

ORISSA ACT 29 OF 1976

THE ORISSA LAND REFORMS (SECOND AMENDMENT) ACT 1975

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[123 Law--30]

ORISSA ACT No. 29 OF 1976

*THE ORISSA LAND REFORMS (SECOND AMENDMENT) ACT, 1975

[Received the assent of the President on the 1st March 1976, first published in an extraordinary issue of the Orissa Gazette, dated the 19th May 1976]

AN ACT TO AMEND THE ORISSA LAND REFORMS ACT, 1960

BE it enacted by the Legislature of the State of Orissa in the Twenty-sixth year of the Republic of India, as follows :—

Short title
and com-
mencement.

1. (1) This Act may be called the Orissa Land Reforms (Second Amendment) Act, 1975.

(2) It shall come into force at once.

Amendment
of section 2.

2. In section 2 of the Orissa Land Reforms Act, 1960 (hereinafter referred to as the principal Act),— Orissa Act 16
of 1960.

(a) in clause (13), the words “tube-well or” shall be deleted;

(b) after clause (18), the following new clause shall be inserted, namely :—

“(18-a) “local committee” means the local committee constituted under section 55;”;

(c) in clause (21),—

(i) for sub-clause (e), the following sub-clause shall be substituted, namely :—

“(e) a riyat the total extent of whose lands held in any capacity whatsoever does not exceed three standard acres; or”;

(ii) in sub-clause (f), for the words “does not exceed two basic holdings”, the words “does not exceed three standard acres” shall be substituted;

(iii) after the existing proviso, the following new proviso shall be inserted, namely :—

“Provided further that a certificate as aforesaid shall not be granted to a person who is subject to any physical disability if he has any source of income (other than land) as may be prescribed;”;

(d) in clause (22), after sub-clause (c), the following Explanation shall be inserted, namely :—

“*Explanation*—‘family’ in relation to an individual, means the individual, the husband or wife, as the case may be, of such individual and their children, whether minor or major;”.

*For the Bill see *Orissa Gazette*, Extraordinary, dated the 11th November, 1975 (No. 1801).

Amendment
of section 4.

3. In section 4 of the principal Act,—

(a) in sub-section (1),—

(i) for clause (h) excluding the proviso thereto, the following clause shall be and shall be deemed always to have been substituted, namely:—

“(h) subject to the provisions of sub-sections (2), (3) and (4), persons who are temporary lessees in personal cultivation of lands in the vested estates held under Government for agricultural purposes, persons who are in personal cultivation of such lands held either mediately or immediately under such temporary lessees and the successor-in-interest of any such persons:”;

(ii) in clause (i),—

(1) the words “immediately before the commencement of this Act” shall be and shall be deemed always to have been deleted;

(2) the words “and their successors-in-interest” shall be and shall be deemed always to have been added at the end;

(iii) after clause (i), the following proviso shall be inserted, namely:—

“Provided that nothing in this clause shall apply to persons who are recorded as sub-tenants or under-riyats after the 30th day of September, 1965 or to their successors-in-interest if the land in respect of which they have been so recorded belongs to a person under disability or to a privileged riyat.”;

(b) in sub-section (2),—

(i) after the words “held as specified in the said clause” occurring at the end, the words “with effect from the beginning of the year next following the date of the order” shall be added ;

(ii) after the third proviso the following proviso shall be inserted, namely :—

“Provided further that an application under this sub-section may, if it relates to any land situate in an estate vested in the Government after the 30th day of September, 1965, be filed within two years from the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 or the date of vesting of the estate, whichever is later.”;

(c) for sub-sections (3) and (4), the following sub-sections shall be substituted, namely :—

“(3) While making an order under sub-section (2) the Revenue Officer shall determine the premium in respect of the riyati

right to be so acquired to be paid to Government which shall be an amount calculated at the rate of eight hundred rupees per standard acre of the land.

(4) The premium determined under sub-section (3) shall be payable in five equal annual instalments on such dates as may be fixed by the Revenue Officer and the amount of premium or any portion thereof remaining unpaid shall be recoverable as arrears of land revenue.”;

(d) in sub-section (5),—

(i) for the words “by the sub-tenant or under-raiyat”, the words “by the sub-tenant or under-raiyat or the successor-in-interest” shall be substituted ;

(ii) for the words “to be a raiyat in respect of the land referred to in the said clause” occurring at the end, the words “or successor-in-interest to be a raiyat in respect of the land referred to in the said clause with effect from the beginning of the year next following the date of the order” shall be substituted ;

(iii) after the third proviso, the following proviso shall be inserted, namely:—

“ Provided further that an application under this sub-section may be made,—

(a) in the case of sub-tenants and under-raiyats who have been recorded in the record-of-rights on or after the 1st day of October, 1965, within two years from the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 or the date of final publication of the record-of-rights, whichever is later ; and

(b) in the case of the successor-in-interest of any recorded sub-tenant or recorded under-raiyat, within two years from the date of commencement of the said Act or the date of death of the sub-tenant or under-raiyat, whichever is later.”;

(e) for sub-sections (6), (7) and (8), the following sub-sections shall be substituted, namely:—

“ (6) While making an order under sub-section (5), the Revenue Officer shall determine the compensation in respect of the land which shall be an amount calculated at the rate of eight hundred rupees per standard acre of the land, to be paid by such sub-tenant, under-raiyat or successor-in-interest to the person or persons (not being the Government or land holder) mediately or immediately under whom the land was being held prior to the conferment of the raiyati right in proportion to the rent that each was receiving in respect thereof and the Revenue Officer shall also apportion the compensation between the persons entitled thereto.

(7) The compensation determined under sub-section (6) shall be payable in the prescribed manner in five equal annual instalments on such dates as may be fixed by the Revenue Officer.

(8) The compensation or any portion thereof which remains unpaid shall be recoverable as arrears of land revenue on application to the Revenue Officer by the person entitled thereto.

(8-a) The rights of all persons entitled to receive compensation in accordance with sub-section (6) shall stand extinguished with effect from the date of conferment of raiyati right under sub-section (5) and the sub-tenant, under-raiyat or the successor-in-interest, as the case may be, shall be liable to pay fair and equitable rent to be determined by the Revenue Officer in the prescribed manner to the Government or the person, as the case may be, immediately under whom the land is held consequent on such extinguishment.

(8-b) The Revenue Officer may also on his own motion, within the period allowed for making an application under sub-section (2) or under sub-section (5), take all such action and in such manner as is provided in sub-sections (2) to (8-a) for declaring the persons or their successors-in-interest, as the case may be, referred to in clauses (h) and (i) of sub-section (1) to be raiyats and the provisions contained in sub-sections (2) to (8-a) shall, so far as may be, apply to proceedings under this sub-section."

Amendment of section 6-A. 4. In section 6-A of the principal Act, in sub-section (1), for the words "a period of five years", the words "a period of ten years" shall be substituted.

Amendment of section 7. 5. In section 7 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) The rights of a tenant in any land held by him as such shall be heritable, but shall not be transferable."

Amendment of section 14. 6. In section 14 of the principal Act, after sub-section (2), the following provisos and Explanation shall be inserted, namely :—

"Provided that in the case of transfer of the land by any such landlord, the tenant shall not cease to have the right to cultivate the land until after the expiry of a period of six months from the date of service of a notice in the prescribed form by the landlord on the tenant intimating him the particulars of the transfer and where the said period terminates on a day prior to the last day of a year, the cessation of the right of the tenant to cultivate the land shall take place at the end of that year :

Provided further that where the landlord—

(i) being a person under disability, ceases to be the landlord by reason of transfer of the land in favour of another person under disability, or

(ii) being a privileged raiyat referred to in sub-clause (b), (c) (d) or (e) of clause (24) of section 2, ceases to be the landlord by reason of transfer of the land in favour of any person,

the tenant shall not cease to have the right to cultivate the land* but shall, subject to the other provisions of this section continue as a tenant under the transferee.

Explanation—Where a person ceases to be a person under disability as a consequence of amendment of clause (21) of section 2 by the Orissa Land Reforms (Second Amendment) Act, 1975, such cessation shall be construed as cessation of disability for the purposes of clause (a).”.

Amendment
of
section 15.

7. In section 15 of the principal Act,—

(i) in sub-section (1),—

(a) for clause (c), the following clause shall be substituted namely :—

“(c) the right of the landlord to terminate the tenancy of a tenant under section 14 or the liability of a tenant to cease to cultivate the land under that section; or;”

(b) after the words “application to be filed”, the words “in the prescribed manner” shall be and shall be deemed always to have been inserted;

(c) for the existing proviso, the following provisos shall be and shall be deemed always to have been substituted, namely —

“Provided that an application in respect of—

(a) a claim for recovery of arrears of rent, shall be filed within one year from the date on which such arrear falls due;

(b) a dispute referred to in clauses (a) and (c), shall be filed within sixty days from the date on which the dispute arises; and

(c) a dispute referred to in clauses (b) and (d), shall be filed within two years from the date on which the dispute arises :

Provided further that in the case of any dispute referred to in clauses (b) and (d) which had arise prior to the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975, an application in respect thereof may, if not filed earlier, be filed within one year from the said date.”;

(ii) in sub-section (7), for the words “for such other purposes” the words “restraining the landlord from interfering with the tenant’s cultivation of the land or for such other purposes” shall be substituted.

Amendment
of section 28.

8. In section 28 of the principal Act, in sub-section (2),—

(a) for the words “The compensation for the land shall be ten times the fair rent for the land to be paid in five annual instalments”, the words “The compensation for the land shall be an amount calculated at the rate of eight hundred rupees per standard acre of the land to be paid in five equal annual instalments” shall be substituted ;

(b) the first proviso shall be deleted.

Amendment
of sections
36-A and
36-B.

9. For sections 36-A and 36-B of the principal Act, the following sections shall be substituted, namely :—

tenant to
become rai-
at in res-
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and in cer-
ain cases.

“36-A. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, but subject to the provisions of sub-section (2) of section 24, the Revenue Officer may, on an application made in that behalf by the tenant within two years from the commencement of the Orissa Land Reforms (Amendment) Act, 1973 and after giving the parties interested an opportunity of being heard and after consulting the local committee, if any, declare the whole of the land in cultivation of the tenant to be non-resumable and determine the fair and equitable rent and the compensation payable by the tenant in respect of the land in accordance with the provisions of section 28 and on such determination, the provisions of sections 29 to 33 (both inclusive), 35-A and 36 shall, so far as may be, apply: President's
Act 17 of
1973.

Provided that nothing in this sub-section shall apply to any land where—

- (a) the particulars of the resumable and non-resumable portions thereof have already been determined under section 27 or under section 35; or
- (b) proceedings for the determination of such particulars are pending ; or
- (c) the tenant cultivates the land by servants or hired labour.

Explanation—For the purposes of this section “tenant” shall include a tenant whose application under section 26 was rejected prior to the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 on the ground of default or non-prosecution on the part of the tenant and a tenant in respect of whom a case initiated under section 35 was terminated prior to the said date on any such ground.

(2) The Revenue Officer may also, on his own motion, take all such action and in such manner as is provided in sub-section (1) at any time within three years from the commencement of the said Act :

Provided that where the period of limitation specified in sub-section (1) is extended by any further period under section 63, the period of three years as aforesaid shall stand equally extended.

(3) For the removal of doubts it is hereby declared that the Revenue Officer, while proceeding under this section, shall have power to decide any dispute as regards the existence of the relationship of landlord and tenant or as to the identity of the tenant.

Application
section
A conse-
at upon
ndment
the Act.

36-B. Notwithstanding anything contained in sub-section (1) of section 24, section 25 or section 26, where as a consequence of the amendment of section 73 by the Orissa Land Reforms (Second Amendment) Act, 1975, any land becomes subject to the provisions of this Chapter, the provisions of section 36-A shall, so far as may be, apply to such land subject to the modification that the period of limitation specified therein shall run from the date of commencement of the said Act.

Tenants
inducted
in contraven-
tion of Act
to become
raiyaats.

36-C. (1) Notwithstanding anything contained in sub-section (2) of section 6, any tenant to whom land has been leased out on or after the 1st day of October, 1965 in contravention of the provisions of that sub-section, may make an application to the Revenue Officer within two years from the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 or the date on which the land was so let out, whichever is later, for being declared to be a raiyat in respect of such land.

(2) The Revenue Officer may also, on his own motion, initiate proceedings under sub-section (1) within the aforesaid period of two years for declaring the tenant to be a raiyat.

(3) The provisions contained in sections 28 to 33 (both inclusive), 35-A and 36 shall, so far as may be, apply to the proceedings under this section as if the whole of the land so let out were non-resumable.”

Amendment
of section 39,

10. In section 39 of the principal Act, for clause (b), the following clauses shall be substituted, namely :—

“(b) the transfer of any land by sale, gift or otherwise or the partition thereof by a person during the period beginning with the 26th day of September, 1970 and ending with the commencement of the Orissa Land Reforms (Amendment) Act, 1973 shall, if such person was holding land on the said day in excess of the ceiling area, be deemed to be void, anything contained in any law or agreement or in any decree or order of any Court notwithstanding;

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1973.

(bb) the lands so transferred or partitioned shall be taken into account as if the transfer or partition had not taken effect and the Revenue Officer may, at his discretion ignore the selection made by the person of lands to be retained in his possession;”

Amendment
of section 40,

11. In section 40 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) All suits for partition of land instituted in a Civil Court after the 26th day of September, 1970 and pending on the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 shall, if the land forming the subject matter of the suit exceeds the ceiling area in respect of the person who is liable to submit a return under section 40-A in relation to such land, abate.”

Amendment
of section
40-A.

12. In section 40-A of the principal Act, in sub-section (2),—

(a) in clause (a), after the words “Civil Court”, the words and figures “instituted prior to the 26th day of September, 1970” shall be inserted;

(b) for the words “within ninety days”, the words “within thirty days” shall be substituted;

(c) the words “or from the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975, whichever is later” shall be added at the end.

Insertion of
new section
40-B.

13. After section 40-A of the principal Act, the following new section shall be inserted, namely:—

Submission
of returns in
special cases.

“40-B. Where any person,—

- (a) being liable to submit a return under section 40-A, has failed to do so within the period specified therein; or
- (b) has become liable to submit a return under section 40-A as a consequence of the amendment of this Act by the Orissa Land Reforms (Second Amendment) Act, 1975; or
- (c) considers it necessary to submit a revised return as a consequence of such amendment,

he shall submit the return or revised return, as the case may be, in accordance with the provisions of that section within thirty days from the commencement of the said Act:

Provided that persons against whom proceedings under section 43 have been initiated by the Revenue Officer on his own motion, shall not be bound to file any return as required by this section.”

Amendment
of
section 41.

14. In section 41 of the principal Act, after the word, figure and letter “section 40-A”, the words, figure and letter “or section 40-B” shall be inserted.

Amendment
of
section 42.

15. In section 42 of the principal Act, after the word, figure and letter “section 40-A” wherever they occur, the words, figure and letter “or section 40-B” shall be inserted.

Amendment
of
section 43.

16. In section 43 of the principal Act,—

- (a) in sub-section (1), after the words “lands to be retained by him”, the words “and after consulting the local committee if any,” shall be inserted;
- (b) after the word, figure and letter “section 40-A” wherever they occur, the words, figure and letter “or under section 40-B” shall be inserted.

Amendment
of
section 44.

17. In section 44 of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) An appeal against the order of the Revenue Officer under sub-section (1) confirming the statement, if presented—

- (a) by any person aggrieved by the order within thirty days from the date of the order; or
- (b) by the State Government within sixty days from the said date,

shall lie to the prescribed authority. ”:

(b) in sub-section (3), after the words “in appeal”, the words “or revision” shall be inserted.

Amendment
of section 45.

18. In section 45 of the principal Act, for the words, figures and brackets "the beginning of the year next following the date of the final statement referred to in sub-section (3) of section 44", the words, figures and brackets "the date on which the statement becomes final under sub-section (3) of section 44" shall be substituted.

Insertion of
new section
45-A.

19. After section 45 of the principal Act, the following new section shall be inserted, namely:—

Delivery of
possession
of surplus
lands.

"45-A. (1) It shall be the duty of the person in possession of the surplus lands to deliver possession thereof to the Revenue Officer within fifteen days from the date of vesting of the lands in the Government or, if there be any standing crop on the land on the said date, within fifteen days from the harvesting of such crop, whichever is later; and the Revenue Officer shall take over possession of the land on behalf of the Government.

(2) If possession is not delivered in accordance with the provisions of sub-section (1), the Revenue Officer may, by an order in writing direct the person in possession of the surplus lands to deliver possession of such lands within seven days from the date of service of the order on him to such person as may be specified in the order.

(3) If the person in possession of the surplus lands refuses or fails without sufficient cause to comply with the order issued under sub-section (2), the Revenue Officer may take possession of the land and may, for that purpose, use such force as may be necessary."

Amendment
of section 50.

20. For section 50 of the principal Act, the following section shall be substituted, namely:—

"50. The amount of compensation determined in accordance with the foregoing provisions shall be payable on and from the date of delivery of or taking over possession of the surplus lands in such mode as may be prescribed and interest shall accrue on the unpaid balance of the compensation at the rate of two and half per centum per annum."

21. In section 52 of the principal Act, in Explanation I, for the words "by the Central Government or State Government", the words "by the Central Government, the State Government, any local authority, any Government Company as defined in section 617 of the Companies Act, 1956 or any statutory body or corporation" shall be substituted.

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Amendment
of section 55.

22. In section 55 of the principal Act,—

(a) in the marginal heading, the words "and local committee" shall be added at the end;

(b) after sub-section (2), the following new sub-sections shall be inserted, namely:—

"(3) The Government may constitute local committees for different areas of the State.

(4) The constitution, term of office, powers and functions of the local committee shall be as may be prescribed and the business of the Committee shall be conducted in the prescribed manner."

Amendment
of section
56-A.

23. In section 56-A of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) A person under disability specified in sub-clauses (a), (b) or (c) of clause (21) of section 2 may, subject to the rules made in that behalf, apply for a certificate specified in the proviso to that clause to the Revenue Officer.”;

(b) in sub-section (2),—

(i) for the words “the Grama Panchayat or the Revenue Officer, as the case may be”, the words “the Revenue Officer” shall be substituted;

(ii) for the words “as the said authority may deem fit”, the words “as he may deem fit” shall be substituted.

Insertion of
new section
56-B.

24. After section 56-A of the principal Act, the following new section shall be inserted, namely:—

Cancellation
of certificate
of disability
and its con-
sequences.

“56-B. (1) If the Revenue Officer, on application in that behalf by a tenant cultivating land under a person who is a person under disability, is satisfied that a certificate under section 56-A was obtained by such person by fraud or by misrepresentation or suppression of any material fact, he may, after giving the tenant and the person an opportunity of being heard, cancel the certificate.

(2) On cancellation of the certificate, the Revenue Officer may, on an application made in that behalf by the tenant within sixty days from the date of such cancellation and after giving the parties interested an opportunity of being heard, declare the whole of the land to be non-resumable and determine the fair and equitable rent and the compensation payable by the tenant in respect of the land in accordance with the provisions of section 28 and on such determination the provisions of sections 29 to 33 (both inclusive), 35-A and 36 shall, so far as may be, apply.”.

Insertion of
new section
57-B.

25. In Chapter V of the principal Act, after section 57-A, the following new section shall be inserted, namely:—

Reference of
cases of cer-
tain privile-
ged raiyats
by the Collec-
tor.

“57-B. (1) If the Collector of the district on his own information or on receipt of information from any source whatsoever, is of opinion that there are circumstances to indicate that in respect of any trust or other institution which is a privileged raiyat within the meaning of sub-clause (c) of clause (24) of section 2,—

(a) return of the accounts of such trust or other institution has not been periodically furnished or lands belonging to the trust or other institution have been alienated or encumbered without the previous permission of the authority prescribed in that behalf, at any time prior to the commencement of the Orissa Land Reforms (Amendment) Act, 1973; or

(b) the trust or other institution has ceased to provide benefit to the public,
he may make an application to the Tribunal constituted under section 57-A for a declaration that such trust or other institution has ceased to be a privileged raiyat.

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1973.

(2) On receipt of an application under sub-section (1) the Tribunal may, after making such enquiry and in such manner as may be prescribed, by order, declare the trust or other institution to have ceased to be a privileged raiyat:

Provided that no such declaration shall be made without giving an opportunity to the trustee or trustees or the person in charge of management of the trust or other institution, as the case may be, of being heard in the matter.

(3) The provisions contained in sub-sections (5), (6) and (7) of section 57-A shall apply to an inquiry held under this section in the same manner as they apply to inquiries held under that section.

(4) On a declaration being made under sub-section (2), the Revenue Officer may, on an application in that behalf by any tenant cultivating any land under such trust or other institution filed within sixty days from the date of the order made under the said sub-section and after giving the parties interested an opportunity of being heard, declare the whole of the land in cultivation of the tenant to be non-resumable and determine the fair and equitable rent and the compensation payable by the tenant in respect of the land in accordance with the provisions of section 28 and on such determination the provisions of sections 29 to 33 (both inclusive), 35-A and 36 shall, so far as may be, apply.

(5) The trustee or trustees or the person in charge of management, as the case may be, of the trust or other institution in respect of which a declaration is made under sub-section (2), shall, if the lands held by it on the date of the order made under the said sub-section exceed the ceiling area, submit a return in accordance with the provisions of section 40-A within ninety days from the said date and the provisions of Chapter IV shall, so far as may be, apply to the lands so held."

Amendment
of section 58.

26. In section 58 of the principal Act,—

(a) in sub-section (1), for the word, figures and letters "36-B, 42, 52 and 56-A", the word, figures, letters and brackets "36-C, 42, 52, 56-A, 56-B and 57-B (4)" shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Any tenant aggrieved by an order passed under section 27, section 35 or section 36-A (other than an order dismissing the case for default or non-prosecution) prior to the date of commencement of the Orissa Land Reforms (Second Amendment) Act, 1975 may, if he has not preferred an appeal as provided in sub-section (1), prefer the same within one year from the said date."

Amendment
of section 59.

27. For section 59 of the principal Act, the following section shall be substituted, namely:—

Revision

"59. (1) The prescribed authority may, on application by any party aggrieved by any order passed in an appeal under any provision of this Act filed within the prescribed period, revise such order.

(2) The Board of Revenue may, at any time on being moved in that behalf by the Collector of a district or by the Land Reforms Commissioner, revise any order passed by any authority under this Act.

(3) For the purposes of revising any order, the prescribed authority and the Board of Revenue shall follow such procedure as may be prescribed and shall have power to call for and examine the records of the proceedings wherein such order was passed and to pass such order as they deem fit:

Provided that no order under this section shall be passed without giving the parties concerned a reasonable opportunity of being heard."

Amendment
of section 68.

28. In section 68 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—

"(2) Whoever fails to submit a return as required under section 40-B, shall, on conviction, be punishable with imprisonment of either description which may extend to six months or with fine which may extend to one thousand rupees or with both."

Amendment
of section 73.

29. In section 73 of the principal Act,—

(i) for clause (b), the following clause shall be substituted, namely :—

"(b) to lands held by—

(i) the Government of India ;

(ii) any local authority ;

(iii) any University established by law in the State ;

(iv) the Bhoodan Yagna Samiti established under the Orissa Bhoodan and Gramdan Act, 1970;

Orissa Act
2 of 1971.

(v) any Government company as defined in the Companies Act, 1956 ;

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(vi) any Corporation established under any law in force;"

(ii) for clause (d), the following clause shall be substituted, namely :—

"(d) to any land which was under the management of any Civil, Revenue or Criminal Court immediately prior to the 26th day of September 1970, for so long as such management continues."

Transitory
provision.

30. Any appeal under the principal Act or any revision under section 59 thereof pending on the date of commencement of this Act, shall be heard and disposed of as if this Act had not been passed.