

R.M.M. Law College, Saharsa

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L.L.B Part- 3rd

Subject- Bihar Land Reforms Act, 1950

Paper- 4th

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Topic- Explain Vesting of an Estate or Tenure in the State and its Consequences?

Vesting of an Estate or Tenure in the State and its Consequences

(1) Without prejudice to the provision in the last preceding Section the State Government may, at any time, by notification, declare that the intermediary interests of all intermediaries in the whole of the State have passed to and become vested in the State.

(2) It shall be lawful for the State Government, if it so thinks fit, to issue, from time to time, a notification of the nature mentioned in sub-section (1) in respect of the intermediary interests situate in a part of the State specified in the notification and, on the publication of such notification, all intermediary interests situate in such part of the State shall have passed to and become vested in the State.

(3) The notification referred to in sub-section (1) or sub-section (2) shall be published in the *Official Gazette*]

Consequences of the vesting of an estate or tenure in the State. –

[Notwithstanding anything contained in any other law for the time being in force or any contract and notwithstanding any non-compliance or irregular compliance of the provisions of Sections 3, 3A and 3B except the provisions of sub-section (1) of Section 3 and sub-section (1) of Section 3A, on the publication of the notification under sub-section (1), of Section 3 or sub-section (1) or sub-section (2) of Section 3A, the following consequences shall ensue and shall be deemed always to have ensued, namely:]

- (a) Such estate or tenure including the interests of the proprietor or tenure-holder in any building or part of a building comprised in such estate or tenure and used primarily as office or cutchery for the collection of rent of such estate or tenure, and his interests in trees, forests, fisheries, jalkars, hats, bazars, [mela] and ferries and all other sairati interests, as also his interest in all subsoil including any rights in mines and minerals whether discovered or undiscovered, or whether been worked or not, inclusive of such rights of a lessee of mines and minerals, comprised in such estate or tenure (other

than the interests of raiyats or under-raiyats) shall, with effect from the date of vesting, vest absolutely in the State free from all incumbrances and such proprietor or tenure-holder shall cease to have any interest in such estate or other than the interests expressly saved by or under the provisions of this Act.

[(b) All rents, cesses and royalties accruing in respect of lands comprised in such estate or tenure on or after the date of vesting shall be payable to the State and not to the outgoing proprietor or tenure-holder and any payment made in contravention of this clause shall not be binding on the State Government.

The expression "rent, cess and royalty" in relation to the year in which an estate or tenure vests in the State, shall mean the amount of rent, cess or royalty accruing in respect of lands comprised in such estate or tenure for the period commencing from the date of vesting which amount shall bear the same proportion to the total rent, cess or royalty, as the case may be, accruing in respect of such lands for the whole year as such period bears to the whole year.]

[(c) All arrears of revenue and cesses remaining lawfully due in respect of the estate or tenure on the date of vesting and all other amounts recoverable by the State Government from the outgoing intermediary under any law for the time being in force, shall continue to be recoverable from him and shall, without prejudice to any other mode of recovery, be recoverable, when so ordered by the Collector, by the deduction thereof from the amount payable to such intermediary under Section 32, Section 32A or Section 33.

Right to hold mela to vest in the State. –

Where on any land deemed to be settled with the intermediary under Section 5, Section 6 or Section 7, a *mela* was being held by the intermediary at any time within three years of the date of vesting, the right to hold such *mela* on such land shall, with effect from the date of vesting, vest in the State and notwithstanding anything contained in any law, the State Government shall have and the intermediary shall not have the right to hold *mela* on such land:

Provided that where any such *mela* on any such land has already been settled by the State Government with any outgoing intermediary on his foregoing the compensation payable to him under Section 32 and settlement is still subsisting, it shall not be disturbed till the expiry of the period of settlement.]

Vesting of interest of lessee of mines or minerals which is subject to sub-lease. –

(1) The interest of every lessee of mines or minerals which is subject to a sub-lease shall, with effect from such date as may be notified in this behalf by the State Government in the Official Gazette, vest in the State and thereafter the sub-lessee whose lease is not subject to any further sub-lease shall hold his lease directly under the State Government and the provisions of subsection (2) and (4) of Section 10 shall mutatis mutandis, apply to his lease.

(2) No sub-lessee of mines or minerals holding under a lessee whose interest vests in the State Government under sub-section (1) shall be entitled to claim any damages from his lessor on the ground that the terms of the lease in respect of mines or minerals have become incapable of fulfilment by the operation of this Section.]

Mines Tribunal. –

(1) Any Mines Tribunal appointed for the purposes of Sections 9, 11 and 31 shall consist of a Chairman who shall be a District Judge and a member who shall be a mining expert, both of whom shall be appointed by the State Government with the previous approval of the Central Government.

(2) In settling the terms and conditions of a lease by the State Government under Section 9, the Mines Tribunal shall have power to determine the extent of the property deemed to have been leased by the State and in so doing shall have regard to the reasonable requirements for the future development of lessee's mining concern.

(3) The Tribunal shall follow such procedure as may be prescribed by the State Government.

(4) If there is a difference of opinion between the Chairman and the member in regard to any matter, it shall be referred by the Chairman to a Judge of the High Court nominated by the Chief Justice in this behalf, and the decision of such Judge shall be binding on the Tribunal.]

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