

The Bihar Land Tribunal Act, 2009

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Act 9 of 2009

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The Bihar Land Tribunal Act, 2009(Bihar Act 9 of 2009)Published in Bihar Gazette (Extraordinary) No. 466, dated 3 September, 2009.Preamble. - An Act to make Provisions for the Bihar Land Tribunal.Whereas, disputes relating to land pending before different forums in the State of Bihar are huge in number and the present machinery including Civil Court is over burdened because of pendency of huge number of disputes relating to land;Whereas, right, title and possession over land is regulated under various land laws operating in the State of Bihar;Whereas, the different forums under different land laws have been provided for adjudication of disputes;Whereas, the State government is faced with complexities arising out of the multiplicity of adjudicating machinery and delay in the settlement of disputes;Whereas, the State Government strives to ensure speedy disposal of disputes under various land laws;Whereas, in the absence of a common Adjudicatory Body, the people of the State are faced with undue hardship in getting their grievance redressed;Whereas, there is mandate to constitute a tribunal under Chapter XIII of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, with such modification and with such enlargement of jurisdiction as may be deemed expedient;Whereas, the Constitution of India has conferred jurisdiction under Article 323B on appropriate legislature, to provide for adjudication or trial by Tribunals, by law, of any dispute, complaints or offences with respect to all or any of the matters specified in clause (2) with respect to which such legislature has power to make laws;Whereas, in larger public interest and in the interest of the people of the State, it is deemed expedient to create a consolidated forum for adjudication of all disputes appertaining to land in the State of Bihar;Whereas, with a view to provide a common and uniform forum for adjudication of disputes, it is necessary to create a Tribunal at the highest level in the hierarchy;Be, it enacted by the legislature of the State of Bihar in the sixtieth year of Republic of India, as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Bihar Land Tribunal Act, 2009.(2)It shall extend to the whole of the State of Bihar.(3)It shall come into force on such date as the Government may, by notification, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, the definitions provided in the Acts/ Manuals referred to in Section 9(1) shall prevail.

3. Special Definitions.

- In this Act, unless the context otherwise requires (a) "Chairman" means the Chairman of the Bihar Land Tribunal. (b) "Member" means Member of the Bihar Land Tribunal. (c) "Tribunal" means Tribunal constituted under Section 4 of this Act.

4. Constitution of the Bihar Land Tribunal.

(1) The State Government shall, by notification in the Official Gazette, constitute for the State a Tribunal called the Bihar Land Tribunal (hereinafter referred to as the Tribunal) for the purposes of this Act. (2) The Tribunal shall consist of a Chairman and not more than four other Members from judicial and administrative wing appointed by the State Government: Provided that the State Government may, by notification in the Official Gazette, increase or decrease the total number of Members of the Tribunal.

5. Qualifications for appointment of Chairman or other Members.

(1) A person shall not be qualified for appointment as the Chairman unless he is, or has been, or is qualified to be a Judge of a High Court, or has practiced as an advocate continuously for not less than twenty years in Any High Court. (2) A person shall not be qualified for appointment as a Judicial Member unless he: (a) is or has been, a District Judge and has held the post in that rank for at least three years, or has practised as an advocate continuously for not less than fifteen years. (b) is qualified to be appointed as a Judge of a High Court. (3) A person shall not be qualified for appointment as an Administrative Member unless he: (a) has held the post of Member/ Additional Member, Board of Revenue, Bihar, or (b) has held the post not below the rank of Principal Secretary/ Secretary to the Government, of Bihar and has dealt with Land Reforms matters during his services in the Bihar Government in the capacity of Appellate/ Revisional Authority: for a period of not less than one year in either (a) or (b), in the aggregate. (4) Any vacancy in the office of the Chairman or any Member shall be filled by the Government in accordance with the provisions of this Act.

6. Terms and conditions of the service of Chairman and Members.

(1) No person shall be appointed or shall continue in the office of the Chairman and Member if he has attained the age of seventy years. The terms of the Chairman and the Members shall be five years or till they attain the age of 70, whichever is earlier. (2) There shall be paid to the Chairman and the Members such salaries and allowances as may be prescribed. (3) The other terms and conditions of the service of the Chairman and Members shall be such as may be prescribed.

7. Resignation and removal.

(1)The Chairman or other Member may, by notice in writing under his hand addressed to the State Government resign his office:Provided that the Chairman or other Member shall, unless he is permitted by the State Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.(2)The Chairman or any other Member shall not be removed from his office except by an order made by the State Government on the ground of proved misbehaviour or incapacity after an enquiry made by a Judge of the High Court in which such Chairman or other Member had been informed of the charges against him and given a reasonable opportunity of being heard.(3)The State Government may, by Rules/ Instructions regulate the procedure for the enquiry of misbehaviour or incapacity of the Chairman or other Member referred to in sub-section (2).

8. Staff of the Tribunal

(1)The State Government shall determine the nature and categories of the officers and other employees required to assist the Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.(2)The officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairman.(3)The salaries and allowances and conditions of service of the officers and other employees of the Tribunal shall be such as may be specified by Rules made by the State Government.

9. Powers of the Tribunal.

(1)The Tribunal shall have the power to entertain any application against the final order passed by the Appropriate Authorities under the Acts/ Manuals, mentioned below, within 90 days of such an order provided no other forum of appeal or revision against the order passed is provided in that Act/ Manuals:(i)The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961(ii)The Bihar Land Reforms Act, 1950(iii)The Bihar Tenancy Act, 1885(iv)The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956(v)The Bihar Tenants' Holdings (Maintenance of Records) Act, 1973(vi)The Bihar Bhoodan Yagna Act, 1954(vii)The Bihar Privileged Persons Homestead Tenancy Act, 1947(viii)The Bihar Government Estates Manual, 1953(ix)The Bihar Settlement ManualIt shall be open to the State Government to add or remove any Law/Manual in or from the list hereinafore mentioned.(2)In addition, the Tribunal shall decide any case transferred to it by the Government of Bihar or by the Hon'ble High Court of Judicature at Patna with regard to any other revenue or land reforms Law/ Manual for the time being in force.(3)The Tribunal shall have powers vested in the Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908) including the power to recommend to punish for Contempt of Court.

10. Procedure of the Tribunal.

(1)Subject to the provisions of the Act or any Rule made thereunder, the Tribunal may, by order,

regulate its practice and procedure.(2)The functions of the Tribunal shall be discharged:-(i)by a bench consisting of the Chairman and Judicial and Administrative Member, or(ii)by a bench consisting of Judicial and Administrative Member constituted by the Chairman; or(iii)by a single Member, nominated in this behalf by the Chairman, in such cases, as he deems fit.Explanation. - The single Member referred to in clause (iii) may be either the Chairman or any other Member:Provided that if any case, which comes up before a single Member (who is not the Chairman) or a bench (of which the Chairman is not a member) involves a question of law, such single Member or bench in his or its discretion reserve such case for decision by a bench of which the Chairman shall be a member.(3)(a)Where an application is heard by a bench consisting of the Chairman and two other Members and the Members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.(b)Where an application is heard by a bench consisting of two Members and the Members are divided in their opinion on any point, the point shall be referred for decision to the Chairman who may either himself hear and adjudicate or may assign it to any other Member to hear and adjudicate and on such adjudication the view of the Chairman or Member to whom the Chairman has assigned the point shall form majority view alongwith original order wherein difference of opinion has arisen.

11. Power to review the order of the Tribunal.

- The Tribunal shall have the power and jurisdiction to make any correction in its order.Provided, the tribunal shall not have the power to review and reconsider its order and pass a fresh order.

12. Penalty for the contravention of the orders of the Tribunal.

- Any person who wilfully fails to comply with any summons, requirement, direction or order issued or made by the Tribunal, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or both.

13. Cognizance and trial of offences.

(1)No Court shall take cognizance of an offence punishable under Section12, save on a complaint made by any officer empowered by the Tribunal in this behalf.(2)A Judicial Magistrate of the first class shall try an offence under this Section.

14. Power of the Tribunal to call for record.

(1)The Tribunal may, on its own motion or on an application, call for and examine any record of any proceedings disposed off by an original, appellate or revisional authority prescribed in the respective laws/manuals covered by this Act to satisfy itself as to the regularity of such proceeding or correctness or legality or propriety of any decision taken or order passed therein, and if, in any case, it appears to the Tribunal that any such decision or order should be modified, annulled, or remitted for reconsideration, it may pass order accordingly:Provided that the Tribunal shall not exercise its suo motu jurisdiction beyond the period of three years from the order;Provided that the exercise of

jurisdiction by the Tribunal under sub-section (1) on an application filed by any aggrieved party shall be available only when such application is preferred within 90 days from the order excluding the time taken in obtaining certified copy of the order; Provided further that the Tribunal may admit an application after the expiration of the prescribed period if it is satisfied that the party concerned had sufficient cause for not presenting it within such period. (2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of being heard.

15. Transfer of proceedings pending in Patna High Court/ State Government to the Tribunal.

- All cases connected with the Acts/ Manuals dealt with under Section 9 of this Act and pending in the High Court of Judicature at Patna but excluding writ petitions filed under Articles 226 and 227 of the Constitution of India and cases pending with the State Government, immediately before the commencement of this Act, as could have been within the jurisdiction of such Tribunal, and cases arising after the commencement of this Act, as would have been within the jurisdiction of such Tribunal, shall stand transferred to the Tribunal with effect from the said date of commencement: Provided further that it shall be open to the High Court of Judicature at Patna to remit the dispute pending adjudication in any writ proceeding before it for adjudication by the Tribunal. ,

16. Act to override other laws.

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any customs or usage having the force of law or contract or judgement, decree or order of a Court or any other authority.

17. Power to give directions.

- For the purpose of giving effect to the provisions of this Act, it shall be competent for the State Government to issue such directions as they may deem fit to any officer, authority or person subordinate to the Government.

18. Bar of Jurisdiction.

- Save as otherwise expressly provided in this Act, no court, except the Patna High Court and the Supreme Court of India, shall entertain any suit, or other proceeding to set aside, or modify or question the validity of an order or decision passed or taken by an authority under this Act or any Rules made thereunder or in respect of any matter falling within the scope of the Tribunal.

19. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done.

20. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order in the Bihar Gazette, make such provisions not inconsistent with the purposes or provisions of this Act as appear to them to be necessary or expedient to remove the difficulty.

21. Power to make Rules.

- The Government may, by notification, make Rules for carrying out all or any of the purposes of this Act.

22. Repeals.

- In view of the provisions of this Act the related provisions of Chapter-XIII of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 are hereby repealed.