

**GOVERNMENT OF WEST BENGAL  
LEGISLATIVE DEPARTMENT**

**West Bengal Act XXIII of 1973**

**THE WEST BENGAL RESTORATION OF  
ALIENATED LAND ACT, 1973.**

*[Passed by the West Bengal Legislature.]*

[Assent of the President was first published in the *Calcutta Gazette, Extraordinary*, of the 5th May, 1973.]

[5th May, 1973.]

*An Act to provide for the restoration of land alienated under certain circumstances and for matters connected therewith.*

WHEREAS it is expedient to provided for the restoration of land alienated under certain circumstances and for matters connected therewith;

It is hereby enacted in the Twenty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Restoration of Alienated Land Act, 1973. Short title and extent.

(2) It extends to the whole of West Bengal.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(1) “Collector” means the Collector of a district or any other officer not below the rank of a Deputy Collector appointed by the State Government to discharge the functions of a Collector under this Act;

(2) “land” means agricultural land and includes homestead, tank, well and water-channel;

(3) “prescribed” means prescribed by rules made under this Act;

(4) “Special Officer” means an officer not below the rank of a Sub-Deputy Collector appointed by the State Government to discharge the functions of a Special Officer under this Act.

3. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force: Act to override other law, etc.

Provided that nothing in this Act shall apply to any land which is evacuee property under section 3 of the West Bengal Evacuee Property Act, 1951.

*(Section 4.)*

Procedure  
for  
effecting  
restoration  
of lands  
alienated  
under  
certain  
circum-  
stances.

4. (1) Where before the commencement of this Act a person being the transferor holding not more than 2 hectares of land in the aggregate transferred the whole or any part of his land by sale to any person being the transferee, then, if—

- (a) such transfer was made after the expiry of the year 1967 being in distress or in need of money for the maintenance of himself and his family or for meeting the cost of his cultivation, or
- (b) such transfer was made after the expiry of the year 1967 with an agreement, written or oral, for reconveyance of the land transferred, to the transferor,

the transferor may, within five years from the date of such transfer or within two years from the date of commencement of this Act, whichever period expires later, make an application in the prescribed manner to the Special Officer having jurisdiction in the area in which the land transferred is situate for restoration of such land to him.

(2) On receipt of such application, the Special Officer shall cause a notice thereof to be served in the prescribed manner on the transferee.

(3) On the date fixed in the notice for hearing such application or on any subsequent date to which the hearing may be adjourned by the Special Officer, the Special Officer shall receive such evidence as may be adduced by the transferor and the transferee.

(4) If after considering such evidence and hearing the parties the Special Officer is satisfied that such transfer was made by the transferor within the time, and for the purpose, referred to in clause (a) of sub-section (1), or, as the case may be, within the time, and under the conditions, referred to in clause (b) of that sub-section, the Special Officer shall make an order in writing restoring the land transferred to the transferor and directing the transfer or to pay, in such number of equal instalments not exceeding ten and by such dates as may be specified in the order, the amount of the consideration which was actually paid by the transferee to the transferor for such transfer, together with interest on such amount at the rate of four *per centum per annum* from the date of his receipt of such consideration and the amount of any compensation for improvements effected to such land, allowed by the Special Officer and determined by him in the manner prescribed, less the amount determined in the manner prescribed of the net income from such land of the person in possession of such land as a result of such transfer:

Provided that the first of the instalments provided in the order made under this sub-section shall be payable within three months of the date of the order.

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(Section 4.)

*Explanation.*—Subject to the other provisions of this section,—

- (i) the words “transferor” referred to in this Act means the first transferor between the expiry of the year 1967 and the date of commencement of this Act and includes the heirs of such first transferor;
- (ii) the word “transferee” shall mean where the land is in the possession of any person other than the first transferee by virtue of a subsequent transfer such subsequent transferee; and
- (iii) the expression “consideration which was actually paid by the transferee to the transferor” shall mean where there was more than one transfer, the amount which was paid by the first transferee to the first transferor.

1 of 1872. (5) Notwithstanding anything contained in the Indian Evidence Act, 1872, any evidence adduced by a transferor varying, adding to, or subtracting from, the terms of the sale deed to prove the necessity or purpose for which the transfer was made or the amount of consideration actually paid by the transferee to the transferor, shall be admitted.

(6) When the Special Officer makes an order for payment under sub-section (4), he shall direct that—

- (a) where such land has been sold, before or after such order is made, in execution of a decree or of a certificate under the Bengal Public Demands Recovery Act, 1913, against the transferee, the whole of the amount payable under the said order, or such part of it as may then remain due, shall, notwithstanding anything contained in such order, become due and payable at once and on such payment being made, such sale in execution of the decree or the certificate shall be set aside and the amount paid shall be applied towards satisfaction of the decree or the certificate, as the case may be;
- (b) in the case where such land has been alienated by the transferee before the date of such order by means of a *bona fide* lease for valuable consideration or a usufructuary mortgage, such payment shall be made to the transferee and the person in possession of such land as a result of such transfer in such proportion and in such manner as may be determined by the Special Officer and specified in the order; and
- (c) In other cases, such payment shall be made to the transferee:

Ben. Act  
III of 1913.

(Section 5.)

Provided that if such land is subject to a *bona fide* mortgage other than a usufructuary mortgage and such mortgage was executed after the transfer of such land referred to in sub-section (1), the Special Officer shall direct that such instalments shall first be paid to the mortgagee until the amount due under the mortgage as determined by the Special Officer is paid off and that thereafter any such instalments or part thereof still remaining due shall be paid in the manner provided in clause (a), clause (b) or clause (c) of this sub-section, as the case may be.

(7) The amount ordered to be paid by instalments under sub-section (4) shall be a charge on the land in respect of which the order under that sub-section has been made.

(8) Where any land, in respect of which an order under sub-section (4) is made, is, after the date on which such order takes effect under sub-section (1) of section 5, sold in execution of a decree or of a certificate filed under the Bengal Public Demands Recovery Act, 1913, against the transferor to whom restoration had been made, or otherwise transferred by him, the whole of the amount payable under such order then remaining due shall, notwithstanding anything contained in such order, at once become due and payable, and the person to whom such amount is payable shall be entitled to recover it under section 6.

Ben. Act  
III of  
1913.

Effect of  
order of  
restoration  
of land.

5. (1) When the Special Officer makes an order under sub-section (4) of section 4 restoring any land to the transferor, such order shall have effect on the 1st day of *Baisakh* next following the date of the order.

(2) From the date on which an order under sub-section (4) of section 4 takes effect under sub-section (1) of this section, the right, title and interest in the land accruing to the transferee or the person in possession as a result of the transfer referred to in sub-section (1) of section 4 shall, subject to the provisions of sub-section (7) of that section, be deemed to have vested in the transferor free from all encumbrances, if any, which have been created after the date of such transfer.

(3) If on or before the date on which an order under sub-section (4) of section 4 takes effect under sub-section (1) of this section, the person in possession of the land as a result of the transfer referred to in sub-section (1) of section 4 has not delivered possession of such land to the transferor, the Special Officer may of his own motion, and shall, on the application of such transferor, eject such person and place such transferor in possession of such land.

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(Sections 6-9.)

6. Any sum payable under an order made under sub-section (4) of section 4 shall be recoverable as a public demand.

Recovery of sums due under an order under sub-section (4) of section 4 as a public demand.

7. Save as otherwise provided in the Constitution of India, neither the High Court nor any Civil Court shall have jurisdiction in any matter which the Special Officer is empowered to dispose of under this Act:

Bar of jurisdiction of High Court and Civil Courts.

Provided that any person who is dissatisfied with any order made under sub-section (4) of section 4 may, within thirty days from the date of such order, apply in the prescribed manner to the Collector and the decision of the Collector upon such appeal shall be final.

5 of 1908. 8. The special Officer shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents.

Powers of the Special Officer.

9. (1) The State Government may make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) any matter which is required to be prescribed under this Act;

(ii) the levy of any fees.