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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

NOTIFICATION

No. 655-Pub.—15th August, 1972—The following Order made by the President, on the advice of the Acting Prime Minister, of the People's Republic of Bangladesh on the 15th August, 1972, is hereby published for general information :—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

President's Order No. 98 of 1972.

THE BANGLADESH LAND HOLDING (LIMITATION) ORDER, 1972.

WHEREAS it is expedient to provide for the reduction of the maximum quantity of land that may be held by a family in Bangladesh and for matters ancillary thereto ;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. (1) This Order may be called the Bangladesh Land Holding (Limitation) Order, 1972.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

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

(a) "Deputy Commissioner" includes an Additional Deputy Commissioner or a Joint Deputy Commissioner ;

(b) "family" in relation to a person includes such person and his wife, son, unmarried daughter, son's wife, son's son and son's unmarried daughter ¹[:]

¹[Provided that an adult and married son who has been living in a separate mess independently of his parents continuously since ²[before the 20th day of February, 1972], and his wife, son and

¹Subs. and added by P.O. No. 138 of 1972, Art. 2.

²Subs. by P.O. No. 154 of 1972 Art. 2.

unmarried daughter shall be deemed to constitute a separate family :

Provided further that in the cases of lands held under wakf, wakf-al-aulad, debutter or any other trust where the beneficiaries have no right to alienate such lands as their personal property, all such beneficiaries together shall be deemed to constitute a separate family in relation to such lands ;]

(c) "Government" means the Government of the People's Republic of Bangladesh ;

[(d) "head of a family" means—

(i) in case other than those mentioned in the second proviso to clause (b), ²[] the person, male or female, in relation to whom a family is determined by the Revenue-officer in the prescribed manner, and

(ii) in the cases mentioned in the second proviso to clause (b), ²[] the Mutawalli, Sebait or trustee, as the case may be ;]

(e) "land" includes land covered with water at any time of the year, benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth ;

(f) "prescribed" means prescribed by rules made under this Order ; and

(g) "Revenue-officer" includes any officer whom the Government may appoint to discharge all or any of the functions of a Revenue-officer under this order or any rules made thereunder.

3. Notwithstanding anything to the contrary in any other law for the time being in force,—

(a) no family shall be entitled to retain any land held by it in excess of one hundred standard bighas in the aggregate and all lands held by it in excess of that quantity shall be surrendered to the Government ; and

(b) no family shall be entitled to acquire any land by purchase, inheritance, gift, *heba* or otherwise which, added to the land already held by it, exceeds one hundred standard bighas in the aggregate :

Provided that the limitation imposed by clause (a) shall not apply to any land held under wakf, debutter or any other religious or charitable trust, if the income from such land is exclusively dedicated to religious or charitable purposes without reservation of any pecuniary benefit for any individual :

¹Subs. by P. O. No. 138 of 1972, Art. 2.

²The words "amended as aforesaid" was omitted by P. O. No. 154 of 1971, Art. 2.

Provided further that if the income from any such land is partly dedicated to religious or charitable purposes and partly reserved for the pecuniary benefit of any individual, only such portion of the land, to be selected in the prescribed manner, shall be exempted from such limitation, as would yield the income exclusively dedicated to religious or charitable purposes.

4. The Government may relax the limitations imposed by Article 3, to such extent and subject to such conditions as it thinks fit, in the following cases, namely :—

- (a) a co-operative society of farmers where the members thereof surrender their ownership in the lands unconditionally to the society and cultivate the lands themselves;
- (b) land used for cultivation of tea, rubber or coffee ¹[or covered by orchards];
- (c) an industrial concern holding land for the production of raw materials for manufacture of commodities in its own factories;
- (d) any other case where such relaxation is considered necessary in the public interest.

5. For the purpose of clause (a) of Article 3, a family shall be deemed to be holding land in excess of one hundred standard bighas, if the aggregate of the total quantity of land held by all the members of the family on the date of submission of the statement under Article 7, together with the total quantity of land, if any, transferred by them after the ²[20th day of February, 1972], and before the date of submission of such statement exceeds one hundred standard bighas and the limitation imposed by that clause shall be applied to such family on the basis of such aggregate.

³[5A. Notwithstanding anything contained in any other law for the time being in force or in any contract or agreement, all transfers of land made by any member of a family holding land in excess of one hundred standard bighas within the meaning of Article 5, after the ⁴[15th day of August, 1972], and before the date of submission of the statement under Article 7, and also all transfers of land made by any member of any such family on or before the ⁴[15th day of August, 1972], otherwise than by written instruments duly registered before the said date shall be void.

Explanation—For the purposes of Article 5 and this Article, “transfer” includes a transfer effected in consequence of a decree of a Civil Court in a suit for the specific performance of a contract or for declaration of title or for enforcement of a mortgage security except where the mortgagee is the Government, a local authority, a scheduled bank or a co-operative society, but does not include a transfer in favour of the Government.]

¹Added by P. O. No. 138 of 1972, Art. 3.

²Subs. by P.O. No. 134 of 1972, Art. 3.

³Ins. by P. O. No. 138 of 1972, Art. 4.

⁴Subs. by P. O. No. 154 of 1972, Art. 4.

¹[5B. Notwithstanding anything contained in Articles 5 and 5A, if, in the opinion of the Government, any member of a family, holding land in excess of one hundred standard bighas within the meaning of Article 5, transfer any land after the 20th day of February, 1972, and before the 16th day of August, 1972, by a written instrument duly registered, with a view to avoiding the surrender of excess lands to the Government, the Government may pass an order declaring such transfer void.]

6. A family holding a total quantity of land in excess of one hundred standard bighas in the aggregate within the meaning of Article 5 shall have the option to select ²[] ³[, out of the lands held by it,] the lands to be surrendered to the Government being in excess of one hundred standard bighas :

Provided that all lands mortgaged to the Government, the Agricultural Development Corporation, the Agricultural Development Bank, the House Building Finance Corporation or a Co-operative Society shall be included within the quantity of land which the family is entitled to retain under this Order, to the extent they can be covered by such quantity, and shall not be so surrendered.

7. ⁴[By the 31st day of January, 1973], the head of every family holding land in excess of one hundred standard bighas within the meaning of Article 5 shall submit to the Revenue-officer, within whose jurisdiction he resides, a statement, in such form and manner as may be prescribed, showing the particulars of all lands—

- (i) held by all the members of the family on the date of submission of the statement,
- (ii) transferred by them after the ⁵[20th day of February, 1972], and
- (iii) the family chooses to surrender to the Government as provided in Article 6 ⁶[:]

⁶[Provided that the Government may extend the time for submission of such statements in all cases or in any particular case or class of cases or in respect of any area up to such date as it thinks fit].

8. If any head of a family fails, without any reasonable cause, to submit the statement required under Article 7, within the time mentioned therein or wilfully makes any omission from, or incorrect declaration in, the statement submitted by him under that Article, he shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand taka, or with both and the land for which no statement has been submitted or which has been omitted from the statement or in respect of which the incorrect declaration has been made ⁷[may be], forfeited to the Government ⁸[.].

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¹Ins. by P. O. No. 154 of 1972, Art. 5.

²The Commas and words “, out of the lands actually held by it,” was omitted by P. O. No. 138 of 1972, Art. 5.

³Ins. by P. O. No. 154 of 1972, Art. 6.

⁴Subs. by P. O. No. 138 of 1972, Art. 6.

⁵Subs. by P. O. No. 154 of 1972, Art. 7.

⁶Subs. and added by P. O. No. 6 of 1973, Art. 2.

⁷Subs. by P. O. No. 154 of 1972, Art. 8.

⁸Subs. by P. O. No. 138 of 1972, Art. 7.

⁹Omitted *ibid.*

9. Any person may furnish to the Revenue-officer the name and address of any head of a family which, according to his information and belief, holds land in excess of one hundred standard bighas.

10. (1) On receipt of a statement under Article 7 or of information under Article 9, the Revenue-officer shall have such statement or information varified¹ by necessary enquiries and shall, after giving the parties concerned an opportunity of being heard, pass an order accepting the excess lands surrendered by a family² [] :

Provided that where a family does not exercise its option to select the lands to be surrendered to the Government or the option so exercised does not conform to the provisions of Article 6, the Revenue-officer shall make such selection himself in the prescribed manner.

(2) An order of the Revenue-officer under clause (1)² [accepting any excess land] shall contain the full particulars of such land and upon the passing of such order, such land shall, subject to the provision of Article 11, vest in the Government free from all encumbrances.

³[11. (1) An appeal against an order passed by the Revenue-officer under clause (1) of Article 10, if preferred within thirty days of the date of such order, shall lie to the Deputy Commissioner.

(2) An appeal against an order passed by the Deputy Commissioner on an appeal under clause (1), if preferred within thirty days of the date of such order, shall lie to the Government.

(3) An order of the Government on an appeal under clause (2) and, subject only to such order, an order of the Deputy Commissioner on an appeal under clause (1), shall be final.]

12. All lands acquired by any family in excess of one hundred standard bighas after the date of commencement of this Order, or where a family has submitted the statement under Article 7, after the date of submission of such statement, otherwise than by inheritance, shall stand forfeited to the Government, and where any such excess land is acquired by inheritance, it shall vest in the Government free from all encumbrances.

13. The Government shall pay compensation for all excess lands⁴ [vested in the Government under clause (2) of Article 10], and also for all excess lands acquired by a family by inheritance which have vested in the Government under Article 12, at the following rates, namely :—

- (a) where the total quantity of land⁴ [so vested] does not exceed fifty standard bighas, twenty percentum of the market value of such land : and
- (b) where the total quantity of land⁴ [so vested] exceeds fifty standard bighas,—

¹The words "or forfeiting any land under Article 8, as the case may be" was omitted by P. O. No. 154 of 1972, Art. 9.

²Subs. *ibid*.

³Subs. by P.O. No. 138 of 1972, Art. 8.

⁴Subs. *ibid*, Art. 10.

- (i) for fifty standard bighas, twenty percentum of the market value of such land, and
- (ii) for the balance, ten percentum of the market value of such land :

Provided that the family shall be given the choice to select the land, for the purpose of assessment of compensation under sub-clause (i) of clause (b) :

Provided further that no compensation shall be payable for any excess land acquired by a family by inheritance which has vested in the Government under Article 12, unless the head of the family submits the full particulars of such land to the Revenue-officer within thirty days of such acquisition.

14. The amount of compensation assessed as payable to a family under Article 13 shall be paid in cash up to ten thousand taka and the balance, if any, shall be paid in savings certificates.

15. The assessment and payment of compensation under Articles 13 and 14 shall be made by the Revenue-officer in such manner as may be prescribed.

16. (1) An appeal against an order of the Revenue-officer assessing compensation under Article 15, if preferred within thirty days of the date of such order, shall lie to the Deputy Commissioner.

(2) An appeal against an order passed by the Deputy Commissioner under clause (1), if preferred within thirty days of the date of such order, shall lie to the District Judge and the order of the District Judge on such appeal shall be final.

17. Except as provided in clause (2) of Article 16, any order passed, any action taken or anything done under the provisions of this Order shall not be called in question in any Court.

18. No court shall take cognizance of an offence punishable under Article 8, except upon a complaint in writing made by the Revenue-officer ¹[].

19. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Order or any rules made thereunder.

20. A Revenue-officer may, at any time between the hours of sunrise and sunset, enter upon any land, with such officers or servants as he considers necessary, and make a survey or take measurement thereof or do any other acts which he considers to be necessary for carrying out any of his duties under this Order.

21. (1) A Revenue-officer may, for the purposes of this Order, by notice require any person to make or deliver to him a statement or to produce records or documents in his possession or control relating to any land at a time and place specified in the notice.

(2) Every person required to make or deliver a statement or to produce any record or document under clause (1) shall be deemed legally

¹The words "or by any other officer authorised by him in writing in this behalf" was omitted by P. O. No. 154 of 1972, Art. 11.

bound to do so within the meaning of sections 175 and 176 of the Penal Code (Act XLV of 1860).

22. For the purposes of any enquiry under this Order, a Revenue-officer shall have power to summon and enforce the attendance of witnesses or of any person having an interest in any land and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the case of Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908).

23. The Government may, by notification in the Official Gazette, direct that any power conferred or duty imposed by this Order upon it shall, in such circumstances and under such conditions, if any, as may be specified in such notification, be exercised or performed by any officer or authority subordinate to it.

24. Notwithstanding anything contained in this Order or in any other law for the time being in force, the Government may, by notification in the Official Gazette, at any time, further reduce the maximum quantity of land that may be held by a family in Bangladesh under this Order, and when such further reduction is made, compensation shall be paid for all excess lands that may be surrendered to, or may vest in, the Government in consequence of such reduction at the rates specified in Article 13 and all the other provisions of this Order shall, as far as may be, apply to all matters relating to such reduction.

25. The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Order.

Dacca,
The 15th August, 1972.

ABU SAYEED CHOWDHURY
*President of the
People's Republic of Bangladesh.*

AZIMUDDIN AHMAD
Deputy Secretary.