

B.A.LL.B. X SEMESTER

SUBJECT: U.P. ZAMINDARI ABOLITION AND LAND REFORMS ACT 1950

CODE: BL-911

TOPIC: Conferment of Sirdari Rights on Adhivasi

240A. Acquisition of rights, title and interest of land-holder in the land held by adhivasi. - (1) As soon as may be after the commencement of the U.P. Land Reforms (amendment) Act. 1954. the State Government may, by notification published in the official Gazette, declare that as from a date to be specified therein the rights, title and interest of the land-holder in the land which, on the date immediately preceding the said date, was held or deemed to be held by an adhivasi, shall as from the beginning of the date so specified (hereinafter called the appointed date), shall cease and vest, except as hereinafter provided, in the State free from all encumbrances.

(2) It shall be lawful for the State Government, if it so considers necessary, to issue, from time to time the notification referred to in sub-section (1) in respect only of such area or areas as may be specified and all the provisions of subsection (1) shall be applicable to and in the case of every such notification.

240B. Consequences on acquisition of rights, title and interest under Section 240-A. - Where a notification under Section 240-A has been published in the official Gazette, then, notwithstanding anything contained in Chapters II and IX of this Act, but save as otherwise provided, the following consequences shall ensue in the area to which the notification relates, namely-

(a) every person who, on the date immediately preceding the appointed date, was or has been deemed to be an adhivasi shall with effect from the appointed date, become [bhumidhar with non-transferable rights] of the land referred to in Section 240-A and held by him as such and shall have all the rights and be subject to all the liabilities conferred and imposed upon [bhumidhars with non-transferable rights] by or under this Act;

(b)(i) all rents payable by the adhivasi in respect of the land referred to in Section 240-A for any period after the appointed date, which but for acquisition of rights, title and interest of the land-holder therein under the said section would be payable to land-holder, shall vest in and be payable to the State Government and not to the land-holder, any payment made in contravention of this clause shall not be valid discharge of the person liable to pay the same;

(ii) where under an agreement or contract made before the appointed date any rent for any period after the said date has been paid to or compounded or released by the land-holder the same shall notwithstanding the agreement or the contract, be recoverable by the State Government from the land-holder and may without prejudice to any other mode of recovery, be realised by deducting the amount from the compensation money payable to such land- holder under Section 240-E;

(c) all arrears of revenue in respect of the land referred to in Section 240-A and due from the land-holder for any period to the appointed date shall continue to be recoverable from such land-holder;

(d) the rights, title and interest of the land-holder so acquired in the land shall not be liable to attachment or sale in execution of any decree or other process of any Court, Civil or Revenue and any attachment existing at the appointed date or any order for attachment passed before such date shall, subject to the provisions of Section 73 of the Transfer of Property Act, 1882. cease to be in force;

(e) no claim or liability enforceable or incurred, before the appointed date by or against the land-holder for any money which is charged on or is secured by a mortgage on the land referred to in Section 240-A shall, except as provided in Section 73 of the Transfer of Property Act, 1882 be enforceable against such land or the adhvasi who becomes a [bhumidhar with non-transferable rights] under clause (a);

(f) nothing contained in this chapter shall in any way affect the right of any person-

(a) to continue to work any mines comprised in any land referred to in Section 240-A which shall be governed by law for the time being in force; and

[(aa) to continue any proceeding under Section 232 pending at the appointed date in any Court, in such Court.

Explanation. - In this section the expression 'Appointed Date' has the meaning assigned to it in Section 240-A of the Principal Act;]

(b) to recover any arrears of rent or other dues which accrued before the appointed date and the same shall, notwithstanding anything contained in this Act be recoverable as heretofore by the person entitled thereto; and

(c) all suits and proceedings of the nature to be prescribed pending in any Court at the appointed date and all proceedings upon any decree or order passed in any such suit or proceeding previous to the appointed date shall be stayed :

Provided that no decree for an arrears of rent or order for ejection in default of an arrear of rent shall be executed by ejection of the judgment-debtor from his holding.

240C. Land-holder entitled to receive compensation. - Every land-holder whose rights, title or interest in the land referred to in Section 240-A are acquired under the said section shall be entitled to receive and be paid compensation as hereinafter provided.

240D. Compensation statement. - For purposes of assessment and payment of compensation for acquisition of rights, title and interest of the landholder in the land referred to in Section 240-A, the Compensation Officer shall prepare a compensation statement showing-

- (a) the name or names of the land-holder;
- (b) where the land referred to in Section 240-A was on the date immediately preceding the date of vesting-
 - (i) recorded as sir, khudkasht or fixed rate tenancy of the land-holder; or
 - (ii) included in the holding of a person belonging to any of the classes mentioned in Clause (d) of Section 18; or
 - (iii) included in the holding of a person belonging to any of the classes mentioned in Section 19, the rent computed at hereditary rates applicable on the said date;
- (c) where the land referred to in Section 240-A was land other than land mentioned in Clause (b), the rent payable for such land by the tenant thereof on the said date; and
- (d) such other particulars as may be prescribed.

240E. Compensation to the land-holder or an adhivasi. - The amount payable as compensation to the land-holder under Section 240-C shall-

- (1) where such land-holder or his predecessor-in-interest was a bhumidhar referred to in Clause (a) of sub-section (1) of Section 18, be-
 - (a) an amount equal to ten times the rent referred to in Clause (b) of Section 240-D plus;
 - (b) the compensation and the rehabilitation grant, if any, payable to him in accordance with the provisions of Chapters III to V;
- (2) where such land-holder was, on the date immediately preceding the date of vesting a fixed rate tenant or a person referred to in sub-clause (ii) of Clause (b) of Section 240-D an amount equal to twenty times the rent referred to in Clause (b) of the said section;
- (3) where such land-holder was, on the date immediately preceding the appointed date, a bhumidhar other than a bhumidhar referred to in Clauses (1) and (2) an amount equal to-
 - (a) ten times the rent referred to in Clause (b) of Section 240-D; and
 - (b) ten times the rent referred to in Clause (c) of the said section;
- (4) where such land-holder or his predecessor-in-interest was, on the date immediately preceding the appointed date, a person referred to in sub-clause (iii) of Clause (b) of Section 240-D an amount equal to ten times the rent referred to in Clause (b) of Section 240-D :

Provided always that where the amount to be paid under sub-clause (a) of Clause (3) or Clause (4) is less than the amount equal to five times the rent payable for such land by the tenant thereof on the date immediately preceding the date of vesting the amount to be paid shall be equal to five times the said rent.

240F. Preliminary publication of statement. - The compensation statement prepared under Section 240-D shall be published in the manner prescribed and a copy thereof shall also be sent to the land-holder concerned.

240G. Filing of objections. - Any person interested or the State Government may in the manner prescribed file before the Compensation Officer an objection upon such statement within the period of one month from the date of its publication.

240H. Disposal of Objections. - (1) Except as provided in sub-section (2), the Compensation Officer shall after hearing the parties, if necessary, on the objections filed under Section 240-G, dispose of the objections in the manner prescribed.

(2) Where the objection filed under sub-section (1)-

(a) is that the land is not land referred to in sub-section (1) of Section 240-A the Compensation Officer shall frame an issue to that effect and refer it for disposal to the Court which would have jurisdiction to decide a suit under Section 229-B read with Section 234-A in respect of the land and thereupon all the provisions relating to the hearing and disposal of such suits shall apply to the reference as if it were suit;

(b) involves a question of title and such question has not already been determined by a competent court, the Compensation Officer shall, [except in cases in which Section 240-HH applies] refer the question for determination to the [court of competent jurisdiction]. *Explanation.* - Whether a person is or is not an adhivasi shall not be deemed to raise a question of title within the meaning of this clause.

(3) [The court of competent jurisdiction] shall determine the question referred to him under Clause (b) of sub-section (2) in the manner prescribed and his decision thereon shall be final.

[240HH. Question of title in respect of land in areas under consolidation operations to be referred to the Arbitrator. - Where the question of title referred to in Clause (b) of sub-section

(2) of Section 240-H is in respect of a land included in the area which is under consolidation operations within the meaning of Section 5 of the U.P. Consolidation of Holdings Act, 1953 [and where under Clause (ii) of Section 49 of the U.P. Consolidation of Holdings (Amendment) Act, 1958, the proceedings are being taken in accordance with the provisions of the U.P. Consolidation of Holdings Act, 1953, as it stood prior to its amendment by the U.P. Consolidation of Holdings (Amendment) Act, 1958], the Compensation Officer shall refer the question for determination to the Civil Judge having jurisdiction who shall thereupon refer it for determination to the Arbitrator appointed under sub-section (1) of Section 37 of the aforesaid Act and the provisions of that Act and of the Rules made thereunder shall have effect in relation to the reference so made as if it were a question raised and also referred in proceedings under that Act.]

240I. Appeal to the Collector. - Notwithstanding anything contained in any law, any person aggrieved by the order of the Compensation Officer, deciding the objection insofar as it relates to the amount of compensation under Section 240-H, may appeal to the Collector, who shall decide the appeal in the manner prescribed and the decision of the Collector shall be final.

240J. Final publication of the statement. - (1) Where no objection has been filed in regard to the compensation statement published in pursuance of Section 240-F or where such objections are filed and have been finally disposed of, the statement shall where necessary be amended, altered or modified, the Compensation Officer 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 landholder concerned.

240K. Payment of compensation. - (1) Except as provided in sub-section (3) the compensation mentioned in the final compensation statement referred to in Section 240-J, shall be paid in cash in one lump sum or in annual instalments-

- (a) not exceeding ten in cases referred to in sub-sections (2) and (3) of Section 240-E; and
- (b) not exceeding five in cases referred to in sub-sections (1) and (4) of Section 240-F, as may be prescribed :

Provided however, that where compensation is prescribed to be paid in instalments there shall be paid over and above the amount of compensation a sum equal to six and one- quarter per cent thereof.

(2) The compensation shall be paid to the land-holder whose name is entered in the final compensation statement and where the land-holder dies before it is paid to him it shall be paid to his legal representatives.

(3) The Compensation and Rehabilitation Grant payable in pursuance of Clause (b) of sub- section (1) of Section 240-E, shall be paid in accordance with the provisions of Chapters IV and V.

240L. Provisions of this chapter not to apply to evacuee property. - Nothing contained in this chapter shall apply to evacuee property.

240M. Power to make rules. - (1) The State Government may make the rules for the purpose of carrying into effect the provisions of this chapter.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for-

- (a) the method of calculating rents and other dues mentioned in Clauses (b) and (c) of Section 240-B;
- (b) the disposal of suits and proceedings stayed under this chapter;
- (c) the form and the manner in which the compensation statement under Section 240-F, shall be prepared;
- (d) the manner in which the Compensation Officer shall refer the objections to competent court of the District Judge under Section 240-H;
- (e) the principles to be followed in determining the hereditary rates in areas where such rates are not already determined;
- (f) 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;
- (g) the application of the provision of the Indian Limitation Act, 1908, to applications and proceedings under this Act;
- (h) the fees to be paid in respect of applications under this Act, in cases in which no specific provision in that behalf has been made therein;
- (i) the duties of any officer or authority having jurisdiction under this Act, the procedure to be followed by such officer or authority;
- (j) the transfer of proceedings from one authority or officer to another officer or authority;

(k) the procedure to be followed in application and other proceedings under this Act, in cases in which no specific provision has been made therein; and
(l) the matters which are to be or may be prescribed.

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