The Chota Nagpur Tenancy Act, 1908

Act Bengal Act 6 of 1908. 302 sections. Bare Act with the official footnotes.

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Every section online, with the old and new law side by side and exam questions:
https://www.lawmaker.in/bare-acts/chota-nagpur-tenancy-act-1908

Contents

Chapter I Preliminary (Sections 1 to 3)
Chapter II Classes of Tenants (Sections 4 to 8)
Chapter III Tenure-Holders (Sections 9 to 15)
Chapter IV Occupancy-raiyat: General (Sections 16 to 20)
Chapter IV Occupancy-raiyat: Incident of Occupancy Right (Sections 21 to 24A)
Chapter IV Occupancy-raiyat: Enhancement of Rent (Sections 25 to 30)
Chapter IV Occupancy-raiyat: Increase of Rent in Respect of Excess Area (Sections 31 to 33)
Chapter IV Occupancy-raiyat: Reduction of Rent (Sections 33A to 35)
Chapter IV Occupancy-raiyat: Bar to further Enhancement or Reduction of Rent (Sections 36)
Chapter V Raiyat Having khunt-katti Rights (Sections 37)
Chapter VI Non-Occupancy Raiyats (Sections 38 to 42)
Chapter VII Lands Exempted From Chapters IV and VI (Sections 43)
Chapter VIII Leases and Transfers of Holdings and Tenures (Sections 44 to 51)
Chapter IX General Provisions as to Rent: Presumptions as to fixity of rent (Sections 51A to 57)
Chapter IX General Provisions as to Rent: Arrears of Rent (Sections 58 to 60)
Chapter IX General Provisions as to Rent: Commutation of Rent payable in kind (Sections 61 to 63)
[Chapter IX-A] Settlement of Waste Lands (Sections 63A to 63B)
Chapter X Miscellaneous Provisions as to Landlord and Tenant: Korkar (Sections 64 to 67A)
Chapter X Miscellaneous Provisions as to Landlord and Tenant: Ejectment (Sections 68 to 71B)
Chapter X Miscellaneous Provisions as to Landlord and Tenant: Surrender and Abandonment (Sections 72 to 73)
Chapter X Miscellaneous Provisions as to Landlord and Tenant: Continuance of occupation (Sections 74 to 74A)
Chapter X Miscellaneous Provisions as to Landlord and Tenant: Measurements (Sections 75)
Chapter XI Customs and Contract (Sections 76 to 79B)
Chapter XII Records-of-Rights and Settlement of Rents (Sections 80 to 100A)
Chapter XIII Praedial Conditions and The Commutation and Record Thereof (Sections 101 to 117)
Chapter XIV Record of Landlord's Privileged Lands (Sections 118 to 126)
Chapter XV Record-of-Rights and Obligations of Raiyats Having khunt-katti Rights, Village Headmen and other classes of tenants (Sections 127 to 134)
Chapter XVI Judicial Procedure in Matters Cognizable by The Deputy Commissioner (Sections 135 to 180)
Chapter XVI Judicial Procedure in Matters Cognizable by The Deputy Commissioner: Execution of Decrees and Orders of the Deputy Commissioner (Sections 181 to 198)
Chapter XVI Judicial Procedure in Matters Cognizable by The Deputy Commissioner: Sales in Execution of Decree of the Deputy Commissioner (Sections 199 to 214A)
Chapter XVI Judicial Procedure in Matters Cognizable by The Deputy Commissioner: Appeals (Sections 215 to 229)
[Chapter XVI-A] Summary Procedure for the recovery of rents under the Bihar and Orissa Public Demands Recovery Act, 1914 (Sections 229A)
Chapter XVII Limitation (Sections 230 to 238)
Chapter XVIII Special Provisions with respect to Mundari Khunt-Kattidars (Sections 239 to 256)
Chapter XIX Supplemental Provisions: Joint Landlords (Sections 257)
Chapter XIX Supplemental Provisions: Bar to suits [and finality of decisions in certain cases] (Sections 258)
Chapter XIX Supplemental Provisions: Process (Sections 259 to 260)
Chapter XIX Supplemental Provisions: Costs (Sections 261 to 262)
Chapter XIX Supplemental Provisions: Production of witnesses and documents (Sections 263)
Chapter XIX Supplemental Provisions: Rules and notifications (Sections 264 to 267)
Chapter XIX Supplemental Provisions: Recovery of Dues (Sections 268)

Chapter XIX Supplemental Provisions: Powers (Sections 269 to 270)
Chapter XIX Supplemental Provisions: Saving of Special Enactment (Sections 271)
Schedules (4): see the end of this PDF

[Dated 11th November, 1908]

An Act to amend and consolidate certain enactments relating to the law of Landlord and Tenant and settlement of rents in Chota Nagpur.

Whereas it is expedient to amend and consolidate certain enactments relating to the law of landlord and tenant and the settlement of rents in Chota Nagpur;

And whereas the sanction of the Governor-General has been obtained under Section 5 of the Indian Councils Act, 1892 (55 and 56 Viet, e. 14) to the passing of this Act;

It is hereby enacted as follows :-

Chapter I Preliminary

Section 1. Short title and extent

(1) This Act may be called the Chota Nagpur Tenancy Act, 1908.

[(2) It extends to [the North Chotanagpur, the South Chotanagpur and Palamau Divisions] including the areas or parts of the areas which have been constituted into a Municipality or a Notified Area Committee under the Jharkhand Municipal Act, 2002 (Bihar and Orissa Act 7 of 1922) or which are within a cantonment.]

Section 2. Repeal

(1) The Acts and notifications specified in Schedule A are hereby repealed in the Chota Nagpur Division. [* * *]

[(2) The Acts specified in Schedule B are hereby repealed in the [district of Dhanbad and Patamda, Ichagarh and Chandil police stations in the district of Singhbhum.]

Section 3. Definitions

In this Act, unless there is anything repugnant in the subject or context,

(i) "agricultural year" means the year prevailing in a local area for agricultural purposes, and such year shall be deemed to commence and terminate on such dates, respectively, as the [State] Government may, by [notification], direct:

[Provided that where the State Government is the landlord, the year commencing from the first day of April shall be the agricultural year for the purposes of this Act;]

(ii) "bhugut bandha mortgage" means a transfer of the interest of tenant in his tenancy;

for the purpose of securing the payment of money advanced or to be advanced by way of loan;

upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the tenancy during the period of the mortgage;

(iii) "Board" means the Board of Revenue for [Bihar [* * *]

[(iii-a) "bank" means,-

(i) a banking company as defined in the Banking Regulation Act, 1949 (10 of 1949);

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

(iii) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970);

(iv) a Regional Rural Bank established under the Regional Rural Banks Act, 1976 (21 of 1976);

(v) the Agricultural Refinance and Development Corporation constituted under the Agricultural Refinance and Development Corporation Act, 1963 (10 of 1963); and

(vi) the Agricultural Finance Corporation Ltd., a Company incorporated under the Companies Act, 1956 (1 of 1956);]

(iv) "Certificate Officer" means the Certificate Officer as defined in [clause (3)] of Section [3] of the [Bihar and Orissa Public Demands Recovery Act, 1914 (B&O Act, 4 of 1914:]

(v) "civil jail" means the civil jail of the district, and includes any place appointed by the [State] Government for the confinement of prisoners under this Act;

(vi) "Commissioner" and "Judicial Commissioner" mean respectively the Commissioner and Judicial Commissioner of Chota Nagpur; and include any other person specially [empowered] by the [State] Government to discharge the functions of the Commissioner or Judicial Commissioner, as the case may be in any particular area;

(vii) "Deputy Collector" includes an Assistant Collector and any Sub-Deputy Collector, who is especially empowered by the [State] Government to discharge any of the functions of a Deputy Collector under this Act;

(viii) "Deputy Commissioner" in any provision of this Act includes,-

(a) any Revenue Officer or Deputy Collector, who is specially empowered by the [State] Government to discharge any of the functions of a Deputy Commissioner under that provision, and

(b) any Deputy Collector to whom the Deputy Commissioner may by general or special order, transfer any of his functions under that provision;

(ix) "enhancement" and "enhanced" do not include an increase of rent in respect of land held by 'Raiyat', in excess of the area for which rent has previously been paid by him, or in respect of the conversion of upland, whether within or without his holding into 'korkar'; but include any commutation of rent payable in money into rent payable wholly or partly in kind;

(x) "estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands prepared and maintained under the law for the time being in force by the Deputy Commissioner; and includes Government 'khas mahals' and revenue-free lands not entered in any register;

(xi) "forest produce" includes the following, whether taken from a forest or not, that is to say,-

(a) wood, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish,, bark lac, 'mahua' flowers and myrobalans.

(b) trees and leaves, flowers and fruits and all other parts or produce not hereinbefore mentioned of trees,

(c) plant not being trees (including grass, creepers, reeds and moss) and all parts or produce of such plants,

(d) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(e) peat, surface-oil rock and minerals (including iron-stone, coal clay, [sand and lime-stone] [* * *] when taken by any person for his own use [* * *];

(xii) "holding" means a parcel or parcels of land held by a Raiyat, and forming the subject of separate tenancy;

(xiii) "korkad" means land by whatever name locally known such as 'babhala khandwat, 'jalsasan' or 'ariat', which has been artificially levelled or embanked primarily for the cultivation of rice, and,-

(a) which previously was jungle, waste or uncultivated, or was cultivated upland, or which, though previously cultivated, has become unfit for the cultivation of transplanted rice, and

(b) which has been prepared for cultivation by a cultivator (other than the landlord), or by the predecessor-in-interest (other than the landlord); [* * *];

(xiv) "landlord" means a person immediately under whom a tenant holds, and includes the Government;

(xv) "movable property" includes standing crops;

(xvi) "mundari khunt-kattidari tenancy" means the interest of a "Mundari khunt-kattidar";

(xvii) "pay", "payable" and "payment", when used with reference of rent, include "deliver", "deliverable" and "deliver";

(xviii) "permanent tenure" means a tenure which is heritable and which is not held for a limited time.

(xix) "praedial conditions" means conditions or services appurtenant to the occupation of lands other than the rent, and include rakumats' payable by the tenants to landlord and every 'mahtut mangan' and 'madad', and every other similar demand, howsoever denominated, and whether regularly recurrent or intermittent;

(xx) "prescribed" means prescribed by [State] Government by rule made under this Act;

(xxi) "proprietor" means a person owning, whether in trust or for his own benefit an estate or a part of an estate;

(xxii) "registered" means registered under any Act for the time being in force for the registration of documents;

(xxiii) "rent" means whatever is lawfully payable in money or kind by a tenant to his landlord on account of the use of occupation of the land held by the tenant and includes all dues (other than personal services) which are recoverable under enactment for the time being in force as if they were rent;

(xxiv) "resumable tenure" means a tenure which is held, subject to the condition that it shall lapse to the estate of the grantor and be resumable by him or his successor in title,-

(a) on failure of male heirs of the body of the original grantee in the male line, or

(b) on the happening of any definite contingency other than that referred to in sub-clause (a) of this clause;

(xxv) "Revenue Officer" in any provision of this Act, means any officer whom the [State] Government may appoint to discharge any of the functions of Revenue Officer under that provision;

(xxvi) "tenant" means a person who holds land under another person and is, or but for a special contract would be liable to pay rent for that land to that person;

(xxvii) "tenure" means the interest of a tenure-holder, and includes an under tenure, but does not include a "Mundari khunt-kattidari" tenancy,

(xxviii) "village" means,-

(a) in any local area in which a survey has been made and a record-of-rights prepared under any enactment for the time being in force the area included within the same exterior boundary in the village map finally adopted in making such survey and record, as subsequently modified by the decision (if any) of a Court of competent jurisdiction, and

(b) where a survey has not been made and a record-of-rights has not been prepared under any such enactment, such area as the Deputy Commissioner may, with the sanction of the Commissioner by general or special order, declare to constitute a village :

[Provided that, when an order has been made under Section 80 directing that a survey be made, and record-of-rights prepared in respect of any local area, estate, tenure, or part thereof the [State] Government may, by notification declare that in such local area, estate, tenure or part thereof, 'village', shall mean the area which for thee purposes of such survey and record-of-rights may be adopted by the Revenue Officer subject to the control of the Commissioner as the unit of survey and record;]

[(xxix) "village headman" means the headman of a village, or of a group of villages, whether known as 'Manki', or 'Pradhan' or 'Manjhi' or otherwise, or by an equivocal designation such as 'thikadad' or 'ijaradar':

Explanation. - In the definition "village" includes a portion of a village; and

(xxx) "Permanent Settlement" means the Permanent Settlement of Bengal, Bihar and Orissa made in the year 1798.]

Chapter II Classes of Tenants

Section 4. Classes of tenants

There shall be, for the purposes of this Act, the following classes of tenants, namely :-

(1) tenure-holders, including under-tenure-holders;

(2) Raiyat, namely :-

(a) occupancy-raiyats, that is to say, Raiyats having a right of occupancy in the land held by them,

(b) non-occupancy Raiyats, that is to say, Raiyats not having such a right of occupancy, and

(c) Raiyats having khunt-katti rights;

(3) under-raiyats, that is to say, tenants holding, whether immediately or mediately, under raiyats; and

(4) Mundari khunt-kattidars.

Section 5. Meaning of a "tenure-holder"

"Tenure-holder" means primarily a person, who has acquired from the proprietor, or from another tenure-holder, a right to hold land for the purpose of collecting rents or bringing under cultivation by establishing tenants on it, and includes,-

(a) the successor-in-interest of persons, who have acquired such a right, and

(b) the holder of tenures entered in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869 (Ben. Act 2 of 1869),

but does not include a Mundari khunt-kattidar.

Section 6. Meaning of "Raiyat"

(1) "Raiyat" means primarily a person who has acquired a right to hold land tor the purpose of cultivating it by himself or by members of his family, or by hired servants or with the aid of partners; and includes the successor-in-interest of persons who have acquired such a right, but does not include a Mundari-khunt-kattidar.

Explanation. - Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

(2) A person shall not be deemed to be a Raiyat unless he holds land either immediately under a proprietor or immediately under a tenure-holder or immediately under a Mundari-khunt-kattidar.

(3) In determining whether a tenant is a tenure-holder or Raiyat, the Court shall have regard to,-

(a) local custom, and

(b) the purpose for which the right of tenancy was originally acquired.

Section 7. Meaning of "Raiyat having khunt-katti rights"

(1) "Raiyat having khunt-katti rights" means a Raiyat in occupation of, or having any subsisting title to land reclaimed from jungle by the original founders of the village or their descendants in the male line, when such Raiyat is a member of family which founded the village or a descendant in the male line of any member of such family :

Provided that no Raiyat shall be deemed to have khunt-katti rights in any land unless he and all his predecessors-in-title have held such land or obtained a title thereby virtue of inheritance from the original founders of the village.

(2) Nothing in this Act shall prejudicially affect the rights of any person who has lawfully acquired a title to a khunt-kattidari tenancy before the commencement of this Act.

Section 8. Meaning of - "Mundari-khunt-kattidari"

Mundari-khunt-kattidar means a Mundari, who has acquired a right to hold jungle land for the purpose of bringing suitable portions thereof under cultivation by himself or by male members of his family, and includes,-

(a) the heirs male in the male line of any such Mundari when they are in possession of such land or have any subsisting title thereto, and

(b) as regards any portions of such land which has remained continuously in the possession of any such Mundari and his descendants in the male line, such descendants.

Chapter III Tenure-Holders

Section 9. Tenure-holder when not liable to enhancement of rent

No tenure-holder who holds his tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the Permanent Settlement shall be liable to any enhancement of such rent, anything in the Bengal Decennial Settlement Regulation, 1793 (VIII of 1793) Section 51 or in any other law, to the contrary notwithstanding.

Section 9A. Enhancement of rent of tenure-holder or village headman

[(1) Where the rent of a tenure-holder or village headman is liable to enhancement during the continuance of his tenancy, such enhancement shall be made only by an order of the Deputy Commissioner passed upon an application made to him, or by an order of Revenue Officer passed under Chapter XII or Chapter XV.

(2) An enhancement, progressive or otherwise, may subject to any valid contract between the parties, be ordered up to the limit of the customary rate payable by person holding similar tenancies in the vicinity, or when no such customary rate exists up to such limits as is fair and equitable. In determining what is a fair and equitable rent, regard shall be had to the origin and history of the tenancy.

(3) When the rent of a tenure-holder or village headman has been enhanced, it shall not again be enhanced for a period of fifteen years except by an order of a Revenue Officer passed under Chapter XII or Chapter XV.

(4) Nothing in this Section shall apply to a temporary tenure-holder, or a tenure-holder the rent of whose tenure is subject to variation in accordance with principles expressed in the contract whereby the tenure was created.]

Section 10. Certain bhuinhars not liable to enhancement of rent

No bhuinhar whose lands are entered in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869 (Ben. Act 2 of 1869) shall be liable to any enhancement of the rent of his tenure.

Section 11. Registration of certain transfers of tenures

(1) When any tenure or portion thereof is transferred by succession, inheritance, sale, gift or exchange, the transferee or his successor in title shall cause the transfer to be registered in the office of the landlord to whom the rent of the tenure or portion is payable.

(2) The landlord shall, in the absence of sufficient reason to the contrary, allow the registration of all such transfers.

(3) Whenever any such transfer is registered in the office of the landlord he shall be entitled to levy a registration fee of the following amount, namely :-

(a) when rent is payable in respect of the tenure or portion-a fee of two per centum on the annual rent thereof provided that no such fee shall be less than one rupee or more than one hundred rupees, and

(b) when rent is not payable in respect of the tenure or portion-a fee of two rupees.

(4) If an application for the registration of any transfer of a tenure or portion thereof under sub-section (1) is not made within a period of one year from the date of transfer, and if the registration fee, authorised by sub-section (3) is not paid or tendered within that period, the transferee or his successor-in-title shall not be entitled to recover, at any time after the expiry of the said period by suit or other proceeding, any rent which may have become due to him, as the owner of such tenure or portion, between the date of the transfer and the date of the application for registration.

(5) Nothing in this Section shall,-

(i) validate a transfer of any tenure or portion thereof which, by the terms upon which it is held, or by any law or local custom, is not transferable, or

(ii) affect the right of the landlord to resume a resumable tenure.

Section 12. Procedure on refusal of landlord to allow registration of transfer of tenure

If any landlord refuses to allow the registration of any such transfer as is mentioned in Section 11, the transferee or his successor-in-title may make application to the Deputy Commissioner and the Deputy Commissioner shall thereupon, after issuing notice to be served on the landlord, make such inquiry as Tie considers necessary; and if, no sufficient grounds are shown for the refusal, shall pass an order declaring that the transfer shall be deemed to be registered.

Section 13. Division of Tenure and distribution of rent

[(1) A division of any tenure or portion thereof or a distribution of the rent payable in respect of any tenure or portion thereof shall be binding on the landlord if the transferor sends to the landlord by registered post a notice of such division or distribution containing the prescribed particulars:

Provided that the landlord may, if he objects to the said division or distribution of the rent, make an application to the Deputy Commissioner for fair division or distribution of rent within the prescribed period from the date of the service of notice.

(2) On the receipt of an application under the proviso to sub-section (1), the Deputy Commissioner shall in the prescribed manner serve on the parties including the landlord a notice of the date on which he intends to hear the application after hearing the parties and holding such inquiry as he thinks proper, the Deputy Commissioner shall divide or distribute the rent of the tenure in such manner as he deems fair and equitable.

(3) The order of the Deputy Commissioner under sub-section (2) shall take effect from such date as may be specified in the order.]

Section 14. Annulment of encumbrances on resumption of resumable tenure

(1) Upon the resumption of a resumable tenure, every lien, sub-tenancy, easement or other right or interest created, without the consent or permission of the grantor or his successor-in-interest by the grantee or any of his successors, on the tenure, or in limitation of his own interest therein, shall be deemed to be annulled, except the following, namely:-

(a) any lease of land whereupon a dwelling house, manufactory or other permanent building, has been erected or a permanent garden, plantation, tank, canal, [bandh, ahar other work of irrigation] place of worship, or burning or burying ground has been made, or wherein a mine has been sunk under lawful authority;

[(aa) any right of [the Government] in any land within a cantonment;]

(b) any right of a Raiyat or cultivator in his holding or land, as conferred by this Act or by any local custom or usage;

(c) any right to hold land occupied by sacred grove;

(d) any Mundari khunt-kattidaritenancy;

[(dd) any Bhuinhari tenure, as defined in the Chota Nagpur Tenure Act, 1869 (Bengal Act 2 of 1869)]; [* * *]

(e) any right of a [village-headman] in his office or land; [and]

[(f) any easement of necessity],

(2) Nothing in clause (a) of sub-section (1) shall confer on any grantee of a resumable tenure or any of his successors any right over mineral which he does not otherwise possess.

Section 15. Saving of rights of landlord

The mere registration of a transfer under Section 11, or the mere receipt of a registration fee thereunder, or the passing of an order by the Deputy Commissioner under Section 12, shall not be deemed to imply a consent to, or permission to make, the transfer, within the meaning of Section 14; and the landlord shall not be bound by the terms or conditions of any such transfer.

Chapter IV Occupancy-raiyat

General

Section 16. Continuance of existing occupancy rights

[(1) Every 'Raiyat', who immediately before the commencement of this Act, has by the operation of any enactment or by local custom or usage or otherwise, a right of occupancy in any land, shall when this Act comes into force, have right of occupancy in that land, notwithstanding the fact that he may not have cultivated or held the land for a period of twelve years.]

[(2)] The exclusion from the operation of this Act by a notification under subsection (2) of Section 1 of any area or part of an area, which is constituted a Municipality under the provisions of [the Jharkhand Municipal Act, 2002 (B&O Act 7 of 1922) or which is within cantonment, shall not affect any right, obligation or liability previously acquired, incurred or accrued in reference to such area.]

Section 17. Definition of 'settled Raiyat'

(1) Every person who, for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a 'Raiyat' land situate in any village, whether under a lease or otherwise, shall be deemed to have become on the expiration of that period a settled 'Raiyat' of that village.

(2) A person shall be deemed, for the purposes of this Section, to have continuously held land in a village, notwithstanding that the particular land held by him has been different at different times.

(3) A person shall be deemed, for the purposes of this Section, to have held as a 'Raiyat' any land held as a 'Raiyat' by a person whose heir he is.

(4) Land held by two or more co-sharers as a 'Raiyati' holding shall be deemed, for the purposes of this Section, to have been held as a 'Raiyat' by each such co-sharer.

(5) A person shall continue to be a settled 'Raiyat' of village as long as he holds any land as a 'Raiyat' in that village and for three years thereafter.

(6) If a Raiyat recovers possession of land under Section 71, or by suit, he shall be deemed to have continued to be a settled 'Raiyat', notwithstanding his having been out of possession for more than three years.

(7) If, in any suit or proceeding, it is proved or admitted that a person holds any land as a 'Raiyat', it shall, as between him and the landlord under whom he holds the land, be presumed, for the purpose of this Section, until the contrary is proved or admitted, that he has twelve years continuously held that land or some part of it as a 'Raiyat'.

Section 18. Bhuinhars and Mundari khunt-kattidars to be settled Raiyats in certain cases

The following classes of persons shall be deemed to be settled 'Raiyats' for the purposes of this Act, in regard to the land in their villages which they cultivate as 'Raiyats' (other than their own 'bhuinhari' or 'Mundari khunti-kattidari' land, and other than landlords privileged lands as defined in Section 18 and the provisions of sub-sections (3) to (6) of Section 17 shall apply to such persons as if they were 'Raiyats', namely :-

(a) where any land in a village, other than land known as 'manjhihas' or 'bethkheta', is entered in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869 (Ben. Act 2 of 1969)-all members of any 'Bhuinhari' family, who hold and have for twelve years continuously held, land in such village, and

(b) where any village contains lands not forming part of Mundari khunti-kattidari tenancy and an entry of Mundari khunt-kattidari or of Mundari khunt-kattidars in such village has been made in any record-of-rights as finally published under this Act or under any law in force before the commencement of this Act-all male members of any

Mundari khunt-kattidar family who hold, and have for twelve years continuously held land in such village.

Section 19. Settled Raiyats to have occupancy-rights

Every person who is a settled Raiyat of a village within the meaning of Section 17 or Section 18 shall [subject to the provisions of Section 43] have a right of occupancy in all [* * *] for the time being held by him as a Raiyat in that village.

Section 20. Effect of acquisition of occupancy-rights by landlord

[(1) When the immediate landlord of an occupancy holding is a proprietor or a permanent tenure-holder and the entire interests of the landlords and the Raiyat in the holding become united in the same person by transfer, succession, or otherwise, such a person, shall hold the land as a proprietor or permanent tenure-holder, as the case may be, and shall not hold it by any subordinate right whatsoever; but nothing in this subsection shall prejudicially affect the rights of any third person.

(2) If the occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder; such person shall hold the land as proprietor or permanent tenure-holder, as the case may be, and shall not hold it by - any subordinate right whatsoever. Such transferee shall pay to his co-sharers a fair and equitable sum for the use and occupation of the land, and if he sub-lets the land to a third person, such third person shall be deemed to be a tenure-holder or a Raiyat, as the case may be, in respect thereof.

Illustration. - A, a co-sharer landlord, purchases the occupation holding of a Raiyat X.A sublets the land to Y who takes it for the purpose of establishing tenants on it: Y becomes a tenure-holder in respect of the land. Or A sub-lets it to Z who takes it for the purpose of cultivating it himself: Z becomes a Raiyat in respect of the land. In determining from time to time what is a fair and equitable sum under this sub-section, regard shall be had to the rent payable by the occupancy-raiyat at the time of the transfer, and to the principles of this Act regulating the enhancement or reduction of the rent of occupancy-raiyats.

(3) A person interested in any estate, tenure, village or land, whether solely or jointly with others, as a temporary tenure-holder, Ijaradar, or farmer of rents, or as a mortgagee in possession, shall not during the period of his lease or mortgage, acquire by purchase or otherwise a right to hold any land comprised in his lease or mortgage in any other capacity than as such lessee or mortgagee and every interest acquired by him in such land during the period of his lease or mortgage, shall upon the termination of such lease or mortgage, cease to exist; provided that if he has settled the land with third person as a tenure-holder or a Raiyat, not being prohibited from so doing by the terms of his lease or mortgage, the rights of such third person shall not be affected by the mere termination of the lease, but such third person shall be deemed to be a tenure-holder or a Raiyat, as the case may be, in respect of the land.

(4) This Section does not prohibit and shall be deemed never to have prohibited the acquisition of a right of occupancy in a parcel of land-

(a) by a village headman if by local custom or usage he has a right to acquire a right of occupancy in land of the class to which that parcel belongs, or

(b) by a temporary tenure-holder who, before becoming such, was himself a resident cultivator of the village, in such parcel has been converted by him into Korkar or has been acquired by him by succession or inheritance.]

Explanation. - A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as a proprietor or permanent tenure-holder or by subsequently holding the land in ijara or farm or as a temporary tenure-holder or mortgagee.

Incident of Occupancy Right

Section 21. Rights of occupancy-Raiyat in respect of use of land

[(1)] When a Raiyat has a right of occupancy in respect of any land, he may use the land,-

(a) in any manner which is authorised by local custom or usage, or

(b) irrespective of any local custom or usage, in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy.

[(2) Notwithstanding anything contained in any entries in the record-of-rights or any local custom or usage to the contrary, the following shall not be deemed to impair the value of the land materially or to render it unfit for purposes of the tenancy, namely,-

(a) the manufacture of bricks and tiles for the domestic or agricultural purposes of the Raiyat and his family;

(b) the excavation of tanks or the digging of wells or the construction of bandhs and ahars intended to provide a supply of water for drinking, domestic, agricultural or piscicultural purposes of the Raiyat and his family; and

(c) the erection of buildings for the domestic or agricultural purposes or for the purposes of trade or cottage industries of the Raiyat and his family.

(3) If an occupancy-Raiyat, who pays for his holding rent in any of the ways specified in sub-section (1) of Section 61, excavates a tank on such holding for any purpose mentioned in clause (b) of sub-section (2), the landlord's share shall be nine-twentieths and the Raiyats share shall be eleven-twentieths in the produce of such tank.]

Section 21A. Rights of occupancy-Raiyat in trees

[Notwithstanding anything contained in Section 24, when a Raiyat has a right of occupancy in respect of any land,-

(a) if the rent of such land is paid in cash, or if such land is a rent-free holding or a part of such holding, the Raiyat may,-

(i) plant trees and bamboos on such land and cut, cut down and appropriate the same;

(ii) cut, cut down and appropriate any trees or bamboos standing on such land;

(iii) appropriate the flowers, fruits and other products of any trees or bamboos standing on such land;

(iv) rear lac and cocoons on trees standing on such land and appropriate the same :

[Provided that if there is any specific entry in the latest record-of-rights regarding any tree or bamboo which was standing on any such land before the date of the final publication of such record-of-rights to the effect that any right in such tree or bamboo belongs to any person, other than the proprietor of the estate comprising such land or the tenure-holder of such land, the right of the Raiyat in such tree or bamboo specified in sub-clauses (ii), (iii) and (iv), shall be exercised in accordance with, and subject to any entry;]

(b) if the rent of such land is paid in any of the ways specified in sub-section (1) of Section 61, the landlord and the Raiyat shall have equal shares in the timber and the landlord's share shall be nine-twentieths and the Raiyats share shall be eleven-twentieths in the flowers, fruits and other products of all trees or bamboos growing on such land whether planted before or after, the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1947 (Bihar Act 25 of 1947) and the Raiyat shall be entitled to plant any tree or bamboo on such land, but neither the Raiyat nor the landlord shall, without the consent of the other be entitled to cut down or appropriate any such tree or bamboo;

Provided that if neither the landlord nor the Raiyat agrees to the cutting down of the tree or bamboo and either of them considers such cutting necessary one or the other may apply for permission to the Deputy Commissioner who, after making summary inquiry and hearing the parties, if any may, subject to such conditions as he thinks fit, either grant the permission or refuse it, and his decision shall be final.]

Section 22. Protection of occupancy-Raiyat from eviction except on specified grounds

An occupancy-Raiyat shall not be ejected by his landlord from his holding, except in execution of a decree for ejectment passed on the ground,-

(a) that he has used the land comprised in his holding in a manner which is not authorised by Section 21 [or 21-A];

(b) that he has broken a condition, consistent with the provisions of this Act, on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.

Section 23. Devolution of occupancy right on death

If a Raiyat dies intestate in respect of a right of occupancy, it shall, subject to any local custom to the contrary, descend in the same manner as other immovable property :

Provided that in any case in which, under the law of inheritance to which the Raiyat is subject, his other property goes to the [Government], his right of occupancy shall be extinguished.

Section 23A. Registration of certain transfers of occupancy holdings

[(1) When an occupancy-holding or any portion thereof is transferred [by sale, gift, will or exchange in accordance with the provisions of this Act], the transferee or his successor in title may cause the transfer to be registered in the office of the landlord to whom the rent of the holding or portion thereof as the case may be, is payable.

[(2) The landlord shall allow the registration of all such transfers and shall not be entitled, except in the case of a transfer by sale or gift, to levy any registration fee. In the case of a transfer by sale or gift, the landlord shall be entitled to levy a registration fee of the following amount, namely:-]

(i) when rent is payable in respect of the holding or portion, a fee of [five percentum] on the annual rent thereof:

[Provided that, such fee shall not be less than rupees two and fifty paise or more than rupees two hundred and

fifty; and]

(ii) when rent is not payable in respect of the holding or portion, a fee of [rupees two and fifty paise.]

[(3) A registering officer shall not register-any instrument purporting or operating to transfer an occupancy holding or portion of an occupancy holding by sale or gift unless there is paid to him in addition to any fee payable under the Act for the time being in force for the registration of documents, a process fee of the prescribed amount and the registration fee payable under sub-section-(2), together with the costs necessary for the transmission of the registration fee to the landlord:

Provided that a gift to the husband or wife of the donor or to a son adopted under the Hindu Law or to a relation by consanguinity within three degrees of such donor shall not require any registration fee to be paid to the landlord as provided in sub-section (2).]

(4) When the registration of any such instrument is complete, the registering officer shall send to the Deputy Commissioner the registration fee and the costs necessary for the transmission of the same to the landlord ana notice of the transfer and registration in the prescribed form, and the Deputy Commissioner shall cause the fee to be transmitted to and the notice to be served on the landlord named in the notice in the prescribed manner.

[(5) If any landlord refuses to allow the registration of any such transfer as is mentioned in sub-section (1), the transferee or his successor-in-title may make an application to the Deputy Commissioner, and the Deputy Commissioner shall thereupon, after causing notice to be served on the landlord, make such inquiry as he considers necessary, and [shall if he is satisfied that the transfer is not contrary to the provisions of this Act], pass an order declaring that the transfer shall be deemed to be registered, and may also pass such order as he thinks fit in respect of the costs of any such inquiry.]

Section 24. Obligation of occupancy-Raiyat to pay rent

An occupancy-Raiyat shall pay rent for his holding at a fair and equitable rate.

Section 24A. Division of holding by partition and distribution of rent thereof

[(1) When an occupancy holding has been the subject of partition by an order of a Court otherwise,-

(a) the division of the said holding made in accordance with such partition shall be binding on the landlord;

(b) if notice in writing of the partition and the distribution of the rent has been served on the landlord in the prescribed form and in the prescribed manner, such distribution of the rent shall be binding on the landlord :

Provided that the landlord may, if he objects to such distribution by an order of a Court or otherwise, if the parties to the distribution of the rent of the holding.

(2) When an occupancy holding has been the subject of partition by an order of a Court or otherwise, if the parties to the partition are unable to distribute the rent of the holding by agreement, any of them may apply to the Deputy Commissioner to distribute the rent of the holding.

(3) (a) On receipt of an application under the proviso to clause (b) of subsection (1) or under sub-section (2), the Deputy Commissioner shall serve on the parties interested, other than the applicant, a notice of the date on which he intends to hear the application.

Explanation. - For the purpose of this clause, the landlord shall be deemed to be a party interested in an application under sub-section (2).

(b) After serving the notice required by clause (a) and hearing the parties and holding such inquiry as he thinks fit, the Deputy Commissioner shall distribute the rent of the holding in such manner as he considers fair and equitable and his decision shall be final.

(4) The order of the Deputy Commissioner under sub-section (3) shall take effect on an application under the proviso to clause (b) of sub-section (1) from the date of the partition and, on an application under sub-section (2) from such date as the Deputy Commissioner may specify in his order.

(5) The Deputy Commissioner shall have power to award costs to any party to any proceeding under this Section, and any sum ordered to be paid as costs shall be recoverable from the party by whom it is payable as a public demand payable to the Deputy Commissioner.

(6) The Deputy Commissioner shall pay any sum recovered as costs by him under sub-section (5) to the party to whom such costs are payable.]

Enhancement of Rent

Section 25. Presumption that rent of occupancy-Raiyat is fair and equitable

The rent for the time being payable by an occupancy-Raiyat shall be presumed to be fair and equitable until the contrary is proved.

Section 26. Confirmation of rents enhanced prior to commencement of this Act

When the rent of an occupancy-Raiyat whose rent is liable to enhancement has been enhanced before the commencement of this Act otherwise than under Section 24 of the [Chota Nagpur Landlord] and Tenant Procedure Act [1879] (Ben. Act I of 1879), such enhanced rent shall be deemed to be lawfully payable,-

(a) if it has been actually paid continuously for seven years before the commencement of this Act; and

(b) if it is not proved to be unfair and inequitable:

Provided that where the rent lawfully payable by an occupancy-Raiyat for his holding has been made an issue in any suit for arrears of rent, and the Court has arrived at a finding on that issue, the rent to be found shall be deemed to be lawfully payable by the Raiyat or the holding.

Section 27. Methods in which rent of occupancy-Raiyat may be enhanced

(1) From and after the commencement of this Act,-

(a) in any area for which record-of-rights has not been prepared and finally published under this Act or under any law in force before the commencement of this Act, or for which an order has not been issued under this Act or under any law in force before the commencement of this Act for the preparation of such a record, the money-rent of an occupancy-Raiyat whose rent is liable to enhancement may be enhanced only by order of the Deputy Commissioner passed under Section 29, and

(b) in any area for which a record-of-rights has been prepared and finally published as aforesaid, or for which an order has been issued as aforesaid for the preparation of such a record of the money-rent of an occupancy-Raiyat whose rent is liable to enhancement may be enhanced only;

(i) in cases referred to in Section 62, Section 94 or Section 99, by order of the Deputy Commissioner passed under Section 29, and

(ii) in other cases, by order of a Revenue Officer passed under Chapter XII.

(2) No enhancement of such rent made after the commencement of this Act in any manner other than that referred to in clause (a) or clause (b), as the case may be, whether by private contract or otherwise shall for any reason be recognised or given effect to in any suit or proceeding in any Court.

Section 28. Contents of application to Deputy Commissioner for enhancement

(1) Every application to the Deputy Commissioner for the enhancement of the rent of an occupancy holding shall specify,-

(a) such particulars as may be prescribed regarding the area, situation, local names, quality and boundaries of the parcels of land constituting the holding;

(b) the rates of rent (if any) payable by Raiyat for the different classes of land constituting the holding and the yearly rent payable for the holding at the date of the application;

(c) the rates (if any) generally prevailing in the village for corresponding classes of land;

(d) the date (as nearly as it can be ascertained) when the rates of rent generally prevailing were last adjusted in the village;

(e) the rates which the applicant desires to claim; and

(f) the grounds on which the applicant considers that he is entitled to the enhancement claimed.

(2) Sections 146 to 149 shall apply to every application made under this Section.

Section 29. Procedure on receipt of such application

(1) When any such application has been received, the Deputy Commissioner,-

(a) shall forthwith give notice of the contents thereof to the Raiyat, and

(b) may if he thinks fit, order a measurement of the land, and

(c) may, upon consideration of all the circumstances set forth in the application, and after hearing any objection advanced by the Raiyat by order, fix such enhanced rent, or otherwise vary the rent for the said land, as to him may

seem fair and reasonable :

Provided that no enhancement shall be ordered except on one or more of the following grounds, namely:-

(i) that the rate of rent paid by the Raiyat is below the prevailing rate paid by occupancy- Raiyats for land of similar quality and with similar advantages [in the same village or in the neighbouring villages, and that there is no sufficient, reason for his holding at so low a rate;]

(ii) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent;

(iii) that the productive powers of the land held by the Raiyat have been increased by an improvement effected during the currency of the present rent, otherwise than by the agency or at the expense of the Raiyat:

Provided also that no enhancement shall be ordered which is, under the circumstances of the case, unfair or inequitable :

Provided further that all enhancement shall be limited in the prescribed manner (if any).

(2) The rent as fixed or varied under sub-section (1) shall be payable by the said Raiyat from the commencement of the agricultural year following the year in which the order is passed, and may be recovered in any suit instituted against him for arrears of rent.

(3) Nothing in this Section shall bar the right of a Raiyat to claim at any time under Section 34 a reduction of the rent previously paid by him.

Section 30. Power to direct gradual enhancement

Where the Deputy Commissioner considers that the immediate enforcement of the full enhancement ordered under Section 29 is likely to be attended with hardship, he may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the full enhancement has been reached.

Increase of Rent in Respect of Excess Area

Section 31. Application for increase of rent in respect of land held in excess of the area for which rent was previously paid

(1) Where the land is held by an occupancy- Raiyat in excess of the area for which rent has previously been paid by him, no increase shall be made to the rent payable by him except by order of a Revenue Officer passed under Chapter XII or by order of the Deputy Commissioner passed on an application made to him by the landlord.

(2) Every such application shall specify,-

(a) the yearly rent payable by the Raiyat at the date of the application;

(b) the area and description of the land for which the said rent is payable;

(c) the proceedings (if any) by which the said rent was fixed;

(d) the general rate prevailing in the village for corresponding classes of lands;

(e) the date (as nearly as it can be ascertained) when the said general rate was last adjusted in the village;

(f) the area and description of the land held in excess of the area for which rent has previously been paid, and in respect of which an increase of rent is claimed; or, if the landlord is unable to indicate any particular land as being held in excess, then the area alone;

(g) the amount of the said increase;

(h) the manner in which the said increase has been, or should be assessed; and

(i) any other prescribed particulars.

(3) If a survey and record-of-rights have been made under this Act, or under any other law in force before the commencement of this Act, in respect of any land referred to in clause (b) or clause (f) of sub-section (2), the "area and description" required by those clauses, respectively, shall be specified by stating the plot number, area and class of each field included in the land, as shown by such survey and record.

(4) Sections 146 to 149 shall apply to every application made under this Section.

Section 32. Procedure on receipt of such application

(1) When any such application has been received, the Deputy Commissioner,-

(a) shall forthwith give notice of the contents thereof to the Raiyat, and

(b) shall refer to the entry (if any) relating to the tenancy in the record-of-rights prepared under this Act or any other law for the time being in force; and

(c) may, if he thinks fit, order a measurement of the land held by the Raiyat, and

(d) may, upon consideration of all the circumstances set forth in the application, and after hearing any objection advanced by the Raiyat and making such further inquiry as the Deputy Commissioner may think necessary, order such an increase, whether progressive or otherwise, as he may consider to be fair and reasonable:

Provided that if the landlord proves that at the time when the measurement on which the claim is based was made, there existed in the estate or tenure or part hereof in which the holding is situate a practice or measuring land before setting rents, the Deputy Commissioner may presume that the area of the holding as entered in any lease or counterpart engagement or (where there is any entry of area in a counterfoil receipt corresponding to the entry of the rent-roll) in the rent-roll relating to the holding was so entered after measurement:

Provided also that an increase of rent shall not be ordered where it would contravene any local custom or usage prohibiting an increase of rent in respect of the increase in area of a holding.

(2) When any increase has been so ordered, it shall be payable from the commencement of the agricultural year following that in which the order is passed, and may be recovered from the Raiyat in any suit instituted against him for arrears of rent.

Section 33. Savings

Nothing in Sections 31 and 32 shall prohibit a landlord from realising,-

(a) increased rents from a Raiyat for separate parcels of land settled with him in any manner authorised by law, order;

[(b) rents assessed under Section 67-A on land converted into Korkar,]

Reduction of Rent

Section 33A. Reduction of rent

[The Deputy Commissioner may reduce the rent of an occupancy holding on any of the following grounds :

(a) that the rent of the holding has been enhanced under Section 29 on one or both of the grounds specified in clause (i) and clause (ii) of the proviso to sub-section (1) of that Section at any time between the first day of January, 1911 and the thirty-first day of December, 1936;

(b) that the rent of the holding was commuted under Section 61, at any time between the first day of January, 1911 and the thirty-first day of December, 1936;

(c) that the soil of a portion or the whole of such holding has, without the fault of the Raiyat, become temporarily or permanently deteriorated by a deposit of sand, by submersion under water or by any other specific cause, sudden or gradual;

(d) that the landlord of such holding has failed to carry out the arrangements in respect of irrigation which he is bound to maintain;

(e) that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent;

(f) that the land held by the Raiyat is of less area than the area for which rent has previously been [payable by him,]

Section 34. Application to Deputy Commissioner for reduction of rent

(1) Any occupancy- Raiyat wishing to claim a reduction of the rent previously paid by him may present an application to the Deputy Commissioner to assess the rent on the land in respect of which such reduction is sought and (if necessary) to measure the land:

[Provided that no application for a reduction of rent under clause (a) or clause (b) of Section 33-A shall be entertained unless it is filed within a period of two years from the date on which Section 5 of the Chota Nagpur Tenancy (Amendment) Act, 1938 (Bihar Act 2 of 1938) comes into force],

(2) Every such application shall specify,-

(a) the yearly rent payable by the Raiyat at the date of the application;

(b) the area and description of the land for which the said rent is payable;

(c) the proceedings (if any) by which the said rent was fixed;

(d) the general rate prevailing in the village for corresponding classes of lands;

(e) the date (as nearly as it can be ascertained) when the said general rate was last adjusted in the village;

(f) the amount of reduction claimed;

(g) the grounds on which such reduction is claimed; and

(h) any other prescribed particulars.

(3) Sections 146 to 149 shall apply to every application made under this Section.

Section 35. Procedure on receipt of such application

(1) When any such application has been received, the Deputy Commissioner,-

(a) shall forthwith give notice of the contents thereof to the landlord; and

(b) may, if he thinks fit, order a measurement of land; and

(c) may, upon consideration of all the circumstances set forth in the application, and after hearing any objection advanced by landlord by order [fix a reduced rent for the holding] as to him may seem fair and reasonable:

[Provided that-

(i) if a reduction is claimed under clause (a) of Section 33-A, the entire enhancement shall be cancelled;

(ii) if a reduction is claimed under clause (b) of Section 33-A, the reduced rent shall bear to the previous rent the same proportion as the current prices bear to the average prices during the decennial period immediately preceding the time when the rent was commuted;

(iii) if a reduction is claimed under clause (c) of Section 33-A, the Deputy Commissioner may order partial or entire remission of the rent and shall fix a period during which the reduced rent shall be paid or during which the entire rent shall be remitted, and may at any time, before the expiration of the said period revise his order if he is satisfied that the soil of the holding has become fit for cultivation;

(iv) if a reduction is claimed under clause (d) of Section 33-A, the Deputy Commissioner may at any time revise his order fixising a reduced rent if he is satisfied that the landlord has restored the arrangements in respect of irrigation which he is bound to maintain;

(v) if a reduction is claimed under clause (e) of Section 33-A, the reduced rent shall bear to the previous rent the same proportion as the current prices bear to the prices prevailing,-

(1) at the time when the previous rent first became payable, or

(2) if the previous rent first became payable before the preparation of a record-of-rights under Chapter XII and landlord is unable to prove to the satisfaction of the Deputy Commissioner when the previous rent became payable at the time when a record-of-rights was first prepared in respect of the holding.]

[(2) An order of the Deputy Commissioner under sub-section (1) shall take effect from such date as may be specified in the order.]

(3) Nothing in this Section shall bear the right of the landlord to claim at any time an enhancement under Section 29 of the rent of such Raiyat.

Bar to further Enhancement or Reduction of Rent

Section 36. Bar to further enhancement or reduction of rent where there is no record-of-rights

(1) When the rent of an occupancy holding in any area referred to in clause (a) of Section 27 has been enhanced by order of the Deputy Commissioner passed under Section 29, such rent shall not again be enhanced for a period of fifteen years except. -

(a) by order of the Deputy Commissioner, on the ground of landlord's improvement; or

(b) by order of a Revenue Officer, passed under Chapter XII.

(2) When the rent of an occupancy holding in any such area has been reduced by order of the Deputy Commissioner under [Section 35] such rent shall not again be reduced for a period of fifteen years, except,-

(a) by order of the Deputy Commissioner on one of the grounds specified in [clauses (c), (d) and (f) of Section 33-A], or

(b) by order of a Revenue Officer passed under Chapter XII.

Chapter V Raiyat Having khunt-katti Rights

Section 37. Incidents of tenancy of Raiyats having khunt-katti rights

The provisions of the Act relating to occupancy-Raiyats shall apply also to Raiyat having 'khunt-katti' rights:

Provided as follows :-

(a) subject to any written contract made at the time of the commencement of his tenancy the rent payable by a Raiyat having 'khunt-katti' rights, for land in respect of which he has such rights shall not be enhanced if his tenancy of such land was created more than twenty years before the commencement of this Act; and

(b) when an order is made for the enhancement of the rent payable by a Raiyat having Khunt-kattir rights, for any land in respect of which he has such rights, the enhanced rent fixed by such order shall not exceed one-half of the rent payable by an occupancy Raiyat for land of a similar description with similar advantage in the same village.

Chapter VI Non-Occupancy Raiyats

Section 38. Initial rent and lease of non-occupancy-Raiyat

Subject to any local custom or usage, a non-occupancy-Raiyat shall, when admitted to the occupation of land, become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission, and shall be entitled to a lease only at such rates and on such conditions as may be so agreed on.

Section 39. Effect of acquisition by landlord of the right of a non-occupancy-Raiyat in his holding

The provisions of Section 20 shall apply in the case of the right of a non-occupancy-Raiyat in his holding in the same way that they apply to an occupancy- Raiyat.

Section 40. Conditions of enhancement of rent of non-occupancy-Raiyat

The rent of non-occupancy Raiyat shall not be enhanced except by registered agreement or by agreement under Section 42.

Section 41. Grounds on which non-occupancy Raiyat may be rejected

A non-occupancy Raiyat shall-subject to the provisions of this Act, be liable to ejectment 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 [for two agricultural years within ninety days after the commencement of the third agricultural year;]

(b) on the ground that he has used the land comprised in his holding in a manner which is not authorised by local custom or usage or which materially impairs the value of the land or renders it unfit for the purposes of the tenancy;

(c) on the ground that he has broken a condition consistent with this Act, on breach of which he is, under the terms of a contract between himself and his landlord, liable to be rejected;

(d) where he has been admitted to occupation of the land under a registered lease, on the ground that the terms of the lease has expired;

(e) on the ground that he has refused to agree to pay a fair and equitable rent determined under Section 42, or that the term for which he is entitled to hold at such a rent has expired.

Section 42. Conditions of ejectment on ground of refusal to agree to pay a fair and equitable rent

(1) A suit for ejectment on the ground of refusal to agree to pay a fair and equitable rent shall not be instituted against a non-occupancy Raiyat unless the landlord has tendered to the Raiyat an agreement to pay the rent which he demands and the Raiyat has within six months before the institution of the suit, refused to execute the agreement.

[(2) A landlord desiring to tender an agreement to a Raiyat under this section shall file it in the office of the Deputy Commissioner for service on the Raiyat.]

(3) When an agreement has been filed under [* * *] sub-section (2), the Deputy Commissioner shall forthwith cause it to be served on Raiyat in the manner prescribed under Section 264 for the service of notices.

(4) When an agreement has been served on a Raiyat under sub-section (3) [* * *] the agreement shall, for the purposes of this Section, be deemed to have been tendered.

(5) If a Raiyat on whom an agreement has been served under sub-section (3) [* * *] executes it, and within one month from the date of receipt files it in the office of the Deputy Commissioner, it shall take effect from the commencement of the agricultural year next following.

(6) When an agreement has been executed and filed by Raiyat under subsection (5), the Deputy Commissioner shall forthwith cause a notice of its being so executed and filed to be served on the landlord.

(7) If the Raiyat does not execute the agreement and files it under sub-section (5), he shall be deemed, for the purposes of this section to have refused to execute it.

(8) If a Raiyat refuses to execute an agreement tendered to him under this Section, and the landlord thereupon institutes a suit to eject him, the Deputy Commissioner shall determine what rent is fair and requitable for the holding.

(9) If the Raiyat agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment on the second ground mentioned in clause (e) of Section 41, unless he has acquired a right of occupancy.

(10) If the Raiyat does not agree to pay the rent so determined, the Deputy Commissioner shall pass a decree for ejectment.

(11) In determining what rent is fair and equitable, the Deputy Commissioner shall have regard to the rents generally paid by non-occupancy Raiyat for land of a similar description and with like advantages in the same village and (if the Deputy Commissioner thinks fit) in adjoining villages.

Chapter VII Lands Exempted From Chapters IV and VI

Section 43. Bar to acquisition of right of occupancy in, and to application of Chapter VI to landlords' privileged lands and certain other lands

Notwithstanding anything contained in Chapter IV, a right of occupancy shall not be acquired in, nor shall anything contained in Chapter VI [or in Sections 64 to 66] apply to-

(a) landlord's privileged lands referred to in clause (a) of Section 118, when they are held by a tenant on a registered lease for a term [exceeding one year or on a lease, written or oral, for a period of one year or less], or

(b) landlords' privileged lands referred to in clause (b) of Section 118, or

(c) land acquired under the Land Acquisition Act, 1894 (1 of 1894) for [any Government] or any local authority or Railway Company or land belonging to the [Government] within a cantonment while such land remains the property of the [Government] or of any local authority or Railway Company, [or]

[(d) land belonging to the Government or to any local authority or to any Corporation constituted under any law for the time being in force for the promotion of public health of the agricultural, industrial, economic or general well-being of the people in any area which is used for any public work, such as a road, canal embankment, dam or reservoir, or is acquired for the repair or maintenance of the same while such land continues to be so used or required.]

Chapter VIII Leases and Transfers of Holdings and Tenures

Section 44. Raiyat entitled to a lease

Every Raiyat shall be entitled to receive from his landlord a lease containing the following particulars, namely :-

(a) the quantity and boundaries of the land comprised in his holding and where fields have been numbered in a Government survey the number of each field;

(b) the amount of yearly rent payable for such land;

(c) the instalments in which the rent is to be paid;

(d) if the rent is payable wholly or partially in kind, the proportion or quantity of produce to be delivered, and the time and manner of delivery; and

(e) any special conditions of the lease.

Section 45. Landlord entitled to counterpart engagement

Whenever a landlord grants a lease to a tenant, or tenders to a tenant a lease such as he is entitled to receive, the landlord shall be entitled to receive from such tenant a counterpart engagement in conformity with the terms of the lease.

Section 46. Restrictions on transfer of their right by Raiyat

[(1) No transfer by a Raiyat of his right in his holding or any portion thereof,-

(a) by mortgagte or lease for any period expressed or implied which exceeds or might in any possible event exceed five years, or

(b) by sale, gift or any other contract or agreement, shall be valid to any extent:

Provided that a Raiyat may enter into a 'bhugut bundha' mortgage of his holding or any portion thereof for any period not exceeding seven years or if the mortgagee be a society registered or deemed to be registered under the 'Bihar and Orissa Co-operative Societies Act, 1935 (B&O Act VI of 1935) for any period not exceeding fifteen years:]

Provided further that,-

(a) an occupancy-Raiyat, who is [a member of the Scheduled Tribes] may transfer with the previous sanction of the Deputy Commissioner his right in his holding or a portion of his holding by sale, exchange, gift or will to [another person, who is a member of the Scheduled Tribes and], who is a resident within the local limits of the area of the police station within which the holding is situate;

(b) an occupancy-Raiyat, who is a member of the [Scheduled Castes or Backward Classes] may transfer with the previous sanction of the Deputy Commissioner his right in his holding or a portion of his holding by sale, exchange, gift, will or lease to another person, who is a member of the [Scheduled Castes or, as the case may be, Backward Classes] and who is a resident within the local limits of the district within which the holding is situate [* * *];

[(c) any occupancy-Raiyat may, transfer his right in his holding or any portion thereof to a society or bank registered or deemed to be registered under the 'Bihar and Orissa Co-operative Societies Act, 1935 (Bihar and Orissa Act VI of 1935), or to the State Bank of India or a bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or to a company or a corporation owned by, or in which less than fifty-one per cent of the share capital is held by the State Government or the Central Government or partly by the State Government, and partly by the Central Government, and which has been set up with a view to provide agricultural credit to cultivators; and (d) any occupancy-Raiyat, who is not a member of the Scheduled Tribes, Scheduled Castes or Backward classes, may, transfer his right in his holding or any portion thereof by sale, exchange, gift, will, mortgage or otherwise to any other person.]

(2) A transfer by a Raiyat of his right in his holding or any portion thereof under sub-section (1) shall be binding on the landlords.

(3) No transfer of contravention of sub-section (1), shall be registered or shall be in any way recognised as valid by any Court, whatever in exercise, of civil, criminal or revenue jurisdiction.

[(3-A) Notwithstanding anything contained in any other law for the time being in force, the Deputy Commissioner shall be a necessary party in all suits of a civil nature relating to any holding or portion thereof in which one of the parties to the suits is a member of the Scheduled Tribes and the other party is not a member of the Scheduled Tribes.]

(4) At any time within three years after the expiration of the period or which a Raiyat has under clause (a) of sub-section (1) transferred his right in his holding or any portion thereof, the Deputy Commissioner shall on the application of the Raiyat put the Raiyat into possession of such holding or portion in the prescribed manner.

[(4-A) (a) The Deputy Commissioner may, of his own motion or on an application filed before him by an occupancy-Raiyat, who is a member of the Scheduled Tribes, for annulling the transfer on the ground that the transfer was made in contravention of clause (a) of the second proviso to sub-section (1), hold an inquiry in the prescribed manner to determine if the transfer has been made in contravention of clause (a) of the second proviso to sub-section (1):

Provided that no such application be entertained by the Deputy Commissioner unless it is filed by the occupancy-tenant within a period of twelve years from the date of transfer of his holding or any portion thereof:

Provided further that before passing any order under clause (b) or clause (c) of this sub-section, the Deputy Commissioner shall give the parties concerned a reasonable opportunity to be heard in the matter.

(b) If after holding the inquiry referred to in clause (a) of this sub-section, the Deputy Commissioner finds that there was no contravention of clause (a) of the second proviso to sub-section (1) in making such transfer, he shall reject the application and may award such costs to the transferee to be paid by the transferor as he may, in the circumstances of the case, deem fit.

(c) If after holding the inquiry referred to in clause (a) of this sub-section, the Deputy Commissioner finds that such transfer was made in contravention of clause (a) of the second proviso to sub-section (1), he shall annul the transfer and eject the transferee from such holding or portion thereof, as the case may be and put the transferor in possession thereof:

Provided that if the transferee has constructed any building or structure, such holding or portion thereof, the Deputy

Commissioner shall, if the transferor is not willing to pay the value of the same, order the transferee to remove the same within a period of six months from the date of the order, or within such extended time not exceeding two years from the date of the order as the Deputy Commissioner may allow failing which the Deputy Commissioner may get such building or structure removed:

Provided further that where the Deputy Commissioner is satisfied that the transferee has constructed a substantial structure or building on such holding or portion thereof before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1969 (President's Act 4 of 1969) he may, notwithstanding any other provisions of this Act, validate such a transfer made in contravention of clause (a) of the second proviso to sub-section (1), if the transferee either makes available to the transferor an alternative holding or portion of a holding, as the case may be, of the equivalent value, in the vicinity or pays adequate compensation to be determined by the Deputy Commissioner for rehabilitation of the transferor.

Explanation. - In this Section "substantial structure or building" means the structure or building of the value exceeding five thousand rupees on the date of holding inquiry, but it does not include such structure or building of any value the materials of which cannot be removed without incurring substantial depreciation in its value.]

(5) Nothing in this Section shall affect the validity of any transfer (of otherwise invalid) of a Raiyats right in his holding or any portion thereof made bona fide before the first day of January 1908 in the Chota Nagpur Division except the district of 'Manbhum', or before the first day of Januaury 1909, in the district of 'Manbhum'.

[(6) In this Section [and in Section 47],-

(a) "Scheduled Casted" means such castes, races or tribes as are specified in Part II of the Scheduled to the Constitution (Scheduled Castes) Order, 1950;

(b) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are specified in Part II of the Scheduled to the Constitution (Scheduled Tribes) Order, 1950; and

(c) "Backward classed" means such classes of citizens as may be declared by the State Government, by notification in the Official Gazette, to be socially and educationally backward.]

Section 47. Restriction on sale of Raiyat's right under order of Court

No decree or order shall be passed by any Court for the sale of the right of 'Raiyat in his holding [or any portion thereof] nor shall any such right be sold in execution of any decree or order :

Provided as follows :-

(a) any holding [or portion of holding] may be sold, in execution of a decree of a competent Court, to recover an arrear of rent which has accrued in respect of the holding;

(b) any holding [or portion of a holding] may be sold, under the procedure provided by [the Bihar and Orissa Public Demands Recovery Act, 1914 (B&O Act 4 of 1914] for the recovery of a loan granted [* * *] under the Land Improvement Loans Act, 1883 (19 of 1883), or the Agriculturist Loans Act, 1884 (12 of 1884) or otherwise by the [State] Government;

[(bb) any holding or portion of a holding, belonging to any occupancy-Raiyat may be sold, under the procedure provided by the Bihar and Orissa Public Demands Recovery Act, 1914 (Bihar and Orissa Act IV of 1914), for the recovery of loan granted by a society or bank registered or deemed to be registered under the Bihar and Orissa Co-operative Societies Act, 1935 (Bihar and Orissa Act VI of 1935), or by the State Bank of India or a bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (5 of 1970) or by a company or a corporation owned or in by which not less than fifty-one per cent of the share capital is held by the State Government or the Central Government or partly by the State Government and partly by the Central Government and which has been set up with a view to provide agricultural credit to cultivators so, however, that if such holding or portion thereof belongs to a member of the Scheduled Tribes or Scheduled Castes, it shall not be sold to any person, who is not a member of the Scheduled Tribes, or as the case may be, of the Scheduled Castes.]

(c) Nothing in this Section shall affect the right to execute a decree for sale of a holding passed, or the terms of conditions of any contract registered before the first day of January, 1903 [* * *]

[* * * * *]

Explanation I. - Where a holding is held under joint landlords, 6[and a decree has been passed for the share of the rent due to one or more, but not all, of them, proviso (a) does not authorise the sale of the holding [or any portion of the holding] in execution of such decree.

Explanation II. - Proviso (c) does not render valid any document which is otherwise illegal or invalid, or authorise a

Court to take judicial cognizance of any such document.

Section 48. Restrictions on the transfer of Bhuinhari tenure

[(1) A member of a 'Bhuinhari family may transfer any 'Bhuinhari tenure as defined in the Chota Nagpur Tenures Act, 1869 (Ben. Act 2 of 1869) which is held by him or any portion thereof in the same manner and to the same extent as an aboriginal 'Raiyat may transfer his right in his holding under clauses (a) and (b) of sub-section (2) of Section 46.]

(2) The [State] Government may make rules permitting a member of a 'Bhuinhari family holds any 'Bhuinhari tenure to transfer such tenure or any portion thereof by sale, gift, exchange or will subject to such restrictions and conditions as may be specified in the said rules.

(3) Save as provided in sub-section (1) or in any rules made under sub-section (2), a transfer of a 'Bhuinhari tenure or any portion thereof shall not be valid to any extent.

(4) If a member of a 'Bhuinhari family transfers any 'Bhuinhari tenure which is held by him or any portion of such tenure in contravention of the provisions of this Section or on the expiration of the period for which any such member has transferred his 'Bhuinhari tenure or any portion thereof in accordance with the provisions of this Section or any rules made thereunder, the Deputy Commissioner may, of his own motion or on the application of such member, eject the transferee and place such member in possession of the said 'Bhuinhari tenure or portion at any time within twelve years from the date of the transfer, or from the expiration of the period of the transfer, as the case may be.

[Provided that a member of the Bhuinhari may transfer by a simple mortgage his right in his tenancy or any portion thereof with a view to raising loan for agricultural purposes to a society or bank registered or deemed to be registered under the Bihar and Orissa Co-operative Societies Act, 1935 (Bihar and Orissa Act VI of 1935) or to a Company or Corporation owned by, or in which not less than fifty-one per cent of the share capital is held by the State Government or Central Government or partly by the State Government and partly b^the Central Government and which has been set up with a view to providing agricultural credit to cultivators.]

(5) A member of a 'Bhuinhari family, who holds land in any village in which a 'Bhuinhari tenure as defined in the Chota Nagpur Tenures Act, 1869 (Ben. Act 2 of 1869) is situated may transfer such land in the same manner and to the same extent as an occupancy 'Raiyat transfers his right in his holding under sub-section (3) of Section 46, and sub-section (4) of this Section shall apply to such land in the same way as it applies to a 'Bhuinhari tenure.

(6) If any member of a 'Bhuinhari family transfers his 'Bhuinhari tenure or any portion thereof by a lease, the lessee shall not acquire a right of occupancy therein.

Section 48A. Restriction on the sale of Bhuinhari tenure

[(1) No decree or order shall be passed by any Court for the sale of the right of a member of a Bhuinhari family in his Bhuinhari-tenure, nor shall any such right be sold in execution of any decree or order.

(2) A decree for arrears of rent due in respect of any Bhuinhari-tenure held by a member of a Bhuinhari family may be executed by the attachment and sale of the produce of the land comprised in the tenure or by sale of other movable property of the judgement-debtor and not otherwise.]

Section 49. Transfer of occupancy-holding or Bhuinhari-Tenure for certain purposes

[(1) Notwithstanding anything contained in Sections 46, 47 and 48 any occupancy Raiyat or any member of a Bhuinhari family, who is referred to in Section 48 may transfer his holding or tenure or any part thereof for the following purposes,-

(a) in any case, the use of the land for any industrial purposes or for any other purposes which the State Government may, by ratification declare to be subsidiary thereto or for access to land used or required for any such purpose.

(b) in any case, the use of the land for the purpose of mining or for any other purposes which the State Government may, by notification, declare to be subsidiary thereto or for access to land used or required for any such purpose.

(2) The transferee in such cases shall not be entitled to use the land so transferred for any other purpose except for which it was transferred.]

(3) Every such transfer must be made by registered deed, and before the deed is registered and the land transferred, the written consent of the Deputy Commissioner must be obtained to the terms of the deed and to the transfer.

(4) Before consenting to any such transfer, the Deputy Commissioner shall satisfy himself that [adequate compensation is tendered to landlord for the loss (if any) caused to him by the transfer], and, where only part of a holding or tenure is transferred, may, if he thinks fit, apportion; between the transferee and the original tenant the rent

payable for the holding or tenure.

[* * * * * *]

[(5) The State Government may, at any time within a period of twelve years from the date on which written consent is given by the Deputy Commissioner in regard to the transfer of any holding or part thereof belonging to an occupancy-Raiyat, who is a member of the Scheduled Tribes either on its own motion or on an application made to it in this behalf set aside such written consent and annul the transfer, if after holding an inquiry in the prescribed manner and after giving reasonable opportunity to the parties concerned to be heard it finds that the consent had been obtained in contravention of the provisions of sub-sections (1) and (2) by misrepresentation or fraud, and in case any holding or part thereof has been transferred on the basis of such written consent direct the Deputy Commissioner to take further necessary action under clause (c) of sub-section 4-A of Section 46.]

Section 50. Acquisition of tenure or holding by landlord for certain purposes

[(1) Notwithstanding anything contained in Sections 46 and 47, the Deputy Commissioner, may,-

(a) on the application of the landlord of a holding and on being satisfied that he is desirous of acquiring the holding or any part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the tenure or estate in which it comprised, such as the use of the land for any charitable, religious or educational purpose, or for the purpose of manufacture or irrigation, or as building ground for any such purpose or for access to land used or required for any such purpose, and after such inquiry as the Deputy Commissioner may think necessary, authorise the acquisition thereof by the landlord upon such conditions as the Deputy Commissioner may think fit, and require the tenant to sell his interest in the holding or part to the landlord upon such terms as may be approved by the Deputy Commissioner, including compensation to the tenant;

(b) on the application of the landlord of a tenure or holding and on being satisfied that he is desirous of acquiring any land within the said tenure or holding for the purpose of mining or for any other purpose which the [State] Government may by notification declare to be subsidiary thereto or for access to land used or required for such purpose, and after such inquiry as the Deputy Commissioner may think necessary, authorise the acquisition by landlord of such land or part thereof upon such conditions as the Deputy Commissioner may think fit, and require all persons holding interests directly or indirectly subordinate to him in the land to sell their interest to the said landlord upon payment to every such holder or such compensation as the Deputy Commissioner may determine.

(2)(a) In determining the compensation to be paid under this Section, the Deputy Commissioner shall take into consideration the matter specified in clauses first to fifthly of Section 23 of the Land Acquisition Act, 1894 (1 of 1894) and the damage, if any, resulting from diminution of the profits of the land between the time of the publication of the notice under sub-section (3) and the time when the person making the application under clause (a) or clause (b) of sub-section (1) makes tender of compensation under sub-section (5).

(b) The Deputy Commissioner shall not take into consideration any of the matters specified in clause first to sixthly of Section 24 of the Land Acquisition Act, 1894 (I of 1894), nor any outlay or improvements on, or disposal of, the land acquired commenced, made or effected after the date of the publication of the notice under sub-section (3).

(c)The Deputy Commissioner shall, in addition to the market value of the land ascertained in accordance with the provisions of clause (a) of this sub-section, award to the holder of any interest acquired under this Section a sum of 20 percentum on such market value in consideration of the compulsory nature of the acquisition.

(3) The Deputy Commissioner shall, before holding the inquiry mentioned in clause (a) or clause (b) of sub-section (1), give notice in the prescribed manner of the application for acquisition under this Section and of his intention to hold such inquiry, to all persons known or believed to be interested in any land proposed to be acquired, and shall receive and decide any objection to the proposed acquisition which may be made by any person ;

Provided that if any person, being the owner or lessee of the minerals lying under the land proposed for acquisition or under any part thereof, shall so subject to the Deputy Commissioner, such land or part thereof, as the case may be shall not be required under clause (b) of sub-section (1):

Provided also that if the landlord applies for the acquisition of a part of a holding, whether such part includes the homestead land of the Raiyat or not, the Deputy Commissioner shall, if the Raiyat does not wish to retain the remainder of the holding, reject the application or acquisition, unless the landlord is willing to acquire the entire holding.

(4) On the acquisition under this Section of a part of any tenure or holding, the Deputy Commissioner may order such reduction of rent as may be fair and equitable.

(5) If the landlord making an application under clause (a) or clause (b) of sub-section (1) tenders to any person, whose holding or interest or part thereof is being acquired such sum as the Deputy Commissioner has determined as

compensation under sub-section (2) and such person refuses the same, the Deputy Commissioner may, on the landlord depositing the said sum with the Deputy Commissioner, give possession of such holding or interest to the landlord in the prescribed manner.

(6) Any person interested, who has not accepted the award under this Section may, by written application presented to the Deputy Commissioner within six weeks of the date of the award, require that the matter be referred to the principal Civil Court of original jurisdiction for determination in accordance with the procedure prescribed in Part II of the Land Acquisition Act, 1894 (1 of 1894).

(7) Nothing herein contained shall enable the Deputy Commissioner to authorise the acquisition of any part of a holding whereon a temple, mosque or other place of worship, sacred grove, burial or burning ground exists.]

Section 51. Tenant not liable to transferee of landlord's interest for rent paid to former landlord, without notice of the transfer

(1) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee to the tenants, published in the prescribed manner, shall be paid in good faith to the landlord whose interest was so transferred unless the transferee has before payment served notice of the transfer on the tenant.

(2) Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants, published in the prescribed manner, shall be a sufficient notice for the purposes of this Section.

Chapter IX General Provisions as to Rent

Presumptions as to fixity of rent

Section 51A. Presumptions as to fixity of rent

[(1) Where a tenure-holder, village-headman or Raiyat and his predecessors-in-interest have held at a rent or rate of rent which has not been changed from the time of the permanent settlement, the rent or rate of rent shall not be liable to be increased except on ground of an alteration in the area of the tenancy.

(2) If it is proved in any suit, application or proceeding under this Act that either a tenure-holder, village-headman or Raiyat and his predecessors-in-interest have held at a rent or rate of rent which has not been changed during the twenty years immediately before the institution of the suit, application or proceeding, it shall be presumed, until the contrary is shown that they have held at that rent or rate of rent from the time of the permanent settlement:

Provided that if it is required by or under any enactment that in any local area tenancies, or any classes of tenancies, at fixed rents or rates of rent shall be registered as such on, or before a date specified by or under the enactment, the foregoing presumption shall not after that date apply to any tenancy or, as the case may be, to any tenancy of that class in that local area unless the tenancy has been so registered.

(3) The operation of this Section, so far as it relates to land held by a Raiyat, shall not be affected by the fact of the land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

(4) Nothing in this Section shall apply to tenure held for a term of years or determinable at the will of the landlord.

(5) When the particulars mentioned in Section 81, clauses (b) and (k) have been recorded in respect of any tenancy under Chapter XII or, prior to the commencement of this Act, under the provisions of the Bengal Tenancy Act, 1885 (8 of 1885) [as for the time being in force in the area in which the tenancy is situate, the presumption under this Section shall not thereafter apply to that tenancy],

Section 52. Instalments

Subject to any registered agreement or local custom or usage to the contrary, a money-rent payable by a tenant shall be payable in four equal instalments falling due on the last day of each quarter of the agricultural year.

Section 53. Methods of payment of rent

[(1)] Payment of rent by a tenant to his landlord, in respect of the land held or cultivated by the tenant may be made either,-

(a) by tendering the rent at the mal-cutcherry for the receipt of rent or other place where the rent of such land is usually payable; or

(b) by remitting the amount of the rent to the landlord or his agent by postal money-order in the prescribed form [either direct or through the Deputy Commissioner,]

[(2) Where a tenant (hereinafter referred to in this sub-section as the 'payer') intends to pay his rent or a portion of his rent by postal money-order through the Deputy Commissioner,-

(i) the payer shall remit the amount of such rent or portion of rent, as the case may be, to the Deputy Commissioner together with a sum equal to the postal remittance fee to enable the Deputy Commissioner to remit the amount to the person described in the money-order form as the landlord or his agent (hereinafter referred to in this sub-section as the 'payee');

(ii) the Deputy Commissioner shall on receipt of the money-order enter the prescribed particulars of all such remittances in a register to be maintained by him in the prescribed form and shall cause the money to be remitted to the payee;

(iii) in the event of the payee accepting the money-order the postal acknowledgement shall remain in the Deputy Commissioner's office and shall be made over to the payer on an application made by him in this behalf and if no such application is made, preserved for a period of six years; and

(iv) in the event of the payee refusing the money-order, the amount shall remain in deposit with the Deputy Commissioner to the credit of the payee and may, on application be paid to the payee in the prescribed manner, if such application is made within three years from the date of the deposit and if no such application is made by the payee within the said period, the amount may, on application, be paid to the payer in the prescribed manner.

(3) Where rent is sent by postal money-order either direct or through the Deputy Commissioner, the postal acknowledgement in the case of acceptance and the money-order coupon in the case of refusal, duly sealed by the post-office, shall be admissible in evidence without formal proof and shall be presumed to be a correct record of acceptance or refusal, as the case may be, by the payee unless the contrary is proved.]

Section 54. Receipt for rent and interest thereon

(1) Every tenant who makes a payment on account of rent or interest due thereon, or both to his landlord shall be entitled to obtain forthwith from the landlord or his agent, free of charge, a signed receipt for the same, in the prescribed form.

(2) The landlord or his agent shall prepare and retain a counterfoil, in the prescribed form of the receipt.

[(3) (a) If a landlord or his agent, without reasonable cause fails to grant such a receipt or to prepare and retain such a counterfoil, such landlord or his agent, as the case may be shall be punishable with simple imprisonment for a term which may extend to one month or with fine which may extend to one hundred rupees or both in respect of each such failure.

(b) An offence under clause (a) shall be bailable and shall be compoundable with the leave of the Court and the provisions of the Code of Criminal Procedure, 1898 [(5 of 1898)] shall apply to the trial of such offence.]

(4) If, in any suit or other proceeding under this Act or any other law the Court or presiding officer (not being the Deputy Commissioner) finds that any landlord or agent has failed,-

(a) to deliver to a tenant a receipt in the prescribed form,

(b) to prepare and retain a counterfoil, in the prescribed form, of a receipt delivered to a tenant as aforesaid, such Court or officer shall inform the Deputy Commissioner [who may take cognizance of the offence and may either try the case himself or transfer it for trial to a competent Magistrate subordinate to him.]

[* * * * * *]

Section 55. Deposit of rent in the Court of Deputy Commissioner

In any of the following cases, namely,-

(a) when a tenant tenders or remits money on account of rent, and the landlord or his agent refuses to receive it or refuses to grant a receipt for it; or

(b) when a tenant who is bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the landlord or his agent will not be willing to receive it and to grant him a receipt for it; or

(c) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money and no person has been empowered to receive the rent on this behalf; or

(d) when the tenant entertains a bona fide doubt as to who is entitled to receive the rent;

the tenant, whether a suit has been instituted against him or not, may deposit, to the credit of the landlord, the full amount which he considers to be due from him in the Court of the Deputy Commissioner having jurisdiction to entertain a suit or application for such rent;

and such deposit shall, as far as the tenant and all persons claiming through or under him are concerned, in all respects operate as and have the full effect of, a payment then made by the tenant of the amount deposited to the credit of the landlord.

Section 56. Procedure on receipt of deposit and payment of same

(1) On the written application of the tenant or his agent, and on his making a declaration in the prescribed form the Deputy Commissioner shall receive such deposit and give a receipt for the sum deposited.

(2) The Deputy Commissioner shall, as soon as possible after the receipt of any money so deposited, issue a notice, in the prescribed form, to the landlord to whose credit it has been deposited.

(3) If any person claiming to be entitled to receive the money in deposit appears and applies for payment thereof to him, the Deputy Commissioner may pay the amount to him if he appears to be entitled to the same, or may, if the Deputy Commissioner thinks fit, retain the amount pending a decision by a Civil Court declaring what person is so entitled.

(4) Any sum deposited as aforesaid may in the absence of any order of a Civil Court to the contrary, be repaid to the depositor,-

(a) at the discretion of the Deputy Commissioner, and after serving notice on the landlord and giving him an opportunity to object, and for reasons to be recorded in writing at any time within a period of three years from the date on which the deposit was made, or

(b) upon the application of the depositor at any time after the expiration of the said period.

Section 57. Limitation of suit or application for rent due prior to deposit

Whenever any deposit has been received by the Deputy Commissioner, no suit shall be maintained, and no application for a certificate under Section 244 shall be entertained, against the person making the deposit, or his representative, on account of any rent which accrued due prior to the date of the deposit unless such suit be instituted or such application be made within six months from the date of the service of the notice issued under Section 56 in respect of such deposit.

Arrears of Rent

Section 58. What to be deemed arrear of rent : interest on arrears

(1) Any instalment of rent which is not paid before sunset on the day when the same is payable [or, where the State Government is the landlord, is not paid at the end of the agricultural year in which it falls due] shall be deemed an arrear of rent, and shall be liable to simple interest not exceeding [six and a-quarter] per centum per annum:

Provided that where a tenant pays his rent in full within the [year following the agricultural year] in which it accrues due, interest shall not exceed [three] per centum on the yearly rent, lawfully payable.

Section 59. Ejectment of tenure-holder and cancellation of lease for arrears

When an arrear of rent is adjudged to be due from a tenure-holder not having a permanent or transferable interest in the land, the lease of such tenure-holder shall be liable to be cancelled and the tenure-holder shall be liable to ejectment.

Provided that, no such cancellation or ejectment shall be made otherwise than in execution of a decree or order made under this Act.

Section 60. Arrear of rent to be first charge on tenancy

The rent of a tenancy shall be a first charge on the tenancy :

Provided that, if a tenancy is sold in execution of a decree for arrears of rent, the purchaser shall acquire the tenancy free of all liability for rent for any period prior to the date of the sale and rent due for any such period shall be a first charge on the sale proceeds of the tenancy.

Commutation of Rent payable in kind

Section 61. Commutation of rent payable in kind

(1) When any tenure-holder or occupancy- Raiyat pay for a tenure or holding rent in kind [* * *] or at rates varying with the crop, or partly in one of those ways and partly in another, or partly in any of those ways and partly in money then the rent so payable shall not be altered, whether by private contract or otherwise, except on the application of either the tenant or his landlord to have the rent commuted to a money-rent.

(2) Such application may be made to the Deputy Commissioner or a Revenue Officer.

(3) When any such application is made, the Deputy Commissioner or Revenue Officer may, after such inquiry as he thinks fit to make, determine the sum to be paid as money-rent, and may order that the tenant shall, in lieu of paying his rent in kind or otherwise as aforesaid pay the sum so determined.

(4) In making the determination, the said officer shall have regard to-

(a) the average money-rent payable by tenants for land of a similar description and with similar advantages in the vicinity;

(b) the average net value of rent actually received by landlord during the preceding ten years, or during any shorter period for which evidence may be available;

[Provided that in dealing with applications pending on the date on which the Chota Nagpur Tenancy (Amendment) Act, 1946 (Bihar Act 15 of 1946), comes into force or applications which may be made on and from that date and until such period as may be fixed by notification in this behalf by the [State] Government, the officer shall in making the determination have regard to the average value of the rent actually received by the landlord during the five year before the first day of Asin, 1947 Fasli or for any shorter period before the said date for which evidence may be available;]

(c) the special circumstances (if any) which gave rise to the assessment of the rent payable by the tenant at the date of the application;

(d) the charges incurred by the landlord in respect of irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges; and

(e) improvements effected by the landlord or the tenant in respect of the [tenancy], and shall proceed in the prescribed manner.

(5)The order shall be in writing and shall state the grounds on which it is made and the time from which is to take effect.

(6) When any such order is made by the Deputy Commissioner, it shall be subject to appeal as provided in Chapter XV.

(7) When any such order is made by a Revenue Officer, an appeal shall lie in the prescribed manner and to the prescribed officer.

[(8) (a) If the landlord has applied under sub-section (1) and the tenure-holder or occupancy-Raiyat objects to the commutation of his rent to money-rent, the officer shall examine the grounds for the application and the objections thereto and may accept or refuse the application as he thinks fit:

Provided that if he refuses the application, he shall record in writing his reasons for the refusal.

(b) If any application of the landlord is accepted under clause (a), or if the landlord has applied under sub-section (1) and the tenure-holder or the occupancy-Raiyat agrees to the commutation of his rent to a money-rent or if the tenure-holder or the occupancy- Raiyat has applied under sub-section (1) the officer shall grant the application.]

Section 61A. Commutation of rents of occupancy holdings

[If the Governor by notification directs that there shall be commutation of the rents of the occupancy holdings or any class of occupancy holdings situated in any area, the rent of which is paid in kind or in any of the other ways mentioned in sub-section (1) of Section 61, the Deputy Commissioner may, on the application of the Raiyat or landlord of any such holding or of his own motion, determine the sum to be paid as money-rent for such holding and may order that the Raiyat shall, in lieu of paying his rent in kind or otherwise as aforesaid, pay the sum so determined.]

Section 62. Period of which commuted rents are to remain unaltered

Where the rent of a tenure or holding has been commuted under Section 61,-

(1) it shall not be increased for a period of fifteen years except,-

(a) by order of the Deputy Commissioner, on the ground of a landlord's improvement, or an alteration in the area of the tenure or holding, or

(b) by order of a Revenue Officer passed under Chapter XII; and

(2) it shall not be reduced for a period of fifteen years except,-

(i) by order of the Deputy Commissioner on one of the grounds specified in [clauses (c),

(d) and (f) of Section 33-A], or

(ii) by order of a Revenue Officer passed under Chapter XII.

[Penalties for illegal exaction of praedial conditions or of anything in excess of rent or of local cess]

Section 63. Penalty on landlord for levying anything in excess of rent including local cess or of lawful praedial conditions

[(1) (a) If a landlord or his agent levies, except under any special enactment for the time being in force from a tenant of such landlord, any sum of money or anything in excess of the rent lawfully payable by such tenant for his tenancy and the interest payable on an arrear of such rent, or enforces compliancies by any tenant with any praedial condition to which he is not lawfully entitled such landlord or agent, as the case may be, shall be punishable with simple imprisonment for a term, which may extend to six months, or with fine which may extend to five hundred rupees, or with both.]

[(b) An offence under clause (a) shall be cognizable and bailable and shall be compoundable with the leave of the Court and the provisions of the Code of Criminal Procedure, 1898 [(5 of 1898)] shall apply to the trial of such offence.]

(2) Any levy of local cess from a tenant (not being a tenant holding on a permanent 'Mukarrari' lease from a proprietor or permanent tenure-holder in a permanently-settled area),-

(a) in excess of the net amount prescribed by clause (2) of Section 41 of the Cess Act, 1880 (Ben. Act 9 of 1880); or

(b) on any scale in excess of that prescribed by clause (3) of that Section, shall be deemed to be a levy of money in excess of the rent lawfully payable within the meaning [of clause (a) of sub-section (1)],

and all stipulations and reservations for payment of any such excess contained in any contract made between a landlord and a tenant on or after 13th day of October, 1880, shall be void, unless such contract-

(i) was made between a temporary tenure-holder and his landlord before the first day of April, 1920, or

(ii) relates to a tenancy situate in pargana Dhalbhum, the Estate of Porahat or the Kolhan Government Estate, in the district of Singhbhum, and was made prior to the first day of October, 1883, the first day of April, 1896, and the first day of September, 1927, respectively.

(3) If in any suit application or proceeding under, this Act or any other law the Court or Presiding Officer (not being the Deputy Commissioner) has grounds for believing that [any landlord or his agent is guilty of an offence under clause (a) of sub-section (1)], such Court or officer shall inform the Deputy Commissioner [who may take cognizance of the offence and may either try the case himself or transfer it for trial to a competent Magistrate subordinate to him],

[* * *]

[Chapter IX-A] Settlement of Waste Lands

Section 63A. Settlement of waste lands to be made by patta

Settlement of waste lands belonging to the State Government shall be made by a 'patta' or 'amalnama' in the prescribed form. The 'patta' or 'amalnama' shall be prepared in duplicate, of which one copy shall be given to the 'Raiyat concerned and one copy shall be sent to the Deputy Commissioner of the district.

Section 63B. Settlement liable to be set aside

In the event of any land settled as aforesaid not being brought under cultivation within a period of five years from the date of the settlement, or the land being alienated in contravention of the provisions contained in Section 46, it shall be open to the Deputy Commissioner of the district to set aside the settlement and to make re-settlement of such land in accordance with provision of Section 63-A.

Chapter X Miscellaneous Provisions as to Landlord and Tenant

Korkar

Section 64. Conversion of land into korkar with Deputy Commissioner's permission

[(1) Notwithstanding anything contained in any record-of-rights or any custom or usage to the contrary, every cultivator or landless labourers resident of village or a contiguous village shall have the right to convert land in that village into 'korkar' with the permission of the Deputy Commissioner previously obtained : Provided that no permission of the Deputy Commissioner shall be required under sub-section (1) to the conversion of land into 'korkar1 by a cultivator where he was entitled on the date of the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1947 (Bihar Act 25 of 1947), by virtue of any entry in the record-or-rights or any local custom or

usage to convert such land into 'korkar' without the consent of the landlord.

(2) On receipt of an application for permission to convert land into 'korkar', the Deputy Commissioner shall in the prescribed manner serve on the landlord a notice of the date on which he intends to hear the application and after hearing the parties and holding such inquiry as he thinks proper the Deputy Commissioner shall either grant or refuse the permission and his decision shall the final:

Provided that the Deputy Commissioner shall dispose of an application made under this Section within a period of three months fro m the date of receipt thereof by him.]

Section 65. Power to eject cultivator or leave him in possession

Repealed by the Chota Nagpur Tenancy Act, 1947 (Bihar Act 25 of 1947), Section 21.

Section 66. Prohibition against conversion of certain land into Korkar

Nothing in Section 64 shall authorise any cultivator to convert into Korkar any orchard or cultivated or homestead land in the direct possession of any other person.

Section 67. Right of occupancy in Korkar

Every Raiyat, who cultivates or holds land which he or any member of his family has converted into Korkar shall have a right of occupancy in such land notwithstanding that he has not cultivated or held the land for a period of twelve years.

Section 67A. Assessment of rent on land converted into korkar

[(1) (a) Where a Raiyat converts land into Korkar in accordance with the provision of Section 64, no rent shall be payable for such land until after the expiration of a period of four years from the end of the agricultural year in which the first crop is harvested.

(b) After the expiry of the period specified in clause (a), the landlord may assess rent on the said land at a rate not exceeding to the rate prevailing in the village for third class rice land, or if according to the custom of the village only one-half of the said rate is payable for Korkar at a rate not exceeding one-half of the said rate.

(2) When a landlord assesses rent under sub-section (1), he shall send to the Deputy Commissioner a notice in duplicate in the prescribed form and containing the prescribed particulars.

(3) No rent shall be recoverable by a landlord in respect of land converted by a Raiyat into Korkar unless the provisions of sub-section (2) have been complied with.

(4) On receipt of the notice referred to in sub-section (2), the Deputy Commissioner shall give notice of the contents thereof to the Raiyat and may of his own motion or on the application of the Raiyat, and after making such inquiry as he considers necessary, by an order, settle rent for the said land at a rate not exceeding the rate prevailing in the village for third class rice land or if, according to the custom of the village only one-half of the said rate is payable for Korkar at a rate not exceeding one-half of the said rate.]

[(5) Nothing in this Section shall prevent the person who has converted land into Korkar under the provisions of Section 64 from filing an application before the Deputy Commissioner and getting the rent assessed in the event of the landlord failing to take steps for assessment of the rent].

Ejectment

Section 68. Tenant not to be ejected of except in execution of decree or order

No tenant shall be ejected from his tenancy or any portion thereof except in execution of decree or in execution of an order of the Deputy Commissioner passed under this Act.

[Explanation. - The word 'decree' in this Section shall include a decree passed by the Civil Court.]

Section 69. Relief against forfeitures

(1) Every decree for the ejectment of an occupancy-raiyat or a non-occupancy-raiyat the ground,-

(a) that he has used the land comprised in his holding in a manner which is not authorised by the local custom or usage or which materially impairs the value of the land or renders it unfit for the purposes of the tenancy; or

(b) that he has broken a condition consistent with this Act, on breach of which he is, under the terms of the contract between himself and his landlord, liable to ejectment, shall declare the amount of compensation which would reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy; and shall fix a period during which it shall be open to the defendant to pay that

amount to the plaintiff, and where the misuse or breach is declared to be capable of the remedy, to remedy the same.

(2) The Court may from time to time, for special reasons, extend period fixed by it under sub-section (1).

(3) If the defendant within the period or extended period (as the case may be) fixed by the Court under this Section pay the compensation mentioned in the decree, and, where the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court the decree shall not be executed.

Section 70. Decree or order for ejectment when to take effect

A decree or order for ejectment passed under this Act shall take effect from the end of the agricultural year in which it is passed, or to such earlier date (if any) as the Court may direct.

Section 71. Power to replace in possession tenant unlawfully ejected

If any tenant is ejected from his tenancy or any portion thereof in contravention of Section 68 he may, within a period of one year (or, if he is an occupancy-raiyat three years) from the date of such ejectment, present to the Deputy Commissioner an application praying to be replaced in possession of such tenancy or portion; and the Deputy Commissioner may, if he thinks fit after making a summary inquiry, replace him in possession in the prescribed manner.

Section 71A. Power to restore possession to member of the Scheduled Tribes over land unlawfully transferred

[If at any time, it comes to the notice of the Deputy Commissioner that transfer of land belonging to a Raiyat [or a Mundari Khunt-Kattidaror a Bhuinhari] who is a member of the Scheduled Tribes has taken place in contravention of Section 46 [or Section 48 or Section 240] or any other provisions of this Act or by any fraudulent method, [including decrees obtained in suit by fraud and collusion] he may, after giving reasonable opportunity to the transferee, who is proposed to be evicted, to show cause and after making necessary inquiry in the matter, evict the transferee from such land without payment of compensation and restore it to the transferor or his heir, or, in case the transferor or his heir is not available or is not willing to agree to such restoration, re-settle it with another Raiyat belonging to Scheduled Tribes according to the village custom for the disposal of an abandoned holding :

Provided that if the transferee has, within 30 years from the date of transfer, constructed any building or structure on such holding or portion thereof, the Deputy Commissioner shall, if the transferor is not willing to pay the value of the same, order the transferee to remove the same within a period of six months from the date of the order, or within such extended time not exceeding two years from the date of the order as the Deputy Commissioner may allow, failing which the Deputy Commissioner may get such building or structure removed :

Provided further that where the Deputy Commissioner is satisfied that the transferee has constructed a substantial structure or building on such holding or portion thereof before coming into force of the Bihar Scheduled Areas Regulation, 1969, he may, notwithstanding any other provisions of the Act, validate such transfer where the transferee either makes available to the transferor an alternative holding or portion thereof as the case may be, of the equivalent value of the vicinity or pays adequate compensation to be determined by the Commissioner for rehabilitation of the transferor:

Provided also that if after an inquiry the Deputy Commissioner is satisfied that the transferee has acquired a title by adverse possession and that the transferred land should be restored or re-settled, he shall require the transferor or his heir or another Raiyat, as the case may be, to deposit with the Deputy Commissioner such sum of money as may be determined by the Deputy Commissioner having regard to the amount for which the land was transferred or the market value of the land, as the case may be and the amount of any compensation for improvements effected to the land which the Deputy Commissioner may deem fair and equitable.]

[Explanation [I.] - In this Section "substantial structure or 'building" means structure or building the value of which on the day of initiation of inquiry, was determined by the Deputy Commissioner to exceed Rs. 10,000 but does not include structure or building of any value, the material of which can be removed without substantially impairing the value of.]

[Explanation II. - A Bhuinharor Mundari Khunt-Kattidar, who is deemed to be a settled Raiyat under the provisions of Section 18 of this Act shall also be deemed to be a Raiyat for the purpose of this Section.]

Section 71B. Penalties

If any land is transferred in contravention of Section 46 or any other provision of this Act or by fraudulent method and is held or cultivated by any person with the knowledge of such transfer, he shall be punished with imprisonment of either description for a term which may extend to 3 years or with fine which may extend to one thousand rupees or with both and, in the case of a continuing offence, to a further fine not exceeding fifty rupees for each day during which the offence continues.

Surrender and Abandonment

Section 72. Surrender of land by Raiyat

(1) A Raiyat not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year surrender his holding [with the previous sanction of the Deputy Commissioner in writing].

(2) But, notwithstanding the surrender, the Raiyat shall be liable to indemnify the landlord against any loss of the rent of the holding for the agricultural year next following the date of the surrender, unless he gives to his landlord, at least four months before he surrenders, notice of his intention to surrender.

(3) The Raiyat may, if he thinks fit, cause the notice to be served through the Court of the Deputy Commissioner within whose jurisdiction the holding or any portion of it is situate.

(4) When a Raiyat has surrendered his holding the landlord may enter on the holding and either let it to another tenant or to take it into cultivation himself.

(5) Nothing in this Section shall affect any arrangement by which a Raiyat and his landlord may arrange for a surrender of the whole or a part of the holding [with the previous sanction of the Deputy Commissioner in writing.]

Section 73. Abandonment of land by Raiyat

(1) If a Raiyat voluntarily abandons the land held or cultivated by him, without notice to the landlord and ceases either himself or through any other person to cultivate the land and to pay his rent as it falls due, the landlord may at any time after the expiration of the agricultural year in which the Raiyat so abandons and ceases to cultivate, enter on the holding and let it to another tenant or take into cultivation himself.

(2) Before a landlord enters under this Section, he shall send a notice to the Deputy Commissioner in the prescribed manner, stating that he has treated the holding as abandoned and is about to enter on it accordingly; and the Deputy Commissioner shall cause a notice of the fact to be published in the prescribed manner 1[and if an objection is preferred to him within one month of the date of publication of the notice shall make a summary inquiry and shall decide whether the landlord is entitled under sub-section (1) to enter on the holding. The landlord shall not enter on the holding unless and until such objection has been decided in his favour, or if no objection is preferred, until the expiration of one month from the date of publication of the notice.

(3) When a landlord enters under this Section, the Raiyat shall be entitled to apply to the Deputy Commissioner for the recovery of possession of the land at any time not later than the expiration of three years in the case of an occupancy-Raiyat or in the case of a non-occupancy Raiyat one year, from the date of the publication of the notice; and thereupon, the Deputy Commissioner may on being satisfied that the Raiyat did not voluntarily abandon his holding, restore him to possession in the prescribed manner on such terms (if any) with respect to compensation to person injured and payment of arrears of rent as to the Deputy Commissioner may seem just.

Continuance of occupation

Section 74. Effect of lease purporting to admit to occupation after occupation has commenced

Where a tenure-holder, village headman or Raiyat has been in occupation of a tenure or holding, and a lease is executed with a view to the continuance of such occupation, he shall not be deemed to be admitted to occupation by that lease, notwithstanding that the lease may purport to admit him for occupation.

Section 74A. Determination of person to be village headman when tenancy is vacant

[(1) When a tenancy which, in accordance with custom, is held by a village headman, has for any reason been vacated, any three or more tenants holding land within the said tenancy or the landlord, may apply to the Deputy Commissioner to determine the person, who, in accordance with custom should be village headman entitled to hold the tenancy.

(2) Such application may be made notwithstanding that a person is in possession of the land of the tenancy, or part thereof under the authority or with the consent of the landlord.

(3) On receiving such application, the Deputy Commissioner shall, after giving notice in the prescribed manner to the

landlord, the person, if any, referred to in subsection (2), the heirs of the last village-headman, the tenants and such other persons, if any, as he considers should be parties to the proceeding, make such inquiry as appears necessary, and determine the person, who, in accordance with customs, Should be village-headman entitled to hold the tenancy, and shall place such person in possession of the tenancy, if such person is not already in possession thereof.

(4) In every such inquiry, the Deputy Commissioner shall have regard to the entries in a record-of-rights finally published under this Act or under any law in force before the commencement of this Act, and to the suitability of a person in respect of tribe or caste, membership of the village family, or of the latter village headman's family if it be not the village family, residence, character and other matter to be the village headman of the particular village or group of villages comprised in the tenancy.

(5) No suit or application shall be entertained in any Court concerning any matter which is the subject of an application under sub-section (1), or which has been determined under sub-section (3) except a title suit in the Civil Court, instituted within one year from the date of the order passed by the Deputy Commissioner under sub-section (3) to establish the right of the plaintiff to succeed for the tenancy and to recover possession thereof from the person determined by Deputy Commissioner to be the village-headman entitled to hold the tenancy.

(6) No application shall be made under sub-section (1) concerning a matter which is substantially in issue or has been substantially in issue and has been determined, in a suit instituted under the provisions of sub-section (6) of Section 139.]

Measurements

Section 75. Measurements of land

(1) Every landlord of an estate, tenure or 'Mundari khunt-kattidari tenancy' shall have a right to make a general survey or measurement of the lands comprised in such estate, tenure or tenancy, unless restrained from doing so by express engagement with the occupants of the lands.

(2) If any landlord intending to measure any land which he has right to measure is opposed in making such measurement by the occupant of the land, or if any tenant having received notice of the intended measurement of land held or cultivated by him, which is liable to such measurement refuses to attend and point out such land, the landlord may present an application to the Deputy Commissioner.

(3) On receipt of such application, the Deputy Commissioner shall, after taking such evidence and making such inquiry as he considers necessary pass an order either allowing or disallowing the measurement, and, if the case so requires, enjoining or excusing the attendance of any tenant.

(4) If any tenant, after the issue of an order enjoining his attendance, refuses or neglects to attend, any map or other record of the boundaries and measurements of the land prepared under the direction of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

Chapter XI Customs and Contract

Section 76. Saving of custom

Nothing in this Act shall affect any custom, usage or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by its provisions.

Illustrations

(i) A custom or usage whereby a 'Raiyat obtains a right of occupancy as soon as he is admitted to occupation of the tenancy, whether he is a settled 'Raiyat of the village or not, is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage, accordingly wherever it exists, will not be affected by this Act.

(ii) A custom or usage by which an under Raiyat can obtain rights similar to those of an occupancy 'Raiyat is similarly, not inconsistent with, and is not expressly or by necessary implication modified or abolished by the provisions of this Act, and will not be affected by this Act.

(iii) A custom or usage whereby a 'Raiyat is entitled to make improvements on his tenancy and to receive compensation therefor an ejectment is not inconsistent with, and is not expressly or by necessary implication modified or abolished by the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

(iv) A custom or usage whereby 'Korkar' is held,-

(a) during preparation for cultivation, rent-free, or

(b) [x x x] after preparation, at a rate of rent less than the rate payable for ordinary 'Raiyati' land in the same village tenure or estate, is not inconsistent with, and is not expressly or by necessary implication modified or abolished by the

provisions of this Act. That custom or usage, accordingly wherever it exists, will not be affected by this Act.

Section 77. Saving as to service tenures and holdings

Except in so far as the [State] Government may otherwise direct by notification, nothing in this Act shall affect any incident of a Ghatwali or other service tenure or holding.

Section 78. Homesteads

When a Raiyat holds his homestead otherwise than as part of his holding as a Raiyat, the incidents of his tenancy of the homestead shall be regulated by local custom or usage, and, subject to local custom or usage, by the provisions of this Act applicable to land held by a Raiyat.

Section 79. Restrictions on exclusion of Act by agreement

(1) Nothing in any contract between a landlord and tenant made before or after the commencement of this Act shall,-

(a) bar in perpetuity the acquisition of an occupancy-right in land, or

(b) take away an occupancy-right in existence at the date of the contract, or

(c) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(2) Nothing in any contract made between a landlord and a tenant between the 1st January, 1903, and the commencement of this Act shall prevent a Raiyat from acquiring, in accordance with this Act, an occupancy right in land, not being landlord's privilege lands as defined in Section 118.

(3) Nothing in any contract made between a landlord and a tenant after the commencement of this Act shall,-

(i) prevent a Raiyat from acquiring, in accordance with this Act, an occupancy-right in land, or

(ii) take away or limit the right of an occupancy 'Raiyat' to use land as authorised by Section 21, or

(iii) take away the right of an occupancy 'Raiyat' to transfer his holding or any portion thereof subject to, and in accordance with, the provisions of this Act, or

(iv) take away the right of an occupancy 'Raiyat' to apply for a reduction of rent under Section 34, or

(v) affect the provisions of Section 58 relating to interest payable on arrears of rent, or

(vi) take away the right of a tenant or landlord to apply for a commutation of rent under Section 61, or

(vii) take away the right of a Raiyat to surrender his holding in accordance with Section 72:

[Provided that when a landlord has converted waste land into 'korkar' and subsequently lets the same or a part thereof to a Raiyat on registered lease, nothing in this Act shall affect a condition of such lease whereby the 'Raiyat is prevented from acquiring an occupancy-right in the land or part during the period of twenty years from the date on which the landlord commenced to convert the land into 'korkar' if within the six months next preceding such commencement the landlord intimated to the Deputy Commissioner in manner prescribed his intention to covert the land into 'korkar', and satisfied him that it was then waste land.]

Section 79A. Restriction on payment of certain kinds of rent by agreement

[(1) Nothing in any contract, express or implied between a landlord and a tenure-holder or a 'Raiyat made before or after the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1938 (Bihar Act 2 of 1938), shall entitle the landlord to rent on the estimated value of the whole or a portion of the crop or on the estimated produce of the whole or a portion of the tenure or holding of the tenure-holder or the 'Raiyat according to the system commonly known as 'Vanabandi'.

(2) Where a tenure-holder or a 'Raiyat was, before the date on which Section 21 of the Chota Nagpur Tenancy (Amendment) Act, 1938 (Bihar Act 2 of 1938) came into force, liable to pay for his tenure or holding rent on the estimated value of the whole or a portion of the crop or on the estimated produce of whole or a portion of the tenure or holding, he shall, from and after the said date be liable to pay to the landlord rent in kind by division of the produce of the tenure or holding.

Section 79B. Restriction on the share of the produce rent payable to a landlord by agreement

Nothing in any contract, express or implied, between a landlord and a tenure-holder or a Raiyat made before or after the date on which Section 21 of the Chota Nagpur Tenancy (Amendment) Act, 1938 (Bihar Act 2 of 1938) came into force, shall entitle the landlord to more than nine-twentieths of the produce as rent in respect of a tenure or an occupancy holding if rent is payable in kind by division of the produce.]

Chapter XII Records-of-Rights and Settlement of Rents

Section 80. Power to order survey and preparation of record-of-rights

(1) The [State] Government may make an order directing that a survey be made and a record-of-rights be prepared, by a Revenue Officer in respect of the lands in any local area, estate, or tenure or part thereof.

(2) A notification in the [* * *] [Official Gazette] of an order under sub-section (1) shall be conclusive evidence that the order has been duly made.

(3) The survey shall be made and the record-of-rights shall be prepared in the prescribed manner.

Section 81. Particulars to be recorded

Where an order is made under Section 80, the particulars to be recorded shall be specified in the order and may include, either without or in addition to other particulars, some or all of the following, namely :-

(a) the name of each tenant or occupant;

(b) the class to which each tenant belongs, that is to say, whether he is a tenure-holder, 'Mundari khunt-kattidah', settled 'Raiyat', occupancy 'Raiyat', non-occupancy-Raiyat khunti' having 'khuntkati' rights, or under-'Raiyat' and, if he is a tenure-holder, whether he is a permanent tenure-holder or not and whether his rent is liable to enhancement during the continuance of his tenure;

(c) the situation and quantity and one or more of the boundaries of the land held by each tenant or occupier;

(d) the name of each tenant's landlord;

(e) the name of each proprietor in the local area or estate;

(f) the rent payable at the time the record-of-rights is being prepared;

(g) the mode in which that rent has been fixed-whether by contract, or by order of a Court, or otherwise;

(h) if the rent is a gradually increasing rent, the time at which and the steps by which it increases;

(i) the rights and obligations of each tenant and landlord in respect of,-

(i) the use, by tenants, of water for agricultural purposes, whether obtained from a river, 'jhil' tank or well or any other source of supply, and

(ii) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land;

(j) the special conditions and incidents (if any) of the tenancy;

(k) any easement attaching to the land for which the record-of-rights is being prepared;

(l) if the land is claimed to be held rent-free-whether or not rent is actually paid, and, if not paid, whether or not the occupant is entitled to hold the land without payment of rent, and, if so entitled, under what authority;

(m) [the existence, nature and extent of] the right of any person whether a landlord or tenant or not, to take forest-produce from jungle-land or waste-land, or to graze cattle on any land [or to take fish from any water, or of any similar right] in any village in the area to which the record-of-rights applies;

(n) the right of any resident of the village to reclaim jungle-land or wasteland, or to convert land into korkar.

Section 82. Power to order survey and preparation of record-of-rights as to water

The [State] Government may, for the purpose of settling or averting disputes existing or likely to rise between landlords, tenants, proprietors, or persons belonging to any of these classes, regarding the use or passage of water, make an order directing that a survey be made and a record-of-rights be prepared by a Revenue Officer, in order to ascertain and record the rights and obligations of each tenant and landlord in any local area, estate or tenure or part thereof, in respect of,-

(a) the use by tenants of water for agricultural purposes, whether obtained from a river, 'jhil', tank or well or any other source of supply; and

(b) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliance be situated within the boundaries of such land.

Section 83. Preliminary publication, amendment and final publication of record-of-rights

(1) When a draft record-of-rights has been prepared under this Chapter, the Revenue Officer shall publish the draft in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made to any entry therein, or to any omissions therefrom, during the period of publication.

(2) When such objections have been considered and disposed of in the prescribed manner, the Revenue Officer shall finally frame the record, and shall cause it to be finally published in the prescribed manner, and the publication shall be conclusive evidence that the record has been duly made under this Chapter.

(3) Separate draft or final records may be published under sub-section (1) or sub-section (2) for different local areas, estates, tenures or parts thereof.

Section 84. Presumptions as to final publication and correctness of record-of-rights

(1) In any suit or other proceedings in which a record-of-rights prepared and published under this Chapter or a duly certified copy thereof or extract therefrom is produced, such record-of-rights shall be presumed to have bean finally published unless such publication is expressly denied and a certificate, signed by the Revenue Officer, or by the Deputy Commissioner of any district in which its local area, estate or tenure or part thereof to which the record-of-rights relates is wholly or partly situate, stating that the record-of-rights has been finally published, under this Chapter shall be conclusive evidence of such publication.

(2) The [State] Government may, by notification, declare with regard to any specified area, that a record-of-rights has been finally published for every village included in that area; and such notification shall be conclusive evidence of such publication.

(3) Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry and shall be presumed to be correct until it is proved, .by evidence, to be incorrect.

Section 85. Settlement of fair rent

(1) In every area in respect of which a survey [is being or has been made] and a record-of-rights [is being or has been prepared] under Section 80, the Revenue Officer may settle fair rents in respect of any land held by a tenant.

(2) Settlements of rents may be made under sub-section (1) either,-

(i) on the application of any landlord or tenant, or

(ii) without such application, if the [State] Government so directs.

[Explanation. - A superior landlord may apply for a settlement of rents, notwithstanding that his estate or tenure or part thereof is held by a temporary lessee or by a tenant, who holds on a rent which varies with the rent payable by the Raiyats under him.]

(3) Such settlements shall ordinarily be made after the final publication of the record-of-rights, and shall not in any case be made on the application of a landlord or tenant after such final publication, unless such application be made within [three] months from the date of the certificate of such final publication; but may in any case be made before such publication,-

(a) with the consent of the parties concerned, or

(b) if the Revenue Officer considers that, that course would, in the circumstance, be advisable.

(4) Whenever a settlement of rents [is made under this Section] reasonable notice shall first be given to the parties concerned, and an appeal shall lie, in the prescribed manner and to the prescribed officer, from such settlement.

(5) For the purpose of settling rents under this Section, the Revenue Officer shall have regard to such rules as may be made in this behalf under Section 264.

Section 86. Decision of issues arising during course of settlement of rents

Where in any proceeding for the settlement of rents under Section 85, any of the following issues arises, namely:-

(a) whether the land is or is not liable to the payment of rent;

(b) whether the land although entered in the record-of-rights as being held rent-free, is liable to the payment of rent;

(c) whether the relation of landlord and tenant exists;

(d) whether the land has been wrongly recorded as part of a particular estate or tenancy or wrongly omitted from the lands of an estate or tenancy;

(e) whether the tenant belongs to a class different from that to which he is shown in the record-of-rights as belonging; or

(f) whether the special conditions and incidents of the tenancy, or any easement attaching to the land, have not or has not been recorded or have or has been wrongly recorded, the Revenue Officers shall try and decide such issue and settle the rent under Section 85 accordingly.

Section 87. Institution of suits before Revenue Officer

(1) In proceedings under this Chapter a suit may be instituted before a Revenue Officer, at any time within three months from the date of the certificate for the final publication of the record-of-rights under sub-section (2) of Section 83 of the decision of any dispute regarding any entry which a Revenue Officer has made in, or any omission which he has made from the record [except an entry of a fair rent settled under the provisions of Section 85 before the final publication of the record-of-rights] whether such dispute be,-

(a) between the landlord and tenant, or

(b) between landlords of the same or of neighbouring estate, or

(c) between tenant and tenant, or

(d) as to whether the relationship of landlord and tenant exists, or

(e) as to whether land held rent-free is properly so held, or

[(ee) as to any question relating to the title in land or to any interest in land as between the parties to the suit; or]

(f) as to any other matter;

and the Revenue Officer shall hear and decide the dispute :

Provided that the Revenue Officer may, subject to such rules as may be made in this behalf under Section 264, transfer any particular case or class of cases to a competent Civil Court for trial:

Provided also that in any suit under this Section, the Revenue Officer shall not try any issue which has been, or is already, directly and substantially in issue between the same parties or between parties under whom they or any of them claim, in proceedings for the settlement of rent under this Chapter, where such issue has been tried and decided, or is already being tried, by a Revenue Officer under Section 86 in proceedings instituted after the final publication of the record-of-rights.

(2) An appeal shall lie, in the prescribed manner and to the prescribed Officer from decisions under sub-section (1) [and a second appeal to the High Court shall lie from any decision on appeal of such Officer as if such decision were an appellate-decree passed by the Judicial Commissioner under Chapter XVI.]

Section 87A. Under-tenant to be made party in certain proceedings and suits

[When in a proceeding for the settlement of rents under Section 85 or in a suit under Section 87 the status of a tenant is in issue, the Revenue Officer shall direct that every person holding directly or indirectly under such tenant, whose interest may be affected by the decision of the issue, shall if he is not already a party to the proceeding or the suit, as the case may be, be joined as a party.]

Section 88. Entry in record-of-rights of rents settled and decisions made

A note of all rents settled under Section 85, and of all decisions under sub-section (1) and decisions on appeal under sub-section (2) of Section 87 shall be made in the record-of-rights as finally published under Section 83 and such note shall be considered as part of the record.

Section 89. Revision by Revenue Officer

(1) Any Revenue Officer specially empowered by the [State] Government in this behalf may on application or on his own motion within twelve months from the making of any [entry in the draft record-of-rights or of any] order or decision under Section 83, Section 85 or Section 86, revise the same, whether it was made by himself or by any other Revenue Officer, but not so as to affect any order passed under Section 87 or any order passed in appeal under Section 85, sub-section (4):

Provided that no such order or decision shall be so revised if a suit or an appeal in respect thereof is pending under Section 85, sub-section (4) of Section 87 until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(2) An appeal shall lie, in the prescribed manner and to the prescribed Officer, from any order passed under sub-section (1).

Section 90. Correction by Deputy Commissioner or Revenue Officer of mistake in record-of-rights

[in case of discovery of bona fide or material error in record-of-rights within five years from the date of the certificate of its final publication under sub-section (2) of Section 83, the Deputy Commissioner or any Revenue Officer specially empowered by the State Government in this behalf may, on his own motion, or on application made to him within the said period, after holding an inquiry in the prescribed manner, by order in writing, direct that such error shall be

corrected in the mariner specified in the order:

Provided that no such correction shall be made,-

(i) until reasonable notice has been given to the parties concerned to appear and be heard in the matter;

(ii) if a suit under Section 87, clause (8) of Section 111 or Section 252, or, an appeal under clause (10) of Section 111 or Section 253, affecting such an entry is pending.]

Section 91. Stay of certain proceedings before Deputy Commissioner or Civil Court when order made for preparation of record-of-rights

(1) When an order has been made under Section 87, or under any law in force before the commencement of this Act, directing the preparation of a record-of-rights, then notwithstanding anything contained in the foregoing Sections of this Chapter, no Deputy Commissioner or Civil Court shall, until six months after the final publication of the record-of-rights, entertain any suit or application (not being an application under the Code of Criminal Procedure, 1898 [(5 of 1898)]:

(a) in which there is an issue, either directly or indirectly the [existence, non-existence, nature or extent] in the area to which the record-of-rights applies, of any right referred to in clause (n) of Section 81, [or for the determination, assessment or alteration of the sum payable by any person in respect of such right]; or

(b) for the alteration of the rent or the determination of the status of any tenant in such area :

Provided that if any person considers himself aggrieved by any act of waste or damage committed by any other person in respect of any waste land or jungle-land during the period within which suits and applications are prohibited by this Section he may apply to the Deputy Commissioner, who may, after such inquiry as he thinks fit, by written order, prohibit the continuance of such waste or damage.

(2) The period during which the institution of a suit or the making of an application has been delayed by sub-section (1) shall be excluded in computing the period of limitation provided for such suit or application.

Section 92. Bar to jurisdiction of Courts in matters relating to record-of-rights

No suit shall be brought in any Court in respect of any order directing the preparation of a record-of-rights under this Chapter, or in respect of the framing publication, signing or attestation of such a record or of any part of it.

Section 93. Stay of certain proceedings before Deputy Commissioner or Civil Court when record-of-rights finally published

(1) When a record-of-rights in respect of any land has been prepared under this Chapter, and finally published, no application or suit affecting any such land or any tenant thereof shall, within six months from the date of the certificate of final publication of such record-of-rights, be made or instituted before the Deputy Commissioner or in any Civil Court for the decision of any of the following issues, namely -

(a) whether the relation of landlord and tenants exists;

(b) whether the land is part of a particular estate or tenancy;

(c) whether there is any special condition or incident of the tenancy; or

(d) whether any easement attaches to the land.

(2) If before the final publication of the record-of-rights in such area, a suit involving the decision of any of the issues mentioned in sub-section (1) has been instituted before the Deputy Commissioner or in a Civil Court, the Revenue Officer shall not entertain any suit under Section 87 involving the decision of the same issue.

(3) Where the making of an application or the institution of a suit has been delayed by sub-section (1), the period of six months therein mentioned shall be excluded in computing the period of limitation provided for such suit or application.

Section 94. Period for which rents entered in the record-of-rights are to remain unaltered

(1) When the rent of an occupancy holding is entered in a record-of-rights which has been prepared and finally published under this Chapter or any law in force before the commencement of the Act [or has been reduced under this Chapter] then subject to the provisions of Sections [85], 87, 89 and 90 such rent shall not, except on the ground of a landlord's improvement, be enhanced for a period,-

(a) fifteen years after the final publication of the record-of-rights when such publication was made after the commencement of this Act, or

(b) seven years after the final publication of the record-of-rights when such publication was made before the

commencement of this Act; and such rent shall not be reduced within the said period respectively, save on the ground of alteration in the area of the holding or [under Section 33-A]; and no demand for rent in respect of an occupancy holding in excess of the amount entered in the said record-of-rights, shall be enforceable, save as provided in this Chapter or in Section 32 [or, where proceedings by way of appeal or revision were pending on the date of final publication of the record-of-rights, save in accordance with the decision in such proceedings or, in any appeal preferred therefrom]:

Provided that in any area in respect of which a record-of-rights has been finally published before the commencement of this Act, a Revenue Officer may on the application of any landlord, made within two years from the commencement of this Act, assess a fair rent on lands which are included in a holding and are assessable with rent but for which no rent has been paid or has been entered as payable in the record-or-rights.

(2) The periods of fifteen years and seven years mentioned in clauses (a) and (b) of sub-section (1) shall be counted from the date of the final publication of the record-of-rights.

Section 95. Expenses of proceedings under this Chapter

(1) When the preparation of a record-of-rights has been directed or undertaken under this Chapter, the expenses incurred in carrying out the provisions of this Chapter in any local area, estate, tenure or part thereof (including expenses that may be incurred at any time, whether before or after the preparation of the record-of-rights, in the maintenance, repair or restoration of boundary marks and other survey marks erected for the purpose of carrying out the provision of this Chapter), or such part of those expenses as the [State] Government, may direct, shall be defrayed by the landlords, tenants and occupants of land in the local area, estate, tenure or part, in such proportions and in such instalment (if any), as the [State] Government, having regard to all the circumstances may determine.

(2) The cost of preparing copies of survey maps and extracts from record-of-rights under this Chapter for distribution to landlords, and tenants shall be deemed to be part of the expenses incurred in carrying out the provisions of this Chapter.

(3) The estimated amount of the expenses likely to be incurred for the maintenance, repair or restoration of boundary-marks for a period not exceeding fifteen years or such part of such amount as the [State] Government may direct, may be recovered in advance in the same manner as if such expenses had been already incurred.

(4) The portion of the expenses referred to in the foregoing provisions of this Section which any person is liable to pay shall be recoverable by the [State] Government as if it were an arrear of land-revenue due in respect of the said local area, estate, tenure or part.

Explanation. - The word "tenure" in this Section includes all revenue-free and rent-free tenures and holdings within a local area, estate or tenure.

Section 96. Power of Revenue Officer to give effect to agreement or compromise

In framing a record-of-rights, and in deciding disputes under this Chapter the Revenue Officer shall give effect to any lawful agreement or compromise made or entered into by any landlord and his tenant :

Provided as follows :-

(a) the Revenue Officer shall not give effect to any agreement or compromise and terms of which, if they were embodied in a contract could not be enforced under this Act; and

(b) where the terms of any agreement or compromise are such as might unfairly or inequitably affect the right of third parties, the Revenue Officer shall not give effect to such agreement or compromise unless and until he is satisfied by evidence that the statements made by the parties thereto are correct.

Section 97. Date from which settled rent takes effect

When a rent is settled by Revenue Officer under this Chapter, it shall take effect from the beginning of the agricultural year next after the date of the decision finally fixing the rent.

Section 98. Revision of record-of-rights, and new settlement of rents, under orders of State Government

(1) The [State] Government may at any time, either of its own motion or on the application of any landlord or tenant, direct that any record-of-rights which has been finally published under this Act or under any law in force before the commencement of this Act, or any portion of any such record-of-rights, be revised, in the prescribed manner, but not so as to affect any rent entered therein.

(2) At any time after the expiration of the period of,-

(a) fifteen years from the date of the certificate of the final publication of a record-of-rights, when such publication was made after the commencement of this Act, or

(b) seven years from the date of the certificate of the final publication of a record-of-rights, when such publication was made before the commencement of this Act,

and thereafter, at intervals of periods of fifteen years, the [State] Government may, of its own motion or on the application of any landlord or tenant direct,-

(i) that such record-of-rights or any portion thereof be revised in the prescribed manner; and

(ii) that a settlement of rents payable by tenants be made under Section 85.

(3) The foregoing Sections of this Chapter shall, subject to any rules made in this behalf under Section 264, apply to every revision and settlement referred to in sub-section (1) or sub-section (2).

Section 99. Enhancement of rent where application under Section 98 is rejected

If the [State] Government rejects any application made by a landlord under Section 98, sub-section (2), for a revision of a record-of-rights after the expiration of the period of fifteen years or the period of seven years as the case may be, referred to in that sub-section, such landlord may apply to Deputy Commissioner for the enhancement of any rent entered in such record-of-rights as being payable to him.

Section 100. Validation of directions given, before the commencement of this Act for the record of certain rights

Where a direction has been given any order made under Section 101 of the Bengal Tenancy Act, 1885 (2 of 1885), before the commencement of this Act, for the record of any rights of the kind mentioned in clause (n) of Section 81 of this Act, such direction shall be deemed to be as valid as if the said clause had been enacted before such order was made.

Section 100A. Application of certain provisions to rights if pasturage, to take forest produce, etc. and to payments in respect thereof

[[* * *] The provisions of this Chapter, excluding Section 94 and of Sections 53 to 58 both inclusive, and Section 63, shall, so far as may be, apply to any of the following rights not being rights created by a [Registered contract] namely, rights of pasturage, rights to take forest-produce, rights of fishery, or other similar rights and to the sum, if any, payable by a person in respect thereof, as if such rights person and sum were respectively land held by a tenant, the tenant thereof and the rent payable in respect thereof, and as if the payee of such sum were the landlord under whom such person holds.]

[* * * * * *]

Chapter XIII Praedial Conditions and The Commutation and Record Thereof

Section 101. Prohibition against new praedial conditions

From and after the commencement of this Act,-

(a) no tenancy shall be created with any praedial condition attached, other than rent-free tenancies with the sole condition of rendering personal service; and

(b) no new praedial condition shall be imposed on any tenancy in existence at any time of such commencement.

Section 102. Liability of tenant when original conditions of tenancy cannot be ascertained

When the original conditions of a tenancy cannot be ascertained, the tenants shall not be liable to any praedial conditions other than or in excess of those to which, by local custom or usage, he, in common with the general body of the class to which he belongs in the village tenure or estate in which the lands of the tenancy are situated, is liable :

Provided that, in any case in which praedial conditions have been complied with by a tenant for a period of five years continuously, any Revenue Officer acting under this Chapter may, when commuting such conditions under this Chapter, presume that the same have been complied with in accordance with local custom or usage or in accordance with an express or implied contract made at the commencement of the tenancy.

Section 103. Method of calculating present value of praedial conditions

When in any proceedings under this Act, it becomes necessary for a Court to calculate the value of any praedial condition such value shall be taken to be its average value during the ten years immediately prior to the proceedings,

or during any shorter period for which evidence may be available.

Section 104. Procedure in suit for rent and value of praedial conditions

When in any suit for the recovery of rent, it is sought to recover the value of the praedial conditions appurtenant to a tenancy, an issue may be framed as to whether the value of the praedial conditions, when added to the rent payable in respect of the tenancy, exceeds a fair rent, and, if it is found that the resulting amount exceeds a fair rent, the Court shall decree the rent and so much (if any) of the value of the praedial conditions as, together with the rent will not exceed the sum which would, having regard to the special circumstances of the case, be a fair rent.

Section 105. Voluntary commutation of praedial conditions

(1) When any land is held subject to any praedial conditions, the tenant or the landlord may apply in writing to a Revenue Officer for commutation of such conditions.

(2) The Revenue Officer shall thereupon cause a notice to be served on the landlord or the tenant, as the case may be, and shall fix a day for considering the application; and on such day, or any day thereafter, to which the hearing may be adjourned, shall proceed to inquire into the matter and to determine the amount which, in his judgement is fairly and equitably payable in commutation of such conditions.

(3) In calculating the said amount, the Revenue Officer shall have regard only to the conditions to which the tenant is liable in accordance with local custom or usage or with any contract made when the tenancy commenced and to the money value of such conditions at the time of making such calculation shall follow the procedure provided in Section 103:

Provided that the amount payable in commutation shall be so fixed that the total annual rent of the land, including such amounts as aforesaid, shall no: exceed the sum which would, having regard to the special circumstances of the case be a fair and reasonable rent if the land were not held subject to any praedial conditions.

Section 106. Power to order record of praedial conditions, with or without commutation

(1) The [State] Government may, in any case in which it is, in its opinion, expedient so to do, make an order directing either,-

(a) that a record of all praedial conditions to which the lands within any local area or any estate, tenure or part thereof are subject shall be prepared, and a commutation of such conditions made, by a Revenue Officer; or

(b) that a record as aforesaid be made by a Revenue Officer without commutation of such conditions as aforesaid.

(2) A notification in the [* * *] [Gazette] of an order under this Section shall be conclusive evidence that the order has been duly made.

(3) The record of praedial conditions shall be prepared in the prescribed manner.

Section 107. Preparation of record

(1) Whenever an order is made under Section 106, the Revenue Officer shall thereupon proceed to prepare a record containing the following particulars, namely:

(a) the name of each tenant;

(b) the name of his landlord;

(c) the rent payable for the lands held by each tenant at the time the record is being prepared;

(d) the praedial conditions to which all or any of such lands are subject;

(e) the amount in which the judgement of the Revenue Officer, may fair try be deemed payable in commutation of such conditions; and

(f) any other prescribed particulars.

(2) In calculating the amount payable commutation of such conditions the Revenue Officer shall be guided by the provision of Section 105, sub-section (3).

Section 108. Publication of record

(1) When the Revenue Officer has prepared a record under Section 107, he shall cause a draft of the same to be locally published in the prescribed manner and for the prescribed period, and shall receive and consider any objections which may be made to any entry therein or to any omission therefrom during the period of publication.

(2) When objection have been considered and disposed of in the prescribed manner, the record shall be finally framed and published in the prescribed manner.

(3) Separate draft or records may be published under sub-section (1) or subsection (2) for different local areas, estates, tenure or part thereof.

Section 109. Appeal from orders of Revenue Officer

An appeal shall lie, in the prescribed manner and to the prescribed Officer, from any order of Revenue Officer under this Chapter.

Section 110. Revision by Commissioner or Board

The Commissioner or the Board may direct the revision of any record prepared under this Chapter of any portion of such record, at any time within two years from the date of the final publication of the record, but not so as to affect any decision from which an appeal has been preferred under Section 109:

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Section 111. Procedure where a survey and record-of-rights are being made

In every local area, estate, tenure or part thereof in which a survey is being made and a record-of-rights is being prepared under this Act or under any law in force before the commencement of this Act, and in which a record of praedial conditions are being prepared and a commutation thereof is being made an order issued under Section 106.

Sections 107 to 109 shall not apply, and the following provisions shall have effect, namely :-

(1) The Revenue Officer shall at the time of attesting the preliminary record, ascertained all the praedial conditions to which, by local custom or usage or by contract made when the tenancy commenced each tenant is liable, and the cash value of such condition and shall prepare a statement, in the prescribed form showing the conditions and values so ascertained.

(2) In calculating the cash value of such conditions, the Revenue Officer, shall be guided by the provisions of Section 105, sub-section (3).

(3) The Revenue Officer shall enter in the Khatiyan of each tenant the cash value of the praedial condition (if any) to which such tenant is liable as ascertained under clause (1).

(4) If any tenant is liable, by local custom or usage or by contract made when the tenancy commenced, to any praedial conditions other than those to which the general body of tenants are liable or is not liable to all the praedial conditions to which the general body of tenants are liable, the Revenue Officer shall also specify in the Khatiyan the praedial condition to which such tenant is liable.

(5) The statement prepared under Clause (1), and the entries in the Khatiyan shall be published in draft in the same manner and for the same period as the record-of-rights.

(6) Objection as to entries or omission in the statement of Khatiyan relating to praedial condition may be made under the same condition as objection to entries in or omission from the record-of-rights and shall be disposed of in the same manner as such objections.

(7) After the disposal of objections, the said statement, and the entries in the Khatiyan relating to praedial conditions shall be finally published at the same time and in the same manner as the record-of-rights.

(8) At any time within three months from the date of the certificate of the final publication of the record-of-rights, a suit may be instituted before a Revenue Officer for the decision of any dispute regarding any entry in the record relating to praedial conditions or regarding any omission to enter any such conditions in the record and; the Revenue Officer shall hear and decide the dispute.

(9) In all such suits, the Revenue Officer shall, subject to any rule made in this behalf under Section 264 adopt the procedure laid down in Chapter XVI for the trial of suits.

(10) An appeal shall lie, in the prescribed manner and to the prescribed officer, from any decision of a Revenue Officer under Clause (8).

Section 112. Note of decisions in record-of-rights

A note of all decisions under Clause (8) and decisions on appeal under clause (10) of Section 111 shall be made in record-of-rights as finally published under Section 83 and such note shall be considered as part of the record.

Section 113. Decisions of questions as to whether a payment in kind is a praedial condition or a payment of rent in kind

Where, in any proceeding under this Chapter or under Section 61, a question arises as to whether a payment in kind

is a praedial condition or a payment of rent in kind the Revenue Officer acting under this Chapter or the officer acting under Section 61, as the case may be, shall after such inquiry as he may consider necessary, decide whether in fact the payment is a praedial condition or not.

Section 114. Commencement and effect of commutation

(1) When the commutation of any praedial conditions is settled under this Chapter, for any local area or estate, tenure or part thereof, the settlement shall take effect from the beginning of the agricultural year next after the final publication of the record.

(2) The amount determined by a Revenue Officer under this Chapter to be payable by a tenant in commutation of praedial condition shall be deemed to be part of the rent payable by the tenant and shall be recoverable accordingly.

Section 115. Expenses of voluntary commutation

When in any case, the proceedings under Section 105 have been completed, the Revenue Officer shall apportion the total expenses thereof between the landlord and tenant in such proportion as, having regard to all the circumstances, he may deem fit; and the amount so apportioned shall be recoverable as an arrear of land revenue.

Section 116. Expenses of record and compulsory commutation

The expenses incurred by the [State] Government; in carrying out in any local area or any estate, tenure or part thereof any order made under Section 106 or such part of those expenses as the [State] Government may direct shall be defrayed by the landlords and tenants of land in that local area, tenure or part, in such proportions as the [State] having regard to all circumstances, may determine.

(2) The portion of the aforesaid expenses which any person is liable to pay shall be recoverable by the [State] Government as if it were an arrear of land revenue due in respect of the said local area, estate, tenure or part.

Explanation. - The word "tenure" in this Section includes all revenue-free and rent-free tenures and holdings within a local area, estate or tenure.

Section 117. Saving of right to claim reduction or enhancement of rent

No proceedings under this Chapter shall bar the right of any tenant or landlord to claim a reduction or enhancement of rent under this Act after such proceedings have been completed.

Chapter XIV Record of Landlord's Privileged Lands

Section 118. Definition of "landlord's privileged lands"

(1) The expression "landlord's privileged lands", as used in this Chapter, means,-

(a) lands which are cultivated by the landlord himself with his own stock or by his own servants or by hired labour or are held by a tenant on lease for a term [exceeding one year, or on a lease written or oral for a period of one year or less], and which are by custom, recognised as privileged land in which occupancy-rights cannot accrue, and

(b) [Land which are known as 'Zirat' in the Chota Nagpur Division other than the [district of Ranchi and Dhanbad and Patamda, Ichagarh and Chandi police-stations in the district of Singhbhum], lands which are known as man in the [district of Dhanbad and Patamda, Ichagarh and Chandi police-stations in the district of Singhbhum] and lands which are entered as Manjhihas or Bethpketa in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869 (Ben. Act 2 of 1869).]

(2) From such [date] as the [State] Government may by notification direct, no lease [for a term which exceeds or might in any possible event exceed one year] shall be considered for the purpose of clause (a) of this Section unless it be in writing.

Section 119. Power to direct a survey and record of landlord s privileged lands

The [State] Government may, by notification, direct a Revenue Officer to make a survey and record of all lands in any specified local area which are landlord's privileged lands within the meaning of clause (a) of Section 118.

Section 120. Application of certain Sections

When a notification has been published under Section 119, directing the making of a record, the provisions of Sections 83, 84, 87, 88, 90, 95 and 96, so far as they may be applicable, shall apply to such record as if it were a record-of-rights referred to in those Sections.

Section 121. Power to record landlord's privileged lands on application of landlord or tenant

When any land is alleged to be a landlord's privileged land within the meaning of clause (a) of Section 118, then, on the application of the landlord or of any tenant of the land, and on his depositing the required amount for expenses a Revenue Officer may ascertain and record whether the land is or is not landlord's privileged land within the meaning of the said clause :

Provided that when a record of such lands has been or is being made by a Revenue Officer under Section 119, no application shall be entertained under this Section.

Section 122. Procedure in inquiries

In any inquiry under this Chapter, a Revenue Officer,-

(1) shall have regard to any evidence that may be available in respect of the following among other matters, namely,-

(a) who originally reclaimed the lands and brought them under cultivation;

(b) whether the lands have at any time been let as landlord's privileged lands or as Raiyati lands; and

(c) whether the lands have, since their reclamation, been let year by year, or for specific periods, or for indefinite periods; and

(2) shall proceed in the prescribed manner; and

(3) shall receive in evidence any judgement, decree or order of a Civil Court or of the Deputy Commissioner, if the same be relevant;

but no such judgement, decree or order shall be conclusive proof that the lands are, or not landlord's privileged lands.

Section 123. Presumption that lands are not landlord's privileged lands

In any inquiry by a Revenue Officer under this Chapter or by any Court, as to whether lands are or are not landlord's privileged lands, the Officer or Court shall presume until the contrary is proved that the lands are not landlord's privileged lands.

Section 124. No land in certain villages to be recorded as landlord's privileged lands

Where any land in any village is entered as Manjhihas or Bet-kheta in any register prepared and confirmed under the Chota Nagpur Tenure Act, 1869 (Bengal Act 2 of 1869), a Revenue Officer acting under this Chapter shall not record any other lands in that village as being landlord's privileged lands.

Section 125. Exclusion of unrecorded lands from category of landlord's privileged lands

When a record of landlord's privileged lands has been prepared under Section 119 for any area, no other lands in that area shall be deemed to be landlord's privileged lands.

Section 126. Appeal

An appeal shall lie, in the prescribed manner and to the prescribed Officer from decisions and orders of a Revenue Officer under this Chapter.

Chapter XV Record-of-Rights and Obligations of Raiyats Having khunt-katti Rights, Village Headmen and other classes of tenants

Section 127. Record-of-rights and obligations of Raiyats having Khuntkatti rights village headmen and other class of tenants

(1) The [State] Government may make an order directing that a record be prepared by a Revenue Officer of the rights and obligation in any specified local area of,-

(a) 'Raiyat having 'khunt-katti' rights,

(b) [village headman], or

(c) any other class of tenants, and that a settlement of fair rents to be paid by such persons or any of them be made.

Explanation. - The word "rights", as used in this sub-section, includes the right of a village-headman to hold his office as well as his right to hold land.

(2) A notification in the [* * *] [Official Gazette] of an order under this Section shall be conclusive evidence that the order has been duly made.

Section 128. Application of certain Sections

(1) When a notification has been published under Section 127, directing the preparation of a record, the provisions of Section 81, Section 83, Section 84, sub-sections (1) and (2), and Sections 39 to 96, so far as they may be applicable, shall apply as if such records were referred to in those Sections.

(2) When any such notification directs that a settlement of fair rents be made, the provisions of Section 85, sub-sections (3), (4) and (5), Section 86, Section 89, and Sections 95 to 97, so far as they may be applicable shall apply to such settlement as if it were a settlement referred to in those Sections.

Section 129. Notice of entries to interested persons

At the time of the final publication of a record prepared by a Revenue Officer under this Chapter that officer shall cause a copy of the entries therein to be served in the prescribed manner, on all persons interested in such entries, so far as such persons can be ascertained.

Section 130. Suits to decide disputes as to entries in or omission from record

(1) Where there is a dispute regarding the correctness of any entry made in a record prepared under this Chapter, or regarding any incorrect omission therefor on a suit may be instituted before a Revenue Officer at any time within three months from the date of the certificate of the final publication of the record.

Provided that in any suit under this Section, the Revenue Officer shall not try any issue which has been, or is already, directly and substantially in issue between the same parties or between parties under whom they or any of them claim, in proceedings for the settlement of rents, where such issue has been tried and decided, or is already being tried, by a Revenue Officer acting under Section 86 in proceedings instituted after the final publication of the record.

(2) In all suits under this Section, the Revenue Officer shall, subject to any rules made in this behalf under Section 264, adopt the procedure laid down in Chapter XVI for the trial of suits before the Deputy Commissioner.

(3) An appeal shall lie, in the prescribed manner and to the prescribed officer, from the decision of the Revenue Officer in such suits.

Section 131. Note of final decisions in record

A note of all decisions under subsection (1) of Section 133 and of all decisions on appeal under sub-section (3) of that Section shall be made in the record prepared under Section 127 and such note shall be considered as part of the record.

Section 132. Evidential value of entries

When a record has been finally published under Section 128, or amended under Section 131, the entries made therein shall [in every suit, application or proceeding to which the landlord or a tenant or any person claiming to be the landlord or as tenant is a party] be conclusive evidence of the rights and obligations of the tenants to which such entries relate and of all the particulars recorded in such entries.

Section 133. Revenue-Officer to have regard to origin and nature of tenancy and status of tenants

In making inquiries under this Chapter into the rights and obligations of tenants the Revenue Officer shall have regard to the origin and nature of each tenancy and the real status of the tenant, notwithstanding that the tenant may have been described in any document as a Thikadar or temporary lease holder or in any other similar terms.

Section 134. Exclusion of unrecorded lands from category of khunt-katti lands

When a record-of-rights and obligations of Raiyats having khunt-katti rights has been prepared under this Chapter for any local area, no lands in such area, which are not entered in such record, shall be recognised as lands in respect of which khunt-katti rights can be acquired.

Chapter XVI Judicial Procedure in Matters Cognizable by The Deputy Commissioner

Section 135. Place for holding Deputy Commissioner's Court

The Deputy Commissioner may hold a Court for hearing and determining suits and application under this Act, in any place within the local limits of his jurisdiction :

Provided that every hearing and decision shall be in open Court, and that the parties to the suit or application, or their agents, shall have had due notice to attend at such place.

Section 136. Office for instituting suits and making applications

Suits and applications before the Deputy Commissioner under this Act shall respectively be instituted and made,-

(a) in the Revenue-office of the district; or

(b) when the cause of action has arisen within the local limits of the jurisdiction of a Deputy Collector, who is empowered to receive such suits or applications, then in the office of such Deputy Collector; or

(c) in the office of the Revenue Officer having jurisdiction to entertain the same.

Section 137. Withdrawal of suits

The Deputy Commissioner may withdraw any suit [application or proceedings] from any Deputy Collector or Revenue Officer, who is exercising powers of the Deputy Commissioner under this Act and may try it himself or transfer it to any Deputy Collector.

Section 138. Jurisdiction where land is situated in more than one district or subdivision

(1) When any suit is instituted or application made in respect of any land comprised in a tenure or holding and such land is situated in more than one district or sub-division, the district or sub-division in which the greater part of such land is situated shall be deemed to be the district or sub-division in which the cause of action has arisen; and if any question be raised respecting the district or sub-division in which the greater part of the land is situated, the Board or (if the land is situated in one district) the Deputy Commissioner shall decide the question.

(2) Except as provided in sub-section (1), no Deputy Commissioner shall exercise any jurisdiction under this Act in respect of any land situated beyond the local limits of his jurisdiction, even if, such land forms part of an estate the revenue of which is paid into the treasury of his district.

Section 139. Certain suits and applications cognizable only by the Deputy Commissioner

The following suits and applications shall be cognizable by the Deputy Commissioner, and shall be instituted and tried or heard under the provisions of this Act, and shall not be cognizable in any other Court, except as otherwise provided in this Act, namely,-

(1) all suits for the delivery of leases or counterpart engagements;

[(2) (a) all suits and applications or the determination of the rent payable by a tenant for-

(b) all suits and applications not otherwise provided for in this Act for the assessment of rent upon, or for alteration of rent payable by a tenant for-

(c) all suits for arrears of rent on account of,-

agricultural land, whether subject to the payment of rent or only to the payment of dues recoverable as if they were rent-

(3) (a) all applications to determine the existence, non-existence, nature or extent of-

(b) all applications for determination of the sum payable by any person in respect of-

(c) all applications for assessment of the sum fairly payable by any person, or for alteration of the sum payable by any person, in respect of-

(d) all applications for damages in respect of exceeding, or in respect of interference with the enjoyment of;

(e) all suits for arrears of anything payable in respect of,-

[any of the following rights (not being rights created by a registered contract), namely, rights of pasturage], rights to take forest produce, rights of fishery or other similar rights;

(4) all suits and applications [under this Act] to eject any tenant of agricultural land or to cancel any lease of agricultural land;

(4-A) all suits for ejectment of a trespasser where the plaintiff claims as alternative relief that the defendant be declared liable to pay for the land in his possession a fair rent;

(5) all suits and applications to recover the occupancy or possession of any land from which a tenant has been unlawfully ejected by the landlord or any person claiming under or through the landlord;

(6) subject to the provisions of sub-section (5) of Section 74-A, all suits by or against a village headman for a declaration of title in, possession or ejectment from or recovery of his office or land comprised in his village-headman's tenancy, whether based or not on an allegation of the existence or non-existence of the relationship of landlord and tenant and whether brought or not by or against the landlord of such land;]

(7) all suits by landlords and others in respect of the rent of land, against any agents employed by them in the

management of land or the collection of rents, or the sureties of such agents for money received or accounts kept by such agents in the course of such employment, or for papers in their possession; and

(8) all suits and applications in respect of which jurisdiction is conferred by this Act on the Deputy Commissioner:

[Provided that the Deputy Commissioner may subject to such rules as may be made in this behalf under Section 264, transfer any particular suit or application or any class of suits or application cognizable by him under this Section to a competent Civil Court for trial.]

Section 139A. Exclusive jurisdiction of Deputy Commissioner in certain cases

[Subject to the provisions of Chapter XII, no Court shall entertain any suit concerning any matter in respect of which an application is cognizable by the Deputy Commissioner under Section 139, and the decision of the Deputy Commissioner on any such application shall, subject to the provisions of this Act relating to appeal, be final.]

Section 140. Collective suits or applications

Subject to such rules (if any) as may be made in this behalf under Section 264, a suit may be instituted before, or an application may be made to, the Deputy Commissioner collectively by or against any number of tenants holding land in the same village; and an allegation that such tenants are wrongly joined shall be no ground for dismissing a suit or refusing to hear an application; but, no order shall be passed in any collective suit or on any such collective application unless the officer making the same is satisfied that all parties have had an opportunity to appear and make objection to any claims preferred against them; and if at any time it appears to the Deputy Commissioner that the question between any two of the parties of whom one is so joined with others cannot conveniently be jointly tried or heard, the Deputy Commissioner may order a separate trial or hearing.

Section 141. Order or decree in collective suit or on collective application to specify how far it effects each tenant

Every order or decree passed in any case which is tried or heard jointly under Section 140 shall specify the extent to which each of the tenants named in the order or decree shall be affected thereby.

Section 142. Suit by co-sharer landlord for rent

(1) Notwithstanding anything contained in Section 257, a co-sharer landlord may institute a suit to recover from a tenant,-

(a) his share of the rent, when such share is collected separately, or

(b) the whole of the rent due to the plaintiff and his co-sharers, when all or any of his co-sharers, who refuse to join in the suit are made defendants therein.

(2) When in a suit instituted under clause (b) of sub-section (1), the plaintiff is unable to ascertain what rent is due for the whole tenure or holding, or whether the rent due to the other co-sharer landlords has been paid or not, owing to the refusal or neglect of the tenant or the said landlords to furnish him with correct information on these points or either of them, the Deputy Commissioner shall determine,-

(i) what sum (if any) is due to the plaintiff for rent, interest thereon, and costs, and

(ii) what sums (if any) are due to the said landlords, respectively on account of their share of the rent and interest therein, for the period in respect of which the suit is brought; and shall decree the suit accordingly.

(3) Notwithstanding anything contained in Explanation 1 to Section 47, or in Section 196, a decree awarding to a plaintiff a sum referred to in clause (i) of subsection (2) shall, as regards the remedies for enforcing the same, be as effectual as a decree obtained by a sole landlord or an entire body of landlords in a suit brought for the rent due to all the co-sharers.

(4) When the sums due from a tenant to any co-sharer landlord are determined under clause (ii) of sub-section (2), in respect of any period, then no further suit shall lie against such tenant for rent alleged to be due to such landlord in respect of that period.

Section 143. Institution of suits by presentation of statement of claim

Suits before the Deputy Commissioner under this Act shall be instituted by presenting a statement of claim showing,-

(a) the name, description and place of abode of the plaintiff;

(b) the name, description and place of abode of the defendant so far as they can be ascertained;

(c) the substance to the claim; and

(d) the date of the cause of action.

Section 144. Additional particulars required in statement of claim in certain suits and in certain applications

(1) In all suits and applications before the Deputy Commissioner for the recovery of an arrear of rent or for the ejectment of a tenant from any tenure or holding or for the recovery of occupancy or possession of any tenure or holding, the statement of or application shall contain, in addition to the particulars required by Section 143,-

(a) a specification of situation and designation of the land held by the tenant, and

(b) a specification of the extent and boundaries of such land, or (if the plaintiff is unable to specify the extent or boundaries) a description sufficient for the identification of the land.

(2) In all suits and applications referred to in sub-section (1), and in all other suits and applications before the Deputy Commissioner under this Act relating to the rent of land or to any right or easement arising out of land.

If a survey has been made and a record-of-rights has been finally published under this Act or under any law in force before the commencement of this Act, in respect of the land to which the suit or application relates, the statement of claim on application shall further contain the following particulars, namely,-

(i) a list of the survey plots comprised in the tenancy,

(ii) a statement of the rental of the tenancy according to the record-of-rights, and

(iii) a copy of all entries in the record-of-rights, in regard to the subject-matter of the suit or application, unless the Deputy Commissioner is satisfied for reasons to be recorded in writing that it is not necessary that such particulars or any of them should be furnished or that the plaintiff was prevented by any sufficient cause from furnishing such particulars or any of them :

Provided that in all cases in which the Deputy Commissioner admits a statement of claim or application which does not contain the said particulars, he may direct the supply, without payment of fee of a verified or certified copy of, or extract from, the record-of-rights relating to the tenancy and the question in dispute in the suit or application.

(3) Where since the record-of-rights was prepared and finally published an alteration has been made in the area of the tenancy, the statement of claim must further show how the amount of the rent claimed in the suit has been calculated.

Section 145. Substitution of copies or extracts for original documents admitted in evidence

When any account books, rent-rolls, collection paper, measurement-papers of maps have been produced by the landlord before the Deputy Commissioner in any suit or proceeding under this Act, and have been admitted in evidence in the suit or proceeding or in any inquiry pending before the Deputy Commissioner; copies of extracts from, such documents, certified by a duly authorised officer of the Court of the Deputy Commissioner to be true copies of extracts, may, with the permission of the Deputy Commissioner, be substituted on the record for the originals, which may then be returned to the landlord;

and thereafter copies of extracts, so certified, may be admitted in evidence in any other suit or proceeding instituted before the same or any other Deputy Commissioner under this Act, unless the Deputy Commissioner before whom they are produced sees fit to require the production of the originals.

Section 146. Statement of claim by whom to be presented

The statement of claim shall be presented by the plaintiff or by an agent of the plaintiff, who is acquainted with the facts of the case.

Section 147. Signature and verification of statement of claim

The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent, in the following form-

"I, 'A', 'B', do declare that the above statement is true to the best of my knowledge, information and belief."

Section 148. Production of documents by plaintiff

(1) If the plaintiff relies in support of his claim on any document in his possession he must produce such document before the Deputy Commissioner at the time of presenting his statement of claim.

(2) If such document be not so produced, it shall not afterwards be admitted unless the Deputy Commissioner, for sufficient reasons to be recorded in writing, thinks fit to admit it.

Section 149. Production of documents by defendant

If the plaintiff requires the production of any document in the possession or power of the defendant, he may, at the time of presenting his statement of claim, deliver a description of the document to the Deputy Commissioner, in order that the defendant may be directed to produce the document.

Section 150. Return or amendments of statement of claim

If the statement of claim does not contain the several particulars required by Section 143 or by Sections 143 and 144, as the case may be, or is not subscribed and verified as required by Section 147, the Deputy Commissioner may return the statement of the plaintiff, or may at his discretion allow it to be amended.

Section 151. Issue of summons to defendant

If the statement of claim is in proper form the Deputy Commissioner shall direct the issue of a summon to the defendant in the prescribed form [and also of a copy of the plaint or, if there are two or more defendants, of such portion of the plaint as relates to him.]

Section 152. Attendance of defendant personally or by agent

If the plaintiff requires the personal attendance of the defendant and satisfies the Deputy Commissioner that such personal attendance is necessary, or if the Deputy Commissioner of his own accord requires such personal attendance, the summons shall contain an order for the defendant to appear personally on day to be specified in the summons; otherwise the summons shall order the defendant to appear personally or by an agent, who is acquainted with the facts of the case.

Section 153. Production of documents and witnesses

The said summons shall order the defendant to produce any document which he has in his possession and of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence;

and shall also enjoin the defendant to bring his witnesses with him if they are willing to attend without issue of process.

Section 154. Deposit of cost of serving summons

If the amount of the cost of serving the summons be not deposited in the prescribed manner, the claim shall be rejected; but in such case, the plaintiff may present another statement of claim at any time within the period provided by this Act for the limitation of suits.

Section 155. Procedure when neither party appears

If on the day fixed by the summons for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be postponed prior to the framing of issues as provided in Section 167 neither of the parties appears in person or by agent, the case shall be struck off with liberty to the plaintiff to bring a fresh suit unless precluded by the provisions for the limitation of suits contained in this Act.

Section 156. Procedure when only the defendant appears

If on such day, only the defendant appears the Deputy Commissioner shall dismiss the suit unless the defendant admits the claim or part thereof in which case the Deputy Commissioner shall pass a decree against the defendant upon such admission without costs and where part only of the claim has been admitted shall dismiss the suit so far as it relates to the remainder:

Provided that such decree if there be more than one defendant, shall be only against the defendant who makes the admission.

Section 157. Procedure when only the plaintiff appears

If, on such day, only the plaintiff appears, the Deputy Commissioner upon proof that the summons has been duly served shall proceed to examine the plaintiff or his agent, and, after considering the allegations of the plaintiff and any documentary or oral evidence adduced by him, may either dismiss the case, or postpone the hearing of it to a future day for the attendance of any witness whom the plaintiff may wish to call, or decree the suit ex-parte against the defendant.

Section 158. Production of documents by defendant

If the defendant relies on any document in support of his defence, he shall produce it before the Deputy Commissioner at the first hearing of the suit; and if such document is not so produced it shall not afterwards be admitted, unless the Deputy Commissioner for sufficient reasons to be recorded in writing, thinks fit to admit it.

Section 159. Hearing of defendant on day to which case is postponed

If the defendant appears on any subsequent day to which the hearing of the suit may be postponed under Section 157, the Deputy Commissioner may, upon such conditions (if any) as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

Section 160. Exemption of women from personal attendance

A female plaintiff or defendant shall not be required to attend in person if of a rank or class which, according to the customs and manners of the country, would render it improper for her to appear in public.

Section 161. Employment of agents

(1) Any party to a suit before the Deputy Commissioner under this Act may employ an agent to conduct the case on his behalf; but, the appointment of an agent shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or by any order of the Deputy Commissioner.

(2) Processes served on any such agent shall be as effectual for all purposes in relation to the suit as if they had been served on the party in person and all the provisions of this Act relating to the service of processes on a party to the suit shall be applicable to the service of processes on such agent.

Section 162. Power to grant time or adjourn hearing

The Deputy Commissioner may, in any case, grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also from time to time, in order to secure further evidence, or for other sufficient reason to be recorded by him, adjourn the hearing or further hearing of any case in such manner as he may think fit.

Section 163. Examination and cross-examination of parties or their agents and of witnesses, written statement by defendant

(1) When both parties appear in person on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned under Section 162, the Deputy Commissioner [may proceed to examine them, and if he examines them] either party or his agent may cross-examine the other.

(2) If either of the parties is not bound to attend personally, any agent by whom he appears [may] be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

(3) At his first appearance, or at any time before the issues are framed, the defendant may, with the leave of the Deputy Commissioner, file a written statement of his defence.

(4) Such statement shall be verified in the manner provided in Section 147.

(5) If either of the parties produces a witness on the day aforesaid, the Deputy Commissioner may take the evidence of such witness.

Section 164. Conduct and record of examination

(1) The examination of the parties or their agents shall be conducted according to the law for the time being in force for the examination of witnesses.

(2) The depositions of parties, agents and witnesses shall be recorded in English [* * *].

Section 165. Power to direct attendance of party whose agent cannot answer material question

If the agent of either party is unable to answer any material question relating to the case, which the Deputy Commissioner is of opinion that the party whom he represents ought to answer and likely to be able to answer if interrogated in person, the Deputy Commissioner may postpone the hearing of the case to a future day, and may direct that such party shall attend in person on such day, and, if such party fails to appear in person on the day appointed, the Deputy Commissioner may decide the suit as in case of default, or make such other order as he may deem proper in the circumstances of the case.

Section 166. Decree when to be made

If after the examination [referred to in] Section 163, and after the examination of any witness, who may attend to give evidence on behalf of the parties, and after a consideration of the documentary evidence adduced, a decree can properly be made without asking further evidence, the Deputy Commissioner shall make a decree accordingly.

Section 167. Power to postpone trial to take further evidence

If it appears that the parties are at issue on any question upon which it is necessary to hear further evidence, the Deputy Commissioner shall frame issues, and shall fix a day for the examination of witnesses and the final hearing of the suit; and the trial take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Deputy Commissioner.

Section 168. Production of witnesses

The parties shall produce their witnesses on the day of the trial; and if either party requires assistance to procure the attendance of a witness on such day, either to give evidence or to produce a document, he shall apply to the Deputy Commissioner in sufficient time before such day to enable the witness to be summoned and to attend on that day; and, if the application be made in sufficient time as aforesaid, the Deputy Commissioner shall issue a summon requiring such witness to attend.

Section 169. Procedure when neither party appears on day fixed for final hearing of suit

(1) If, on the day fixed for the final hearing of the suit, neither of the parties appears, the case shall be struck off under the conditions provided in Section 155.

(2) If, on such day, only one of the parties appears, the suit may be tried and determined, in the absence of the other party, upon such proof as may then be before the Court.

Section 170. Judgement

(1) The Deputy Commissioner shall pronounce judgement in open Court.

(2) The judgement shall be written in English, and shall contain the reasons for the decision, and shall be dated and signed by the Deputy Commissioner at the time when it is pronounced. [* * *]

Section 171. Local inquiries

(1) The Deputy Commissioner may, at any stage of a suit or other proceeding before him under this Act,-

(a) cause a local inquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of the [Government] with the consent to the authority to whom such officer is subordinate, or by any other person whom the Deputy Commissioner may deem fit; or

(b) himself proceed to the spot and make such local inquiry in person.

(2) The provisions of the law for the time being in force, relating to local inquiries by Commissioner, under orders of Civil Courts, shall apply to any local inquiry made under clause (a) of sub-section (1), and, so far as they are applicable, also to inquiries made under clause (b) of that sub-section.

(3) Where the Deputy Commissioner makes a local inquiry in person, he shall forthwith record on the proceedings any relevant facts which he has observed in the course of the inquiry; and such record shall be received as evidence in the suit or other proceeding aforesaid.

Section 172. Payment into Court by defendant, after tender to plaintiff

(1) The defendant in any suit before the Deputy Commissioner under this Act may, if he has duly tendered the same to the plaintiff before the institution of the suit pay into Court such sum of money as he may consider to be due to the plaintiff, without paying in any costs incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of Court to the plaintiff.

(2) If, after such payment, the plaintiff elects to proceed with the suit and ultimately obtains a decree for no more than what was paid into Court, he may be charged with all costs of the suit incurred by the defendant but, if the plaintiff ultimately obtains a decree for more than what was paid into Court, the defendant may be charged with all costs of the suit.

Section 173. Payment into Court by defendant, without prior tender to plaintiff

(1) The defendant in any suit before the Deputy Commissioner under this Act may, without having tendered the same to the plaintiff before the institution of the suit, pay into Court such sum of money as he may, consider to be due to the

plaintiff, together with the costs (to be fixed by the Deputy Commissioner, if necessary, as upon a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment; and such sum shall immediately be paid out of Court to the plaintiff. (2) If, after such payment, the plaintiff elects to proceed with the suit, and ultimately obtains a decree for no more than what was paid into Court, he may be charged with ail costs of the suit incurred by the defendant subsequently to such payment; but, if the plaintiff ultimately obtains a decree for more than what was paid into Court, the defendant may be charged with costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree, but shall have credit there out for the amount of costs paid into Court by him in the first instance.

Section 174. Prohibition of interest on sums paid into Court

From the date on which any sum is paid into Court by the defendant under Section 172 or Section 173 no interest shall be allowed to the plaintiff on such sum, whether it be in full satisfaction of his claim or falls short thereof.

Section 175. Power to award damages to plaintiff in rent suit

[Repealed by the Chota Nagpur Tenancy (Amendment) Act, 1938 (Bihar Act 2 of 1938), Section 24.]

Section 176. Power to award compensation to defendant in rent suit

[Repealed by the Chota Nagpur Tenancy (Amendment) Act, 1938 (Bihar Act 2 of 1938), Section 24]

Section 177. Procedure where third-party claims right to receive rent

When in any suit before a Deputy Commissioner under this Act between a landlord and a tenant [the tenant or a third person pleads that the right to receive the rent of the land or tenure cultivated or held by the tenant belongs to such third person] on the ground that such third person or a person through whom he claims has actually and in good faith received and enjoyed such rent before and up to the time of the institution of the suit, such third person shall be made a party to the suit, and the question of the actual payment of the rent to such third person in good faith shall be inquired into, and the suit shall be decided according to the result of such inquiry :

Provided that such decision shall not affect the right of any party, who may have a legal title to such rent, to establish such title by suit in a Civil Court if instituted within one year from the date of the decision.

Section 178. Suit for ejectment of non-occupancy Raiyat- Cancelment of lease of any tenant for arrear of rent

(1) Any landlord desiring to eject a non-occupancy Raiyat on the ground that he has failed to pay an arrear of rent, or to cancel the lease of any tenant on account of the non-payment of arrears of rent, may sue for such ejectment or concealment and for the recovery of the arrears in the same suit, or may, in a suit for such ejectment or cancelment, adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrears.

(2) In all cases of suits for the ejectment of a non-occupancy Raiyat for nonpayment of arrears of rent, or for the cancelment of a lease for non-payment of arrears of rent, the decree shall specify the amount of the arrears; and if such amount together with the interest and costs of suit, be paid into Court, within thirty days from the date of the final decree, the decree shall not be executed.

(3) The Deputy Commissioner may, for special reasons to be recorded in writing, extend the period of thirty days mentioned in sub-section (2).

Section 178A. Non-occupancy Raiyat entitled to appropriate produce from the holding grown before the delivery of possession

[A non-occupancy Raiyat against whom a decree or order of eviction has been made under Section 178 shall be entitled to cut and appropriate the crop grown by him on the holding or portion thereof before but not after the delivery of possession through the Court.]

Section 179. Power of Deputy Commissioner to grant lease to Raiyat in default of landlord

If a decree is given for the grant of a lease to a 'Raiyat and the landlord fails, for a period of three months, after the date of the decree, to grant such lease, the Deputy Commissioner may grant a lease in conformity with the terms of the decree, under his own hand and seal; and such lease shall have the same force and effect as if granted by the landlord.

Section 180. Procedure where tenant fails to deliver counterpart engagement to landlord

If a decree is given for the delivery of a counterpart engagement by a tenant to a landlord, and the tenant fails, for a period of three months after the date of the decree, to deliver such counterpart, the decree shall be evidence of the amount of rent claimable from such tenant, and a copy of the decree under the hand and seal of the Deputy Commissioner shall have the same force and effect as a counterpart engagement delivered by the tenant to the landlord.

Execution of Decrees and Orders of the Deputy Commissioner

Section 181. Limitation of time for application for execution

[No application for the execution of a decree or order passed by the Deputy Commissioner under this Act shall be entertained unless such application be made] within three years from-

(a) the date on which the decree or order is signed, or

(b) where there has been an appeal, the date of the final decree or order of the appellate Court, or

(c) where there has been a review of judgement, the date of the decision on the review.

Section 181A. Application for execution by assignee of rent-decree

[An application for the execution of a decree for arrears of rent obtained by a landlord shall not be made by an assignee for the decree unless the landlord's interest in the land has become and is vested in the assignee.]

Section 182. Decrees and orders by what Court to be executed

A decree or order passed by a Deputy Commissioner under this Act may be executed either by his own Court or by any other prescribed Court.

Section 183. Form of application for execution

Every application for the execution of a decree or order passed by a Deputy Commissioner under this Act shall be in writing, shall be made in the prescribed form, and shall be verified by the applicant or his agent in the form provided in Section 147.

Section 184. Issue of process of execution

Process of execution may be issued against either the person or the property of a judgement-debtor, but shall not be issued simultaneously against both person and property;

[Provided that,-

(a) process of execution shall not be issued against the person of a judgement-debtor in satisfaction of a decree for arrears of rent due in respect of a holding or of a Bhuinhari tenure;

(b) the movable property of the judgement-debtor shall not, without his consent in writing, be attached or sold in execution of a decree for arrears of rent due in respect of a holding unless the decree cannot be satisfied by the attachment and sale of the holding for the arrears of the rent of which the decree was passed.]

Section 185. Form of warrant of execution against person or movable property

Every warrant of execution against the person or movable property of a judgement-debtor shall be in the prescribed form.

Section 186. Exemption from attachment and sale

The following particulars shall be exempted from attachment and sale in execution of any decree or order passed by a Deputy Commissioner under this Act, namely,-

(a) the necessary wearing apparel and bedding of the judgement-debtor, his wife and children;

(b) tools and implements of husbandry, and such cattle and seed grain as may, in the opinion of the Deputy Commissioner, be necessary to enable the judgement-debtor to earn his livelihood as an agriculturist;

(c) the materials of houses and other buildings belonging to and occupied by agriculturist;

(d) books of account;

(e) any right of personal service;

(f) stipends and gratuities allowed to [* * *] pensioners of the [Government] and political pensions;

(g) the wages of labourers and domestic servants;

(h) a right to future:

Provided that nothing in this Section shall be deemed to exempt the materials of houses and other buildings from attachment of sale in execution of decrees for rent.

Explanation. - The particulars mentioned in clauses (f) and (g) are exempt from attachment or sale whether before or after they are actually payable.

Section 186A. Restrictions on the execution of the decree

[A decree for arrears of rent obtained against a Raiyat or an under-raiyat shall not be executed,-

(a) by the detention in the civil prison of the judgement-debtor, or

(b) by the sale of houses and other buildings with the materials and the sites thereof and the lands immediately appurtenant thereto and necessary for their enjoyment belonging to the Raiyat or under-raiyat occupied by him:

Provided that any such house and building and the materials and the site thereof and the land immediately appurtenant thereto and necessary for their enjoyment may be sold in execution of a decree for arrears of rent due in respect of the site of such house or building.]

Section 187. Indication of movable property to be seized

(1) Any movable property required to be seized under warrant of execution shall, if practicable be described in a list to be furnished by the judgement-debtor; but, if the creditor is unable to furnish such list, he may apply for a general seizure of the debtor's effects to the amount of the judgement and costs.

(2) In either case, the property to be seized shall be pointed out by the creditor or his agent to the officer entrusted with the execution of the warrant.

Section 188. Duration of warrant of execution

Every warrant of execution shall bear the date of the day on which it is signed by the Deputy Commissioner and shall continue in force for such period as the Deputy Commissioner may direct, not being more than sixty days from such date.

Section 189. Second and successive warrants of execution

Second and successive warrants of execution may be issued by order of the Deputy Commissioner, on the application of the judgement-debtor, after expiration of the period fixed for the continuance in force of a previous warrant.

Section 190. Notice when to be given before issue of warrant of execution

(1) A warrant of execution shall not be issued upon any decree or order without previous notice to the party against whom execution is applied for if when application for the issue of the warrant is made a period of more than one year has elapsed from date of the decree or order, or from the date of the last previous application from execution.

(2) A warrant of execution shall not be issued against the heir or other representative of a deceased party without previous notice to such representative to appear and be heard.

Section 191. Procedure when judgement-debtor is arrested

(1) If a warrant is issued against the person of a judgement-debtor, the officer charged with the execution of the warrant shall bring him with all convenient speed before the Deputy Commissioner.

(2) If the decree in execution of which the judgement-debtor was arrested is a decree for money, and if he does not immediately deposit in Court the full amount specified in the warrant or make arrangements, satisfactory to the judgement-creditor, for the payment of the same, or satisfy the Deputy Commissioner that he has no present means of paying the same, the Deputy Commissioner shall send him to the civil jail thereto remain for such time as may be directed by warrant addressed to the keeper of the jail, unless in the meantime, he pays the said amount:

Provided that no judgement-debtor shall be imprisoned in the execution of a decree under this Act for a longer period than six months or (if the decree is for the payment of a sum of money net exceeding fifty rupees) six weeks.

(3) If the decree in execution of which the judgement-debtor was arrested is a decree for the delivery of paper or account and if the paper or account are not immediately delivered by him to the Deputy Commissioner, the Deputy Commissioner may commit him to the civil jail, thereto remain for such time not exceeding six months as the Deputy Commissioner may direct, unless in the meantime, he delivers the papers or accounts according to the term of the decree.

Section 192. Further proceedings after discharge from jail

(1) When any judgement-debtor has been discharged from the civil jail, he shall not be imprisoned a second time under the same decree or order.

(2) If the amount, due under such decree or order does not exceed fifty rupees, the Deputy Commissioner may declare such discharged person to be absolved from liability thereunder.

(3) In other cases, the discharge shall not extinguish the liability of the discharged person under such decree or order or exempt property belonging to him from attachment in execution thereof.

Section 193. Diet-money for subsistence of prisoners

Any person who applied for a warrant of execution against the person of a judgement-debtor shall deposit in Court, at the time of the issue of the warrant diet-money for thirty days, at such rate as the Deputy Commissioner may direct, for the subsistence of the prisoner.

(2) The said person shall also pay diet-money, at the same rate before the commencement of each succeeding month of the imprisonment, and, if he fails to make any such payment, the prisoner shall be discharged.

(3) All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit; and any diet-money not so spent shall be returned to the person, who paid it.

Section 194. Execution of decree or order for ejectment or re-instatement of cultivator

(1) If the decree or order is for the ejectment of any cultivator from land occupied by him or for the reinstatement of any cultivator in the occupancy of the land from which he has been ejected the decree or order shall be executed by giving the possession or occupancy of the land to the person entitled by the decree or the order to such possession or occupancy.

(2) If any opposition to the execution of the order for giving such possession or occupancy is made by the party against whom the order is made, Deputy Commissioner shall, in the exercise of his powers as a Magistrate give effect to the order,

Section 195. Execution of decree or order for cancelment of lease, for ejectment or re-instatement of tenant not being an actual cultivator

If the decree or order is for the cancelment of any lease or the ejectment of any tenant (not being an actual cultivator) or for the reinstatement of any tenant (not being an actual cultivator), in the possession of tenancy from which he has been ejected the decree or order shall be executed,-

(a) by proclaiming its substance to the cultivators or other occupants of the tenancy by beat of drum, or

(b) by notification reciting the substance of the decree or order and affixed in some conspicuous place within, or adjacent to the tenancy, or

(c) in such other manner as may be prescribed.

Section 196. Execution of decree or rent given in favour of the sharer in undivided estate or tenure

If a decree is given by the Deputy Commissioner under this Act in favour of a sharer in a joint undivided estate or tenure, for money due to him on account of his share of the rent of any tenure comprised in such undivided estate or tenure, application for sale of such tenure shall not be received unless execution has first been taken out against any movable property which the judgement-debtor may possess within the district in which the suit was instituted and unless the sale of such property, if any, has proved insufficient to satisfy the decree;

and such tenure may then, with the previous sanction of [Deputy Commissioner] but not otherwise, be sold, in execution of the decree, in the manner in which any other immovable property may be sold in execution of a decree for money under the provisions of clause (b) of Section 210.

Section 197. Execution of rent decree obtained by a co-sharer landlord

When one or more co-sharer landlords applies or apply for the execution of a decree obtained in a suit instituted under clause (b) of Section 142, by the sale of a tenure or holding, the Court executing such decree shall, before proceeding to sell the tenure or holding, give notice of the application for execution to the other co-sharers.

Section 198. Execution against immovable property in certain cases, if judgement not satisfied

In the execution of any decree or order by the Deputy Commissioner under this Act for the payment of money, not being money due or recoverable as an arrear or rent;

if satisfaction of the decree or order, cannot be obtained by execution against the person or movable property of the debtor within the district in which the suit was instituted, the judgement-creditor may apply for execution against any immovable property belonging to such debtor, and such immovable property may, with the sanction of the Commissioner, but not otherwise, be brought to sale in the manner provided in clause (b) of Section 210.

Sales in Execution of Decree of the Deputy Commissioner

Section 199. Notification of intended sale of movable property, and custody of property

(1) For the purpose of executing a warrant of execution issued by the Deputy Commissioner under this Chapter against the movable property of a judgement-debtor, the officer charged with the execution of the warrant shall prepare a list of the property pointed out by the judgement-creditor; and shall publish a proclamation specifying the day upon which the sale is intended to be held, and a copy of the said list, at the intended place of sale and at the residence of the debtor.

(2) A copy of the said list and proclamation shall be transmitted to the Deputy Commissioner, and shall be affixed in his office.

(3) Until the day of sale, the said property shall remain in the custody of the officer executing the warrant [or of some other person to whom such officer by a writing under his hand commit the custody thereof]. Such person shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

Section 200. Interval between seizure and sale

No sale of any movable property (other than perishable property) seized in execution under this Chapter shall be made until the expiration of a period of ten days after the day on which the property was so seized.

Section 201. Place and manner of sale

(1) Such sale shall be held at the place where the property is deposited or at the nearest market or other place of public resort if the officer executing the warrant thinks it is likely to sell there to better advantage.

(2) The property shall be sold by public auction in one or more lots as the officer executing the warrant may think advisable and if the judgement-debtor, and the costs of the execution and sale, are realised by the sale of a portion of the property; the execution shall immediately be withdrawn with respect to the remainder.

Section 202. Prohibition of purchase by officers

Officers executing warrants for the sale of property under this Chapter and all persons employed by, or subordinate to such officers, are prohibited from purchasing, either directly or indirectly any property sold by such officers.

Section 203. Postponement of sale if fair price be not offered

If on the property being put up for sale, no price which the officer executing the warrant considers fair is offered for it, and the owner of the property, or some person authorised to take action on his behalf, applies to have the sale postponed until the next day, or the next market day if a market be held at the place of sale or in the vicinity; the sale shall be postponed until such day, and shall then be completed at whatever price may be offered for the property.

Section 204. Payment of purchase money and delivery of property to purchaser

(1) The price of every lot shall be paid at the time of sale or as soon as thereafter, as the officer executing the warrant may direct; and in default of such payment, the property shall again be put up and sold.

(2) When the purchase-money has been paid in full the officer executing the warrant shall deliver the property to the purchaser with a certificate describing the property and stating the price paid.

Section 205. Application of proceeds of sales

(1) From the proceeds of the sale the officer executing the warrant shall make a deduction at the rate of one anna in the rupee, on account of the cost of sale and shall transmit the amount so deducted to the Deputy Commissioner, in order that it may be credited to the [State] Government.

(2) The said officer shall deal with the rest of the proceeds in the prescribed manner.

Section 206. Procedure where third party claims interest in property seized

(1) If before the day fixed for the sale, a third party appears before the Deputy Commissioner and claims a right or interest in any of the movable property seized in execution, the Deputy Commissioner shall examine such party or his agent according to the law for the time being in force relating to the examination of witness, and, if he sees sufficient

reason for so doing may stay the sale of such property.

(2) The Deputy Commissioner shall, after taking evidence, adjudicate upon such claim, and shall make such order thereupon as he thinks fit.

(3) If the claimant fails to establish his right to the property seized in execution the Deputy Commissioner may, by his order under sub-section (2), award to the judgement-creditor against the claimant, in addition to the costs of the proceedings such sum as the Deputy Commissioner may consider sufficient to cover any loss of interest or any other damage which the judgement-creditor has sustained by reason of the postponement of the sale.

(4) The party against whom any order is passed by the Deputy Commissioner under this Section may, at any time within one year from the date of the order, bring a suit in the Civil Court to establish his right:

Provided that if the property has been sold the suit shall not be for the recovery of the property but for damages against the judgement-creditor by whom the property was brought to sale.

Section 207. Irregularities not to vitiate sale

No irregularity in publishing or conducting a sale of movable property under a warrant of execution issued under this Chapter shall vitiate such sale but nothing contained in this Section shall bar any person who sustains damage by reason of any such irregularity from recovering damages by suit in the Civil Court if instituted within one year from the date of the sale.

Section 208. Sale of tenure or holding in execution of decree for arrears of rent

(1) When a decree passed by the Deputy Commissioner under this Act is for an arrear of rent due in respect of a tenure or holding, the decree-holder may apply for the sale of such tenure or holding, and the tenure or holding may thereupon be brought to sale in execution of the decree, [according to the procedure laid down in Sections 208-B to 208-D]:

Provided [firstly] that the purchaser of a tenure at any such sale shall not be entitled to annual any lease, right or tenancy referred to in clauses (a) to [(f)] of Section 14 of this Act:

[Provided secondly] also that, [Deputy Commissioner] may, by order in any case in which he may consider it desirable so to do,-

(a) prohibit the sale of any tenure or portion thereof, or

(b) stay any such sale for any period specified in the order.

[Provided thirdly] that any sale of a resumable tenure under this Section shall not affect the right of the grantor or his successor in title to resume such tenure but shall be made subject to such right:

[[Provided fourthly] that, when the holding of an aboriginal 'Raiyat or of a 'Raiyat, who is a member of a scheduled caste is sold, such land shall be sold to the highest bidder, who is an aboriginal or a member of a scheduled caste, as the case may be and shall not be sold to any person other than an aboriginal or a member of a scheduled caste unless no aboriginal or member of a scheduled caste bids for such land an amount which is not less than the amount specified in the proclamation of sale.]

[(1-A) Notwithstanding anything to the contrary contained in sub-section (1) or in any other provision of this Act, or in any other law, where a decree-holder applies for the sale of an occupancy holding, only that portion of such holding shall be sold, the proceeds of the sale of which will be sufficient to satisfy the sale or satisfy the amount due under the decree, and such portion shall not be sold at a price lower than the price specified in the proclamation of sale; and the Deputy Commissioner shall, before putting up any such portion of a holding for sale estimate the value of the whole holding and that portion of the holding the proceeds of the sale or which he considers will be sufficient to satisfy the decree and shall specify the price of such portion in the sale proclamation :]

[Provided firstly] that if the decree-holder specifies which portion of the holding should be sold, the Deputy Commissioner shall order that such portion or so much of such portion as may be seem to him necessary to satisfy the decree shall be sold and proceeds paid as provided in this Section.

[Provided secondly] that if there is any encumbrance on any portion of such holding the Deputy Commissioner shall not order such portion to be sold unless in his opinion the decree cannot be satisfied without the sale of such portion:

[Provided thirdly] that if the highest amount bid for the property included in the sale proclamation is less than the price specified for such property in the proclamation, the Deputy Commissioner may sell the property for such highest amount, if the decree-holder consents in writing to forego so much of the amount decreed as is equal to the difference between the highest amount bid and the price specified for such property in the sale proclamation :

[Provided fourthly] that if the highest bid for such land is less than the amount specified in the proclamation of sale,

the decree-holder shall be bound to bid up to that amount and purchase the portion of the holding included in the sale proclamation.

(2) When a warrant of execution has been issued under this Chapter against the person or movable property of the judgement-debtor, no application shall be received under sub-section (1) while such warrant remains in force.

[(3) Nothing in this Section shall authorise the sale of a tenure or holding or portion thereof except in execution of a decree for an arrear of rent.]

Section 208A. Distribution of rent of holding a portion of which is sold in execution of decree for arrears of rent

[Where a portion of an occupancy holding has been sold in execution of a decree for arrears of rent due in respect of such holding of the said holding consequent upon the sale shall be binding on the landlord. The Deputy Commissioner shall distribute the rent of the holding between the purchaser of the said portion and the tenant of such holding and such distribution of rent shall be binding on the landlord.

Section 208B. Procedure to be followed in bringing to sale tenure or holding or portion thereof in execution of rent decree

Where a tenure or holding or a portion thereof is sold in execution of a decree for an arrear of rent, the following procedure shall be observed, namely:-

(a) The Court holding the sale shall cause to be hung up in its own Court and in that of the Deputy Commissioner of the District in which the land comprised in the tenure of holding to be sold is situated, and to be affixed on some conspicuous place on the land in the town or village in or nearest to which the said land is situated a notice for the sale of the said tenure or holding on some fixed date not less than twenty days from the hanging up of the said notice in the Court in which the decree is in course of execution.

(b) The said notice shall specify, in the words used in the plaint in the suit in which the decree was made the name of the village, estate and pargana, or other local division in which the land comprised in the said tenure or holding is situated, the yearly rent payable and the gross amount recoverable under the said decree.

(c) If the sum due under the decree together with interest to date of payment and all costs of processes, be paid into Court at any time before the sale commences, whether by the defaulting holder of the tenure or holding, or any one on his behalf, or any one interested in the protection of the tenure or holding, as the case may be, such sale shall not take place.

(d) The tenure or holding or part thereof shall be sold to the highest bidder in open Court.

(e) The party, who shall be declared to be the purchaser, shall be required to deposit immediately, in cash or Government currency notes, twenty-five percentum of the amount of his bid; and in default of such deposit, the tenure or holding or part thereof as the case may be, shall be put up again and sold forthwith, or on the next ensuing office day:

Provided that if the purchaser be the decree-holder, he shall be entitled to a set-off of his decretal amount against the amount of his bid.

(f) The full amount of the purchase money shall be made good by the purchaser before sunset of the eight days from that on which the sale took place, reckoning that day as one of the eight days; or if the eight days be a Sunday or other closed holiday then on the first office day after the eighth day; and in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to the Government, and the tenure or holding or part thereof, as the case may be, shall be resold; and the defaulting purchaser shall forfeit all claims thereto or to any part of the sum for which the tenure or the holding or part thereof, as the case may be subsequently sold :

Provided that if the proceeds of the sale which may be eventually completed be less than the price bid by the defaulting purchaser, the difference shall be leviable from him under the law for enforcing the payment of money in satisfaction of a money decree for arrears of rent.

(g) The provisions with regard to sales shall also be applicable to all re-sales under this Section which may be rendered necessary by the default of any purchaser.

Section 208C. Certificate and possession to be given to purchaser on payment in full

When the purchase money shall have been paid in full the officer holding the sale shall give the purchaser a certificate in the prescribed form containing the necessary particulars of the property sold; and shall further, on the purchaser making application and depositing the requisite costs to be determined by him, depute an officer or Amin to put him in possession of the property in customary manner.

Section 208D. Purchaser to acquire the tenure or holding with certain exceptions free of encumbrances

Subject to the first Proviso to sub-section (1) of Section 208, the purchaser of a tenure or holding or portion thereof, as the case may be, shall acquire it free of all encumbrances which may have accrued thereon by any act of the holder or his representative-in-interest, unless the right of making such encumbrances shall have been expressly vested in the holder by the written engagement, if any, under which the tenure or holding was created or by the subsequent written authority of the person, who created it or his representatives-in-interest:

Provided that nothing herein contained shall be held to entitle the purchaser to eject 'khudkaph Raiyats or resident and hereditary cultivators, nor to cancel bona fide engagements made with such class of Raiyats or cultivators aforesaid by the late incumbent of the under-tenure or his representatives-in-charge, except it be proved, in a regular suit to be brought by such purchaser for the adjustment of his. rent, that a higher rent would have been demandable at the time such engagements were contracted by his predecessor.

Nothing in this Section shall be held to apply to the purchase of a tenure by the previous holder thereof, through whose default the tenure was brought to sale.]

Section 209. Disposal of proceeds of sale under Section 208

(1) In disposing of the proceeds of the sale of a tenure or holding under Section 208, the following procedure shall be observed, that is to say,-

(a) there shall be paid to the decree-holder the costs incurred by him in bringing the tenure or holding to sale;

(b) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made;

(c) if there remains a balance after those sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have accrued due to him in respect of the tenure or holding between the institution of the suit and the date of the sale; and

(d) The balance (if any) remaining after the payment of rent referred to in clause (c) shall, upon the expiration of two months from the [date] of the sale, be paid to the judgement-debtor upon his application;

Provided that where a tenure or holding has been sold in execution of a decree obtained by one or more co-sharer landlords in a suit instituted under clause (b) of Section 142,-

(i) payment of the amount due under such decree shall, notwithstanding anything contained in clause (b) of this Section be made to the decree-holder and to other co-sharer landlords in proportion to the amount found to be due to each, and

(ii) if there remains balance, payment of any rent which may have accrued due in respect of the tenure or holding between the institution of the suit and the date of the sale shall, notwithstanding anything contained in clause (c) but subject to the determination in the manner and with effect mentioned in sub-section (2) of any dispute as to their respective rights to receive such rent, be made to the said decree-holder and other co-sharer landlords in proportion to their respective shares in the tenure or holding.

(2) If the judgement-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (e) the Deputy Commissioner shall determine the dispute and the determination shall have the force of decree.

Section 210. Sale of other property in execution of decree for arrears of rent of tenure or holding

(1) If, after the sale of a tenure or holding in pursuance of Section 208, any portion of the decree amount remains due [or if the tenure or holding or portion thereof cannot be sold under that Section by reason of the decree not being a decree for an arrear of rent] process may be applied for against any other property, movable or immovable, belonging to the judgement-debtor.

[Provided that nothing in this Section shall be deemed to authorise the arrest of detention in the civil prison of the judgement-debtor.]

(2) Notwithstanding anything contained in sub-section (1) [when the Deputy Commissioner passes a decree for an arrear of rent due in respect of a tenure, the decree-holder may], with the permission of the Deputy Commissioner, granted for reasons to be recorded in writing proceed against any other property, movable or immovable, of the judgement-debtor, without first making application for the sale of the tenure [* * *] in respect of which the arrear has accrued.

(3) Property referred to in sub-sections (1) and (2) may be brought to sale,-

(a) if movable, in the manner provided in Sections 199 to 205, and

[(b) if immovable, in the manner provided by Order XXI, Rules 11(3), 13, 14, 54 (with which shall be read Section 64 of the said Code, 55, 58, to 73 inclusive, 83 to 88 inclusive and 91 to 103 inclusive of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) the words and figures 'Rule 89 and 'Rule 90' occurring in Rule 92 being understood as Section 212, sub-section (1) and Section 213, sub-section (1), respectively of this Act.

Provided that where anything contained in the said provisions is inconsistent with anything contained in Sections 212 to 214 inclusive, the latter shall prevail.]

[(4) When immovable property has been brought to sale in the manner provided by sub-section (3)(b) and such sale has become absolute, property shall be deemed to have vested in the purchaser from the time when the property is sold and not from the time when the sale becomes absolute.]

Section 211. Procedure when third party claims to be in lawful possession of tenure or holding

(1) If before the day fixed for the sale of any tenure or holding in pursuance of Section 208 a third party appears before the Deputy Commissioner and alleges that he and not the person against whom the decree has been obtained, was in lawful possession of, or had some interest in the tenure or holding when the decree was obtained.

The Deputy Commissioner shall examine such party according to the law for the time being in force relating to the examination of witnesses, and if he sees sufficient reason for so doing and if such party deposits in Court or gives security for the amount of the decree the Deputy Commissioner shall stay the sale, and, shall after taking evidence adjudicate upon the claim :

Provided that no such adjudication shall be made if the Deputy Commissioner considers that the claim was designedly or unnecessarily delayed :

Provided also that no transfer of a tenure shall be recognised unless it has been registered in the office of the landlord or sufficient cause for non-registration is shown to the satisfaction of the Deputy Commissioner,-

[(1-A) (a) If the Deputy Commissioner gives judgement in favour of such third party, the amount of the decree shall be satisfied from the deposit or security aforesaid, and the Deputy Commissioner shall in his judgement set out the portion if any, of the said amount and of his costs in the proceedings which such third party is entitled to recover from each of the other persons having an interest in the tenure or holding, and such sum shall be deemed to be money (not being due or recoverable as an arrear of rent) payable under order of the Deputy Commissioner under this Act;

(b) If the Deputy Commissioner gives judgement against such third party, the sale shall proceed, and such third party shall upon payment of the costs, if any, allowed against him, be entitled to the return of the deposit or cancellation of the security, as the case may be.]

(2) The party against whom judgement is given by the Deputy Commissioner under sub-section (1) may, at any time within one year from the date of the judgement, bring a suit in the Civil Court to establish his right [and, if the sale has been held to have it set aside on payment by him of the amount of the decree.]

Section 212. Application to set aside sale of immovable property on deposit of debt and compensation to purchaser

(1) When any immovable property has been sold under this Chapter in execution of decree, any person, who owned such property immediately before the sale, or who claims, an interest therein under a title lawfully acquired before the sale may, at any time within a period of [ninety] days from the date of the sale, apply to have the sale set aside on his depositing in the Court of the Deputy Commissioner,-

(a) for payment to the purchaser-a sum equal to five per centum of the purchase-money, and

(b) for payment to the decree-holder-the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation [or] sale have been received by the decree-holder;

Provided that if a person applies under Section 213 to set aside the sale of his immovable property, he shall not be entitled to make an application under this Section.

(2) If the said deposits are made within the said period, the Court shall pass an order setting aside the sale, [and the purchaser shall be entitled to an order for the payment of the aforesaid sum equal to five per centum of the purchase-money and to an order for repayment of his purchase money, with or without interest as the Court may direct against any person to whom it has been paid].

Section 213. Application to set aside sale of immovable property on ground of irregularity or fraud

When any immovable property has been sold under this Chapter in execution of a decree, the decree-holder or the person, who owned such property immediately before the sale may, [at any time within a period of thirty days from the date of sale], apply to the Deputy Commissioner to set aside the sale on the ground of a material irregularity [or fraud] in publishing or conducting it; but no sale shall be set aside on the ground of a irregularity unless the applicant proves to the satisfaction of the Deputy Commissioner that he has sustained substantial injury by reason of such irregularity:

Provided that, if a person applies under Section 212 to set aside the sale of his immovable property, he shall not be entitled to make an application under this Section.

(2) If an application be made under this Section, and if the objection be allowed, the Deputy Commissioner shall pass an order setting aside the sale.

Section 213A. Sale in execution deemed set aside when rent decree set aside and restoration of status quo ante

[(1) Where a decree for rent is set aside any sale of immovable property in execution of such decree shall be deemed to be set aside, and the Court of first instance shall restore the judgement-debtor to such ownership and if he is not in possession to such possession of the immovable property as he has at the date of the sale and, shall upon the application of any person affected by the sale or the reversal thereof, pass such further orders as will as far as may be, place parties, including the auction purchaser and his successor-in-interest, if any, in the position which they would have occupied but for such decree; and for this purpose, the Court may make any orders, including orders for the refund of costs, for the payment of interest, damages, compensation and mesne profits which are properly consequential on such reversal.

(2) No suit shall be instituted in any Court for the purpose of obtaining any restitution or other relief which could be obtained by application under sub-section (1).]

Section 214. Grounds on which suit or application to set aside sale may be brought

[No suit or application shall be entertained by any Court to set aside or to modify the effect of,-

(a) any sale made under this Chapter, save under Section 211, Section 212 or Section 213 or on the ground of fraud or want of jurisdiction, or

(b) an order under Section 212, sub-section (2), or Section 213, sub-section (2), setting aside a sale.

Explanation. - Where a property has been sold under the provisions of subsection (3)(b) of Section 210, this Section does not prohibit an application under Rule 72(3) or Rule 91 nor a suit under Rule 63 or Rule 103 of Order XXI of the First Schedule to Code of Civil Procedure, 1908, if such suit is instituted within one year of the date of the adverse order.]

Section 214A. Sale of a portion of holding

[If the Deputy Commissioner directs the sale of a portion or a holding, the provisions of this Chapter relating to the sale of a holding shall, as far as may be, apply to the sale of such portion.]

Appeals

Section 215. Appeals from orders of Deputy Commissioner

[(1) All orders passed by a Deputy Commissioner in suits tried by him under sub-clause (c) of clause (2) or clause (7) of Section 139, if the amount sued for, or the value of the property claimed does not exceed one hundred rupees, the judgement of the Deputy Commissioner shall be final and not subject to appeal, unless a question relating to a title to land, or to some interest in land, as between parties having conflicting claims thereto, has been determined by the judgement, in which case the judgement shall be open to an appeal which shall lie to the Judicial Commissioner unless the amount or value in dispute exceeds five thousand rupees in which case the appeal shall lie to the High Court.

(2) When any such suit in which, if tried and decided by a Deputy Commissioner, the judgement of the Deputy Commissioner would be final as tried and decided by a Deputy Collector, an appeal from the judgement of the Deputy Collector shall lie to the Deputy Commissioner unless a question relating to a title to land, or to some interest in land, as between parties having conflicting claims thereto, has been determined by the judgement, in which case the judgement shall be open to appeal to the Judicial Commissioner and to the High Court as provided for in sub-section (1).

(3) In all other suits before the Deputy Commissioner or Deputy Collector under this Act, an appeal from the

judgement of the Deputy Commissioner or Deputy Collector shall lie to the Judicial Commissioner, unless the amount or value in dispute exceeds five thousand rupees, in which case the appeal shall lie to the High Court.

(4) All orders passed by a Deputy Commissioner or a Deputy Collector in any suit relating to the trial thereof, shall be appealable to the Court to which an appeal from the decree itself would lie :

Provided that, there shall be no right of appeal against order passed under Section 206, or Section 211, or under Section 212, sub-section (2), setting aside a sale, or under Rule 60, Rule 61 or Rule 62 or Order XXI of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), and against orders passed under Section 213-A.

(5) All other orders under the provisions of this Act shall be appealable to the Commissioner, if passed by a Deputy Commissioner, and to the Deputy Commissioner or to any officer specially empowered by the [State] Government by notification, to hear such appeals, if passed by an officer exercising powers of a Deputy Commissioner.

(6) The Deputy Commissioner may, at any time, transfer any appeal already filed before him to any officer specially empowered to hear such appeals under subsection (5) 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.

(7) No judgement of a Deputy Commissioner in any suit and no order of a Deputy Commissioner passed in any suit and relating to the trial thereof or after decree and relating to the execution thereof, shall be open to appeal otherwise than as expressly provided for in this Act.]

Section 215A.

[* * *]

Section 216. Limitation of appeals under Section 215

[(1) Every appeal under Section 215 shall be presented to the Commissioner, the Deputy Commissioner or any officer specially empowered by the [State] Government under sub-section (5) of Section 215 as the case may be, within [ninety days] from the date of the order or the decree appealed against.

(2) Appeals to the Judicial Commissioner or to the High Court shall be presented within the time provided for the presentation of appeals to a District Judge or the High Court, as the case may be, under the Code of Civil Procedure, 1908 (V of 1908) by the law for the time being in force for the limitation of appeals.]

Section 217. Bar to further appeals, with Proviso for revision by Board or Commissioner

Order passed by the Commissioner or Deputy Commissioner in appeals referred under Section 215 shall not be open to any further appeal; but the Board or (in the case of appeals decided by the Deputy Commissioner) the Commissioner may call for the case and pass such orders thereon as it or he may think proper.

Section 218. Appeal in certain suits

[Repealed by the Chota Nagpur Tenancy (Amendment) Act, 1947 (Bihar Act 25 of 1947), Section 34.]

Section 219. Appeal to Deputy Commissioner when to be presented

[Repealed by the Chota Nagpur Tenancy (Amendment) Act, 1947 (Bihar Act 25 of 1947), Section 34.]

Section 220. Appeal when to be heard

(1) The Deputy Commissioner or the Commissioner, as the case may be, shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent.

(2) If on the day fixed for hearing the appeal, or on any other day to which the hearing may be adjourned, the appellant does not appear in person or by agent, the appeal shall be dismissed for default.

(3) If on such day the appellant appears and the respondent does not appear in person or by agent, the appeal shall be heard ex-parte.

Section 221. Re-admission of appeal

If an appeal is dismissed for default of prosecution, appellant may, within thirty days from the date of the dismissal, apply to the Deputy Commissioner, or the Commissioner as the case may be, for the readmission of the appeal; and, if it is proved to the satisfaction of the Deputy Commissioner or the Commissioner, as the case may be, that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Deputy Commissioner or the Commissioner, as the case may be, readmit the appeal.

Section 222. Re-hearing of appeal on application of respondent against whom "ex-parte" decree passed

When an appeal is heard ex-parte in the absence of the respondent and judgement is given against him, he may apply to the Appellate Court to re-hear the appeal; and if he satisfies the Court that notice was not duly served or that he was prevented by sufficient cause from attending when the appeal was called on for hearing, the Court may re-hear the appeal on such terms as to costs or otherwise as the court thinks fit to impose upon him.

Section 223. Judgement in appeal

After hearing the appeal, the Deputy Commissioner or the Commissioner, as the case may be, shall give judgement in the manner provided in Section 170 for giving judgement in original suits.

Section 224. Appeal to Judicial Commissioner or High Court

(1) [* * *]

[(2) Save where otherwise expressly provided in this Act or by any other law for the time being in force, a second appeal shall lie to the High Court from any appellate decree passed by the Judicial Commissioner under this Chapter or from any order passed by him on appeal under Section 215, [* * *] on any of the following grounds, namely,-

(a) the decision being contrary to law or to some usage having the force of law;

(b) the decision having failed to determine some material issue of law or usage having the force of law;

(c) a substantial error or defect in the procedure provided by this Act which may possibly have produced error or defect in the decision of the case upon the merits,

and the provisions of Part VII and of Order XLI of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) shall apply, so far as may be, to such appeals.]

Section 225. Hearing of appeals by Judicial Commissioner instead of by Deputy Commissioner

(1) Where, in analogous suits, some appeals have been presented to the Deputy Commissioner and others to the Judicial Commissioner, the Judicial Commissioner may, on the application of any of the parties, transfer to his own Court the appeals pending in the Court of the Deputy Commissioner.

(2) Where, in analogous suits, some appeals lie to the Deputy Commissioner and others to the Judicial Commissioner, a plaintiff or defendant whose appeal would ordinarily lie to the Deputy Commissioner may, if an appeal in any such suit has been presented by any other plaintiff or defendant to the Judicial Commissioner and admitted, present his appeal to the Judicial Commissioner instead of to the Deputy Commissioner, and the Judicial Commissioner may hear and decide the same. /

Section 226. Limitation of appeal to Judicial Commissioner or High Court

[Repealed by Section 36 of the Chota Nagpur Tenancy (Amendment) Act, 1947 (Bihar Act 25 of 1947).]

Section 227. Power to set aside judgement or order passed "ex-parte" by default

(1) No appeal by plaintiff or defendant shall lie from a judgement or order passed against him by default for non-appearance, whether such judgement or order were given under Section 155, Section 156, Section 157 or Section 169.

(2) If the party against whom any such judgement or order has been given appears, either in person or by agent,-

(a) if a plaintiff, within thirty days from the date of Deputy Commissioner's order, and

(b) if a defendant, within thirty days after any process for enforcing judgement has been executed,

or at any earlier period, and shows sufficient cause for his previous non-appearance, and satisfies the Deputy Commissioner that there has been a failure of justice, the Commissioner may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and set aside the judgement or order.

(3) No judgement or order shall be altered or set aside under sub-section (2) without previously summoning the party to appear and be heard in support of it.

Section 228. Order to set aside judgement final, but rejection of application to set aside appealable

In all cases in which the Deputy Commissioner, under Section 227, passes an order setting aside a judgement or order, the order shall be final but in all appealable cases in which the Deputy Commissioner, under that Section, rejects an application for setting aside a judgement or order, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable, provided that the appeal be preferred within the

time allowed for an appeal from such final decision.

Section 229. Application of Rule 22 of Order XLI of the First Schedule to the Code of Civil Procedure

The provisions of [Rule 22 of Order XLI of the First Schedule to the Code of Civil Procedure, 1908] [(5 of 1908)] shall so far as applicable, apply to all appeals under this Act from decisions of the Deputy Commissioner [or of a Revenue Officer],

[Chapter XVI-A] Summary Procedure for the recovery of rents under the Bihar and Orissa Public Demands Recovery Act, 1914

Section 229A. Recovery of arrears of rent under the certificate procedure in certain cases

(1) Any landlord (other than the Government) whose land is situate in an area for which a record-of-right has been prepared and finally published and in which such record is maintained, may apply to the [State] Government, through the Deputy Commissioner of the district in which his land is situate, for the application of the procedure prescribed by the Bihar and Orissa Public Demands Recovery Act, 1914 (B & O Act 4 of 1914) to the recovery of arrears of rent which he alleges are or, may become, due to him for lands in such area.

(2) The [State] Government may reject any such application, or may allow it subject to such terms and conditions as it may see fit to impose, and may at any time add to or vary any terms or conditions so imposed, or withdraw its allowance of the application, without in any of these cases, assigning any reason for its action.

(3) When any such application has been allowed, the landlord may make a requisition in writing, in the form prescribed, to the Certificate Officer for the recovery of any arrears of rent which he alleges are due to him from any tenant.

(4) Every such requisition shall be signed and verified by the landlord making it in the manner prescribed by Rule 1 in Schedule II to the Bihar and Orissa Public Demands Recovery Act, 1914 (B & O Act 4 of 1914), as amendment for the time being by rules made under Section 39 thereof, and shall be chargeable with a fee of the amount which would be payable under the Court-fees Act, 1870 (7 of 1870) in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.

(5) On receipt of any such requisition, the Certificate-Officer may, in accordance with such rules as the [State] Government may prescribe in this behalf, and if he is satisfied that the arrear is due, sign a certificate in the prescribed form stating that the arrear is due, and shall include in the certificate the fee paid under sub-section (4), and shall cause the certificate to be filed in his office :

Provided that,-

(a) no certificate shall be signed for the recovery of arrears of rent of a tenancy regarding which a suit has been instituted in the Court of the Deputy Commissioner for the alteration of the rent payable by the tenant, or the determination of his status as a tenant, in respect of the period during which it is alleged in the requisition made under sub-section (3) that the arrears of rent sought to be recovered have accrued, and

(b) if, after the signing of a certificate, it is found that such a suit was instituted in the Court of the Deputy Commissioner before the certificate was signed, such certificate shall be cancelled.

(6) The person in whose favour any certificate is signed under sub-section (5) shall be deemed to be the certificate-holder for the amount mentioned in the certificate and the person against whom the certificate is signed shall be deemed to be the certificate-debtor for the said amount; and all proceedings taken by the certificate-officer for the recovery of such amount shall be taken at the instance of the first mentioned person, and at his cost and responsibility, and not otherwise.

(7) The Bihar and Orissa Public Demands Recovery Act, 1914 (B & O Act 4 of 1914) with such restriction and modifications (if any) as may be prescribed, shall apply to the execution, and to all proceedings arising out of the execution, of certificates filed under sub-section (5).

(8) No landlord shall, during the pendency of any proceeding under this section, institute a suit for the recovery of any arrears of rent in respect of which he has made a requisition under sub-section (3); and, subject, to the provisions of Section 43 of the Bihar and Orissa Public Demands Recovery Act, 1914 (B & O Act 4 of 1914), no tenant shall, after the signing of any certificate against him under sub-section (5) of this Section, institute a suit before, or make an application to the Deputy Commissioner for the alteration of the rent payable by him, or the determination of his status as a tenant, in respect of the period during which the arrears of rent for which such certificate was signed have accrued.

(9) The word "landlord" in this Section includes an entire body of landlords, and also one or more co-sharer landlords,

who collects or collect his or their share or shares of the rent separately; and where the Certificate Officer signs a certificate on the requisition of one or more such co-sharer landlords, he shall at the same time issue to each of the remaining co-sharer landlords a copy of such certificate.

(10) Nothing in this Section shall apply to a 'Mundari khunt-kattidari' tenancy, notwithstanding that it constitutes, or is situate in an area described in sub-section (1)

Chapter XVII Limitation

Section 230. Application of the [Indian] Limitation Act, [1908]

The provisions of the Indian Limitation Act, 19082 (9 of 1908) shall, so far as they are not inconsistent with this Act, apply to all suits, appeals and applications under this Act.

Section 230A. Special rule of limitation in certain applications and suits before a Revenue-Officer

[Notwithstanding any of the provisions of the Indian Limitation Act, 1908 (9 of 1908) where an application under sub-section (3) of Section 85 has been made or a suit under Section 87, Section 111 (8), Section 130 or Section 252 has been instituted within three months from the date of final publication of the record-of-rights, and any person is thereafter, added or substituted as a party to such application or suit, the application or the suit shall, as regards such person, be deemed for the purpose of limitation to have been made or instituted on the date upon which it was made or instituted by the original applicant or plaintiff against the original defendant.]

Section 231. General rule of limitation

All suits and applications instituted or made under this Act, for which no period of limitation is provided elsewhere in this Act, shall be commenced and made respectively within one year from the date of the accruing of the cause of action:

Provided that there shall be no period of limitation for applications under Sections 28, 31 [clauses (c) to (f) of Section 33-A] 34, 50, 61, 75, 105 or 121.

Section 232. Limitation of suits and applications for grant of leases, etc

Suits and applications for the delivery of leases or counterpart engagements, or for the determination of the rates or rent payable for lands held by a tenant, may be instituted and made, respectively, at any time during the tenancy.

Section 233. Limitation of certain suits for ejectment

Suits for the ejectment of an occupancy 'Raiyat' or a non-occupancy 'Raiyat on any of the grounds mentioned in Section 22 or in clauses (b) and (c) of Section 41 shall be instituted within two years from the date of the misuse or breach complained of.

Section 234. Limitation of suits and applications for arrears of rent

Suits and applications under Section 244, for the recovery of arrears of rent, shall be instituted within three years [or where the State Government is the landlord, within ten years] from the end of the agricultural year in which the arrear became due.

Section 235. Successive suits or applications for recovery of rent

(1) Where a landlord has instituted a suit against a tenant or applied for a certificate under Section 240 against a 'Mundari khunt-kattidari' for the recovery of any rent of his tenancy, the landlord shall not institute another suit or apply for another such certificate against him for the recovery of any rent of that tenancy until after six months from the date of the institution or making of the previous suit or application.

(2) Nothing in sub-section (1) shall prohibit a fresh suit for rent when a former suit has been withdrawn with leave to sue again or when a claim has been rejected under Section 154, or when a case has been struck off under Section 155 or Section 169.

Section 236. Limitation of suits against agents for money, accounts or papers

Suits for the recovery of money in the hands of an agent or for the delivery of accounts or papers by an agent, may be brought at any time during the agency, or within one year after the determination of the agency, of such agent;

Provided that if the person having the right to sue has by fraud, been kept from knowledge of the receipt of any such money by the agent, or if any fraudulent account has been rendered by the agent the suit may be brought within one year from the time when the fraud first became known to such person; but no such suit shall in any case be brought

at any time exceeding three years from the termination of the agency.

Section 237. Limitation of applications for recovery of possession of holding

Applications for the recovery of possession of a holding, or any portion thereof from which an occupancy Raiyat has been unlawfully ejected must be instituted within three years from the date of such ejectment.

Section 238. Limitation of suits or applications by village headmen for recovery of possession

Suits or applications for recovery of possession of his office or agricultural land by a [village headman] against a landlord or any person holding by virtue of any assignment from a landlord, must be instituted or made within three years from the date of dispossession.

Chapter XVIII Special Provisions with respect to Mundari Khunt-Kattidars

Section 239. Application of preceding Sections to Mundari khunt-kattidari tenancies

Such of preceding Sections as are applicable to Mundari khunt-kattidars shall, in their application to such persons and their tenancies, be read subject to the provisions of the following Sections in this Chapter.

Section 240. Restrictions on transfer of Mundari khunt-kattidari tenancies

(1) No Mundari-khunt-kattidari tenancy or portion thereof shall be transferable by sale, whether in execution decree or order of a Court or otherwise :

Provided that, when a decree or order has been made by any Court for the sale of any such tenancy or portion thereof, in satisfaction of a debt due under a mortgage (other than a usufructuary mortgage) which was registered before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903 [(Ben. Act 5 of 1903)], the sale may be made with the previous sanction of the Deputy Commissioner.

(2) If the Deputy Commissioner refuses to sanction the sale of any such tenancy or portion thereof under the proviso to sub-section (1), he shall attach the land and make such arrangements as he may consider suitable for liquidating the debt.

(3) No mortgage of a Mundari khunt-kattidari tenancy or any portion thereof shall be valid, except a bhugut bandha mortgage for a period, expressed or implied, which does not exceed or cannot in any possible event exceed seven years :

[Provided that, a Mundari Khunt Kattidar tenant may transfer by simple mortgage his right in this tenancy or any portion thereof with a view to raising loan for agricultural purpose to a society or bank registered or deemed to be registered under the 'Bihar and Orissa Co-operative Societies Act, 1935 (Bihar and Orissa Act VI of 1935) or a company or Corporation owned by or in which not less than fifty one per cent of the share capital is held by the State Government or the Central Government or partly by the State Government or partly by the Central Government and which has been set up with a view to providing agricultural credit to cultivators.]

(4) No lease of a 'Mundari Khunt kattidari' tenancy or any portion thereof shall be valid, except a lease of one or other of the following kinds, namely :-

(a) 'mukarrari leases' of uncultivated land, when granted to a Mundari or a group of Mundaris for the purposes of enabling the lessees or the male members of their families to bring suitable portions of the land under cultivation;

(b) leases of uncultivated land, when granted to a 'Mundari' cultivator to enable him to cultivate the land as a Raiyat.

Explanation. - The expression "uncultivated land" as used in this sub-section, includes land which, though formerly cultivated, is not, at the time the lease is granted, either under cultivation or in the occupation of the lessee for purposes of cultivation.

(5) Where a 'Mundari khunt-kattidari' tenancy is held by the group of 'Mundari khunt-kattidars' no bhugut bandha mortgage or 'mukarrari' lease of the tenancy or any portion thereof shall be valid, unless it is made with the consent of all the 'Mundari Khuntkattidars'.

(6) No transfer of a 'Mundari khuntkattidar' tenancy or any portion thereof, by any contract or agreement made otherwise than as provided in the foregoing subsections shall be valid; and no such contract or agreement shall be registered.

(7) Nothing in the foregoing sub-section shall affect any sale or, except as declared in the Proviso to sub-section (1), any mortgage or any lease, made before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903 [(Bengal Act 5 of 1903).]

Section 241. Transfer for certain purposes

(1) Notwithstanding anything contained in Section 240, a 'Mundari khunt-kattida' may without the consent of his landlord, transfer the land comprised in his tenancy, or any part thereof, for any reasonable and sufficient purpose having relation to the good of the tenancy or of the tenure or estate in which it is comprised, such as the use of the land for any charitable, religious or educational purpose or for the purposes of manufacture or irrigation, or as building ground for any such purpose, or for access to land used or required for any such purpose:

Provided that the transfer shall be made by registered deed and that before the deed is registered and land transferred, the written consent of the Deputy Commissioner shall be obtained to the terms of the deed, and to the transfer.

(2) Before consenting to any such transfer, the Deputy Commissioner shall satisfy himself that [adequate compensation is tendered to] the landlord and other co-sharers in the tenancy [* * *] for the loss (if any) caused to them by the transfer; and where only part of the land comprised in the tenancy is transferred may, if he thinks fit, apportion between the transferee and the original tenant all dues payable for the tenancy.

(3) Any appeal against any order of a Deputy Commissioner consenting or refusing to consent to any such transfer shall lie as provided in Chapter XVI.

Section 242. Ejectment of persons unlawfully obtaining possession of such tenancies

If any person obtains possession of a 'Mundari-khunt-kattidari tenancy or any portion thereof in contravention of the provision of Section 240, the Deputy Commissioner may eject him therefrom.

and if the tenancy was, before such possession was obtained entered as a 'Mundari khunt-kattidari tenancy in a record-of-rights finally published under the Act or under any law in force before the commencement of this Act, no suit shall be maintainable in any Court in respect of such ejectment; but an appeal shall lie as provided in Chapter XVI.

Section 243. Enhancement of rent

The rent of a 'Mundari khunt-kattidari tenancy may be enhanced only,-

(a) by an order of the Deputy Commissioner, and

(b) if it be shown before the Deputy Commissioner that the tenancy was created within a period of twenty years immediately preceding the presentation of the petition for enhancement.

(2) An order of the Deputy Commissioner under sub-section (1) shall not enhance the rent of any such tenancy to an amount which would exceed one-half of the rent which would by payable for the land if it were held by a Raiyat having a right of occupancy therein.

(3) The provisions of Sections 28 to 30 shall be applicable to proceedings or the enhancement of the rent of a 'Mundari-khunt-katfidari tenancy.

Section 244. Recovery of arrears of rent under the certificate procedure where there is a record-of-rights

[When an arrear of rent accrues in respect of a 'Mundari-khunt-kattidari tenancy for which a record-of-rights has been prepared under this Act or under any law in force before the commencement of this Act, no suit shall be maintainable in any Court for the recovery of the arrears but the landlord may apply in writing to the Deputy Commissioner to sign a certificate authorising the recovery thereof, with simple interest not exceeding twelve-and-a-half per centum per annum or in the case of money recoverable under the Cess Act, 1880 (Bengal Act 9 of 1880) at twelve-and-a-half per centum per annum under the Bihar and Orissa Public Demands Recovery Act, 1914 (B & O Act 4 of 1914).

(2) Every such application shall be signed and verified by the landlord making it, in the manner prescribed by Rule 1 in Schedule II to the said Act, as amended for the time being by rules made under Section 47 thereof, and shall be chargeable with a fee of the amount which would be payable under Court-Fees Act, 1870 (7 of 1870) in respect of a plaint for the recovery of a sum of money equal to that stated in the application as being due.

(3) Upon receiving any such application, the Deputy Commissioner may, after making such inquiry and taking such evidence as he may consider necessary, and if he is satisfied that the arrear is due, sign a certificate, in the prescribed form, stating that the arrear is due; and shall include in the certificate the fee paid under sub-section (2) and shall cause the certificate to be filed in his office.

(4) The person in whose favour any such certificate is signed shall be deemed to be the certificate-holder for the amount mentioned in the certificate, and the person against whom the certificate is signed shall be deemed to be the certificate-debtor for the said amount and all proceedings taken by the Certificate Officer for the recovery of such amount shall be taken at the instance of the first mentioned person, and at his cost and on his responsibility, and not

otherwise.

(5)The Bihar and Orissa Public Demands Recovery Act, 1914 (B & O Act 4 of 1914) and Sections 181 to 207 of this Act, with such restriction and modifications (if any) as may be prescribed, shall apply to the execution, and to all proceedings arising out of the execution of certificate filed under sub-section (3):

Provided as follows :-

(a) subject to the provisions of Section 248, a certificate signed under this Section may be enforced only by the attachment and sale of the movable property of the person against whom the certificate is made, or by the attachment realisation of rent or other debts due to him or by execution against his person in the manner provided by Chapter XVI, or by any two or more of these processes; and

(b) no objection by any third person to the attachment or sale of crops shall be entertained, except,-

(i) an objection by a mortgagee holding under a 'bhugut bandhal mortgage', that the judgement-debtor has other movable property or assets, from which the sum due can be realised; or

(ii) an objection by a lessee holding under a 'Mukarrari lease' described in Section 240, clause (a), that the land in respect of which the arrear accrued is included in his lease and that the judgement-debtor has other movable property or assets from which the sum due can be realised; or

(iii) an objection, by a cultivator, that he is in possession of the land in respect of which the arrear accrued, that the land is recorded in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired such possession, and that the judgement-debtor has other movable property or assets from which the sum due can be realised; or

(iv) an objection, by such third person, that the land on which such crops were or are standing is entered in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired possession, and that such land does not form part of the tenancy in respect of which the certificate was signed.

(6) Notwithstanding anything hereinbefore contained the Deputy Commissioner may, in any case by written order setting forth the reasons therefor, refuse to sign a certificate as aforesaid, or stay for any specified period the execution of any certificate which has been signed.

(7) An appeal from any order made under sub-section (6) shall lie as provided in Chapter XVI.]

Section 245. Reference of question of title to Civil Court

If, in the course of any proceedings under Section 244, any question of title is raised which could in the opinion of the Deputy Commissioner more properly be determined by a Civil Court, the Deputy Commissioner shall refer such question to the principal Civil Court in the district for determination.

Section 246. Recovery of arrear of rent by suit where there is no record-of-rights

(1) When an arrear of rent accrues in respect of a 'Mundari-khunt-kattidari' tenancy for which no record-of-rights has been prepared the landlord may institute a suit for the recovery of the arrear.

(2) Subject to the provision of Section 248, a decree or order made in any such suit may be enforced only by the attachment and sale of the movable property of the defendant, or by the attachment or realisation of rent or other debts due to him, or by execution against his person in the manner provided by Chapter XVI, or by any two or more of these processes.

Section 247. Joinder of parties in proceedings under Section 244 or 246

Where a 'Mundari-khunt-kattidari' tenancy is held jointly by a group of Khunt-kattidar's, and an objection to the making of a certificate under Section 244, or to the execution thereof, or to the maintenance of a suit under Section 246, is made on the ground that all the Khunt-kattidars have not been made parties to the proceedings, the objection shall not be entertained if it be shown that other Khunt-kattidars could not be made parties without undue delay or expense.

Section 248. Recovery of money due to the Government or rent due to a landlord

Where a decree or a certificate under [the Bihar and Orissa Public Demands Recovery Act, 1914 (B & O Act 4 of 1914)] has been made against a 'Mundari-khunt-kattidar' for any money due to the [Government] or for rent to a landlord, the Deputy Commissioner may attach the land occupied by him [whether it be in his immediate occupation or in possession of a mortgagee or of any other person except a Raiyat or a lessee holding under a Mukarrari lease as described in Section 240 [clause (4)(a)], and make such arrangements as the Deputy Commissioner may consider suitable for liquidating the debt [and in particular he may realise and devote to such liquidation all rents due to such

mortgage or other person shall not recover from a person rents so realised.]

Section 249. Recovery of contributions from co-sharer tenants

When a 'Mundari-khunt-kattidari has paid the rent of his tenancy, including portions thereof due from his co-sharers or any of them the said portions may, if the proportions due by such co-sharers are definitely stated in a record-of-rights prepared under this Act or under any law in force before the commencement of this Act, be recovered by him, with interest, under procedure provided by Section 244, as if they were an arrear of rent due to a landlord.

Section 250. Entry of Mundari khunt kattidari tenancies in record-of-rights

All 'Mundari-khunt-kattidari' tenancies shall be so described in any record-of-rights prepared under Chapter XII.

Section 251. Bar to suits under Section 87

No suit shall be entertained under Section 87 for the decision of any dispute regarding any entry relating to a 'Mundari khunt-kattidari tenancy in a record-of-rights.

Section 252. Decisions of disputes regarding entries or omissions in record-of-rights

(1) At any time within three months from the date of the certificate of the final publication of the record-of-rights under this Act, or under any law in force before the commencement of this Act, a suit may be instituted before a Revenue Officer, for the decision of any dispute regarding any entry of a 'Mundari-khunt-kattidari tenancy or the incidents thereof in the record, or regarding any omission to enter such a tenancy or any incident thereof in the record, and the Revenue Officer shall hear and decide the dispute.

(2) In all such suits, the Revenue Officer shall, subject to any rules made in this behalf under Section 264, adopt the procedure laid down in Chapter XVI for the trial of suits before the Deputy Commissioner.

Section 253. Appeal against such decisions

An appeal shall lie, in the prescribed manner and to the prescribed Officer, from any decision of a Revenue Officer under Section 252.

Section 254. Entry of decision in record-of-rights

Whenever a suit instituted under Section 252 has been finally decided, a note of the decision shall be made in the record-of-rights, as finally published, by the Revenue Officer referred to in that Section; and such note shall be considered as part of the record.

Section 255. In preparing record-of-rights, judgements, etc., in suits not to be taken as evidence that tenancies are or are not Mundari Khunt-kattidari tenancies

When an order has been issued under Section 80 of this Act, or under Section 101 of the Bengal Tenancy Act, 1885 (8 of 1885)1 in respect of any local area, estate, tenure or part thereof, no judgement, decree or order in any suit instituted thereafter shall be taken as evidence, in any inquiry made by a Revenue Officer engaged in the preparation of a record-of-rights for such area, estate, tenure or part, under Chapter XII of this Act or under Chapter X of the said Bengal Tenancy Act, 1885 (8 of 1885)1, respecting any claim that any tenancy within that area, estate, tenure or part is not a 'Mundari-khunt-kattidari tenancy.

Section 256. Record-of-rights to be conclusive evidence on the question whether a tenancy is a 'Mundari-khunt-kattidar' tenancy

[(1) Where a record-of-rights has been finally published under Section 83 of this Act or under sub-section (2) of Section 103-A of the [Bengal Tenancy Act, 1885 (8 of 1885)] or amended under Section 254 of this Act, the entries therein relating to 'Mundari-khunt-kattidari tenancies shall be conclusive evidence of the nature and incidents of such tenancies and of all particulars recorded in such entries, and, if any tenancy in the area, estate or tenure for which the record-of-rights was prepared has not been recorded therein as a 'Mundari-khunt-kattidari tenancy, no evidence shall be received in any Court to show that such tenancy is a 'Mundari-khunt-kattidari tenancy.]

[(2) Where in the record-of-rights finally published under sub-section (2) of Section 103- A of the Bengal Tenancy Act, 1885 [(8 of 1885)] for a village in the Estate of Porahat in the district of Singhbhum a tenant of the village has been recorded as a 'Mundari-khunt-kattidari, all land which he held at the date of final publication, shall be deemed to have been recorded in the record-of-rights as his 'Mundari khunt-kattidari, tenancy.]

Chapter XIX Supplemental Provisions

Joint Landlords

Section 257. Joint Landlords

When two or more persons are joint landlords anything which a landlord is under this Act, required or authorised to do must be done by both or all those persons acting together, or by an agent authorised to act on behalf of both or all of them.

Bar to suits [and finality of decisions in certain cases]

Section 258. Bar to suits in certain cases

Save as expressly provided in this Act, no suit shall be entertained in any Court to vary, modify or set aside, either directly or indirectly, any [decision], order or decree of any Deputy Commissioner or Revenue Officer in any suit, [application] or proceeding under Section 20, Section 32, Section 35, Section 42, Section 46, sub-section (4), Section 49, Section 50, Section 54, Section 61, Section 63, Section 65, Section 73 [Section 74-A)], Section 75, Section 85, Section 86, Section 87, Section 89, [* * *] or Section 91 (Proviso), or under Chapter XII, XIV, XV, XVI, or XVIII, except on the ground of fraud or want of jurisdiction [and every such decision, order or decree shall have the force and effect of a decree of a Civil Court in a suit between the parties and, subject to the provisions of this Act relating to appeal, shall be final].

Process

Section 259. Mode of Service

Every notice, summons or other process under this Act required to be served on any person shall be served in the prescribed manner.

Section 260. Authentication and payment of costs

Every process issued by a Deputy Commissioner or Revenue Officer under this Act shall bear his seal and signature, and the cost of serving the same shall be paid by such person and in such manner as may be prescribed.

Costs

Section 261. Costs in suits and applications

[The provisions of Section 35 of the Code of Civil Procedure, 1908 (5 of 1908) and of sub-rules (2) and (3) of Rule 6 of Order XX of the First Schedule to the said Code shall apply to all suits, applications and proceedings under this Act.]

Section 262. Deposit of cost of proceedings to be incurred by the Government

(1) A Revenue Officer or Deputy Commissioner may, subject to any directions given by the [State] Government, require any plaintiff or applicant to deposit in advance the whole or any part of the estimated amount of the expenses to be incurred by the Government in any proceeding under this Act.

(2) If the amount so deposited by any person exceeds the sum finally made payable by him as costs, the excess shall be refunded to him when the proceedings are completed.

Production of witnesses and documents

Section 263. Production of witnesses and documents

For the purposes of any inquiry under this Act, any Deputy Commissioner or Revenue Officer shall have power to summon and enforce the attendance of witnesses and compel the production of documents in the same manner as is provided in the case of a Court by the Code of Civil Procedure, [1908 (5 of 1908).]

Rules and notifications

Section 264. Power to make rules to carry out objects of Act

(1) The [State] Government may make [Rules], to carry out the object of this Act.

(2) In particular and without prejudice to the generality of sub-section (1), the [State] Government may make Rules,-

[(i) to prescribe the particulars to be contained in the notice, and the period within which the landlord may make the application under sub-section (1) of Section 13;]

(ia) to prescribe the particulars to be specified in pursuance of clause (a) of sub-section (1) of Section 28, in

applications for enhancement of the rent of occupancy holdings;

(ii) to limit the enhancement of the rent of occupancy holdings under Section 29;

(iii) to prescribe particulars to be specified, in pursuance of clause (j) of Section 31, in applications for increase of rent in respect of increase in the area of land held by occupancy-Raiyat,

(iv) to prescribe particulars to be specified, in pursuance of clause (h) of Section 34 applications for the reduction of rent paid by occupancy-Raiyats;

[(iva) to prescribe the particulars of remittances to be entered in the register to be maintained under sub-section (2) of Section 53 and the manner in which the deposit shall be paid to the payer or the payee;]

(v) to prescribe the manner in which the possession of land should be given under Section 46, sub-section (4), Section 50, sub-section (2), Section 71 or Section 73, sub-section (3);

(vi) to prescribe the manner in which landlords shall send notices to the Deputy Commissioner under Section 73, sub-section (2);

(vii) to prescribe the manner in which rents shall be settled under Section 85;

(viii) to prescribe the officer to whom and the manner in which appeals shall lie from orders or decisions passed by Revenue Officer under Section 61, Section 85, Section 87, Section 89, Chapter XIII, Chapter XIV, Chapter XV or Section 252;

(ix) to regulate the transfer of cases to Civil Courts under the First Proviso to Section 87 [and the proviso to Section 139;

(x) to prescribe the manner in which record-of-rights shall be revised in pursuance of a direction given under Section 98;]

(xi) to declare the restrictions or modifications (if any) subject to which the provisions of Chapter XII shall apply to the revision of record-of-rights of the settlement of rents in pursuance of a direction given under Section 98;

(xii) to prescribe particulars to be contained in a record prepared under Section 106;

(xiii) to prescribe the form of statements to be prepared under Section 111, clause (1);

(xiv) to prescribe the manner in which copies of entries in records prepared under Chapter XV shall be served under Section 129;

(xv) to regulate the exercise of the right conferred by Section 140 to bring collective suits or make collective applications;

(xvi) to prescribe the Court by which decrees or orders passed by a Deputy Commissioner under this Act may be executed;

(xvii) to prescribe the form of applications for the execution of decrees or orders passed by a Deputy Commissioner under this Act;

(xviii) to prescribe the manner of executing decrees or orders referred in Section 195;

(xix) to prescribe the manner of dealing with sale-proceeds under Section 205, sub-section (2);

(xx) to prescribe the manner of service of notices, summons and other processes, and of publication of notices, issued under this Act;

(xxi) to declare by what person and in which manner the cost of serving processes issued by a Deputy Commissioner or Revenue Officer under this Act shall be paid;

(xxii) to regulate the procedure to be followed by Revenue Officer in the discharge of any duty imposed upon them by or under this Act, and may, by such rules, confer upon any such officer,-

(a) any power exercised by a Civil Court in the trial of suits;

(b) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, 1875 (Bengal Act 5 of 1875); and

(c) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil;

[(xxiii) to prescribe the forms to be used under this Act;]

(xxiv) to prescribe the procedure to be followed and the information to be given by any party or applicant in any proceeding under this Act;

[(xxv) to prescribe any other matter by this Act required, or expressly or impliedly authorised, to be prescribed.]

Section 265. Power to make Rules to procedure, on application of the Code of Civil Procedure

(1) The [State] Government may [* * *] make [rule] for regulating the procedure of the Deputy Commissioner in matters under this Act for which a procedure is not provided hereby; and may, by any such rule, direct that any provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall apply, with or without modification, to all or any classes of cases before the Deputy Commissioner.

(2) When any provision of the said Code is applied by such rules, the rules may further declare that any provision of this Act which is superseded by, or inconsistent with, any provision so applied shall be deemed to be repealed.

(3) Until rules are made under sub-section (1), and subject to those rules when made and to other provisions of this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908) [* * *].

[* * *]

shall, so for as may be, and insofar as they are not inconsistent with this Act, apply to all suits, appeals and proceedings before the Deputy Commissioner under this Act and to all appeals from decisions passed in such suits or proceedings.

Section 266. Publication of Rules in draft

(1) All powers conferred by this Act for making rules are subject to the condition that the rules be made after previous publication.

(2) Sub-section (1) shall not apply to any rules made and published in the [Official Gazette] within a period of two months from the commencement of this Act but all rules so made and published shall be re-issued, after previous publication, and with such amendments (if any) as the [State] Government may consider necessary, within a period of one year from such commencement.

Section 267. Publication and effect of rules and notification

All rules made and notifications issued, under this Act shall be published in the [* * *] [Official Gazette], and on such publication shall have effect as if enacted in this Act.

Recovery of Dues

Section 268. Recovery of dues

(1) Costs and interest awarded under this Act in rent suits [* * * *] shall be recoverable as if they were arrears of rent.

(2) All costs [and interests] not referred to in sub-section (1) [and a damage compensation], fines and penalties, awarded or imposed under this Act, shall be recoverable in the manner provided in Chapter XVI for the recovery of money (not being arrears of rent) due under a decree.

Powers

Section 269. Transfer of cases from one Revenue Officer to another

A Revenue Officer may at any time transfer any pending suit, application or proceeding under this Act from the file of any Revenue Officer acting under this Act to the file of any other Revenue Officer so acting, who is fully authorised to entertain and decide such suit, application or proceeding.

Section 270. Control over Deputy Commissioners and Deputy Collectors

In the performance of their duties and exercise of their powers under this Act, Deputy Commissioner shall be subject to the general direction and control of the Commissioner and the Board, and Deputy Collectors exercising functions of the Deputy Commissioner shall also be subject to the direction and control of the Deputy Commissioner.

Saving of Special Enactment

Section 271. Saving of special enactments

Nothing in this Act shall affect,-

(a) the powers and duties of Settlement Officers as defined by any law not expressly repealed by this Act, or

(b) any other special or local law not repealed, either expressly or by necessary implication, by this Act.

Schedules

The Schedules are not reproduced in this PDF. Each is in the official file, at the page given:

- Schedule 'A' Acts and Notification Repealed in the Chota Nagpur Division (official file, page 203)
- Schedule B [* * *] Repealed in [The District of Dhanbad and Palamau Ichagarh and Chandil Police Station in the District of Singhbhum] (official file, page 204)
- Appendix Part I Provisions of the Chota Nagpur Tenancy (Amendment) Act, 1920 not incorporated in the text (official file, page 205)
- Appendix Part II The Seraikela And Kharsawan (Laws) Act, 1951 [Bihar Act XLI of 1951] (official file, page 207)

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