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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LAW DEPARTMENT

NOTIFICATION

The 17th September 1975

No. L.JL. 290/73/20.—The following Act of the Assam Legislative

Assembly which received the assent of the President is hereby published for general information.

ASSAM ACT IX OF 1975

(Received the assent of the President on the 16th September, 1975)

THE ASSAM FIXATION OF CEILING ON LAND HOLDINGS (AMENDMENT) ACT, 1975

An

Act

further to amend the Assam Fixation of Ceiling on Land Holdings Act, 1956.

Preamble. Whereas it is expedient further to amend the Assam Fixation of Ceiling on Land Holdings Act, 1956 hereinafter called the principal Act in the manner hereinafter appearing : Assam Act No. I of 1975.

It is hereby enacted in the Twenty-sixth Year of the Republic of India as follows :—

Short title, extent and commencement. 1. (1) This Act may be called the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1975.

(2) It shall have the like extent as the principal Act.

(3) This Act shall be deemed to have come into force on the Thirteenth day of October, Nineteen hundred Seventy-two.

Amendment of Section I of Assam Act I of 1957. 2. In section 1 of the principal Act—

(1) Sub-section (2) shall be substituted by the following, namely :—

“(2) It extends to the districts of Lakhimpur, Dibrugarh, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara and Cachar in the State of Assam.”

(2) After sub-section (3), the following shall be inserted as sub-section (4), namely :—

“(4) The State Government may, by notification published in the Official Gazette from time to time, extend the Act to such other areas as may be specified in the notification.”

Substitution of Section 2 of Assam Act I of 1957. 3. Section 2 of the principal Act, shall be substituted by the following, namely:—

“2. Exception—The provisions of this Act shall not apply to—(1) lands held by the State Government or by the Union Government or by any local authority or by any Agricultural Farming Corporation constituted under the Assam Agricultural Farming Corporation Act, 1973. Assam Act VIII of 1973.

(2) (a) Lands held and utilised for special cultivation of tea and purposes ancillary thereto;

(b) Lands held by a mill, a factory or a workshop, as the case may be, for the purposes of expansion of the mill, factory or workshop or for ancillary purposes of the mill, factory or workshop such as setting up of schools, dispensaries and roads but not for any other purpose;

(c) Lands held by a Co-operative Farming Society for cultivation of sugar-cane only for the purpose of feeding a Co-operative Sugar Factory;

Provided that if at any time, such lands cease to be utilised for the purposes mentioned in the aforesaid sub-clauses, the provisions of this Act shall apply;

(3) Land vesting in a Gram Sabha under the Assam Gramdan Act, 1961” Assam Act I of 1962.

Amendment of Section 3 of Assam Act I of 1957.

4. In Section 3 of the principal Act,

(1) Clause (a) shall be substituted by the following, namely:—

“(a) ‘Agriculture’ includes horticulture, arboriculture, pisciculture, piggery, animal husbandry, poultry and other allied pursuits;”

(2) Clause (d) shall be substituted by the following, namely:—

“(d) ‘Family’ means a family consisting of any one or more or all of the following, namely:—

(1) husband, (2) wife, (3) minor children, and also includes a joint family.

Explanation—"Joint family" means a family of which the members are descendants from a common ancestor and have a common mess and shall include wife or husband, as the case may be, but shall exclude married daughters, married sons and their children :

Provided that a family consisting of father and/or mother, sons and/or unmarried daughters holding lands jointly shall be presumed to be joint inspite of any one or more having a separate mess ;"

(3) Clause (e) shall be deleted.

(4) Clause (f) shall be substituted by the following, namely :—

"(f) 'Land' means land which is or may be utilised for agricultural purposes or purposes subservient thereto and includes the sites of buildings appurtenant to such land and also includes land which is or may be utilised for quarrying stones ;"

(5) Clause (j) shall be substituted by the following, namely :—

"(j) 'Person' includes an individual, a family, a joint family, a trustee, a Company, a body Corporate, a partnership firm, a Society or an association of individuals whether incorporated or not."

(6) In clause (k), sub-clause (iii) shall be substituted by the following, namely :—

"(iii) by servants or hired labourers on fixed remuneration payable in cash or kind but not in crop-share, under personal supervision of the person himself or any member of his family provided it is accompanied by the bearing of risks of cultivation by the owner and by residence in the village in which the land is situate or in a nearby village or town within a distance of 8 K. M. during the greater part of the agricultural season :

Provided further that in the case of a person who is a widow or a minor, or is subject to any physical or mental disability or is a member of Military, Naval or Air Forces of the Union, or who is a student, below the age of 21 years of any educational institution recognised by the State Government, the land shall be deemed to be under personal cultivation even in the absence of such personal supervision ;"

Amendment
of Section 4
of Assam
Act I of
1957.

5. In Section 4 of the principal Act—

(1) Sub-section (1) shall be substituted by the following, namely :—

“(1) Notwithstanding anything to the contrary in any law, custom or agreement, no person shall be entitled to hold, as owner or tenant, land which exceeds the limit of 50 bighas in the aggregate and this limit of 50 bighas shall be applicable to the aggregate of the lands held individually by the members of a family or jointly by some or all the members of such a family :

Provided that where such person holds ‘orchard’ land the aforementioned limit shall be increased by the actual area of orchard subject to a maximum of 4 bighas over the limit of 50 bighas mentioned above”

(2) In sub-section (2),

(I) the first paragraph shall be substituted by the following, namely :—

“(2) Notwithstanding anything to the contrary in any law, custom or agreement, no person shall be entitled to hold, as owner or tenant, lands for special cultivation of tea in excess of such land as has been used for special cultivation of tea and purposes ancillary thereto on the day on which the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970 came into force ;”

Assam Act
VIII of 1971.

(II) in the explanation, item (V) shall be substituted by the following, namely :—

“(v) land used for hospitals, dispensaries, creches, recreation centres and play-grounds ;”

(3) In sub-section (5), the first paragraph shall be substituted by the following, namely :—

“(5) No person who holds land in excess of the limit fixed under Section 4 shall, on or after the commencement of the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970, transfer or partition any land until the land in excess of such limit is determined and possession taken over by the Collector under this Act ;”

Assam Act
VIII of 1971.

(4) In sub-section (6), for the words, "this Act" wherever they occur, the words, "the Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1970" shall be substituted.

Insertion
of Section
11 A. 6. After Section 11, the following new Section shall be inserted as Section 11 A, namely:—

Taking
possession in
advance. "11 A. Notwithstanding anything contained in this Act or in any other law for the time being in force:—

(1) When it appears from a return submitted by a person under Section 5 or 22 of this Act that there is any land in excess of the ceiling limit the Collector may by an order in writing take possession of such excess lands. In doing so the Collector shall take possession of that land which has not been selected to be retained and in case when no such selection has been indicated in the return the Collector shall himself select the lands to be taken possession of.

(2) When it appears from a return submitted by a person under Section 5 or 22, that the particulars shown therein are not correct and the Collector finds from information received by him that there are lands in excess of the ceiling limit the Collector may by an order in writing take over possession of such excess lands. While doing so the Collector shall himself select the lands to be taken possession of.

(3) When no return has been submitted under this Act by any person in respect of his lands but the Collector finds from information received by him that the person holds lands in excess of the ceiling limit, the Collector may at any time by an order in writing take over possession of such excess lands. While doing so the Collector shall himself select the lands to be taken possession of.

(4) When the Collector has passed an order under sub-section (2) of Section 7 showing therein any land to be in excess of the ceiling limit applicable to the person concerned he shall by an order in writing take possession of such excess land.

(5) No order for taking possession shall be passed under any of the previous sub-sections unless it appears to the Collector to be necessary to do so in public interest or for securing proper management of the lands in question.

(6) When possession is taken of any land under any of the preceding sub-sections, the person whose lands are taken possession of shall be paid for each year of such possession an amount equal to the annual land revenue and local rate payable for such land.

(7) Where the excess land of any person determined finally under Section 7 is found to be less than the land of that person which the Collector has taken possession of under this Section, the land which is in excess of the area so determined shall be returned by the Collector.

(8) Notwithstanding anything in any law for the time being in force, any order passed by a Collector under any of the preceding sub-sections shall be final and no court or any other authority shall entertain any suit, proceeding or appeal in respect of any such order passed or in respect of taking over and return of possession of land under any of the preceding sub-sections.

(9) For taking over possession of any land under any of the preceding sub-sections, the Collector may use such force as may be necessary.

(10) Any order passed by the Collector for taking over possession of any land under any of the preceding sub-sections shall not affect or prejudice in any manner, the determination of the excess land under the provisions of the Act.

(11) Any land of which possession is taken by the Collector may be temporarily for a period not exceeding one year at a time disposed of or utilised in the spirit of the provisions of Chapter III of this Act. Such temporary disposal shall not create any right, title and interest whatsoever in favour of any person.

Insertion of new sub-section under Section 17 of Assam Act I of 1957.

7. After sub-section (2) of Section 17 insert the following as sub-section (3), namely:—

“(3) In making settlement under sub-section (1) of this Section preference shall be given as far as practicable to the following categories of person in the order of narration stated below:—

- (a) Landless cultivator who has been rendered homeless due to flood, erosion or earthquake.
- (b) Landless cultivator.
- (c) Agricultural Farming Corporation as defined in the Assam Agricultural Farming Corporation Act, 1973.

Assam Act
VIII of
1973.

Explanation—For the purpose of this Section the expression “Landless cultivator” shall mean a person who does not hold any land whether as owner or as tenant or as both exceeding 3 bighas and whose only means of livelihood is cultivation.

Amendment of Section 23 of Assam Act I of 1957. 8. In Section 23 of the principal Act, in clause (b), for the figure “100” occurring in between the words “of” and “bighas”, the figure “50” shall be substituted.

Amendment of Section 34 of Assam Act I of 1957. 9. The existing sub-section (2) of Section 34 of the principal Act shall be substituted as follows—

“(2) Any person who fails to submit any return required to be submitted under Sections 5 and 22 shall, on conviction, be punished with imprisonment which may extend to one year but which shall not be less than three months and shall also be liable to fine which may extend to one thousand rupees.”

Insertion of Section 41. 10. After Section 40 of the principal Act, the following shall be added as a new Section, namely—

“41 (1) The Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 1972 is hereby repealed.

Repeal and savings. (2) Notwithstanding such repeal, any decision given, order made, anything done, any action taken or any proceedings commenced under any of the provisions of the Act so repealed and in force immediately before such repeal shall continue in force and shall be deemed to have been given, made, done, taken or commenced under the corresponding provisions of this Act.”

Insertion of Section 42. 11. After Section 41 of the principal Act the following shall be added as a new Section, namely :—

Power to remove difficulties. “42. If any difficulty arises in giving effect to any provision of the Assam Fixation of Ceiling on Land Holdings Act, 1956, the State Government may, as occasion requires, take any action not inconsistent with the provisions of the Act which may appear to them necessary for the purpose of removing the difficulty.”

MD. SAADULLAH,
Joint Secy. to the Government of Assam,
Law Department.