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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1417 -L.—8th December, 2011.—The Governor having been pleased to order, under rule 66 of the

Rules of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

Bill No. 15 of 2011

**THE WEST BENGAL LAND ACQUISITION LAWS
(AMENDMENT AND VALIDATION) BILL, 2011.**

**A
BILL**

to amend the Land Acquisition Act, 1894, in its application to West Bengal, and the Land Acquisition (West Bengal Amendment) Act, 1997, and to validate the action taken thereto.

WHEREAS it is expedient to amend the Land Acquisition Act, 1894, in its application to West Bengal, and the Land Acquisition (West Bengal Amendment) Act, 1997, and to validate the action taken thereto and in the manner hereinafter appearing;

Act 1 of 1894.
West Ben. Act
VII of 1997.

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

1. (1) This Act may be called the West Bengal Land Acquisition Laws (Amendment and Validation) Act, 2011.
- (2) It shall be deemed to have come into force with effect from the 1st day of April, 1997.

The West Bengal Land Acquisition Laws (Amendment and Validation) Bill, 2011.

(Clauses 2-4.)

Application and amendment of sub-section (3B) of section 9 of Act 1 of 1894.

2. (1) The Land Acquisition Act, 1894 (hereinafter referred to as the principal Act), shall, in its application to West Bengal, be amended for the purpose and in the manner hereinafter provided.

(2) In sub-section (3B) of section 9 of the principal Act, to the second proviso, the following proviso shall be added:—

“Provided also that in respect of acquisition of land made in accordance with the provisions of law in force prior to coming into force of the Land Acquisition (West Bengal Amendment) Act, 1997 (hereinafter referred to as the said Act) and subsequently notice issued and published under sub-section (1a) of section 4 of the West Bengal Land (Requisition and Acquisition) Act, 1948, as re-enacted by the West Bengal Land (Requisition and Acquisition) Re-enacting Act, 1977, but lapsed, such notice shall be deemed to be valid and the process of acquisition shall be concluded within the British Calendar year 2015 in accordance with the provisions of sub-section (3B) of this section.”.

West Ben. Act VII of 1997.

West Ben. Act II of 1948.
West Ben. Act XV of 1977.

(3) In section 11A of the principal Act, in the second proviso, for the words, figure, letter and brackets “and sub-section (3B),”, the words, figure, letter and brackets “and sub-section (3B) except cases mentioned in the third proviso,” shall be substituted.

Amendment of section 1 of West Ben. Act VII of 1997.

3. The Land Acquisition (West Bengal Amendment) Act, 1997, for sub-section (2) of section 1, the following sub-section shall be substituted:—

“(2) It shall be deemed to have come into force on the 1st day of April, 1997.”.

Validation.

4. (1) Notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority,—

- (i) the notices issued under the principal Act as amended by section 2 above, or
- (ii) the notices issued under the principal Act as amended by section 3 above,

as the case may be, shall, for all purposes, be deemed to be and to have always been validly issued in accordance with the provisions of the Land Acquisition Act, 1894, as amended by the said Act and this Act, and accordingly—

Act 1 of 1894.

- (a) no suit or other proceeding shall be maintained or continued in any court for claiming compensation;
- (b) no court or other authority shall enforce any decree or order directing payment of compensation;
- (c) anything done or any action taken or purported to have been taken or done under the principal Act shall be deemed to be, and to have always been for all purposes, as validly and effectively taken or done as if the said amendments had been in force at all material time.

(2) For the removal doubts, it is hereby declared that nothing in sub-section (1) of this section shall be construed as preventing any person from claiming compensation in accordance with the provisions of section 23, *read with* first proviso to sub-section (3B) of section 9, of the principal Act, as amended by this Act.

The West Bengal Land Acquisition Laws (Amendment and Validation) Bill, 2011.

STATEMENT OF OBJECTS AND REASONS.

The life of the West Bengal Land (Requisition and Acquisition) Act, 1948 (West Ben. Act II of 1948), as re-enacted by the West Bengal Land (Requisition and Acquisition) Act, 1977 (West Ben. Act XV of 1977) (hereinafter referred to as the said Act II) has expired on the 31st day of March, 1997.

2. Several acquisition cases remained pending where—

- (a) land has been requisitioned under section 3 of the said Act II, notice of acquisition under sub-section (1a) of section 4 of the said Act II has also been published prior to 01.04.1992 in the *Official Gazette* but award for payment of compensation could not be declared within 31.03.1995 and the same is unpaid till date; or
- (b) land has been requisitioned under section 3 of the said Act II, notice of acquisition under sub-section (1a) of section 4 of the said Act II has also published prior to 01.04.1992 in the *Official Gazette* but award for payment of compensation was declared after 31.03.1995; or
- (c) land has been requisitioned under section 3 of the said Act II, notice of acquisition under sub-section (1a) of section 4 of the said Act II was also published in the *Official Gazette* after 01.04.1992 but award for payment of compensation could not be declared within the life time of the said Act II; or
- (d) land has been requisitioned under section 3 of the said Act II but notice of acquisition under sub-section (1a) of section 4 of the said Act II was not published that is the land remained as requisitioned land only.

Since the cases mentioned in clauses (a) to (d) have not been specifically dealt with in the Land Acquisition (West Bengal Amendment) Act, 1997 and notices of the above-mentioned cases had become lapsed before coming into force of the Land Acquisition (West Bengal Amendment) Act, 1997, clause 2 of the Bill intends to amend the Land Acquisition Act, 1894, in its application to West Bengal, for making a deeming provision of validating the notices issued earlier and the action taken thereto.

3. The Land Acquisition (West Bengal Amendment) Act, 1997 (West Ben. Act VII of 1997) has been assented to by the President of India and first published in the *Calcutta Gazette, Extraordinary*, on the 2nd day of May, 1997.

The said Land Acquisition (West Bengal Amendment) Act, 1997, has been given effect retrospectively i.e. with effect from the 1st day of April, 1997, *vide* the notification No. 5559-L.A., dated the 22nd day of May, 1997, published in the *Calcutta Gazette, Extraordinary*, PART I, dated the 4th day of June, 1997, in spite of the fact that the commencement clause i.e. sub-section (2) of section 1 of the Land Acquisition (West Bengal Amendment) Act, 1997, is of prospective in nature. It is held by the Division Bench of the High Court at Calcutta and approved by the apex Court by dismissing Special Leave Petition in the matter of *the Calcutta Metropolitan Development Authority and Others Vs. Smt. Minerva Biswas* that the said notification had no effect.

Since several requisitioned land acquired or pending acquisition to be disposed of under sub-sections (3A) and (3B) of section 9 of the Land Acquisition Act, 1894, are held bad in law, clause 3 of the Bill intends to amend the commencement clause of the Land Acquisition (West Bengal Amendment) Act, 1997, to make it retrospective in operation and to validate the action taken thereto.

The West Bengal Land Acquisition Laws (Amendment and Validation) Bill, 2011.

4. The Bill has been framed with the above objects in view.

KOLKATA.

The 29th November, 2011.

MAMATA BANERJEE,

Member-in-Charge.

FINANCIAL MEMORANDUM.

The Bill involves no financial implication because no extra administrative set up is to be created to administer the proposed amended provisions.

KOLKATA.

The 29th November, 2011.

MAMATA BANERJEE,

Member-in-Charge.

By order of the Governor,

B. K. SRIVASTAVA,

*Secy.-in-charge to the Govt. of West Bengal,
Law Department.*