

B.A.LL.B. X SEMESTER

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

CODE: BL-911

Topic: Vesting Order

Vesting Order

Sections 4 to 26 of the U.P. Zamindari Abolition and Land Reforms Act provides for the acquisition of the interest of the intermediaries and its consequences in the State of U.P. The Act provides that (1) As soon as may be after the commencement of this Act, the state government may by notification declare that as from a date to be specified, all estates situate in U.P. shall vest in the state and as from the beginning of the date so specified (hereinafter called the date of vesting) , all such estates shall stand transferred to 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 areas as may be specified and all the provisions of sub-section (1) shall be applicable to and in the case of every such notification [Section 4]. It is therefore clear from the above that the vesting as well as the date of acquisition of the estates if the intermediaries is the date, which is specified in the notification issued by the State of Uttar Pradesh under Section 4 The order declaring the dates on which the acquisition of the estates of the intermediaries shall be acquired by and vest in the state on U.P. , is called the vesting order. The direct and immediate impact of the notification under sec. 4 of the act was to extinguish all the rights of intermediaries (including those in relation to Sir and Khudkasht land) and vest them in the State and thereafter confer entirely new rights. **{Kedarnath and others v. Sheo Murat Pandey and others , 1971 A.L.J. 34: R: D. 53}** After the publication of the notification referred to above. All the estates situated in U.P. stood transferred to and

stood vested in the state (**State v. T.N. Singh AIR 1963 SC 799**) In this connection it must be noted that it is not necessary that the vesting of the entire estates in the whole of the state of U.P. be done on one date. It shall be perfectly lawful that there shall be piecemeal acquisition and piecemeal vesting of the estates of the intermediaries. The above notification and if there is more than one the notification may be issued from time to time and in respect of area or areas. And in every such notification there shall be contained the date of vesting and the order of vesting and if in any such notification one of the above conditions is not present the notification shall be illegal and not according to the law and will not bring into play the relevant consequences, in accordance with the provisions of section 4 of this Act. The date of vesting in the state has been fixed as 01 July 1952.

In U.P. state Sugar Corpn Ltd. v. D.D.C. & others , 2000 91 R.D. it has been held by APEX Court that the land vested in the state can be vested in Gaon Sabha by notification under Sec. 117 . but before a land is vested in Gaon Sabha it should have been vested in State Government under Sec. 6

Consequences of Vesting Order:- When the notification mentioned in Sec. 4 has been published in the Gazette then

Now withstanding anything contained in any contract, document or in any other law for the time being in force and save otherwise provided in the Act the consequences as hereinafter set forth shall from the beginning of the date of the vesting ensure in the area to which the notification relates namely

(a) All rights title and interest of all intermediaries

- 1- In every estate in such area including land (cultivable or barren) grove land , forests whether within or outside village boundaries trees (other than trees in village abadi, holding or groove fisheries, tanks, ponds, water channels ferries,

pathways, abadi sites , hats , hazars and meals (other than bazaars and meals held upon the land to which clause (a) to (c) of sub section (1) of section 18 apply) and

2- In all soil in such estates including rights if any in mines and minerals whether being worked or not.

Shall cease and be vested in the State of U.P. free from all encumbrances,.

(b) All grants and confirmations of title of or to land in any estate so acquired or of or to any right or privilege in respect of such land or its revenue. Shall whether liable to resummptions or not, determine The word used here in any right or privilege In respect of such land include the right of an under propriter in the fishers also be decided in the case **State of U.P. Ramdas (Air 1976 ALL 44)**

(c)(1) Rents, cesses , local rates and sayar in respect of any period after the date of vesting and which but for the acquisition would be payable to an intermediary shall vest in and be payable make in contraction of this clause shall not be valid discharge of the person liable to pay the same.

(2) Where under an agreement or contract make before the date of vesting any rent. Cess local rates or sayar for any period after the said date has been paid to or compound or released by an intermediary the same shall notwithstanding the agreement or the contract be recoverable by the state government from the intermediary and may without prejudice to any other mode of recovery. Be realized be deducting the amount form the compensation money payable to such intermediary under chapter III.

(d) All arrears of revenues, cases or other dues in respect of any estate so acquired and due from the intermediary , or an area on account of tax on agricultural income accessed under the **U.P. Agricultural Income Tax Act. 1948** For any period prior to the date of

vesting shall continue to be recoverable from such intermediary and may, without prejudices to any other mode of recovery, be realized by deducting the amount from the compensation money payable to such intermediary under Chapter III.

All amount ordered to be paid by an intermediary to the state Government under sec. 27 & 28 of the UP encumbrance estate e-State Act, 1934 and all amount due from him under the land improvement lones act 1883, or the agricultural act 1884. Shall, notwithstanding anything contained in the said enactment become due forth with and may without prejudices to any other mode of recovery provided therefore be realized by the deducting the amount from the compensation money payable to such intermediary under chapter III.

(f) The interest of the intermediaries so acquired in any estate shall not be liable to attachment or sale in execution of any decree. other process of any court (Civil or Revenue) and any attachment existing at the date of vesting of any order for attachment passed before such date shall be subject to the provision of sec. 73 of the transfer of property act 1882. The case to be enforce.

(g) (1) Where mortgage in position existing on any estate or part of an estate on the date immediately preceding the date of vesting shall to the extent of the amount on such estate or part be deemed without prejudices to the rights of state government under sec. 4. To have been substituted by a simple mortgage.

(2) notwithstanding anything contained in the mortgage deed or any other agreement the amount declared due on a simple mortgage substituted under sub clause shall carry such rate of interest and from such date as may be prescribed

(h) No claim or liability enforceable or before the date of vesting by or against such intermediary of any money. Which is charged on or is secured by a mortgage such state part therefore shall expect as

provided in sec 73 of the transfer of the property act 1882 be enforceable against interest in the state

(i) All suites and proceedings of the nature to be prescribed pending in any court at the date of vesting and all proceeding upon any decree or order passed in any such suit proceedings previous to the date of vesting shall be stayed.

(j) All mahals and there sub divisions existing on the date immediately proceedings the date of vesting and all engagement for the paynet of land revenue or rent by a propertire under , Sub Propertire, co shairer or lambardar as such shall determine and to be enforce. (Sec. 6)

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