

Bihar Land Tribunal Rules, 2010

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Rule BIHAR-LAND-TRIBUNAL-RULES-2010 of 2010

- Published on 21 April 2010
- Commenced on 21 April 2010
- [This is the version of this document from 21 April 2010.]
- [Note: The original publication document is not available and this content could not be verified.]

Bihar Land Tribunal Rules, 2010 Published vide Notification in Bihar Gazette (Extraordinary) No. 283, dated 21.4.2010 Notification No. 8/ fu;e la'kks/ku o8-01/ 2008-321(8), dated 17.3.2010. - In exercise of the powers conferred by Section-21 of the Bihar Land Tribunal Act, 2009 (Bihar Act 9 of 2009), the State Government hereby makes the following Rules: Chapter-1

1. Brief Title, Extent and Commencement.

(1) These Rules may be called the Bihar Land Tribunal Rules, 2010. (2) Its extent shall be the whole of the State of Bihar. (3) They shall come into force immediately.

2. Definitions.

- In these Rules, unless the context otherwise requires- (i) 'Act' means the Bihar Land Tribunal Act, 2009 (Bihar Act 9, 2009) (ii) 'Section' means the Section of the Bihar Land Tribunal Act, 2009 (Bihar Act 9, 2009) (iii) "Chairman" means the Chairman of the Bihar Land Tribunal. (iv) "Member" means the Judicial or Administrative Member of the Bihar Land Tribunal. (v) 'Legal Practitioner' shall have the same meaning as is assigned to it in the Advocates Act, 1961 (25 of 1961). (vi) 'Legal Representative' means a person who in law represents the estate of the deceased. (vii) 'Registrar' means with reference to the Tribunal, the Registrar appointed in the Tribunal and include any officer to whom the powers and functions of the Registrar may be delegated under these Rules. (viii) 'Transferred application' means the proceeding or the application transferred to the Tribunal in terms of sub-section (2) of Section 9 and Section 15 of the Act. (ix) 'Tribunal' means the Land Tribunal established under sub-section (1) of Section 4 of the Act. (x) 'Pleading' means original application or rejoinder to the application (xi) The words used and not defined in these Rules shall have the same meaning as in the Act or as expressed in the Acts or Manuals referred to in sub-section (1) of Section 9 of the Act. Chapter-2

3. Location of the Tribunal and other matters relating to the functioning of the Tribunal.

(1)The office of the Tribunal shall be located at the place as may be notified by the State Government.(2)Except on Saturdays, Sundays and other public holidays, the office of the Tribunal shall, subject to any order made by the Chairman, remain open from 9.30 a.m. to 6.00 p.m.(3)The official seal and emblem of the Tribunal shall be such as the State Government may notify.(4)No act or proceeding of the Tribunal shall be invalid by reason only of the existing of any vacancy among its members or any defect in its constitution.

4. Procedure for filing applications.

(1)An application to the Tribunal shall be presented by the applicant in person or by an agent or by a duly authorised lawyer to the Registrar or any other officer authorised in writing by the Registrar to receive the same.(2)The application under sub-rule (i) shall be presented in triplicate in a paper book form.(3)The Tribunal may permit more than one person to join together and file a single application in case, cause of action and the nature of relief prayed for is same or that they have a common interest in the matter.

5. Scrutiny of applications.

(1)The Registrar or the Officer authorised by him under sub-rule (i) of Rule 4, shall enter on every application the date on which it is presented or deemed to have been presented under that Rule and shall sign the entry.(2)If, on Scrutiny, the application is found to be in order, it shall be duly registered and given a serial number.(3)If the application, on scrutiny, is found to be defective and the defect noticed is formal in nature, the Registrar may allow the concerning party to rectify the same and if the defect is not formal in nature, the Registrar may allow the applicant such time to rectify the defect, as he may deem necessary.(4)If the applicant fails to rectify the defect within the time allowed under sub-rule (3), the Registrar may, by order and for reasons to be recorded in writing, decline to register the application and inform the applicant accordingly.(5)An appeal against the order passed under sub-rule (iv) may be preferred by the person aggrieved within thirty days from the date of such order, to the Chairman and such appeal may be dealt with and disposed of by the Chairman or in his absence, any member authorised by the Chairman by special or general order, whose decision thereon shall be final.(6)Cases received on transfer from the High Court of Judicature at Patna or the State Government in accordance with the provisions of Section 15 of the Act shall also be given fresh serial numbers.

6. Place of filing application.

- The application shall ordinarily be filed by or on behalf of the applicant with the Registrar of the Tribunal.

7. Application fee.

(1) Every application filed with the Registrar shall be accompanied by a fee of rupees one hundred: Provided that if such application is filed on behalf of the State Government, no court fee will be chargeable thereon: Provided further that where the Tribunal is satisfied that the applicant is unable to pay the prescribed court fee on ground of indigence, it may exempt such applicant from payment of court fee. (2) If application is filed through a lawyer then it should be accompanied by proper Vakalatnama with stamp thereon and also with welfare stamp of rupees five thereon. In case the application is filed through agent then it should be accompanied by proper authorization by the applicant.

8. Contents of application.

(1) Every application filed under Rule 3 shall set forth concisely the facts and the grounds for the relief prayed for in the application. Such grounds shall be numbered consecutively. (2) Every application shall be typed in double space on one side on thick paper of good quality. (3) It shall not be necessary to present a separate application to seek an interim order or direction if in original application, the same is prayed for. (4) An applicant may, subsequent to the filing of an application apply, for an interim order or direction. Such application shall, as far as possible, be in the prescribed form. (5) The following documents shall accompany the application:-(A)(i) an attested true copy of the order against which the application is filed; (ii) Copies of the documents relied upon by the applicant and referred to in the application; (iii) an index of the documents. (B) The documents referred to in sub-rule (5) (A) shall be attested by a legal practitioner or by a Gazetted Officer and each document shall be marked serially as Annexures. (C) Where an application is filed by an agent, documents authorising him to act as such agent shall also be appended to the application: Provided that where an application is filed by a legal practitioner, it shall be accompanied by a duly executed "Vakalatnama". (6) The pleadings shall be verified in the same manner as provided for in Order-VI, Rule 15 of the Code of Civil Procedure, 1908.

9. Mode of service of notice or order.

(1) Any notice or order required to be served upon any person, shall be served by delivering or tendering a copy thereof duly signed and sealed, to the Person on whom it is to be served or to his duly authorised agent incharge of the land or part thereof to which the notice or order relates. (2) Where the person on whom the notice or order is to be served or his agent in charge of the land to which the notice or the order relates, can not be found or where such person has no agent empowered to accept service of notice or order on his behalf, service may be made on any adult member of the family of such person, residing with him. (3) Where the Serving Officer delivers or tenders a copy of the notice or order to the person to be served with notice or order personally or to any agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered, as an acknowledgement of service to be endorsed on the original notice or order. (4) Where the person to be served with notice or order or his agent or such other person as aforesaid refuses to sign the acknowledgement or where the serving officer, after using all due and reasonable diligence, can not find the person to be served with the notice or order and there

is no agent empowered to accept service of notice or order on his behalf, or any other person on whom service, can be made, service may be made by affixing a copy of the notice or order on the outer door or some other conspicuous part of the house in which the person to be served with the notice or order, ordinarily resides or carries on business or works for gain or on the outer door of the office, if any, of the person to whom the notice or order relates.(5)The Serving Officer shall in all cases in which the notice or order has been served under sub-rule (2), (3) or (4) endorse or annex or cause to be endorsed or annexed on or to the original notice or order, a report stating the date on which and manner in which the notice or order was served and the name and addresses of two persons witnessing the service.(6)Notwithstanding anything contained in the foregoing sub-rules, the Tribunal shall, in cases of service of notice or order under sub-rule (4) and may in other cases also, if it is thought fit, order that the notice or order shall be served by sending a copy thereof, duly signed and sealed, by registered post with acknowledgement due to the person on whom such notice or order is to be served; the posting of the notice or order shall be sufficient proof of the service of such notice or order on the person concerned.(7)Where the person to be served with a notice or order under the Act is a minor or a person of unsound mind, the service shall be made in the aforesaid manner on the guardian of such minor or person of unsound mind as the case may be.

10. Filing of reply and other documents by opposite party.

(1)Each of the opposite party intending to contest in the case, shall file in triplicate, reply to the application and documents relied upon by him in paper book from with the Registrar within one month after service of notice of the application on him.(2)In the reply filed under sub-rule (1), the opposite party shall specifically admit, deny or explain the facts stated and grounds taken by the applicant in his application and may also state such additional fact as may be found necessary for a just decision of the case.(3)The opposite party shall also serve a copy of reply alongwith documents as referred in sub-rule (1) on the applicant or his lawyer, if any, and file proof of such service alongwith the reply.(4)The Tribunal may allow filing of reply after the expiry of the prescribed period also.(5)The pleadings shall be verified in the same manner as provided for in Order VI, Rule 15 of the Code of Civil Procedure, 1908.

11. Inspection of records.

(1)The parties to any case or their advocates may be allowed to inspect the record of the case on making an application in writing to the Registrar.(2)Subject to such terms and conditions as may be prescribed by the Chairman by a general or special order, a person who is not a party to the proceeding, may also be allowed to inspect the record of the case after obtaining the permission of the Registrar in writing.

12. Date and place of hearing to be notified.

- The Tribunal shall notify to the parties the date and place of hearing of the application in such manner as the Chairman may by general or special order direct or may fix date of hearing in the order sheet with information to the parties.

13. Officers under the Act to have powers of Civil Court.

- The Land Tribunal shall have, for purposes of enquiry in adjudicating a case, powers of a court functioning under the Civil Procedure Code, 1908; such as:-(i)Admission of evidence through affidavit.(ii)Summoning of a person, making his appearance mandatory and trying him on oath.(iii)Making the submission of documents mandatory.(iv)Passing orders as to costs.

14. Enquiries and proceedings under the Act to be judicial.

- All enquiries and proceedings of the Tribunal under the Act will be treated as Judicial Proceedings under Sections 193,196 and 228 of the Indian Penal Code, 1860 (XLV of 1860).

15. Delegation of powers for purposes of cognizance and hearing of offences.

- The Chairman of the Tribunal for purposes of the Provisions of Section 13 of the Act, may authorise an officer of the Tribunal to file complaint in the Court of the Chief Judicial Magistrate in whose Jurisdiction the land or part thereof involved in the proceedings before the Tribunal, is situate or in case such land or part thereof is situate in the Jurisdiction of more than one Chief Judicial Magistrate, he may authorise such officer to file complaint before any one of the Chief Judicial Magistrates.

16. Calendar of cases.

(1)The Tribunal shall draw up a calendar for hearing of cases and as far as possible, hear and decide the cases according to the calendar.(2)Every application and the cases and proceeding received on transfer shall be heard and decided, as far as possible, within six months from the date of registration.(3)The Tribunal shall have the power to decline prayer for adjournment and also to limit the time for oral arguments.

17. Action on applicant's default.

(1)Where on the date fixed for hearing of the application or on any other date to which such hearing may be adjourned, the applicant does not appear when the application is called for hearing, the Tribunal may, in its discretion, either dismiss the application for default or decide it on merits.(2)Where an application has been dismissed for default and applicant files an application for the restoration of the case within thirty days from the date of dismissal and satisfies the Tribunal that there was sufficient cause for his non appearance when the application was called for hearing, the Tribunal shall make an order for setting aside the order of dismissal of the application and restore the same:Provided, however, that where the case was disposed of on merits, the decision shall be by way of review.

18. Ex-parte hearing and disposal of application.

(1) Where on the date fixed for hearing the application or on any other date to which such hearing may be adjourned, the applicant appears and the opposite party does not appear when the application is called for hearing, the Tribunal may, in its discretion, either adjourn the hearing or hear and decide the application ex-parte. (2) Where an application has been fixed for hearing ex-parte against the opposite party such opposite party may apply to the Tribunal for an order to set aside the order for ex-parte hearing and if such opposite party satisfies the Tribunal that the notice was not duly served on him or that it was prevented by any sufficient cause from appearing when the application was called for hearing, the Tribunal may make an order setting aside the order for ex-parte hearing as against him upon such terms as it thinks fit and shall fix a date for proceeding further with the application: Provided that where the order for ex-parte hearing of the application is of such nature that it can not be set aside as against one of the opposite party only, the Tribunal may set it aside as against all or any of the other opposite party also.

19. Review application to be filed within thirty days.

- No application for review shall be entertained unless it is filed within thirty days of the date from which the order of which the review is sought.

20. Conditions as to passing of interim orders.

- Notwithstanding anything contained in any provisions of the Bihar Land Tribunal Act or any other Act or Manual as referred to in Section 9 of the Act or in any other law for the time being in force, the Tribunal may pass interim order as an exceptional measure, if it is satisfied for reasons to be recorded in writing, that it is necessary to do so for preventing any loss or damage being caused to the applicant or in any exceptional circumstance, during pendency of the application or proceeding before it as an exception.

21. Communication of order.

- Every interim or final order passed on any application shall be communicated to the concerned officer, whose order is questioned, for necessary compliance.

22. Decision to be by majority.

- If members of the Tribunal differ in opinion on any point, the point shall be decided according to the opinion of the majority.

23. Substitution of legal representatives.

(1) In case of death of a party during the pendency of the proceeding, the legal representatives of the deceased party may apply within ninety days of the date of such death for being brought on record

as necessary parties.(2)Where no application is received from legal representatives within the period specified in sub-rule (1), the proceeding against the deceased party shall abate:Provided that on the basis of reasonable and sufficient reasons, the Tribunal, on an application, may set aside the order of abatement and substitute the legal representative.

24. Adjournment of hearing.

- The Tribunal may, if sufficient cause is shown, at any stage of the proceeding, grant time to the parties or any one of them and adjourn the hearing of the application. The Tribunal may make order, as it thinks fit, with respect to cost occasioned by the adjournment.

25. Order to be signed and sealed.

(1)Every order of the Tribunal shall be in writing and shall be signed by the Chairman/ Member or members constituting the Bench, which passed the order and shall be sealed.(2)The order shall be pronounced in open court.

26. Orders and directions in certain cases.

- The Tribunal may pass such order or give such direction, as may be necessary or expedient to secure the ends of justice.

27. Supply of copies of orders and documents.

(1)Any party to the application or proceeding may apply for obtaining copy of order and/ or document on the record.(2)Application for copy shall be filed on Form prescribed there for in the Records Manual after affixing a court fee stamp of rupees five.(3)The copying section will requisition the required papers from the office of the Registrar and then will notify the required folios for supply of the copy applied for and on deposit of the required folios for supply of the copy applied for, the order and/or document shall be copied out on the folios and after proper comparison of the same, and putting signatures of the copying clerk and the comparer, a seal of certified to be true copy will be put thereon with signature of the incharge officer and thereafter the same will be supplied to the person applying for the copy.(4)The papers and the record, after the copies are supplied, shall be returned back to the office of the Registrar:Provided that the number of required folios shall be supplied within a period of seven days from the date of the notification and in case of non-submission of the folios within that period, the application for copy shall be rejected.

28. Powers and functions of the Registrar.

(1)The Registrar shall have the custody of the records of the Tribunal and he shall perform such other functions as are assigned to him under these Rules or by the Chairman.(2)The Registrar may, with the approval of the Chairman, delegate to any Officer of the Tribunal any of the function or power required by these Rules to be performed or exercised by the Registrar.(3)The official seal

shall be kept in the custody of the Registrar.(4)Subject to any general or special direction of the Chairman, the seal of the Tribunal shall not be affixed on any order, summon or other process save under the authority in writing of the Registrar.(5)The seal of the Tribunal shall not be affixed on any certified copy issued by the Tribunal save under the authority in writing of the Registrar.

29. Additional powers and duties of Registrar.

- In addition to the powers conferred elsewhere in these Rules, the Registrar shall have the following powers and duties, subject to any general or special order of the Chairman. -(i)To receive all applications and other documents including transferred proceedings or application.(ii)To decide all questions arising out of the scrutiny of the applications before they are registered.(iii)To require any application presented to the Tribunal to be amended in accordance with the Act and Rules.(iv)Subject to the direction of the respective Benches, to fix the date of first hearing of the applications or other proceedings and issue notices thereof;(v)To direct any formal amendment of records;(vi)To order grant of copies to parties to the proceedings;(vii)To dispose of all matters relating to the service of notices or other processes, applications for issue of fresh notices and for extending the time limit for filing such applications and to grant time not exceeding thirty days for filing a reply or rejoinder if any, and to place the matter before the Bench for appropriate orders after the expiry of the aforesaid period.(viii)To grant leave to inspect the record of the Tribunal.(ix)To requisition records from the custody of any court or other authority;(x)To receive applications within ninety days from the date of death for substitution of legal representatives of the deceased parties during the pendency of the application.(xi)To receive and dispose of applications by parties for return of documents.

30. Terms of pay, allowances and service conditions of the Chairman and Members.

(1)The Chairman will hold office for a period of five years from the date of assuming his Office, or till he attains the age of 70 (Seventy) years.(2)Every member will hold office for a period of five years from the date of assuming his office, or till he attains the age of 70 (Seventy) years.(3)The Chairman or a Member may, at any time, relinquish his post by a signed communication addressed to Secretary/ Principal Secretary, Department of , Revenue & Land Reforms, Government of Bihar.(4)The Chairman or a Member may be removed following the procedure prescribed in Section 7 of the Act.(5)(a)The pay, allowances and service conditions of the Chairman shall be the same as that of the Judge of the Patna High Court:Provided, The pay and allowances of the Chairman shall not be less than the pay and allowances admissible against the post held previously by the Chairman, immediately preceding appointment to the Tribunal.(b)The pay, allowances and service conditions of a Member shall be the same as that of the Principal Secretary to the Government of Bihar:Provided, the pay and allowances of a Member shall not be less than the pay and allowances admissible against the post held previously by the Member, immediately preceding appointment to the Tribunal.

31. Terms of pay, allowances and service conditions of the Officers and employees of the Tribunal.

(1) Need-based posts for the Tribunal shall be created by the State Government. The following posts may be included in need-based posts:- Secretary, Special Secretary, Additional Secretary, Joint Secretary, Deputy Secretary, Under Secretary, Section Officers, Assistants, Upper Division Clerks, Lower Division Clerks, Peshkars, Accountant, Daftari, process Peon, Peons, Sweepers etc. (2) The State Government will make available to the Tribunal the services of the officers and employees against the post created for the Tribunal. (3) The conditions of service, including the pay & allowances and matters relating to discipline and appeal etc. of the officers and employees of the Tribunal shall be governed by the pay scales/Rules/Codes etc. pertaining to the concerning officer/employee for the time being in force. (4) The officers and employees made available to the Tribunal by the State Government, shall, during the period of their posting in the Tribunal, be under the administrative control of the Chairman.