

The Bengal Land-Revenue Sales (West Bengal Amendment) Act, 1950

WEST BENGAL

India

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Act 7 of 1950

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The Bengal Land-Revenue Sales (West Bengal Amendment) Act, 1950 West Bengal Act 7 of 1950 [15th March, 1950.] An Act further to amend the Bengal Land-revenue Sales Act, 1859, in its application to West Bengal. Whereas it is expedient further to amend the Bengal Land-revenue Sales Act, 1859, in its application to West Bengal, for the purposes and in the manner hereinafter appearing ; It is hereby enacted as follows :-

1. Short title and extent.

(1) This Act may be called the Bengal Land-revenue Sales (West Bengal Amendment) Act, 1950. (2) It extends to the whole of West Bengal.

2. Application of Act.

- The Bengal Land-revenue Sales Act, 1859 (hereinafter referred to as the said Act), shall, in its application to West Bengal, be amended in the manner hereinafter provided.

3. Amendment of the preamble of Act 11 of 1859.

- In the preamble to the said Act, the words beginning with "and whereas it is expedient to provide for the voluntary registration of dependent taluks" and ending with "held at rents sufficient for the security of the revenue;" shall be omitted.

4. Substitution of new section for section 37.

- For section 37 of the said Act, the following section shall be substituted, namely :-"37. Rights of a purchaser of a permanently settled estate sold for its own arrears. - (1) The purchaser of an entire estate in the permanently settled districts of West Bengal sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed after the time of settlement and shall be entitled to avoid and annul all tenures, holdings and leases with the following exceptions :-(a)tenures and holdings which have been held from the time of the permanent settlement either free of rent or at a fixed rent or fixed rate of rent, and(b)(i)tenures and holdings not included in exception (a) above made, and(ii)other leases of land whether or not for purposes connected with agriculture or horticulture,existing at the date of issue of the notification for sale of the estate under this Act :Provided that notwithstanding anything contained in any law for the time being in force or in any lease or contract no person shall be entitled to hold under such a purchaser as is aforesaid any tenure, holding or lease coming within exception (b) above made, free of rent or at a low rent or at a rent or rate of rent fixed in perpetuity or for any specified period unless the right so to hold has been expressly recognised under any law for the time being in force by any competent civil or revenue court; and the purchaser shall be entitled to proceed in the manner prescribed by any law for the time being in force for the determination of a fair and equitable rent of such tenure, holding or lease.(2)For the purposes of this section-(a)(i)'tenure' includes a tenure as defined in the Bengal Tenancy Act, 1885, and(ii)'holding' includes a holding as defined in the Bengal Tenancy Act, 1885;(b)any rent which is lower than what has been entered in any record of rights prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, before the commencement of the Bengal Land-revenue Sales (West Bengal Amendment) Act, 1950, shall be presumed to be a low rent ;(c)section 75A of the Bengal Tenancy Act, 1885, shall not have any application."

5. Repeal of sections 38 to 51.

- Sections 38 to 51 (both inclusive) of the said Act are hereby repealed.

6. Substitution of new section for section 52.

- For section 52 of the said Act, the following section shall be substituted, namely :-"52. Rights of purchaser of an estate not permanently settled, sold for its own arrears. - The provisions of section 37 of this Act shall mutatis mutandis apply in the case of a purchaser of an estate in a district of West Bengal not permanently settled, sold under this Act for the recovery of arrears due on account of the same."

7. Certain suits and proceedings to abate and certain decrees and orders to be void.

(1)(a)Every suit or proceeding for the ejectment of any person from any land in pursuance of section 37 or section 52 of the said Act, and(b)Every appeal or application for review or revision arising out

of such suit or proceeding, pending at the date of commencement of this Act shall, if the suit, proceeding, appeal or application could not have been validly instituted, preferred or made had this Act been in operation at the date of the institution, the preferring or the making thereof, abate. (2) Every decree passed or order made, before the date of commencement of this Act, for the ejectment of any person from any land in pursuance of section 37 or section 52 of the said Act shall, if the decree or order could not have been validly passed or made had this Act been in operation at the date of the passing or making thereof, be void : Provided that nothing in this section shall affect any decree or order in execution whereof the possession of the land in respect of which the decree or order was passed or made, has already been delivered before the date of commencement of this Act. (3) Whenever any suit, proceeding, appeal or application abates under sub-section (1) or any decree or order becomes void under sub-section (2), all fees paid under the Court-fees Act, 1870, shall be refunded to the parties by whom the same were respectively paid.