

The Bihar Land Disputes Resolution Act, 2009

BIHAR

India

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Act 4 of 2010

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The Bihar Land Disputes Resolution Act, 2009(Bihar Act 4 of 2010)Published in Bihar Gazette (Extraordinary) No. 32, dated 8th January, 2010.Preamble. - Whereas, in the State of Bihar, disputes relating to record of rights, boundaries, entries in revenue records, unlawful occupation of raiyati land and forcible dispossession of allottees and settlees of public land, generate problems and cause unnecessary harassment to bona fide allottees/settlees, raiyats or occupants;Whereas, such disputes with respect to raiyati land or public land allotted in favour of different classes of allottees are unnecessarily occupying major space of Civil Courts and Hon'ble High Court and which should otherwise have been resolved by the Revenue Authorities, who may be better equipped to deal with such disputes having regard to their continued presence in the field offices and their expertise in Revenue Administration,Whereas, in larger public interest it is deemed necessary to provide for effective and speedy mechanism to resolve such disputes which give rise to major turbulence if not addressed immediately and effectively;And, Whereas, it has been found in analysis of data relating to nature of disputes that they mostly appertain to matters connected with the Record of Rights, partition of jamabandi, forcible dispossession of allottees/raiya, boundary disputes etc. and in this context, the administration of the following Acts is involved:(1) The Bihar Land Reforms Act, 1950,(2) The Bihar Tenancy Act, 1885,(3) The Bihar Privileged Persons Homestead Tenancy Act, 1947,(4) The Bihar Bhoodan Yagna Act, 1954,(5) The Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) Act, 1961,(6) The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956,And, Whereas, different forums and procedures have been provided for the resolution of disputes under the above referred Acts and it is considered expedient to provide a uniform and common forum, procedure and mechanism which would achieve the objective of effective, efficacious and speedy resolution of disputes.Be it enacted by the Legislature of the State of the Bihar in the Sixtieth year of the Republic of India as follows :-

1. Short Title, Extent and Commencement.

(1)This Act may be called The Bihar Land Disputes Resolution Act, 2009.(2)It shall extend to the whole of the State of Bihar.(3)It shall come into force from such date as notified by the Government

in the Bihar Gazette.

2. Definitions.

- In this Act, unless the context otherwise requires: (a) "Competent Authority" shall be Deputy Collector Land Reforms or any officer assigned to discharge the functions and duties of Deputy Collector Land Reforms in the Sub-division. (b) "Collector" connotes the Collector of the concerning district. (c) "Commissioner" connotes the Commissioner of the concerning Division. (d) "Land" connotes Government land, raiyati land, with structure, if any. (e) "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 this Act. (f) "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 to this Act. (g) "Raiyat" connotes a raiyat as defined under the provision of the Bihar Tenancy Act, 1885. (h) "Government" means Government of Bihar. (i) "Words or expressions" not defined in this Act shall have the same meaning as assigned in the respective Acts contained in Schedule-1 to this Act.

3. Overriding effect of procedure prescribed under this Act.

- Notwithstanding anything contained in the following Acts, namely :-(i) The Bihar Land Reforms Act, 1950 (ii) The Bihar Tenancy Act, 1885 (iii) The Bihar Privileged Persons Homestead Tenancy Act, 1947 (iv) The Bihar Bhoodan Yagna Act, 1954 (v) The Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) Act, 1961 (vi) The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956. The procedure prescribed hereinafter, in this Act, shall be applicable for resolution of any dispute arising out of or under any of the aforesaid Acts to the extent this Act has covered such disputes and has provided Forum, procedure and mechanism for their resolution.

4. Jurisdiction and authority to resolve disputes.

(1) The Competent Authority shall have jurisdiction and authority to hear and adjudicate, on an application or complaint or on any application referred to by a Prescribed Authority or officer, any issue arising out of following types of disputes:-(a) Unauthorized and unlawful dispossession of any settlee or allottee from any land or part thereof, settled with or allotted to him under any Act contained in Schedule-1 to this Act by issuance of any settlement document/parcha by a Competent Authority; (b) Restoration of possession of settled/allotted land in favour of legally entitled settlee/allottee or his successors/heirs, upon adjudication of unauthorized and unlawful dispossession; (c) Threatened dispossession of a legally entitled settlee/allottee; (d) Any of the matters enumerated in (a), (b) and (c) above appertaining to raiyati land; (e) Partition of land holding; (f) Correction of entry made in the Record of Rights including map/ survey map; (g) Declaration of the right of a person; (h) Boundary disputes; (i) Construction of unauthorized structure; and (j) Lis pendens transfer. (2) The Competent Authority shall not have jurisdiction to review or reopen any finally concluded and adjudicated proceeding under any of the Acts contained in Schedule-1. The Competent Authority shall exercise his authority for resolving the dispute brought before him on the basis of any final order passed by any of the authorities empowered to do

so in the Acts contained in Schedule-1 of this Act.(3)The Competent Authority shall not have jurisdiction to adjudicate any fresh rights of allottee/settlee or a raiyat which is not yet determined and is required to be determined in accordance with provisions contained in any of the Acts contained in Schedule-1:Provided that where rights of allottee/settlee or raiyat are already determined under any of the Acts contained in Schedule-1, the Competent Authority shall have jurisdiction to entertain cases appertaining to matters enumerated in sub-section

(1).(4)Notwithstanding anything contained in sub-section (2) and (3) hereinabove, if no provision is made in any of the Acts contained in Schedule-1 for determination of rights of allottee/settlee or raiyat and claimed right is yet to be determined, it shall be open to the Competent Authority to finally determine such right.(5)The Competent Authority, wherever it appears to him that the case instituted before him involves complex question of adjudication of title, he shall close the proceeding and leave it open to parties to seek remedies before the competent Civil Court.

5. Competent Authority to have powers of Civil Court.

- The Competent Authority shall have the same powers in making enquiries under this Act, as are vested in a court under the Code of Civil Procedure, 1908 (V of 1908), in trying a suit, in respect of:(a)admission of evidence by affidavits;(b)to issue summons for ensuring the attendance of any person and examining him on oath;(c)compelling the production of documents;(d)award of cost;(e)to call for any report or order for local enquiry; and(f)to issue commission for local enquiry or order examination of witnesses.

6. State to be a necessary party in certain cases.

- Notwithstanding anything contained in any provision in any law for the time being in force, in all cases of civil nature, concerning a land or a portion thereof, and in which one of the parties to the case is an allottee or settlee under Section-2 of the Act, the State shall be a necessary party.

7. Summary disposal of proceeding.

- All proceedings under the Act shall be disposed off summarily in accordance with the provisions of the Act and Rules framed under the Act.

8. Protection of action taken under the Act.

(1)No suit, prosecution or other legal proceeding shall be maintained against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any Rules made thereunder.(2)No suit or other legal proceeding shall be maintained against the State for any damage caused, or likely to be caused, or any injury suffered or likely to be suffered by virtue of any provision of the Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

9. Expeditious Resolution of Disputes.

(1)The Competent Authority shall take all possible steps for expeditious resolution of disputes and shall ensure final adjudication within a maximum period of three months from the date of the institution of the case before him.(2)The Competent Authority shall not allow adjournment to the parties without sufficient cause.(3)Failure to dispose off within stipulated period without sufficient cause may call for disciplinary action against him.

10. Cognizance of cases filed under this Act.

(1)No other Court except the Courts mentioned in Schedule-2 shall take cognizance of a case filed under this Act.(2)Any proceeding lying in a court other than the ones mentioned in Schedule-1 of the Act in which the issues raised are the same as the issues in a case under this Act, shall abate.(3)[After the abatement of the case under sub-section (2), the case filed under this Act shall be adjudicated and disposed off in accordance with the provisions of this Act.] [Inserted by Bihar Act 21, 2010.]

11. Reference to Magistrate.

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

12. Power of Collector to exercise superintendence, supervision and control over the Competent Authority.

(1)The Competent Authority shall submit periodical report, as prescribed in the Rules, every three months to the Collector furnishing informations therein regarding disputes resolved by him.(2)The Collector may call for a report from a Competent Authority from time to time relating to final adjudication of cases instituted before him.(3)It shall be open to the Collector to review the related functioning of the Competent Authority from time to time and if on review the Collector is satisfied that cases are not being disposed off expeditiously without sufficient cause he shall immediately report the matter to the Government for necessary action.

13. Procedure for resolution of disputes.

(1)Any aggrieved person may file an application or complaint before the Competent Authority within whose jurisdiction the disputed land or structure is situated.(2)On receipt of the application or complaint, the Competent Authority shall proceed to issue notice to the parties concerned allowing them a fortnight's time from receipt of the notice to file their response and documentary evidence, if any.(3)After the response is filed by the opposite party, the Competent Authority may allow one week's time to the applicant or the complainant to file his rejoinder, documentary evidence, if any,

and a list of witnesses, if any, to be examined by him.(4)After completion of the pleading, the Competent Authority shall hear the parties and dispose off the case on the basis of pleading of the parties if no further evidence or local enquiry is needed.(5)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.(6)If the Competent Authority considers it necessary to examine witnesses then he shall afford opportunity to the parties to 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.(7)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.(8)The Competent Authority shall follow the above procedure where he takes cognizance of cases on reference made by a prescribed authority or officer.(9)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.(10)The Competent Authority shall dispose off cases by passing a reasoned order.(11)Detailed dispute resolution procedure shall be prescribed by the Government by making suitable Rules.

14. Appeal before the Commissioner.

(1)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.Provided that the Commissioner may receive and dispose off the appeal beyond the period of thirty days by extending it by another thirty days if he is satisfied that there was sufficient cause for not filing the appeal within thirty days.(2)On receipt of appeal, the Commissioner shall immediately cause notice to be issued to the contesting parties allowing 15 days time for appearance and submit reply to the appeal, if any.(3)The Commissioner shall thereafter proceed to 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.(4)The order passed by the Commissioner shall be final and no further appeal or revision shall lie before any other authority.

15. Execution of the order passed by the Competent Authority.

- The Competent Authority shall execute the order passed by him subject to order, if any, passed in appeal:Provided that 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.

16. Attachment of standing crop over the disputed land.

(1)The Competent Authority may, if he is satisfied, that standing crop over the disputed land is required to be attached in the interest of justice, he may pass appropriate order and attach the standing crop over the disputed land.(2)The Competent Authority may order the sale of standing

crop during the pendency of a proceeding before him and the sale proceeds shall be kept in Government account until disposal of the case and subsequently, the sale proceeds shall be delivered to the parties in terms of order passed by him, subject to order, if any, passed in appeal.

17. Power of the Government to make Rules.

(1)The Government may, by Notification in the Official Gazette, make Rules to carry out the purposes of the Act.(2)In particular and without prejudice to the generality of the foregoing powers the Rules may provide for all or any of the following matters, namely :-(i)the manner in which summary disposal of proceeding;(ii)the manner in which reports and returns are to be submitted by the Competent Authority;(iii)the manner in which applications shall be heard by the Competent Authority;(iv)the manner in which any amount shall be deposited in the Government Account;(v)the powers of the Commission appointed for local enquiry;(vi)the maintenance of records and registers and display of notices;(vii)the manner in which application or complaint shall be filed;(viii)any other matter which is required to be, or may be, prescribed.

Schedule 1

1. The Bihar Land Reforms Act, 1950

2. The Bihar Tenancy Act, 1885

3. The Bihar Privileged Persons Homestead Tenancy Act, 1947

4. The Bihar Bhoodan Yagna Act, 1954

5. The Bihar Land Reforms (Fixation of Ceiling and Acquisition of Surplus Land) Act, 1961

6. The Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956

Schedule 2

S. No.	Court of Original Jurisdiction	Court of Appeal
1	2	3
1	Deputy Collector Land Reforms	Commissioner