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SIND ORDINANCE NO. IV OF 1982

THE LAND REFORMS REGULATION (SIND AMENDMENT) ORDINANCE, 1982.

[4th May, 1982]

An Ordinance to amend the Land Reforms Regulation, 1972.

Preamble.

WHEREAS paragraphs 22, 24 and 25 of the Land Reforms Regulation, 1972, were amended by the Parliament by the Land Reforms (Amendment) Act, 1976, in pursuance of Article 232(2) of the Constitution of the Islamic Republic of Pakistan during the period of Emergency;

AND WHEREAS in consequence of the revocation of the Proclamation of Emergency on 15th September, 1977 , the said Act expired on the 14th day of March, 1978;

AND WHEREAS it is expedient to re-enact the amendments made in the said paragraphs by the said Act, in the manner hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977 and the Provisional Constitution Order, 1981, and with the previous sanction of the President as required by clause (2) of Article 268 of the Constitution, the Governor of Sind is pleased to make and promulgate the following Ordinance :--

Short title and commencement.

1. (1) This Ordinance may be called the Land Reforms Regulation (Sind Amendment) Ordinance, 1982.

(2) It shall come into force at once and sections 3, 4 and section 5 excepting clause (ii) and sub-paragraph (5) inserted by clause (iii) thereof shall be deemed to have taken effect on and from the 15th day of March, 1978.

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Amendment of paragraph 2 of the Land Reforms Regulation, 1972.

2. In the Land Reforms Regulation, 1972, in its application to the Province of Sind, hereinafter referred to as the said Regulation, in paragraph 2-

(i) in sub-paragraph (11), the word "and" occurring at the end shall be omitted;

(ii) in sub-paragraph (12), the full stop at the end shall be replaced by a semi colon and thereafter the following sub-paragraph shall be added, namely :-

"(13) "tenant" means a person who holds land under an-other person, and is, or but for a special contract would be, liable to pay rent for that land to that other person and includes the pre-decessors and successors-in-interest of such person; but does not include---

(a) a mortgagee of the rights of a landowner, or

(b) a person holding any land under the Federal Government or a Provincial Government or under any such statutory authority or corporation set up by any such Government as may be notified by it in this behalf, or

(c) a person to whom a holding has been transferred, or an estate or holding has been let in farm under the West Pakistan Land Revenue Act, 1967, for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or

(d) a lessee cultivating the land, either himself or thorough an-other person.".

Amendment of paragraph 22 of the Land Reforms Regulation, 1972.

3. In the said Regulation, in paragraph 22, for sub-paragraph (6), the following shall be substituted, namely:---

"(6) Nothing in this paragraph shall apply to---

(a) holdings which are jointly owned by evacuees and non-evacuees and are

required to be partitioned in accordance with the procedure prescribed under any Rehabilitation or Settlement Scheme;

(b) holding which are jointly owned by owners of land and occupancy tenants or Muqarraidare, required to be partitioned in accordance with the procedure prescribed by or under any law for the time being in force;

(c) small strips of land bonafide required for the purpose of building thereon;

(d) joint khatas when the entire area of a village or deh is redistributed amongst various land owners as a result of consolidation of holdings;

(e) a joint holding required to be partitioned for the purpose of separating the land resumed under this Regulation from the land not so resumed.".

Amendment of paragraph 24 of the Land Reforms Regulation, 1972.

4. In the said Regulation, in paragraph 24---

(i) in sub-paragraph (4), for the proviso, the following shall be substituted :---

"Provided that he may alienate the entre holding or in the case of a holding which is less than a subsistence holding, he may alienate any part of holding by way of a gift to any of his presumptive heirs or exchange with, or mortgage or otherwise alienate to, other owners or landless tenants of the same village or deh;

(ii) in sub-paragraph (5), after the word "void" occurring at the end, the words and commas "to the extent by which the economic holding or, as the case may be, subsistence holding is reduced" shall be added; and

(iii) for sub-paragraph (6), the following shall be substituted, namely :---

"(6) Nothing in this paragraph shall apply to---

(a) land whether cultivable or other, which is bonafide required for the purpose of building thereon, and any tenant in possession of such land who refuses to quit after notice, may be evicted under the orders of the Deputy Commissioner;

(b) mortgages of land, without possession, in favour of Government or an institution owned, managed or controlled by Government;

(c) the holder of a per-emption decree in respect of an area less than a subsistence holding;

(d) any land or part of any land situated within the jurisdiction of a Municipality, a Cantonment Board or an Improvement Trust and included in a House Building Scheme prepared or approved by such body.".

5. In the said Regulation, in paragraph 25---

Amendment of paragraph 25 of the Land Reforms Regulation, 1972.

(i) in sub-paragraph (1), for the letter "A", the words and comma "Subject to the other provisions of this Regulation, a" shall be substituted;

(ii) after sub-paragraph (1), the following sub-paragraphs shall be inserted, namely :---

"(1-A) A tenant who has been ejected or dispossessed form his tenancy, without due process of law, may apply for the restoration of his tenancy in accordance with the procedure prescribed by the Commission.

"(1-B) (a) The landlord shall, immediately on receiving the rent from the tenant, issue a receipt to him.

(b) All receipts issued under clause (a) shall be exempt from the stamp duty.";

(iii) after sub-paragraph (4), the following sub-paragraphs and Explanation shall be added, namely :---

"(5) Where any owner of land or any other person in possession of the land charges any amount or takes free labour from his tenant except in accordance with any law for the time being in force, the tenant may have the charges refunded or, as the case may be, labour charges recovered in accordance with the procedure prescribed by the Commission.

(6) All suits for enforcing the right of pre-emption in respect of land comprised in a tenancy shall be exclusively entertained, heard and decided by the Collector within whose jurisdiction the land in respect of respect of which the right of pre-emption has been claimed is situated and all such suits which may be pending in any court immediately before the commencement of the Land Reforms (Amendment) Ordinance, 1976, shall, on such commencement, stand transferred to the Collector concerned.

(7) Any person aggrieved by an order passed by a Collector under the preceding sub-paragraph may, within thirty days of such order, prefer and appeal to Commissioner.

(8) The Board of Revenue may, at any time of its own motion or otherwise, call for the record of any case or proceedings under this paragraph which is pending or in which a Collector or Commissioner has passed an order, for the purpose of satisfying itself as the correctness, legality or propriety of such proceedings or order, and may pass such order in relation thereto as it thinks fit :

Provided that no order shall be passed under this sub-paragraph revising or modifying the order affecting any person unless such person has been afforded an opportunity of being heard :

Provided further that the record of any case or proceedings in which a Collector or Commissioner has passed

an order shall not be called for under this sub-paragraph on the application of any aggrieved person made after the expiration of thirty days from the date of such order.

(9) For the purposes of this paragraph, a Collector, a Commissioner and the Board of Revenue shall be deemed to be a Civil Court and shall have all powers of a Civil Court under any law for the time being in force and the final order passed in such suits shall be deemed to be a decree of a Civil Court and shall be executed as such.

(10) In computing the limitation provided for in sub-paragraph (7) or sub-paragraph (8), the provisions of section 5 and section 12 of the Limitation Act, 1908 (IX of 1908), shall apply.

Explanation.---In this paragraph, "Collector", "Commissioner" and "Board of Revenue" have the meaning assigned to them in the West Pakistan Land Revenue Act, 1967 (West Pakistan Act XVII of 1967).".