

The Land Acquisition (Bihar and Orissa) Rules, 1894

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Rule

THE-LAND-ACQUISITION-BIHAR-AND-ORISSA-RULES-1894 of 1894

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The Land Acquisition (Bihar and Orissa) Rules, 1894Published vide Notification No. 29-T.R., dated 24.4.1895For Areas transferred from Central Provinces, some rules have been reframed vide Orissa Gazette Part-III/26.7.1946.Notification No, 29 T.-R., dated 24-4-1895. - In exercise of the powers conferred by Section 55 of the Land Acquisition Act 1 of 1894, and with the previous sanction of the Governor-General in Council, the Lieutenant-Governor is pleased to make the following rules in supersession of the rules issued under Section 59 of Act X of 1870 and published under notification, dated 4th November, 1869, at pages 898-900, Part-1 of the Calcutta Gazette of the 6th idem.

1.

When any revenue-paying land is acquired under the Land Acquisition Act, 1894 (I of 1894) the proprietor shall except as provided in Rule 6, be relieved of the liability to pay revenue to the extent of Government demand upon the said land; and such relief shall have effect in the manner hereinafter described ;(a)in estates in which the instalments of revenue as laid down in the settlement papers are known, shall take effect from the end of the month immediately preceding that in which possession of the land is taken; and(b)in estates in which the instalments of revenue are not known, it shall take effect from the latest day of payment of arrears of revenue (as determined by the Board of Revenue, Lower Provinces, under Section 3 of Act XI of 1859) immediately preceding the date on which possession Is taken.

2.

In such cases the Collector shall, before making an award, ascertain, in accordance with the two next following rules, and record the amount of Government revenue which is to be taken as payable in respect of the acquired portion, and shall, in the event of a reference being made to a Court, furnish

the Court, at the time of making the reference, with particulars of the amount of the share so ascertained and recorded.

3.

If the land to be acquired be on entire estate or tenure assessed with a specific amount of revenue, the whole of such amount shall be remitted. Applicable also to the Ex-Madras areas of Ganjam, Koraput and Balliguda Sub-division of Phulbani District with effect from 23rd August, 1968 [vide Revenue Department Notification No. LA-20/68 Misc-42982-R., dated 23-8-1968].

4. If the land be not liable for a specific amount of revenue, but be a portion of an estate or tenure which is liable for a specific amount the proportion of Government.

- revenue to be deemed payable in respect of the land taken shall be ascertained under the following rules :First - Where an estate has, within 20 years next preceding the date of the commencement of proceedings for the acquisition of any land-situate therein, been subjected to a detailed settlement, or has formed portion of an estate brought under the Estates Partition Act VIII (B.C.) of 1876, made after inquiry into and record of the assets of the estate, the Government revenue to be deemed payable in respect of the said land shall bear to the assets of the said land the same proportion as the Government revenue of the whole estate bears to the assets of the whole estate, as shown in the statement or partition proceedings.Second - When there has been no such settlement or partition as aforesaid, then, if the area of the estate is known with accuracy, the amount of Government revenue to be deemed payable in respect of the portion of the land taken shall bear to the Government revenue of the whole estate the same proportion as the area of the said portion bears to the area of the whole estate,Third - When the Government revenue deemed payable in respect of the land taken cannot be determined by either of the above rules one-fourth of the net rent (i.e., the gross rental less a deduction of 10 per cent for the expenses of collection) of the said land shall be taken to be the amount of Government revenue thereon chargeable.

5.

In determining the amount of compensation to be awarded the Collector shall take into consideration the fact that the land acquired is subject to the burden of the payment of Government revenue.

6.

In the event of the proprietor declining to accept an abatement of revenue, such circumstances shall not entitle him to any compensation over and above the amount fixed for the award under Section 23 of the Act on the original basis of calculation. In cases, however, in which the area of the portion of land acquired does not exceed one-twentieth part of area of the estate, it shall be competent to the Revenue authorities, if the proprietor of estate so desire, to pay the proprietor the computed value of

the revenue deemed payable in respect of such portion on the condition of his continuing to pay the revenue of the entire estate without abatement; provided that, in computing the value of the revenue so assigned, the basis of the calculation shall not exceed the number of years' purchase (if known) upon which the market-value of the proprietor's profits i.e., the amount of compensation to be awarded for the land, has been determined. Thus, if the market-value of the said profits has been computed at twelve years' purchase, the capitalized value of the revenue deemed payable in respect of the portion of land acquired shall be calculated at not more than twelve years' purchase of the amount of revenue in question. The concession above is, however, not admissible in the case of acquisition for the Central Government including railways [vide Revenue Department Notification No. 928-H-19-R.R. , dated the 5th July, 1934],

7.

When there is any question whether the land to be acquired is part of a revenue-paying estate, or is revenue free, the Collector shall decide the matter before making his award, leaving it to the claimants to apply for a reference to the Court if they object to his decision. In case of a reference being applied for, the Collector shall if he has decided that the land is revenue free, determine the amount of revenue which would be payable for it in the event of its being held to belong to the revenue-paying estate of which it is alleged to form a part.

8.

To enable him to calculate accurately the additional compensation to be given under Section 23 (2) of the Act, and to keep up fully and clearly his registers of all lands occupied and compensation paid for them, the Collector shall invariably record separately his finding under the first head of Section 23 (1) of the Act, which concerns the market-value of the land.

9.

The procedure laid down as to the payment of the compensation money in cases of references under Section 18 shall apply also under Section 30 or Section 35. The Compensation money, or, if any of the parties are willing to accept payment of their shares and payment to them is admissible, the portion of it which is in dispute and cannot be paid away shall be deposited in Court when the reference is made.

10.

In giving notice of the award under Section 12 (2) and tendering payment under Section 31 (1), to such of the persons interested as were not present personally or by their representatives when the award was made, the officer shall require them to appear personally or by representatives by a certain date to receive payment of the compensation awarded to them, intimating also that no interest will be allowed, to them if they all to appear. If they do not appear, and do not apply for reference to the Civil Court under Section 18, the officer shall after any further endeavour to secure

their attendance that may seem desirable, cease the amounts due to be paid into the Treasury as Revenue deposits payable to the persons to whom they are respectively due and vouched for in the accompanying form (marked E). The officer shall also give notice to the payees of such deposits, the Treasury in which the deposits specifying have been made. When the payees ultimately claim payment of sums placed in deposit, the amounts will be paid to them in the same manner as ordinary revenue deposits. The officer should, as far as possible, arrange to make the payments due in or near the village to which the payees belong, in order that the number of undisbursed sums to be placed in deposit on account of non-attendance may be reduced to a minimum. Whenever payment is claimed through a representative whether before or after deposit of the amount awarded, such representative must show legal authority for receiving the compensation on behalf of his principal.