

## **R.M.M. Law College, Saharsa**

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**L.L.B Part- 3<sup>rd</sup>**

**Subject- Ceiling Act**

**Paper- 4<sup>th</sup>**

**Date- 19/09/2020**

**Topic- How acquisition of surplus land has been made? Discuss the restrictions imposed on future acquisition of land in addition to the ceiling area .**

### **Acquisition of Surplus Land**

15. Acquisition of Surplus land. - [(1) The State Government or the Collector of the district specially so empowered in this behalf shall after the statement under sub-section (1) of Section 11 has been finally published and subject to appeal or revision, if any, acquire, the surplus land by publishing in the Official Gazette of the district, a notification to the effect that such land is required for a public purpose and such publication shall be conclusive evidence of the notice of the acquisition to the person or persons concerned :

Provided that without awaiting the result of appeal or revision the State Government or the Collector of the district specially so empowered in this behalf may proceed to acquire such of the surplus land of the land-holder in respect of which there is no claim or dispute or which is admitted by the land-holder to be surplus:

Provided further that a copy of the notification shall also be sent to the landholder concerned by registered post with acknowledgement due.]

[(2) On the publication of the notification under sub-section (1), the land specified in the notification shall, subject to the provisions of this Act, be deemed to have been acquired for the purposes of this Act and vested in the State free from all encumbrances with effect from the date of the notification and all right, title and interest of all persons claiming interest therein shall, with effect from that date, be deemed to have been extinguished.]

[(3) Subject to [\* \* \* \*] any order made on appeal or revision the Collector may at any time after the publication of the notification under sub-section (1) take possession of any land specified in the said notification and may for that purposes use such force as may be necessary.

(4) if the mortgagor becomes entitled to recover possession of his mortgaged land under Section 12 of the Bihar Money-Lenders Act, 1974 (Bihar Act XXII of 1975) and the area of such mortgaged land, together with the land, if any, held by him anywhere in the State, exceeds the ceiling area, then the provisions of Section 18 shall apply thereto as if such mortgaged lands were in acquisition under that section and thereafter the land which the mortgagor is not entitled to retain shall be deemed to have been acquired for the purposes of this Act and vested in the State in accordance with sub-section (2).]

[15A. Voluntary declaration of surplus land. - (1) Notwithstanding any thing contained in Section 15 or any other provisions of this Act, where a Notification under Section 6 has been published, the State Government may, pending final publication of the Statement under sub-section (1) of Section 11, issue notice to any land-holder or to all land holders generally, calling upon him or them to surrender to the State such area which according to him or them is owned or held in excess of the ceiling area prescribed under Section 4.

(2) The land-holder to whom such notice is issued under sub-section (1) may thereupon make an application to the Collector in the prescribed form offering to make such surrender.

(3) If the land-holder is a minor or of unsound mind, the offer of surrender shall be made by his guardian.

(4) Where the land-holder or his guardian, as the case may be, makes an application to the Collector offering to surrender his surplus land the State Government shall on the recommendation of the Collector acquire the surplus land specified in the application or any part thereof by publishing a notice in the manner provided in sub-section (1) of Section 15 and thereupon such land shall be deemed to have vested in the State Government under sub-section (2) of Section 15 of the Act.

(5) The order passed under sub-section (4) shall be subject to provisions contained in Section 11 relating to the final publication of the draft statement and the Collector shall, at the time of making final publication of draft statement under Section 11, make such alteration or modification in the order passed under subsection (4) as may be necessary.]

### **Restriction on Future Acquisition**

16. Restriction on future acquisition by transfer, etc. - (1) No person shall, after the commencement of this Act, either by himself or through any other person, acquire or possess by transfer, exchange, lease, mortgage, agreement or settlement any land which together with the land, if any, already held by him exceeds in the aggregate the ceiling area.

(2) (i) After the commencement of this Act, no document incorporating any transaction for acquisition or possession of any land by way of transfer, exchange, lease, mortgage, agreement

or settlement shall be registered, unless a declaration in writing duly verified is made and filed by the transferee before the registering authority under the Indian Registration Act, 1908 (XVI of 1908), as to the total area of land held by himself or through any other person any where in the State.

(ii) No such registering authority shall register any document evidencing any transaction if, from the declaration made under clause (i), it appears that the transaction has been effected in contravention of the provision of sub-section (1).

(iii) No land shall be transferred, exchanged, leased, mortgaged, bequeathed or gifted without a document registered in accordance with the provisions of the Indian Registration Act, 1908 (XVI of 1908).

(3) (i) When any transfer of land is made after the commencement of the Act to any person other than a co-sharer or a raiyat of adjoining land, any co-sharer of the transferor or any raiyat holding land adjoining the land transferred, shall be entitled, within three months of the date of registration of the document, of transfer, to make an application before the Collector in the prescribed manner for the transfer of the land to him on the terms and conditions contained in the said deed:

Provided that no such application shall be entertained by the Collector unless the purchase money together with a sum equal to ten percent thereof is deposited in the prescribed manner within the said period.

(ii) On such deposit being made the co-sharer or the raiyat shall be entitled to be put in possession of the land irrespective of the fact that the application under clause (i) is pending for decision:

Provided that where the application is rejected, the co-sharer or the raiyat, as the case may be, shall be evicted from the land and possession there of shall be restored to the transferee and the transferee shall be entitled to be paid a sum equal to ten per cent of the purchase money out of the deposit made under clause (i).

(iii) If the application is allowed, the Collector shall by an order direct the transferee to convey the land in favour of the applicant by executing and registering a document of transfer within a period to be specified in the order and, if he neglects or refuses to comply with the direction, the procedure prescribed in Order 21, Rule 34 of the Code of Civil Procedure, 1908 (V of 1908), shall be, so far as may be, followed.

[(4)(i) After the repeal of sub section-(3) of Section-16 of this Act, all cases or proceedings pending before the State Government, the Board of Revenue, the Bihar Land Tribunal, the Divisional Commissioner, the Collector, the Additional Collector, the Deputy Collector Land Reforms or in any other Court, shall be deemed to be abated.

(ii) Pursuant to the repeal of sub section-(3) of Section-16 of this Act, any purchase money together with a sum equal to 10% thereof, already legally deposited shall be refunded, without any interest, to the depositor.]

17. Penalty for contravention of the provision of Section 16. - (1) No right, title or interest shall accrue in favour of a transferee in any land in excess of his ceiling area by virtue of any transaction made in contravention of the provisions of Section 16 and as a penalty for such transaction the right, title and interest of the transferee in such excess land purported to be transferred by such transaction to him shall, on a declaration made by the Collector in this behalf for reasons to be recorded, become void with effect from the date of such declaration:

Provided that-

(a) no such declaration shall be made unless the parties concerned are given a reasonable opportunity of being heard and adducing evidence;

(b) nothing in this Section shall affect the liability, if any, of the transferee for payment of the consideration for such transaction; and

(c) no suit or proceeding by the transferee shall lie in any court for recovery of the consideration for any such transaction.

(2) In all such cases of transfer, the transferor or the transferee, his assignee, or any other person in occupation of the land on his behalf, or through him, shall be liable to be ejected by the Collector who may, for that purpose, use such force as may be necessary.

(3) If the transaction is-

(a) one of sale, the land shall be liable to be forfeited to the State; and

(b) not one of sale, the land shall be restored to the transferor on such terms and conditions as may be prescribed:

Provided that the transferor and transferee shall be given a reasonable opportunity of being heard and adducing evidence before an order is made under this sub-section.

18. Restriction on future acquisition by inheritance, bequest, gift, or on alluvial action. - (1) If, after the commencement of this Act, any person, either by himself or through any other person acquires by inheritance, bequest or gift, or by alluvial action, any land which, together with the land, if any, already held by him anywhere in the State, exceeds in the aggregate the ceiling area, then he shall, within ninety days of such acquisition by inheritance, bequest or gift, and within six months thereof by alluvial action, submit to the Collector a return by registered post, with acknowledgement due, giving the particulars specified below and selecting the land he desires to retain:-

- (i) the area and description of such land;
  - (ii) the date of the acquisition;
  - (iii) the manner of the acquisition and the particulars of the documents, if any, under which such acquisition was made;
  - (iv) name and description of the person who held the land before the acquisition;
  - (v) total area of land held any where in the State by the person in whose favour the acquisition is made; and
  - (vi) any other particulars which may be prescribed.
- (2) If he fails to submit the return and select the land within the period specified in sub-section (1), the Collector may obtain the necessary information through such agency as he thinks proper.
- [(3) On receipt of the return prescribed in sub-section (1) or collection of information under sub-section (2), as the case may be, the Collector shall after giving the land-holder a reasonable opportunity of being heard and adducing evidence and after enquiries as he considers necessary select the land which may be retained by the land holder within his ceiling area and also determine the land which is in excess of the ceiling area and which he is not entitled to retain under this Act.
- (4) The Collector shall then acquire the surplus land by publishing in the Official Gazette a notification to the effect that such land is required for a public purpose and such publication shall be conclusive evidence of the fact stated therein for the purpose of this Act.]

**The End**