

The Bihar Bakasht Disputes Settlement Act, 1947

JHARKHAND

India

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Act 13 of 1947

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The Bihar Bakasht Disputes Settlement Act, 1947 Bihar Act 13 of 1947 [Governor-General's assent published in the Bihar Gazette, Extraordinary, of the 21st April, 1947]. An Act to make certain provisions for the speedy settlement or decision of disputes between proprietors or tenure-holders and raiyats regarding possession of bakasht lands in the province of Bihar. Whereas it is expedient to make certain provisions for the speedy settlement or decision of disputes between proprietors or tenure-holders and raiyats regarding possession of bakasht lands in the province of Bihar; It is hereby enacted as follows:-

1. Short title and extent.

(1) This Act may be called the Bihar Bakasht Disputes Settlement Act, 1947. (2) It shall extend to the whole of the [State] [Substituted by A.L.O.] of Bihar.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,- (a) Bakasht land- (i) in its application to any area in which the Bihar Tenancy Act, 1885, is in force, means any land, other than proprietor's private land as defined in Section 120 of that Act, which a proprietor or tenure-holder claims to be cultivating with his own stock or by his own servants or by hired labour; and (ii) in its application to any area in which the Chotanagpur Tenancy Act, 1908 is in force, means any land, other than proprietor's privileged land as defined in Section 118 of that Act, which a proprietor or tenure-holder claims to be cultivating with his own stock or by his own servants or by hired labour; (b) "Board" means a Board appointed under section 3; (c) "dispute" means a dispute or difference regarding the possession of any bakasht land between a proprietor or tenure-holder and a person who claims to be in possession of the said land as a raiyati; (d) [a person shall be deemed to be "independent" for the purpose of his appointment as Chairman of a Board, if he is unconnected with the dispute referred to such Board or with any party directly affected by such dispute] ['and' omitted by Section 2 of Bihar Act 4 of 1949.]. (d1) ["notification" means a notification published in the

Official Gazette or in any manner the authority or officer issuing the notification deems best adapted for informing persons whom the notification concerns; and] [Inserted by Section 2(ii) by Section 2 of Bihar Act 4 of 1949.](e)the expressions "proprietor", "tenure-holder" and "raiyat shall have-(i)in their application to any area in which the Bihar Tenancy Act, 1885 is in force, the meanings assigned to them by that Act; and(ii)in their application to any area in which the Chotanagpur Tenancy Act, 1908, is in force, the meanings assigned to them by that Act.

3. Power of State Government to refer a dispute to Board.

- If in the opinion of the [State] [Substituted by A.L.O.] Government it is necessary or expedient so to do for the maintenance of peace or public order or for any other sufficient reason, the [State] [Substituted by A.L.O.] Government may by notification, refer any dispute, arising within the local limits of any subdivision in the [State] [Substituted by A.L.O.] of Bihar (whether any proceeding be or be not pending in a Criminal Court in regard to the whole or part of the subject of such dispute), to a Board to be appointed by the [State] [Substituted by A.L.O.] Government in this behalf for the purpose of bringing about an amicable settlement of such dispute and, if no such settlement can be brought about, for deciding the same in such manner as appears to the Board to be fair and equitable.

4. Constitution of the Board.

(1)A Board to be appointed by the [State] [Substituted by A.L.O.] Government under section 3 shall consist of a Chairman who shall be an independent person and two members to represent parties to the dispute; the person appointed as member to represent any party shall be appointed on the recommendation of that party:Provided that if any party does not recommend any person to represent him [or recommends a person who is not available] [Inserted by Section 2 of Bihar Act 27 of 1948.] within such time as the [State] [Substituted by A.L.O.] Government considers reasonable, the [State] [Substituted by A.L.O.] Government may appoint such person as it thinks fit to represent that party.(2)[If at any time before such Board has completed its work, the service of the Chairman or any member of such Board cease to be available, or any member of such Board fails to attend the meeting of the Board on two successive dates without showing cause to the satisfaction of the Chairman, the State Government may appoint any person to take his place and the proceeding shall be continued before such Board as so reconstituted] [Substituted by Section 2 of Bihar Act 22 of 1950.],

5. Finality of orders constituting Board.

- No order of the [State] [Substituted by A.L.O.] Government [or of any officer to whom powers have been delegated under section 14] [Inserted by Section 3 of Bihar Act 4 of 1949.] appointing a Board or any person as Chairman or member of a Board shall be called in question in any manner.

6. Consequences to ensue on reference.

(1)Where a dispute is referred to a Board under this Act, then anything notwithstanding contained in any other law-(a)the powers of a Criminal Court under section 145 of the Code of Criminal Procedure, 1898, (hereinafter referred to as the said Code), in so far as they relate to inquiry and decision as to possession of the subject of such dispute, shall be barred from the date of the notification under section 3 and until the dispute has been finally disposed of by the Board; and(b)any proceeding under section 145 of the said Code pending in regard to the whole or part of the subject of such dispute shall be discontinued except in so far as the continuance of such proceeding may be necessary for the exercise of the powers referred to in sub-section (2).(2)Nothing in this section shall be deemed to affect the powers of a Criminal Court to take such action as may be necessary for preventing a breach of the peace pending amicable settlement or decision by the Board.

7. Duty of Board to bring about amicable settlement of dispute.

(1)A Board to which a dispute is referred under section 3 shall, after giving such notice to the parties and in such manner as it thinks fit, endeavour to bring about an amicable settlement of the dispute, and for this purpose such Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits thereof and the right settlement thereof; and in so doing may do all such lawful things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.(2)Where such a settlement is brought about the Board shall record the same and give its decision accordingly.

8. Board to inquire into and decide the dispute in case no amicable settlement is reached.

- Where a Board does not succeed in bringing about an amicable settlement of the dispute, it shall make an inquiry into the same, receive such evidence as it considers necessary and without reference to the merits of the claims of any of such parties to a right to possess the subject of dispute, decide whether any and which of the parties was at the date of the notification issued under section 3 in possession of the said subject:Provided that if it appears to the Board that any party has within two months next before the date of the aforesaid notification been forcibly and wrongfully dispossessed, the Board may treat the party so dispossessed as if such party had been in possession at such date.(2)If the Board decides that one of the parties was or should under the proviso to sub-section (1) be treated as being in possession of the subject of the dispute, it shall pass an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction and when the Board proceeds under the proviso to sub-section (1), it shall further order that possession shall be restored to the party forcibly and wrongfully dispossessed.(3)If the Board is of opinion that none of the parties was in possession or is unable to satisfy itself as to which of them was in possession of the subject of the dispute, it shall give its decision accordingly and may further order that the said subject be attached until a competent Court has determined the rights of the parties thereto.(4)After the Board has

given its decision and passed such final orders, as may be necessary, it shall transmit the entire record of the reference to the Court of the Subdivisional Officer within the local limits of whose jurisdiction the subject of the dispute is situated and such Magistrate shall deal with such record and all matters that follow from the decision or from the final order of the Board as if the proceeding before the Board had been a proceeding started by such Magistrate under section 145 of the said Code and dealt with by him throughout and the decision and the final order given and made by the Board had been a decision and order given and made by such Magistrate in the proceeding last mentioned: Provided that nothing in this sub-section shall be deemed to authorise such Magistrate to revise or review the decision of the Board or to do anything which may have the effect of varying or modifying the substance of the Board's decision.

9. Opinion of majority to prevail.

- In the event of the members of a Board disagreeing, the decision of the majority shall prevail: Provided that nothing in this section shall be deemed to prevent any member of such Board to have on record his minute of dissent against such decision.

10. Form of decision.

- The decision of a Board shall be in writing and shall be signed by all the members of such Board. It shall contain such particulars as may be prescribed by rules made by the [State] [Substituted by A.L.O.] Government in this behalf: [Provided that failure on the part of any member of such Board to sign the decision of the Board shall not affect the validity of such decision] [Inserted by Section 3 of Bihar Act 29 of 1953.].

11. Effect of decision of Board.

- The decision of a Board shall not be subject to any appeal or revision and shall, notwithstanding anything contained in any other law, be as between the parties, conclusive evidence on the question of possession of the subject of the dispute on the date of the notification issued under section 3: Provided that any party aggrieved by the decision of the Board shall, within 3 years from the date of such decision, have a right to institute a suit in a competent Court for declaration of his title to the property comprised in such decision and for recovery of the same in so far as such relief be available without questioning the effect of the Board's decision on the question of possession of the subject of the dispute.

12. Board to follow its own procedure.

- Subject to the provisions of this Act and subject to any rules or directions that may be made or issued by the [State] [Substituted by A.L.O.] Government in this behalf, the procedure to be followed by the Board shall be such as it may consider just and convenient and the Board shall not be bound to follow any laws of evidence or procedure other than the procedure prescribed by or under this Act.

13. Power of Board to summon witnesses and compel production of documents.

- The Board shall have the same power regarding the summoning and attendance of witnesses and compelling the production of documents as a Civil Court has under the Code of Civil Procedure, 1908.

13A. [Continuance of proceedings after vesting of estate or tenure in the State. [Inserted by Section 3 of Bihar Act 29 of 1953.]

- If a dispute referred to a Board under section 3 is pending before it on the date on which the estate or tenure, in which the bakasht land to which the dispute relates is situated, has vested in the State under any provision of the *Bihar Land Reforms Act, 1950, the proceedings under this Act shall be continued until the Board has given its decision as if such estate or tenure, as the case may be, had not vested in the State; and the decision of the Board shall have the same effect as in Section 11.]

14. Delegation of powers of State Government.

- The [State] [Substituted by A.L.O.] Government may, by notification, delegate the powers vested in it by Section 3 and Section 4 to any officer not below the rank of [an Additional District Magistrate] [Substituted by Section 4 of Bihar Act 4 of 1949.] subordinate to the [State] [Substituted by A.L.O.] Government.

15. Power to make rules.

- The [State] [Substituted by A.L.O.] Government may make rules for carrying out the purposes of this Act.