

West Bengal Act XXXVII of 1954¹

THE WEST BENGAL ALIENATION OF LAND (TEMPORARY PROVISIONS) ACT, 1954.

AMENDED

West Ben. Act III of 1955.

[24th November, 1954.]

An Act to provide for the restoration of certain lands to persons who alienated them during the period between the 1st day of January, 1951 and the 30th day of November, 1953, in consequence of the prevailing economic distress.

WHEREAS it is expedient to provide for the restoration of certain lands to persons who alienated them during the period between the 1st day of January, 1951 and the 30th day of November, 1953, in consequence of the prevailing economic distress;

It is hereby enacted in the Fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Alienation of Land (Temporary Provisions) Act, 1954.

Short title
and extent.

(2) It extends to the whole of West Bengal.

2. In this Act unless there is anything repugnant in the subject or context,—

Definitions.

- (1) "Collector" means the Collector of a district or any other officer appointed by the State Government to discharge the functions of a Collector under this Act;
- (2) "land" means agricultural land and includes homesteads, tanks, wells and water-channels;
- (3) "period of distress" means the period between the 1st day of January, 1951 and the 30th day of November, 1953, both days inclusive;
- (4) "prescribed" means prescribed by rules made under this Act;
- (5) references to "transferor" and "transferee" shall be deemed to include references to their successor-in-interest.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, dated the 17th August, 1954, Part IVA, page 1134; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of the West Bengal Legislative Assembly held on the 18th and 20th September, 1954; and for proceedings of the West Bengal Legislative Council, see the proceedings of the meeting of the West Bengal Legislative Council held on the 28th September, 1954.

²For notification relating to appointment of all Additional District Magistrates and Sub-divisional Magistrates to perform the functions of a Collector, see notification No. 17852L. Ref., dated 25.11.54, published in the *Calcutta Gazette, Extraordinary* of 1954.

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(Sections 3, 4.)

Act to
override
other law,
etc.

3. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other law for the time being in force:

Provided that nothing in this Act shall apply to any land which is evacuee property under section 3 of the West Bengal Evacuee Property Act, 1951.

West Ben.
Act V of
1951.

Procedure
for effecting
restoration
of lands
alienated
during the
period of
distress.

4. (1) If during the period of distress, any person, referred to in this Act as transferor, has transferred any land by sale for any consideration the amount or value of which does not exceed five hundred and fifty rupees, and if—

- (a) the transferor applies in the prescribed manner to the Collector at any time before the expiry of '[the 14th day of February, 1955,] for the restoration of such land to him, and
- (b) he satisfies the Collector that he could not have maintained himself or his family except by making such alienation of such land,

the Collector shall, after giving the transferee and if such land is in the possession of any person other than the transferee, such other person also, an opportunity of being heard, make an order in writing restoring such land to such transferor and directing such transferor in the manner provided in sub-section (2) to pay in ten annual instalments by such dates as may be specified in the order the amount of such consideration or its value together with interest on such amount at the rate of three and one-eighth *per centum per annum* from the date of his receipt of such consideration and the amount of any compensation for improvements effected to such land, allowed by the Collector and determined by him in the manner prescribed, less the amount determined in the manner prescribed of the net income from such land of the person in possession of such land as a result of such alienation:

Provided that the first of such instalments shall be payable on a date not later than the 1st day of *Baisakh* next following the date of the order.

(2) When the Collector makes an order for payment by instalments under sub-section (1), he shall direct such instalments to be paid—

- (a) in the case where the land in respect of which such order is made has been alienated by the transferee before the date of such order by means of a *bona fide* transfer for valuable

¹These words and figures within the square brackets were substituted for the words and figures "the 31st day of December, 1954," by s. 2 of the West Bengal Alienation of Land (Temporary Provisions) (Amendment) Act, 1955 (West Ben. Act III of 1955).

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(Section 4.)

consideration, or a *bona fide* gift by a registered instrument or *heba*, to the person in possession of such land as a result of such alienation:

Provided that where such land has been sold, before or after such order is made, in execution of a decree or of a certificate under the Bengal Public Demands Recovery Act, 1913, against the transferee, the whole of the amount payable under the said order, or such part of it as may then remain due, shall, notwithstanding anything contained in such order, become due and payable at once and on such payment being made, such sale in execution of the decree or the certificate shall be set aside and the amount paid shall be applied towards satisfaction of the decree or the certificate, as the case may be;

- (b) in the case where such land has been alienated by the transferee before such date by means of a *bona fide* lease for valuable consideration or a usufructuary mortgage, to the transferee and the person in possession of such land as a result of such alienation in such proportion and in such manner as may be determined by the Collector and specified in the order; and
- (c) in other cases, to the transferee:

Provided that if such land is subject to a *bona fide* mortgage other than a usufructuary mortgage and such mortgage was executed after the transfer of such land referred to in sub-section (1), the Collector shall direct that such instalments shall first be paid to the mortgagee until the amount due under the mortgage as determined by the Collector is paid off and that thereafter any such instalments or part thereof still remaining due shall be paid in the manner provided in clause (a), clause (b) or clause (c) of this sub-section, as the case may be.

- (3) The amount ordered to be paid by instalments under sub-section (1) shall be a charge on the land in respect of which the order under that sub-section has been made.

- (4) Where any land in respect of which an order under sub-section (1) is made is, after the date on which such order takes effect under sub-section (1) of section 5, sold in execution of a decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913, against the transferor to whom restoration has been made, or otherwise alienated by him, the whole of the amount payable under such order then remaining due shall, notwithstanding anything contained in such order, at once become due and payable, and the person to whom such amount is payable shall be entitled to recover it under section 6.

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(Sections 4A-6.)

Power of
transfer and
validation.

¹4A. (1) The Collector of a district, or any Additional District Magistrate or any Subdivisional Magistrate appointed to discharge the functions of a Collector under clause (1) of section 2, to whom an application has been made under clause (a) of sub-section (1) of section 4, may dispose of the application himself or may transfer it (or where it has been transferred, retransfer it) for disposal to any other officer appointed under clause (1) of section 2 for the area in which the land, of which restoration is applied for, is situate.

(2) Every application made under clause (a) of sub-section (1) of section 4, purported to have been transferred (or retransferred) before the commencement of this Act by the Collector of a district or an Additional District Magistrate or a Subdivisional Magistrate appointed under clause (1) of section 2, to any other officer appointed under that clause shall be deemed to have been validly transferred (or validly retransferred) under sub-section (1) for disposal by such officer.

Effect of
order for
restoration
of lands.

5. (1) When the Collector makes an order under sub-section (1) of section 4 restoring any land to the transferor, such order shall have effect on the 1st day of *Baisakh* next following the date of the order.

(2) From the date on which an order under sub-section (1) of section 4 takes effect under sub-section (1) of this section, the right, title and interest in the land accruing to the transferee or the person in possession as a result of the transfer referred to in sub-section (1) of section 4 shall, subject to the provisions of sub-section (3) of that section, be deemed to have vested in the transferor free from all encumbrances, if any, which have been created after the date of such transfer.

(3) If on or before the date on which an order under sub-section (1) of section 4 takes effect under sub-section (1) of this section, the person in possession of the land as a result of the transfer referred to in sub-section (1) of section 4 has not yielded possession of such land to the transferor, the Collector may of his own motion, and shall, on the application of such transferor, eject such person and place such transferor in possession of such land.

Recovery of
sums due
under an
order under
section 4 as
a public
demand.

6. Any sum payable under an order made under section 4 shall be recoverable as a public demand.

¹This section was inserted by s. 3 of the West Bengal Alienation of Land (Temporary Provisions) (Amendment) Act, 1955 (West Ben. Act III of 1955).

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(Sections 7-9.)

7. Save as otherwise provided in the Constitution of India, neither the High Court nor any Civil Court shall have jurisdiction in any matter which the Collector is empowered to dispose of under this Act:

Bar of jurisdiction of High Court and Civil Courts.

Provided that any person who is dissatisfied with any order of the Collector made under section 4 may, within thirty days from the date of such order, apply in the prescribed manner to the District Judge for the revision of such order and the decision of the District Judge thereon shall be final.

8. The Collector shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents.

Act V of 1908.

Powers of the Collector.

9. (1) The State Government may make rules¹ for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (i) any matter which is required to be prescribed under this Act;
- (ii) the levy of any fees.

¹For rules made in exercise of the power conferred by this section, see Notification No. 17850L. Ref., dated the 25th November, 1954, of the Land and Land Revenue Department, published in the *Calcutta Gazette, Extraordinary*, dated the 25th November, 1954, Part I,