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EXTRAORDINARY

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PART II—Section 1

प्राधिकार से प्रकाशित

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Separate paging is given to this Part in order that it may be filed
as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 7th February, 1969/Magha 18, 1890 (Saka)

The following President's Act is published for general information:—

THE BIHAR TENANCY (AMENDMENT) ACT, 1969

No. 7 of 1969

Enacted by the President in the Twentieth Year of the Republic
of India.

An Act further to amend the Bihar Tenancy Act, 1885.

39 of 1968. In exercise of the powers conferred by section 3 of the Bihar
State Legislature (Delegation of Powers) Act, 1968, the President
is pleased to enact as follows:—

1. This Act may be called the Bihar Tenancy (Amendment) Short title.
Act, 1969.

Amendment
of section
49F.

2. To sub-section (2) of section 49F of the Bihar Tenancy Act, 1885 (hereinafter referred to as the principal Act), the following proviso shall be added, namely:—

“Provided that a tenant who is a member of the Scheduled Tribes or Scheduled Castes may, with the previous sanction of the Collector, or a tenant who is a member of the backward classes may, without such previous sanction, enter into a simple mortgage in respect of any tenure, holding or tenancy or portion thereof with a society or bank registered or deemed to be registered under the Bihar and Orissa Co-operative Societies Act, 1935, or with a company or a corporation owned by, or in which not less than fifty-one per cent. of share capital is held by, the State Government or the Central Government, or partly by the State Government and partly by the Central Government, and which has been set up with a view to provide agricultural credit to cultivators.”

Bihar and
Orissa Act
VI of 1935.

Amend-
ment of
section
49M.

3. In section 49M of the principal Act, for sub-section (1). the following sub-section shall be substituted, namely:—

“(1) Notwithstanding anything contained in this Act,—

(a) no decree or order shall be passed by any court for the sale of the right of a tenure-holder or under-*raiyat* who is a member of the Scheduled Tribes, Scheduled Castes or backward classes in his tenure or tenancy, or in any portion thereof, nor shall any such right be sold in execution of any decree or order, except a decree for an arrear of rent which has accrued in respect of the tenure or tenancy or a decree for dues based on a simple mortgage in respect of a tenure or tenancy or a portion thereof as mentioned in the proviso to sub-section (2) of section 49F;

(b) no decree or order shall be passed by any court for the sale of the right of a *raiyat*, who is a member of the Scheduled Tribes, Scheduled Castes or backward classes, in his holding or in any portion thereof, nor shall such right be sold in execution of any decree except as provided in sub-section (2) or a decree for dues based on a simple mortgage in respect of a holding or a portion thereof as mentioned in the proviso to sub-section (2) of section 49F:

Provided that where such tenure, tenancy or holding or portion thereof belongs to a member of the Scheduled Tribes or

Scheduled Castes and it is being sold in execution of a decree for dues based on a simple mortgage as mentioned in the proviso to sub-section (2) of section 49F, it shall not be sold to a person who is not a member of the Scheduled Tribes or, as the case may be, the Scheduled Castes."

4. In section 103A of the principal Act, sub-section (4) shall be omitted.

Amendment
of section
103A.

ZAKIR HUSAIN,
President.

V. N. BHATIA,
Secy. to the Govt. of India.

Reasons for the enactment

On account of the restrictions imposed under the Bihar Tenancy Act, 1885, a person who is a member of the Scheduled Tribes, Scheduled Castes or backward classes is not permitted to execute a simple mortgage in favour of co-operative institutions or Government controlled companies or corporations specially set up to provide agricultural credit to farmers, for raising medium and long term loans for agricultural development. During the course of discussions at the meeting of the Consultative Committee on Bihar Legislation held on December 18, 1968, it was suggested that provisions corresponding to those approved for amendment of the Chota Nagpur Tenancy Act, 1908, for providing the right of simple mortgage to members of the Scheduled Tribes, Scheduled Castes and backward classes in favour of co-operative institutions and Government controlled companies and corporations specially set up for providing agricultural credit to cultivators, may be made by suitable amendment of the Bihar Tenancy Act, 1885, so that such land holders may be able to obtain medium and long term institutional credit in areas where the Bihar Tenancy Act is in force. Also, while permitting sale in execution of decree for recovery of such loans, it was considered necessary, with a view to ensuring that land belonging to the Scheduled Tribes and Scheduled Castes does not pass on to other persons, that such sale should not be in favour of a person who is

not a member of the Scheduled Tribes or, as the case may be, the Scheduled Castes.

2. With a view to making available institutional credit to such persons, it is further considered necessary to delete sub-section (4) of section 103A of the Bihar Tenancy Act so that the record-of-rights are prepared expeditiously. This sub-section was inserted by the Bihar Tenancy (Amendment) Act, 1962 (1 of 1963) for providing an additional right of appeal before finalisation of the record-of-rights. As there is already a provision for appeal under section 104G, experience has shown that the additional right of appeal provided under sub-section (4) of section 103A of the Bihar Tenancy Act has unduly delayed finalisation of record-of-rights.

3. In order to achieve these objectives, the present measure is being enacted as a President's Act.

B. R. PATEL,

*Secy. to the Govt. of India, Ministry
of Food, Agriculture, Community
Development and Co-operation
(Department of Agriculture).*