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Bihar Private Forest Act 1947

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BIHAR PRIVATE Forest ACT 1947

[Act No IX of 1948]

PREAMBLE

An Act to re-enact the Bihar Private forests Act, 1946, with certain modifications.

Whereas the Bihar Private forests Act, 1946 (III of 1946), was enacted by the Governor in exercise of the power assumed to himself by the Proclamation dated the 3rd November, 1939, Issued by him under Sec. 93 of the Government of India Act, 1935;

And whereas under sub-section (4) of Sec. 93 of the Government of India Act, 1935, the said Bihar Private forests Act, 1946 (III of 1946), shall not, unless re-enacted by an Act of the Provincial Legislature, have effect after the 1st day of April, 1948;

And whereas it is expedient to continue the said Bihar Private forests Act, 1946 (III of 1946), after the 1st day of April, 1948 with certain modifications;

It is hereby enacted as follows:

Section 2 - Act not to apply to certain lands

This Act shall not apply—

- (a) to any land which is vested in the Government; or
- (b) to any land in respect of which notifications and orders Issued under the Indian forests Act, 1927 (XVI of 1927), are in force.

Section 3 - Definitions

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

- (1) "Collector" in any provision of this Act includes any officer empowered by the State Government to discharge the functions of the Collector under that provision ;
- (2) "forest" means any land which the State Government may, by notification, declare to be forest for the purposes of this Act and shall be deemed to include any land which is entered as forest or jungle or jungle-Jhori or described by any synonymous term in any record-of-rights finally

published under any law for the time being in force unless it is proved that such entry in respect of the land is incorrect ;

(3) "forest-offence" means an offence punishable under this Act or any rule made thereunder ;

(4) "forest Officer" means any person whom the State Government may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a forest Officer ;

(5) "forest produce" includes—

(a) the following whether found in, or brought from, a forest or not, that is to say :timber, charcoal, caoutchouc, catechu wood-oil, resin, natural varnish, bark lac, mahua flowers, mahua seeds, kuth and myrobalans, and

(b) the following when found in, or brought from a forest, that is to say,—

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

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

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

(iv) peat, surface oil and rock ;

(6) "landlord" means the owner of the estate or tenure in which a forest is comprised who is entitled to exercise any rights in the forest ;

(7) "owner" includes—

(i) the Court of Wards constituted under the Court of Wards Act, 1879 (Bengal Act IX of 1879), in respect of any property under the superintendence or charge of such Court.

(ii) a manager appointed under Sec. 2 of the Chhota Nagpur Encumbered Estates Act, 1876 (VI of 1876), in respect of any property, the management of which is vested in such manager,

(iii) any mortgagee in possession, lessee, receiver appointed by a competent Court and any person holding any property in trust ;

(8) "prescribed" means prescribed by rules ;

(9) "private forest" means forest which is not the property of the (Government] or over which the Government] has no proprietary rights or to the whole or any part of the forest -produce of which the [Government] is not entitled;

(10) "private protected forest" means a forest specified in a notification issued under Sec. 30 or proviso thereto;

(11) "right-holder" means a person who has by custom a right of cutting or collecting in, and removing from a forest, timber, fuel and other forest-produce for his domestic and agricultural purposes and of pasturing his cattle in a forest;

(12) "rule" means a rule made under this Act;

(13) "working plan" means a written scheme for the management and treatment of a forest prepared by the prescribed authority;

(14) "year" means a year beginning on the first day of April; and

(15) words and expressions used in this Act and defined in the Indian forests Act, 1927 (XVI of 1927), and not defined in this Act, have the meanings respectively assigned to them in the Indian forests Act 1927,

Section 4 - Rights in Forests to be exercised in accordance with this Act

The right of the landlord and, notwithstanding anything contained in any record of rights prepared under any law for the time being in force, the rights of any other person to cut, collect or remove trees, timber or other forest-produce in or from, or to pasture cattle in, any forest shall not be exercised in contravention of the provisions made in or under this Act.

Section 5 - Power to prohibit the cutting of trees for purposes of fencing or fuel

The State Government may, by notification and subject to such conditions as may be prescribed, prohibit, either generally or in any local areas, the cutting of any trees or species of trees in any forest for the purpose of fencing or fuel.

Section 6 - Restrictions on right to cut, collect or remove timber, etc. for domestic or agricultural needs

A person who has the right to cut, collect or remove trees, fuel or timber from any forest shall not cut, collect or remove such trees, fuel or timber for his domestic or agricultural needs more than is permitted by the rules.

Section 7 - Restrictions on right to reclaim land in forest for purposes of cultivation

A person has the right to reclaim land in any forest for the purposes of cultivation and the landlord of a forest shall not reclaim any land in such forest on hill slopes except in accordance with such conditions as may be prescribed including conditions as to the cutting of trees for reclaiming such land and making embankments along the contours of the land reclaimed on steep hill slopes.

Section 8 - Height at which trees and age of bamboo clump, that may be cut

No person shall, except in the exercise of right to reclaim land in a forest for the purpose of cultivation, and no landlord of a forest shall, except while reclaiming land in such forest for the purpose of cultivation, cut down any tree at a height of more than six inches from the ground or any bamboo clump less than one year old.

Section 9 - Certain persons not to sell or transfer timber cut in any forest

No person not being a landlord, a person acting under the authority of the landlord or an officer acting under the provisions of this Act, shall sell or otherwise transfer any timber obtained by him in the exercise of a right to cut timber in any forest,

Section 10 - Restrictions on right of landlord or persons claiming through landlord to cut and remove timber or forest-produce

A landlord, or a lessee or person claiming through the landlord, shall not cut or remove or permit any person to cut or remove, any tree, timber or other forest-produce in or from any forest, to such an extent as to deprive the right-holders of such quantity as the rules permit them to take in the exercise of their rights in the said forest.

Section 11 - Restrictions on right to graze cattle

No person shall, in the exercise of any customary or other right, pasture or cause to be pastured in any forest any cattle of which he is not the owner.

Section 12 - Offences under this -Chapter and trial of such offences and penalties therefor

(1) Any person who contravenes any of the provisions of this Chapter shall be punishable with fine not exceeding fifty rupees for the first offence and with

fine not exceeding one hundred rupees or simple imprisonment not exceeding three months or both for the second or any subsequent offence.

(2) Offences under this section shall be triable by a Magistrate of the first or second class, and proceedings under this section may be instituted on a complaint made by the landlord of the forest in respect of which the offence is alleged to have been committed or by any right-holder of such forest or by forest Officer or by any officer specially empowered by the State Government in this behalf.

(3) When any person is convicted of an offence under this section, he shall forfeit any trees, timber or other forest-produce in respect of which the offence is committed, if such trees, timber or other forest-produce is or are still in his possession or under his control or, if such trees, timber or other forest-produce has or have been destroyed or converted or otherwise disposed of by him, the value thereof shall be recoverable from him, in the same way as a fine imposed on him under sub-section (1).

(4) Any trees, timber or other forest-produce forfeited under this section shall be disposed of in such manner as the Collector may, subject to rules, if any, direct.

Section 13 - Power to constitute a private protected forest

If the '[State] Governments are satisfied at any time that it is necessary in the public interest to apply the provision of this Chapter to any private forest, they may constitute such forest a private protected forest in the manner hereinafter provided.