

Bihar Land Disputes Resolution Rules, 2010

BIHAR

India

Bihar Land Disputes Resolution Rules, 2010

Rule BIHAR-LAND-DISPUTES-RESOLUTION-RULES-2010 of 2010

- Published on 11 February 2010
- Commenced on 11 February 2010
- [This is the version of this document from 11 February 2010.]
- [Note: The original publication document is not available and this content could not be verified.]

Bihar Land Disputes Resolution Rules, 2010 Published vide Notification No. 95(8) Ra, dated 11.2.2010 Notification No. 95(8) Ra Dated 11.2.2010. - In exercise of the powers conferred by Section 17 of the Bihar Land Disputes Resolution Act, 2009 (Act 4 of 2010) the State Government hereby makes the following Rules :-

Chapter 1

1. Short Title, Extent and Commencement.

- (i) These Rules may be called the Bihar Land Disputes Resolution Rules, 2010. (ii) Its extent shall be the whole of the State of Bihar. (iii) They shall come into force immediately.

2. Definitions.

- In these Rules, unless the contrary otherwise requires. -(i)'Act' means the Bihar Land Disputes Resolution Act, 2009. (Act 4 of 2010). (ii)'Section' means the Section of the Bihar Land Disputes Resolution Act, 2009. (Act 4 of 2010). (iii)'Competent Authority' means the Deputy Collector Land Reforms or any other officer authorised to discharge the functions and duties of Deputy Collector Land Reforms in the Sub-division. (iv)'Collector' connotes the Collector of the concerning district. (v)'Commissioner' connotes the Commissioner of the concerning Division. (vi)'Land' connotes Government land, or raiyati land with structure, if any. (vii)'Allotted Land or Settled Land' connotes the land which is allotted or settled or on which raiyati rights have accrued under any of the Acts mentioned in Schedule-1 to the Public Land Disputes Resolution Act, 2009 (Act 4 of 2010). (viii)'Allottee or Settlee' connotes the person with whom land has been settled by the Competent Authority or the person who has acquired raiyati rights over the land, under any of the Acts contained in Schedule-1 of this Act. (ix)'Raiyat' connotes a raiyat as defined under the

provisions of the Bihar Tenancy Act, 1885.(x)'Government' means the Government of Bihar.(xi)'Prescribed authority or officer' under Section-4 (i) of the Act connotes the following :- (a) Principal Secretary/Secretary, Department of Revenue & Land Reforms, Government of Bihar, Patna or an officer authorised by him for the purposes of this Act.(b) Principal Secretary/Secretary, Chief Secretary's Cell Public Grievances, Department of Cabinet Secretariat, Government of Bihar, Patna or an officer authorised by him for the purposes of this Act.(c) Principal Secretary/Secretary, Chief Minister's Secretariat, Bihar or an officer authorised by him for the purposes of this Act.(d) Commissioner of the Division.(e) Collector of the District.(xii)'Advocate' shall have the same meaning as is assigned to it in the Advocates Act, 1961 (25 of 1961).(xiii)'Legal representative' means a person who in law represents the estate of the deceased.(xiv) Words or expressions not defined in the Act or the Rules shall have the same meaning as assigned in the respective Acts contained in Schedule-1 to this Act.

Chapter 2

Disposal of Cases by Competent Authority

3. Procedure for filing applications before the Competent Authority.

- (i) An application shall be presented by the applicant in person or by an agent or by a duly authorised advocate in the land disputes section of the office of the Competent Authority. The Section Officer or any other Assistant authorised by the Competent Authority shall grant a receipt against the application received and make entries in a Register of applications received, which will be maintained in Form-1.(ii) The application under sub-rule (i) shall be presented in triplicate in a paper book form.(iii) The Competent Authority 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.Explanation. - Cases received in the office of the Competent Authority on reference from the prescribed authority or officer under Section 4(i) of the Act shall be given fresh numbers and shall be processed and disposed off in accordance with the procedure delineated in these Rules.

4. Place of filing application.

- The application shall ordinarily be filed by or on behalf of the applicant in the office of the Competent Authority.

5. Application fee.

- (i) Every application filed with the Competent Authority 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 Competent Authority is satisfied that the applicant is unable to pay the prescribed court fee on ground of indigence, it may exempt such applicant from the payment of court fee. The applicant will have to file a certificate/proof regarding the aforesaid exemption factors, to the satisfaction of the Competent Authority.(ii) If application is

filed through a lawyer, it should be accompanied by a proper Vakalatnama with stamp thereon and also with welfare stamp of rupees five thereon. In case the application is filed through agent, it should be accompanied by proper authorization by the applicant.

6. Contents of application.

- (i) 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 may be numbered consecutively. (ii) Every application shall be, to the extent possible, typed in double space on one side on thick paper of good quality. (iii) It shall not be necessary to present a separate application to seek an interim order or direction if the same is prayed for in the original application. (iv) 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. (v) The following documents shall accompany the application, to the extent possible :- A. (i) An attested true copy of the order, if any, against which or concerning which the application is filed. (ii) Copies (Photostat/attested) 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 (A) may 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". (vi) The pleadings shall be verified in the same manner as provided for in Order-VI Rule-15 of the Code of Civil Procedure, 1908.

7. Scrutiny of applications.

- (i) The Section Officer or the Assistant authorised by him under sub-rule (i) of Rule 3, shall endorse on every application the date on which it is presented or deemed to have been presented under the Rule and shall sign the endorsement. (ii) If, on scrutiny, the application is found to be in order, it shall be duly registered and given a serial number. (iii) If the application, on scrutiny, is found to be defective and the defect noticed is formal in nature, the Section Officer or authorised Assistant may allow the concerning party to rectify the same and if the defect is not formal in nature, the Section Officer or authorised Assistant may allow the applicant such time to rectify the defect, as he may deem necessary. (iv) If the applicant fails to rectify the defect within the time allowed under sub-rule (iii), the Section Officer may, by order and for reasons to be recorded in writing, decline to register the application and inform the applicant accordingly. (v) 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 competent authority and such appeal may be dealt with and disposed off by the competent authority or in his absence, any officer authorised by the Sub-Divisional Officer by special or general order, whose decision thereon shall be final.

8. Mode of service of notice or order.

- (i) 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 in-charge of the land or part thereof to which the notice or order relates.(ii)Where the person on whom the notice or order is to be served and his agent in-charge of the land to which the notice or the order relates, can not be found and also 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.(iii)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.(iv)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, cannot 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.(v)The serving officer shall, in all cases in which the notice or order has been served under sub-rules (ii), (iii) or (iv), 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.(vi)Notwithstanding anything contained in the foregoing sub-rules the competent authority shall, in cases of service of notice or order under sub-rule (iv) 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;(vii)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.

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

- (i) 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 form in the office of the competent authority within a fortnight's time after service of notice of the application on him.(ii)In the reply filed under sub-rule (i), the opposite party shall specifically admit, deny or explain the facts stated and grounds taken by the applicant in his application and may state such additional facts as may also be found necessary for a just decision of the case.(iii)The opposite party shall also serve a copy of reply alongwith documents as referred to in sub-rule (i) on the applicant or his lawyer, if any, and file proof of such service alongwith the reply.(iv)The Competent Authority may allow one week's time to the applicant or the complainant for filing of rejoinder, documentary evidence, if any, and a list of witnesses, if any, to be examined by him.(v)The pleadings shall be verified in the same manner as provided for in Order VI, Rule 15 of the Code of Civil Procedure, 1908.

10. Perusal of records.

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

11. Date and place of hearing to be notified.

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

12. Action on applicant's default.

- (i) 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 Competent Authority may, in its discretion, either dismiss the application for default or decide it on merits.(ii)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 Competent Authority that there was sufficient cause for his non appearance when the application was called for hearing, the Competent Authority shall make an order for setting aside the order of the dismissal of the application and restore the same.

13. Ex-parte hearing.

- (i) 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 Competent Authority may, in its discretion, either adjourn the hearing or hear and decide the application ex-parte.(ii)Where an application has been fixed for hearing ex-parte against the opposite party such opposite party may apply to the Competent Authority for an order to set-aside the order for ex-parte hearing and if such opposite party satisfies the Competent Authority 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 Competent Authority 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 parties only, the Competent Authority may set it aside as against all or any of the other opposite parties also.

14. Adjournment of hearing.

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

15. Hearing, local enquiry, examination of witnesses and disposal of the case.

- (i) After completion of the pleadings, the Competent Authority shall hear the parties and dispose off the case on the basis of the pleadings of the parties if no further evidence or local enquiry is needed; subject to general and specific provisions of the Act and the Rules, in this regard. (ii) If local enquiry is required, the Competent Authority may himself hold the enquiry or authorise any other public servant or Advocate to conduct the local enquiry and submit the report. The Competent Authority may also issue commission for local enquiry. (iii) If the Competent Authority considers it necessary to examine witnesses, he shall afford opportunity to the parties to the dispute to produce witnesses in support of the application or complaint and in rebuttal thereof. The Competent Authority shall ensure that witnesses are produced by the parties to the dispute without undue delay and shall also ensure that the examination of witnesses is conducted on day to day basis. (iv) The Competent Authority, on conclusion of the hearing, perusal of report of local inquiry, if any, and on examination of witnesses, if any, shall finally hear the parties and pass appropriate order in accordance with law. (v) The Competent Authority may pass an interim order of injunction in case of threatened, unauthorised and unlawful dispossession or unauthorized and unlawful demolition of structure constructed over the land in dispute. (vi) The Competent Authority shall dispose off cases by passing a reasoned order.

16. Calendar of cases and time limit for disposal.

- (i) The Competent Authority shall draw up a calendar for hearing of cases and as far as possible, hear and decide the cases according to the calendar. (ii) Every application and the cases and proceedings received on transfer shall be heard and decided, as far as possible, within three months from the date of registration. (iii) The Competent Authority shall have the power to decline prayer for adjournment and also to limit the time for oral arguments.

17. Abatement of proceeding.

- For purposes of Section-10 of the Act, the applicant shall be responsible for obtaining an abatement of a proceeding lying in a court other than the ones mentioned in Schedule-1 of the Act in which the issues are the same as the issues in a case under this Act. If the same is not done, the application shall stand dismissed. Consequent upon the aforesaid abatement, the issues in the case under this Act, shall be disposed off in accordance with the provisions of this Act.

18. Reference to Competent Magistrate.

- The Competent Authority for purposes of Section 11 of the Act, may, if he is, in course of proceeding before him, satisfied that any of the parties has committed a criminal act or there is likely to be a breach of peace, refer it to the court of a Competent Magistrate for proceeding in accordance with the provisions contained in the Criminal Procedure Code.

19. Periodical report.

- For purposes of Section 12 (1) of the Act, the Competent Authority shall submit periodical reports in Form 2(A) and 2(B) of the Rules every 3 months to the Collector furnishing informations therein regarding cases disposed off by him.

20. Calling for a report.

- For purposes of Section 12 (2) of the Act, the Collector may call for a report from the Competent Authority in Form 3 of the Rules from time to time relating to the final adjudication of cases instituted before him.

21. Reviewing the functioning of the Competent Authority.

- It shall be open to the Collector to review the related functioning of the Competent Authority from time to time and if on such review the Collector is satisfied that cases are not being disposed off expeditiously without sufficient cause, he shall immediately report the matter, with facts and figures, under a sealed cover, to the Department of Revenue & Land Reforms, Government of Bihar, for necessary action. The aforesaid report shall be submitted through the Commissioner, with the latter's comments.

22. Attachment of standing crop and sale thereof.

- (i) The Competent Authority may, by order, attach the standing crop over the disputed land in accordance with Section 16 (1) of the Act. (ii) The Competent Authority may order the sale of standing crop, the deposit of sale proceeds thereof and the delivery of sale proceeds in accordance with Section 16 (2) of the Act.

Chapter 3

Appeals

23. Appeal before the Commissioner.

- (i) Any party aggrieved by the order passed by the Competent Authority may file an appeal before the Commissioner, within whose jurisdiction the order has been passed, within a period of thirty

days from the date of the order.(ii)If the Commissioner is satisfied that there was sufficient cause for not filing the appeal within thirty days, he may receive and dispose off the appeal beyond the period of thirty days by extending it by another thirty days.(iii)The Commissioner shall issue notices to the contesting parties allowing them 15 days time for appearance and submission of a reply to the appeal, if any.(iv)Thereafter, the Commissioner shall hear the appeal and may pass such order allowing, modifying, reversing or affirming the order passed by the Competent Authority as he may deem fit in accordance with law.

Chapter 4

General

24. Substitution of legal representatives.

- (i) In case of the 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.(ii)Where no application is received from legal representatives within the period specified in sub-rule (i), the proceeding against the deceased party shall abate:Provided that on the basis of good and sufficient reasons, the Competent Authority on an application, may set aside the order of abatement and substitute the legal representative.

25. Conditions as to passing of interim orders.

- Notwithstanding anything contained in any provisions of the Bihar Land Disputes Resolution Act or any other Act as referred to in Schedule-1 of the Act or in any other law for the time being in force, the Competent Authority or the Commissioner may pass an interim order as an exceptional measure, if he 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 the pendency of the application or proceeding before him as an exception.

26. Order to be signed and sealed.

- (i) Every order of the Competent Authority shall be in writing and shall be signed by him and shall be sealed.(ii)The order shall be pronounced in open court.

27. Orders and directions in certain cases.

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

28. Supply of copies of orders and documents.

- (i) Any party to the application or proceeding may apply for obtaining copy of order and/or document on the record.(ii)Application for copy shall be filed in the form prescribed for in the Records Manual after affixing a court fee stamp of rupees five.(iii)The copying section will requisition the required paper from the office of the Competent Authority and after that will notify the required folios for supply of the copy applied for and on deposit of the required folios for the 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 the signature of the in-charge officer and thereafter, the same will be supplied to the person applying for the copy.(iv)The papers and the record, after the copies are supplied, shall be returned back to the office of the Competent Authority: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 the non-submission of the folios within that period, the application for copy shall be rejected.

29. Communication of order.

- Every interim or final order passed on any application shall be communicated to all concerned, for necessary action.

30. Execution of order.

- For purposes of Section 15 of the Act, the Competent Authority shall execute the order passed by him subject to order, if any, passed in appeal. If no appeal is filed within the prescribed period he shall proceed to execute the said order either himself or authorise any other officer or employee to execute the same.

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

- The officers under the Act 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.

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

- All enquires or proceeding of the Officers under the Act will be treated as judicial proceedings under Sections 193,196 and 228 of the Indian Penal Code (XLV of 1860).