occupancy raiyat or a portion or share thereof is sold in execution of a decree or certificate signed under the Bengal Public Demands Recovery Act, 1913, other than a decree or certificate for arrears of rent due in respect of the holding or dues recoverable as such, and neither the purchaser nor the decree holder is the sole landlord, the Court or the Revenue Officer, as the case may be, shall before confirming the sale, require the purchaser to file a notice giving particulars of the transfer in the prescribed form and to deposit in addition to the purchase money a process fee of the prescribed amount.

(2) When a mortgage of a holding of an occupancy raiyat or of a portion or share thereof is foreclosed, and decree-holder is not himself the sole landlord, the Court shall, before making a decree or order absolute for the foreclosure, require the mortgagee to file a notice giving particulars of the transfer

in the prescribed form and to deposit a process fee of the prescribed amount.

(3) If the purchaser fails to comply with the order of the Court or Revenue Officer under sub-section (1) within such time as may be specified in the said order, the Court or the Revenue Officer may make an order for the forfeiture of the purchase money and for the re-sale of the holding or portion or share thereof. If the mortgagee fails to comply with the order under sub-section (2) within such time as may be specified therein, the Court may make an order for dismissal of the suit for foreclosure.

(4) When the sale has been confirmed or the decree or order absolute for the foreclosure has been made, the Court shall send to the Deputy Commissioner the notice of the sale or final foreclosure in the prescribed form, and the Deputy Commissioner shall cause the notice to be served on the landlord named in the notice or his common agent, if any, in the prescribed manner.

(5) After receipt of a notice of transfer under section 30 or 32, the landlord shall not refuse to recognise the transferee as the tenant in respect of the holding or portion or share thereof transferred nor omit to enter the transferee's name in the landlord's rent-roll in place of that of the transferor, or where only a share or a portion of the transferor's interest has been transferred, along with the name of the transferor:

Provided that such recognition shall not operate as the admission of the amount or fixity of rent or of the area or of any incident of such occupancy holding or be deemed to constitute an express consent of the landlord to the division of holding or to the distribution of the rent payable in respect thereof:

Provided further that if a transfer is subsequently set aside or modified by a competent authority, the party in whose favour such order has been made shall, unless such order has been passed in a suit, appeal or other proceedings to which the landlord or the entire body of landlords was a party, file with the Deputy Commissioner a notice describing the modifications made by such order and deposit the prescribed fee for the service of such notice. The Deputy Commissioner shall cause the notice to be served on the landlord named in the notice or his common agent, if any, in the prescribed manner. The landlord, on receipt of such notice, shall cause his rent-roll to be corrected accordingly."

Deletion of
section 33 of
Assam Act
XI of 1936.

8. Section 33 of the Principal Act shall be deleted.

Deletion of
section 35
of Assam
Act XI of
1936.

9. Section 35 of the Principal Act shall be deleted.

Amendment
of section
36 of Assam
Act XI of
1936.

10. In section 36 of the Principal Act—

(a) In sub-section (1) for the words and figures "sections 30, 31, 33 and 35" the word and figures "section 30" shall be substituted; and

(b) In sub-section (2) for the words and figures "Sections 2, 30, 31, 33 and 35" and "Sections 30, 31, 33 and 35" the words and figures "sections 29 and 30" shall respectively be substituted.

Deletion of
section 37
of Assam
Act XI of
1936.

11. Section 37 of the Principal Act shall be deleted.

Amendment
of section 39
of Assam
Act XI of
1936.

12. In section 39 of the Principal Act for the figures and words "30 to 33 and 35 to 38" the figures and words "30, 32, 36 and 38" shall be substituted.

Deletion of
section 62
of Assam
Act XI of
1936.

13. Section 62 of the Principal Act shall be deleted.

Insertion of
Chapter
XIII to
Assam Act
XI of 1936.

14. After section 214 of the Principal Act, the following Chapter shall be inserted, namely:—

"CHAPTER XIII

Special provision for a person who holds lands of another person under the system known as "Chakran", "Kiran", "Non-kar", "Etmander" or "Bhandari" or the like on condition of rendering service to that person.

Status of
"Chakran",
"Kiran",
"Non-kar",
"Etman-
der",
"Bhand-
ari" or the
like as rai-
yat.

215. Subject to the provisions of section 217, a person who holds land of another person under the system known as "Chakran", "Kiran", "Non-kar", "Etmander", "Bhandari", or the like, on condition of rendering service to that person, shall, for the purpose of this Chapter, be deemed to be a raiyat, and all the provisions of the foregoing Chapters of this Act shall apply except as hereinafter provided.

Obligation of
raiyat to pay
rent.

216. (1) The raiyat shall be under no obligation to render such service as he used to do to the landlord in respect of his land immediately before the commencement of the Sylhet Tenancy (Amendment) Act, 1961, but shall be liable to pay only money-rent in respect of his land at the rate prevailing for land of similar nature and description and with similar advantage in the vicinity.

(2) In case of any dispute as regards rate of rent payable under sub-section (1) the matter shall be referred to the Court for decision.

Status of
"Chakran",
"Kiran",
"Non-kar",
"Etmander",
and
"Bhandari"
or the like on
the homestead
land within the
Khanabari
of the landlord.

217. (1) Notwithstanding anything contained in section 215 of this Act a person who holds land of another person, under the system known as "Chakran", "Kiran", "Non-kar", "Etmander", "Bhandari", or the like, shall not be deemed to have acquired any tenancy right in respect of the homestead land occupied by him within the Khanabari of the landlord.

(2) In respect of such homestead land as referred to in sub-section (1), the occupant shall, notwithstanding any contract, usage, custom or anything contained in section 143 (1) (c) of this Act, be entitled to continue in occupation of the homestead land on payment of a reasonable rent.

(3) In case the homestead land is required by the landlord for his personal use, he may resume the same provided that for such resumption the landlord shall give notice in the manner prescribed to the occupant for his intention to do so :

Provided further that if the occupant has constructed a house in the homestead land at his own cost for his dwelling purpose, the landlord shall pay reasonable compensation to the occupant before the land is actually resumed.

(4) In case of any dispute as regards the reasonableness of the rate of rent or the amount of compensation the matter shall be referred to the Court for decision.

Legislative

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(5) In determining the amount of compensation under sub-section (4), the Court shall take into consideration the cost of dismantling the house and reconstructing it is another site including the cost of removal of the materials thereto but not the value of the land used for such reconstruction".