

SYNOPSIS

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48. Limit of rent recoverable from under-raiyats

The landlord of an under-raiyat holding at a money-rent shall not be entitled to recover rent exceeding the rent which he himself pays by more than the following percentage of the same (namely):- (a) when the rent payable by the under raiyat is payable under a registered lease or agreement.-fifty percent; and (b) in any other case-twenty-five per cent:

Provided that, where the land held by such under raiyat is a portion of the holding of such landlord; the rent calculated for the entire holding in the aforesaid manner shall be reduced in such proportion as the area of the land held by the under raiyat bears to the total area of the holding:

Provided further that, if the lands comprised in such holding are of different qualities, the proportionate rent recoverable from the under raiyat shall be calculated in the prescribed manner.

48A. Limit of produce-rent recoverable from under raiyats

When an under-raiyat pays for the land held by him rent in kind by division of the produce, the landlord under whom he holds that land shall not be entitled to recover rent from the under raiyat exceeding seven-twentieths of the produce of such land:

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Provided that the landlord shall not be entitled to any share in the straw or bhoosa as rent out of the produce of such land

Explanation.--The word "straw" in this section includes jute sticks after the jute has been extracted therefrom, and arhar and maize sticks when the produces are jute, arhar and maize respectively.

**48B. Restriction on payment of certain kinds of rent by an under-raiyat**

Nothing in any contract, express or implied, between an under-raiyat and his landlord, made before or after the date of the commencement of the Bihar Tenancy (Second Amendment) Act, 1955, shall entitle the landlord to rent; according to any system, such as danabandi, manhunda, mankhop or chauraha, under which fixed rent in kind is payable, and where an under-raiyat was before the said date liable to pay to his landlord rent according to any such system, he shall from and after the said date be liable to pay to his landlord rent in kind by division of the produce.

**48C. Acquisition of right of occupancy by under-raiyats**

Every person who, for a period of twelve years, whether wholly or partly before or after the commencement of the Bihar Tenancy (Amendment) Act, 1938 (Bihar Act 11 of 1938), has continuously held land as an under-raiyat in any village, whether under a lease or otherwise, shall be deemed to have acquired, on the expiration of that period a right of occupancy in the land which he has so held for the said period:

Provided that an under-raiyat shall not, irrespective of the duration of his holding any land as an under-raiyat acquire any right of occupancy-

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(i) in such area of the land to be selected and declared by his landlord in the prescribed manner as together with the area of land already held by the landlord under his cultivation does not exceed the following limits, namely:-

(a) five acres of land irrigated by flow irrigation work, lift irrigation work or tube well owned, constructed, maintained, improved or controlled by the Central or the State Government or by a body corporate constituted under any law or by tube well owned or maintained by the landlord or;

(b) ten acres of other land; or

(ii) in the land within the ceiling area fixed by law of a landlord who is a widow or a person suffering from blindness, leprosy or paralysis or is a person of unsound mind or a person on the service of the Army, Navy or Air Force of the Union of India during the period the landlord remain a widow or suffers from blindness, leprosy or paralysis or remains of unsound mind or remain in the service of the Army, Navy or Air Force of the Union of India.

Explanation 1.--A land shall be deemed to be irrigated by such flow irrigation work, lift irrigation work or tube well if it is ordinarily capable of being irrigated from such source notwithstanding that such irrigation is not enjoyed owing to any action or inaction on the part of the landlord of such land.

Explanation 2.--For the purpose of this section one acre of land mentioned in clause (i) (a) shall be deemed to be equivalent to two acres of land mentioned in clause (i) (b).

Explanation 3.--If there are more than one under-raiyat under a landlord, the area of land to be selected and declared by the

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landlord in the prescribed manner shall be in preparation to the area of land held by different under-raiyats

Explanation 4.--A member of an undivided Hindu family having or being entitled to a share in land shall be deemed to be a landlord for the purpose of this section as if there has been partition in the family.

**48D. Acquisition of raiyati right by occupancy under-raiyat**

(1) An occupancy under-raiyat shall if he makes an application in this behalf in the prescribed manner, be entitled to acquire the right of a raiyat subject to the payment to be made as may be prescribed by the State Government and the right of the landholder in such land shall extinguish:

Provided that the land on which he acquires such right along with other land held by him anywhere in the State does not exceed the area he may hold under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962).

(2) The remaining area, if any, in which the under-raiyat does not acquire the right of a raiyat shall continue to be held by the raiyat under whom the under-raiyat held the land.

(3) The land owner in respect of whose land the under-raiyat acquires the right of a raiyat under sub-section (1) shall be paid as compensation an amount equivalent to twenty four times the rent of the holding in the manner prescribed in this behalf.

**48E. Prevention of threatened ejectment of under raiyat and restoration to possession of under-raiyat unlawfully ejected**

(1) if an under-raiyat is threatened with unlawful ejectment from his tenancy or any portion thereof by his landlord or if there is a

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dispute between them over the possession of land crop or produce thereof either on the ground of non-existence of relationship of landlord and tenant between them or otherwise or if an under-raiyat is or has been ejected from his tenancy or any portion thereof within twelve years before the commencement of proceeding under this section in contravention of the provisions of section 89 the Collector may, of his own motion or on application made in this behalf by the under-raiyat, initiate a proceeding for preventing the landlord from ejecting the under-raiyat or for settlement of the said dispute or for restoration of possession to under-raiyat unlawfully ejected from his tenancy or portion thereof.

Explanation.--If in the midst of the proceeding it is found that the landlord has during or before the initiation of the proceeding transferred the land to any other person who is not a party to the proceeding initiated under sub-section (1), the Collector shall make such transferee a party to the proceeding.

(2) The Collector may, after hearing the parties, about which due notice shall have been given to them or ex-parte, in cases of emergency by an order in writing prevent the landlord from ejecting the under-raiyat until disposal of the proceeding or until further orders and if he is of opinion that any crop or produce of the land which is subject-matter of dispute in the proceeding under this section is liable to-speedy and natural decay, he may., if the situation so warrants and in similar manner as aforesaid direct the proper custody or harvesting or sale, as the case may be, of such crop or produce or the sale proceeds thereof.

(3) When a proceeding is initiated under sub-section (1) the Collector may refer the matter (hereinafter referred to as "dispute") to a Board to be appointed by him, for promoting the

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settlement of the dispute between the under-raiyat and the landlord.

(4) A Board to be appointed by the Collector in the prescribed manner under sub-section (3) shall consist of a Chairman; who shall be unconnected with the dispute referred to such Board or with any party directly affected by such dispute and two members to represent the parties to the dispute and the person appointed as a member to represent any party shall be appointed on the recommendation of that party:

Provided that if any party does not nominate any person to represent him in the Board or nominates a person who is not available within such time as the Collector considers reasonable, the Collector may appoint such person as he thinks fit to represent that party.

(5) If at any time before the Board has completed its work, the service of the Chairman or any member of the Board ceases to be available, or any member of the Board fails to attend the meeting of the Board on two successive dates without showing cause to the satisfaction of the Chairman, the Collector may appoint any suitable person in the prescribed manner to take his place and the proceeding shall be continued before such Board as so reconstituted.

(6) The Chairman of the Board to which a dispute is referred shall give written notice to the under-raiyat and his landlord in the prescribed manner and the Board shall make endeavours to bring about an amicable settlement of the dispute and when an amicable settlement of the dispute is brought about, the Board shall forthwith submit a report containing the terms on which settlement had been brought about, to the Collector, who may

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dispose of the proceeding in accordance with the terms of the report:

Provided that failure on the part of any member of the Board to sign the report shall not effect the validity of the same.

(7) Where a Board does not succeed in bringing about an amicable settlement of the dispute, it shall make enquiry into the same, receive such evidence as it considers, necessary, record its findings on the disputes and transmit the entire record of the proceeding forthwith to the Collector who may dispose of the proceeding in accordance with the terms of the findings:

Provided that failure on the part of any member of the Board to sign the finding shall not affect the validity of that finding:

Provided further that if any member does not want to sign the findings of the Board he will submit his disagreement on the findings in writing failing which the Chairman will submit his notes on the subject.

(8) In case of disagreement with the report or the findings of the Board, the Collector shall, after recording his reasons for such disagreement and after giving the parties concerned a reasonable opportunity of being heard, make such enquiry, if any, as he thinks necessary and on being satisfied that-

(i) the person threatened with ejectment is an under-raiyat the Collector shall declare the threatened ejectment illegal and direct that the landlord shall not interfere with the possession of the under-raiyat in his tenancy or any portion thereof;

(ii) the land under dispute is in the tenancy of the under-raiyat the Collector shall declare possession of the under-raiyat and order the crop or produce or the sale-proceeds thereof, as the case may

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be, to be divided between the under-raiyat and his landlord in accordance with the provisions of sections 69 to 71 of the Act;

(iii) the person alleged to have been ejected was an under-raiyat of the disputed land on the date of ejectment and was ejected within twelve years before the commencement of proceeding under this section in contravention of section 89, the Collector shall order that the land-lord, or, where any other person, is in possession of the land comprised in the under-raiyat tenancy or portion thereof under any claim derived from the landlord, such person shall restore the underraiyat to possession of the tenancy or portion from which he was so ejected.

(9) The order of the Collector under sub-sections (6), (7) or (8) shall be in writing and shall state the grounds on which it is made and specify the period which shall not exceed six month from the date of the order within which his order shall be carried out.

(10) If the Board fails to record its findings or transmit the records as required under sub-section (7) within a period of six month which shall be reckoned from the date of its appointment under sub-section (3) the Collector may withdraw the proceeding from the Board and decide the dispute himself according to the provisions of this section.

(11) If the person against whom an order has been made under subsections (6), (7) or (8) fails to carry out the orders of the Collector within such reasonable time as may be specified in the order or the order passed to appeal under section 48F the Collector shall take or cause to be taken such steps or use or cause to be used such force as in his opinion may be necessary for securing compliances with the order or for preventing such threatened ejectment of under-raiyat or for restoring possession to under-raiyat unlawfully ejected.

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(12) The Board shall have the same power regarding the summoning and attendance of witnesses and compelling the production of documents as a Civil Court has under the Code of Civil Procedure, 1908 (V of 1908) and the Collector shall have general control and superintendence over the Board.

(13) Save as expressly provided in this Act, no Civil or Criminal Court shall have any jurisdiction over the subject matter of a dispute after a proceeding is initiated under sub-section (1) by the Collector: Provided that nothing in this sub-section shall be deemed to affect the power of a Criminal Court to take such action as may be necessary for preventing breach of the peace pending the final disposal of the proceeding by the Collector.

48F. Appeals

(1) An appeal shall lie from an order referred to in sub-section (7) and sub-section (8) of section 48E.-

(i) if such order is passed by an officer other than the Collector of a district, to the Collector of the district or to any officer specially empowered by the State Government by notification to hear such appeals; and

(ii) if such order is passed by the Collector of a district, to the prescribed authority.

(2) The Collector of the district may, at any time, transfer any appeal filed before him to any officer specially empowered under clause (i) of sub-section (1) to hear such appeals or withdraw any appeal pending before any officer so empowered, and either hear such appeal himself or transfer it for disposal to any other officer so empowered.

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(3) Appeals under this section shall be heard and disposed of in accordance with the prescribed procedure.

(4) An order duly made under section 48-E or on appeal under this section shall be final and shall not be called in question in any Civil Courts.

(5) If a suit is Instituted challenging an order made under section 48-E or on appeal under this section, the Civil Court shall have no power, during the tendency of the suit, to stay the enforcement of such order.

49. Grounds on which under-raiyats, without occupancy right may be ejected

An under-raiyat may be ejected by his landlord from land in which he has not already acquired a right of occupancy in accordance with the provision of section 48-C on one or more of the following grounds and not otherwise, namely:-

- (a) on the ground that he has failed to pay an arrear of rent;
- (b) on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act and on breach of which he is under the terms of a contract between himself and his landlord, liable to be ejected;
- (c) where he has been admitted to occupation of the land under a written lease on the ground that the term of the lease has expired.
- (d) where he holds the land of any person mentioned in clause (ii) of the proviso to sub-section (i) of section 48 C, on the ground that the status of the raiyat mentioned in the said clause has changed and the raiyat intends to cultivate the land personally.

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