

# \*The Odisha Development Authorities Act, 1982

*An act to provide for the development of Urban and Rural areas in the State of Odisha according to plan and for matters ancillary thereto*

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Be it enacted by the Legislature of the State of Odisha in the Thirty-third year of the Republic of India, as follows :

**Statement of Objects and Reasons**—With a view to ensure planned development of different towns in the State, Regional Improvement Trusts were constituted under the Odisha Town Planning and Improvement Trust Act, 1956. These Trusts have not been able to fully achieved the objectives for which they were constituted mainly due to inadequacy of existing legal provisions. In addition to the existing cities in the State, which are fast growing, large industrial complexes are coming up at Paradeep, Talcher, Angul and other industrial growth points. Unless efforts are made from now onwards to ensure a planned development of these areas, there will be unsystematic and unplanned growth of these areas which may give rise to serious distortions in future. It is therefore, considered necessary of a constitute Development Authorities for these areas as well as for other developing and potential urban areas to ensure systematic and planned growth, with the above objective in view, it is proposed to enact a law for constitution of development authorities in different areas of the State.

2. The main objective of such authority will be to take up planned and systematic development of such areas. It will prepare development plans including zonal development plans, undertake works pertaining to construction of housing colonies, shopping centres, markets, industrial estates and provide public amenities. It will regulate development and use of land including private land and undertake schemes for improvement and clearance of slums and re-development programmes.

3. The Bill seeks to achieve the above objects.



## CHAPTER-I Preliminary

**1. Short title, extent and commencement-** (1) This Act may be called the Odisha Development Authorities Act, 1982.

(2) It shall extend to the whole of the State of Odisha.

(3) It shall come into force on such date and in such area or areas as the State Government may by notification appoint, and different dates may be appointed in respect of different areas.

**Note-1**[In exercise of the powers conferred by Sub-section (3) of Section 1 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby appoint the 1st day of September, 1983 to be the date on which the said Act shall come into force in the area comprised Master Plan area of Cuttack, Bidanasi and Choudwar to which the provisions of Odisha Town Planning and Improvement Trust Act, 1956 (Odisha Act 10 of 1957) were extended in the notification of the Government of Odisha in the erstwhile Health (L.S.G.), Urban Development and Housing and Urban Development Department No. 6918-L.S.G., dated the 30th April, 1956, No. 32300-HUD, dated the 28th July, 1983, No. 10462-L.S.G., dated the 30th December, 1960 and 9102-U.D., dated the 2nd May, 1970.]

**Note-2**[In exercise of the powers conferred by Sub-section (3) of Section 3 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby constitute a Development Authority for the Cuttack Development Area declared as such in the notification of Government of Odisha in the Housing and Urban Development Department No. 37633/H.U.D., dated the 31st August, 1983 to be known as the 'Cuttack Development Authority' with effect from the 1st day of September, 1983 consisting of the following, members, namely :

- |  |                                    |
|--|------------------------------------|
| 1. Minister of State, Housing and Urban Development    | Chairman                           |
| 2. I.A.S.  | Vice-Chairman                      |
| 3. Executive Engineer                                  | Engineer-Member                    |
| 4. O.F.S.  | Finance and Accounts, Member       |
| 5. Assistant Town Planner, Town Planning Unit, Cuttack | Town and Regional, Planning Member |
| 6. Senior Assistant Architect                          | Architect-Member                   |
| 7. Secretary, Housing and Urban Development Department | Member ex officio                  |
| 8. Chairman, Cuttack Municipal Council                 | Member.]                           |

**Note -3**[In exercise of the powers conferred by Sub-section (3) of Section 1 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby appoint the 1st day of September, 1983 to be the date on which the said Act shall come into force in the areas comprised in the Master Plan areas of Bhubaneswar, Khurda and Jatni to which the provisions of Odisha Town Planning and Improvement Trust Act, 1956 (Odisha Act 10 of 1957) were extended in the notification of the Government of Odisha in the erstwhile Health (L.S.G.) and Urban Development Department No. 603-L.S.G. dated the 18th January, 1964, No. 761-U.D., dated the 11th January, 1968, No. 26841 -U.D., dated the 23rd August, 1978, No. 19602-U.D., dated the 30th July, 1975, No. 8379-U.D., dated the 8th March, 1978 and No. 21425-U.D., dated the 11th August, 1972.]

1. Vide Notfn. No. 37631-T.P. Estt.-65/83-HUD/31.8.1983.
2. Vide Notfn. No. 37634-HUD/31.8.1983.
3. Vide Notfn. No. 37675-TPEst, 65/83HUD/31.8.1983.

**Note-1**[In exercise of the powers conferred by Sub-section (1) of Section 3 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982) the State Government do hereby declare that the areas in which the said Act has been enforced by notification of the Government of Odisha in Housing and Urban Development No. 37675-H.U.D. dated the 31 st August, 1983, shall be a Development Area for the purposes of the said Act and shall be assigned the name "The Bhubaneswar Development Area with effect from the 1st day of September, 1983.]

**Note-2**[In exercise of the powers conferred by Sub-section (3) of Section 1 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby appoint the 5th day of June, 1989, to be the date on which the said Act shall come into force in the areas comprised in the Master Plan Planning and Improvement Trust Act, 1956 (Odisha Act 10 of 1957) were extended in the notification of the Government of Odisha in the erstwhile Health (L.S.G.) and U.D. Department No. 6956-L.S.G. dated the 5th July, 1962, No. 12260-U.D. dated the 5th July, 1969, No. 5209-L.S.G. dated the 13th May, 1963, No. 4707-U.D. dated the 12th March, 1968, No. 3900 L.S.G. dated the 4th April, 1963, No. 22094-U.D. dated the 13th December, 1968 and No. 8123-U.D. dated the 20th April, 1970.]

**Note-3**[In exercise of the powers conferred by Sub-section (1) of Section 3 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby declare that the areas in which the said Act has been enforced by Notification of Government, of Odisha in Housing and Urban Development Department No. 22056/H.U.D., dated the 3rd June, 1989 shall be a Development area and shall be assigned the same "Sambalpur Development Area" with effect from the 5th day of June, 1989.]

**Note-4**[In exercise of the powers conferred by Sub-section (3) of Section 1 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby appoint the 7th day of September, 1989 to be the date on which the said Act shall come into force in the areas comprised in the Master Plan area of Paradeep to which the provisions of Odisha Town Planning and Improvement Trust Act, 1956 (Odisha Act 10 of 1957) were extended in the notification of Government of Odisha in the erstwhile Urban Development Department No. 34952-U.D., dated the 20th December, 1975 and No. 9033-U.D., dated the 30th March, 1977 and H. and U.D. Department Notification No. 34338-H.U.D., dated the 18th November, 1981.]

**Note-5**[In exercise of the powers conferred by Sub-section (1) of Section 3 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982) the State Government do hereby declare that the areas in which the said Act has been enforced by notification of Government of Odisha in Housing and Urban Development Department No. 31172-H.U.D., dated the 6th September, 1989 shall be a Development area and shall be assigned the name "Paradeep Development Area" with effect from the 7th day of September, 1989.]

**Note-6**[In exercise of the powers conferred by Sub-section (3), of Section 1 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby appoint the 18th day, of December, 1989 to be the date on which the said Act shall come into force in the areas comprised in Master Plan area of Talcher-Angul Meramundati complex to which the provisions of Odisha Town Planning and Improvement Trust Act, 1956 (Odisha Act 10 of 1957), were extended in the notification of Government of Odisha in Housing and Urban Development Department No. 51665-H.U.D., dated the 20th November, 1982 and No. 19599-H.U.D., dated the 25th May, 1988.]

1. Vide Notfn. No. 37626-HUD/31.8.1983.
2. Vide Notfn. No. TP-MP-8/89 Pt. 22056-HUD/3.6.1989.
3. Vide Notfn. No. TP-MP-8/89 Pt. 22060-HUD/3.6.1989.
4. Vide S.R.O. No. 644/89-HUD Deptt. No. 31172/6.9.1989.
5. Vide S.R.O. No. 645/89-HUD Deptt. No. 31176-TP/6.9.1989.
6. Vide S.R.O. No. 845189-HUD Deptt. No. 41702-TP/16.12.1989.



**Note** -<sup>3</sup>[In exercise of the powers conferred by Sub-section (1) of Section 3 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982) the State Government do hereby declare that areas in which the said Act has been enforced by notification of Government of Odisha in Housing and Urban Development Department No. 41702/H. U. D., dated the 16th December, 1989 shall be a development area and shall be assigned the name "Talcher-Angul Development Area" with effect from 18th day of December, 1989.]

**Note** -<sup>4</sup>[In exercise of the powers conferred by Sub-section (3) of Section 1 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby appoint the 1st day of August, 1992 to be the date on which the said Act shall come into force in the areas comprising the revenue villages/mouzas of Cuttack District as specified in the schedule annexed below :

## SCHEDULE

Sl. No.	Name of the Revenue Village mouza	Thana No.	Name of the P. S.
(1)	(2)	(3)	(4)
1.	Salijanga	74	Sukinda
2.	Baliapal	75	-do-
3.	Nandapada	76	-do-
4.	Baghuapal	77	-do-
5.	Rageda	78	-do-
6.	Rangundi	79	-do-
7.	Sulia	80	-do-
8.	Dhanurjaypur	81	-do-
9.	Jamupasi	82	-do-
10.	Khandara	83	-do-
11.	Nandiabhanga	84	-do-
12.	Saransa	85	-do-
13.	Duburi	86	-do-
14.	Dhamanagdadia	87	-do-
15.	Sansailo	89	-do-
16.	Madhapur	90	-do-
17.	Gunduchipasi	131	-do-
18.	Nazgarh (Sukinda)	132	-do-
19.	Ampalaba	133	-do-
20.	Jamupasi	134	-do-
21.	Sanatrapur	135	-do-
22.	Panasadiha	136	-do-
23.	Barapala	137	-do-
24.	Abliayapur	138	-do-
25.	Olia	139	-do-
26.	Hatimunda	140	-do-
27.	Gobaraghati	141	-do-

1. Vide S.R.O. No. 846185-HUD Deptt. No. 31706-TP/16.12.1989.

2. Vide S. R. O. No. 952/92-HUD Deptt. No. 32987-TP/27.7.1992.

(1)	(2)	(3)	(4)
28.	Sukurana		
29.	Baradi	142.	-do-
30.	Kharadi	143	-do-
31.	Ambasara	144	-do-
32.	Balipasi	145	-do-
33.	Hatibary	147	-do-
34.	Karadapal	166	-do-
35.	Damodarapur	167	-do-
36.	Raitikar	168	-do-
37.	Bairimal	169	-do-
38.	Bharadapasi	170	-do-
39.	Ankurpal	171	Sukinda
40.	Mirigichara	172	-do-
41.	Golagan	173	-do-
42.	Nimapalli	174	-do-
43.	Sendhapur	175	-do-
44.	Badpingal	176	-do-
45.	San Pingal	177	-do-
46.	San Kuradhia	178	-do-
47.	Bad Kuradhia	179	-do-
48.	Govindapur	180	-do-
49.	Kaitha	181	-do-
50.	Biritikar	182	-do-
51.	Balipasi	183	-do-
52.	Pankapal	184	-do-
53.	Nilamanideipur	185	-do-
54.	Panchabatia	186	-do-
55.	Bodasulidihi	187	-do-
56.	Manoharpur	188	-do-
57.	Digambarpur	189	-do-
58.	Monatira	190	-do-
59.	Rebana	191	-do-
60.	Dasmania	192	-do-
61.	Kacherigaon	193	-do-
62.	Chandia	194	-do-
63.	Gadapur	195	-do-
64.	Jakhapura	196	-do-
65.	Satabainsia	197	-do-
66.	Mangalpur	220	-do-
67.	Khurunti	221	-do-
68.	Nuagaon	234	-do-
69.	Baragadia	235	-do-
70.	Sarangapur	236	-do-
71.	Barakhai	237	-do-
		239	-do-



(1)	(2)	(3)	(4)
72.	Balungabandi	213	Jajpur Road
73.	Kliairadihi	214	-do-
74.	Nuagaon	219	-do-
75.	Trijanga	222	-do-
76.	Barigodha	225	Jajpur Road
77.	Dhuligarh	230	-do-
78.	Kantipur	231	-do-
79.	Dhapanki	232	-do-
80.	Managovindapur	233	-do-
81.	Godigotha	238	-do-
82.	Rampilo	240	-do-
83.	Ullala	241	-do-

**BOUNDED BY :**

North-Ganda, Nallah and Forest Block-27

South-Jomalanda (146), Godipatna (148), Jemadeipur (149), Badasitamal (164), Sanasitmal (165) and River Brahmani.

East-Chakua (203), Jagadihi (202), Chhatrakana (201), Radha nagarh (198), Labanga (211), Solagadia (212) and Gandanallah.

West-Patapur (88), Kabata (91), Kamaladeipur (92), Bandhagan (102), Dudhujori (127), Mangaipur (128), Kanchichua (129) and Pubal (130).

*Note-1* [In exercise of the powers conferred by Sub-section (1) of Section 3 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby declare that the areas in which the said Act has been enforced by notification of Government of Odisha in Housing and Urban Development Department No. 32987-H.U.D., dated the 27th July, 1992 shall be a Development area for the purpose of the said Act and shall be assigned the name "Kalinga Nagar Development Area" with effect from the 1st day of August, 1992.]

*Note-2* [In exercise of the powers conferred by Sub-section (3) and Sub-section (5) of Section 3 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby constitute a Development Authority for the Kalinga Nagar Development Area declared as such in the notification of Government of Odisha in the Housing and Urban Development Department No. 33044-H.U.D., dated the 28th July, 1992 to be known as Kalinga Nagar Development Authority with temporary headquarters at AkashSova Building, Bhubaneswar-751001 with effect from 1st June, 1993, consisting of the following members, namely :

- |   |   |
|---|---|
| 1. Minister, Works, Housing and Urban Development             | Chairman                                |
| 2. Revenue Divisional Commissioner, Central Division, Guttack | Vice-Chairman (Part-time)               |
| 3. Superintending Engineer (Civil)                            | Engineer-Member (Part-time)             |
| 4. O. F. S. (1)   | Finance and Accounts-Member (Part-time) |

1. Vide S.R.O. No. 953/92-H.U.D. Deptt. No. 33044-TP/28.7.1992.

2. Vide S.R.O. No. 435/93/-H.U.D. Deptt. No. 19451-TP/31.5.1993.

- |   |   |
|---|---|
| 5. Town Planner   | Town and Regional Planning-Member (Part-time) |
| 6. Dy. Chief Architect.   | Architect-Member (Part-time)                  |
| 7. Commissioner-cum-Secretary -to Government Housing and Urban Development Department | Member, <i>ex officio</i> ]                   |

**2. Definitions**-In this Act, unless the context otherwise requires-

- (i) "agriculture" includes horticulture, poultry farming, the raising of crops, fruits, vegetables, flowers, grass or trees of any kind, breeding of live-stock including cattle, horses, donkeys, mules, pigs, breeding of fish and keeping of bees and the use of land for grazing cattle or for any other purpose which is ancillary to the farming of land or for any other agricultural purpose, but does not include the use of land as a garden which is an appendage to a building and the expression "agricultural" shall be construed accordingly;
- (ii) "amenity" includes roads, water and electric supply, open spaces, parks, recreational grounds, cultural centres, natural features, playground, street lighting, drainage, sewerage, city beautification and such other utilities, services and conveniences as the State Government may determine to be an amenity from time to time for the purpose of this Act;
- (iii) "area of bad lay-out or obsolete development" means an area consisting of land which is badly laid out or of obsolete development not conforming to the planning or the building regulations framed under this Act together with land contiguous or adjacent thereto and defined as such in the development plan;
- (iv) "Authority" means a Development Authority constituted under Sub-section (3) of Section 3 for a development area under this Act;
- (v) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial, industrial, or other purposes, whether in actual use or not;
- (vi) "building operations" includes re-building operations, structural alterations of or additions to buildings and other operations normally undertaken in connection with the construction of buildings;
- (vii) "Chairman" means the Chairman of the authority;
- (viii) "Commerce" means the carrying on of any trade, business or profession, sale or exchange of goods of any type whatsoever and includes the running of with a view to making profit, hospitals, nursing homes, infirmaries or educational institutions, and also includes the running of sarais, hotels, restaurants and of boarding houses not attached to any educational institution and the word "commercial" shall be construed accordingly;



- (ix) "commercial use" includes the use of any land or building or any part thereof for purpose of commerce or for storage of goods, or as an office, whether attached to any industry or otherwise;
- [(ix-a) "Developer Entity" means an individual or body of individuals and includes a company or association whether incorporated or not, a co-operative society or a corporate body, or an agency, national or international, to whom a license is given to undertake development within the framework of a development plan or development scheme duly approved under this Act .]
- (x) "development" with its grammatical variations means the carrying out or building, engineering, mining or other operations in, on, over or under land or the making of any material change, in any building or land or in the use of any building or land, and includes re-developments and re-constructions and lay-out and sub-division of any land and "to develop" shall be construed accordingly;
- (xi) "development area" means the area or group of areas declared as development area under Sub-section (1) of Section 3;
- (xii) "Director" means the person appointed as Director of Town Planning, Odisha under Sub-section (1) of Section 3 of Odisha Town Planning and Improvement Trust Act, Odisha Act 10 of 1957;
- (xiii) "engineering operation" includes the formation or laying out of a street or means of access to a road or the laying out of means of water supply, drainage, electricity, gas or of other public utility service;
- (xiv) "existing land-use" means the predominant purpose for which any land or building was being used on a specified date;
- (xv) "final plot" means a plot reconstituted from an original plot and allotted in a town planning scheme 'I or in development scheme or approved layout of land] as a final plot;
- (xvi) "highway" has the same meaning as in Section 4 of the National Highways Act, 1956 (Act 48 of 1956);
- (xvii) "industry" includes the carrying on of any manufacturing process as defined in the Factories' Act, 1948 (Act 63 of 1948), and the word "industrial" shall be construed accordingly;
- (xviii) "industrial use" means the use of any land or building or part thereof for purpose of industry;
- (xix) "land" includes benefit to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;
- [(xix-a) "Land Pooling Scheme " means a scheme for assembly of small land parcels under different ownerships, voluntarily, into a large land parcel and return of a part of the reconstituted land to the owners with a provision of infrastructure in a planned manner;
- (xix-b) "Local Authority" means an urban local body, and includes Zilla Parishad, Panchayat Samiti or Gram Panchayat constituted under the provisions of the relevant Act for the control and management of development of the areas under their jurisdiction]

- (xx) "local newspaper" means any newspaper printed and published within the State of Odisha;
- (xxi) "means of access" includes any means of passage whether private or public, for vehicles or for pedestrians and includes any street;
- (xxii) "national highway" means any highway declared to be a national highway under Section 2 of the National Highways Act, 1956 (Act 48 of 1956);
- (xxiii) "notification" means a notification published in the Gazette;
- (xxiv) "occupier" includes-
- a tenant,
  - an owner in occupation of, or otherwise using his land,
  - a rent-free tenant of any land,
  - a licensee in occupation of any land, and
  - any person who is liable to the owner any consideration including damages for the use and occupation of the land;
- (xxv) "operational construction" means any construction whether temporary or permanent, which is necessary for the operation, maintenance, development or execution of any of the following services, namely :
- railways,
  - notional highways,
  - national waterways,
  - air ways and aerodromes,
  - posts and telegraphs, telephones, wireless, broadcasting and other like forms of communications,
  - regional grid for electricity,
  - any other service which the State Government may, if it is of opinion that the operation, maintenance, development or execution of such service is essential to the life of the community, by notification, declare to be a service for the purpose of this clause;
- Explanation**-For the removal of doubts, it is hereby declared that the construction of-
- new residential buildings (other than gate, lodges, quarters, for limited essential operational staff and the like), roads and drains in railway colonies; hotels, clubs, institutes and schools, in the case of railways; and
  - a new building, new structure or new installation, or any extension thereof, in the case of any other service, shall not be deemed to be operational construction within the meaning of this clause ;
- (xxvi) "owner" includes a mortgagee in possession, a person who for the time being is receiving or is entitled to receive or has received the rent or premium or any other consideration for any land whether on his own account or on account of, or on behalf of or for the benefit of any other person or who would so receive the rent or



premium or any other consideration the rent or premium or any other consideration if the land were let out to a tenant and includes the Head of a Government Department, General Manager of a Railway, the Secretary or other Principal Officer of a local authority, statutory authority or company in respect of properties under their respective controls;

(xxvii) **"private street"** means any street, road, square, court, alley, passage or riding-path, which is not a public street but does not include a pathway made by the owner of premises on his own land to secure access to or for the convenient use of such premises;

(xxviii) **"public building"** means any building to which the public or any class or section of the public are granted access or any building, which is open to the public or any class or section of the public and includes any building-

(a) used as a-

- (i) school or college or a University or other educational institution,
- (ii) hostel,
- (iii) library,
- (iv) hospital, nursing home, dispensary, clinic, maternity centre or any other like institution,
- (v) club,
- (vi) lodging house,
- (vii) choultry,
- (viii) coffee house, boarding house, hotel or eating house.

(b) Ordinarily used by the-

- (i) Central or any State Government or any local authority or any body corporate, owned or controlled by the Central or any State Government, or
- (ii) public or any class or section of the public for religious worship or for religious congregation;

(xxix) **"public open space"** means any land, whether enclosed or not, belonging to the Central or any State Government or any local authority or any body corporate owned or controlled by the Central or any State Government, on which there is no building or of which not more than one-twentieth part is covered with buildings and the whole or remainder of which is used for purpose of recreation or as open space;

(xxx) **"public place"** means any place or building which is open to the use and enjoyment of public whether it is actually used or enjoyed by the public or not, and whether the entry is regulated by any entry fee or not;

(xxxi) **"public street"** means any street, road, square, court, alley, passage or riding path over which the public have a right of way, whether a thoroughfare or not, and includes-

- (a) the roadway over any public bridge or causeway,
- (b) the footway attached to any such street, public bridge or causeway, and

(c) the drains attached to any such street, public bridge or causeway and the land, whether covered or not by any pavement, verandah or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or property belonging to the Central or any State Government;

(xxxii) **"railway"** means a railway defined in the Indian Railway Act, 1890 (Act 9 of 1890);

(xxxiii) **"reconstituted plot"** means a plot which is in any way altered by the making of a town planning scheme;

**Explanation-**For the purposes of this clause "altered" includes the alteration of ownership of plot.

(xxxiv) **"regulation"** means a regulation made under Section 124 and includes zoning and other regulations made as a part of a development plan;

(xxxv) **"residence"** includes the use for human habitation of any land or building or part thereof including gardens, grounds, garage, stables and out-houses, if any, appertaining to such building and "residential" shall be construed accordingly;

(xxxvi) **"rule"** means a rule made under this Act by the State Government;

(xxxvii) **"slum area"** means any predominantly residential area, where the dwellings which by reasons of dilapidation, overcrowding, faulty arrangements or designs, lack of ventilation, light or sanitary facilities or any combination of these factors, are detrimental to safety and health of the inhabitants or others and which is defined by development plan as a slum area;

**"[(xxxvii-a) "Special Purpose Vehicle"** means a body constituted as a company, trust or other entity for a specific purpose, which shall include activities limited to those for accomplishing the purpose of the company, trust or other entity, as the case may be:]

(xxxviii) **"to erect"** in relation to any building includes-

- (a) any material alteration or enlargement of any building,
- (b) the conversion by structural alteration of place for human habitation of any building not originally constructed for human habitation,
- (c) the conversion into more than one place for human habitation of a building originally constructed as one such place,
- (d) the conversion of two or more places of human habitation into a greater number of such places,
- (e) such alterations of a building as affect an alteration of its drainage or sanitary arrangement or materially affect its security,
- (f) the addition of any rooms, buildings, houses or other structures to any building, and
- (g) the construction in a wall adjoining any street or land not belonging to the owner of the wall, of a door opening on to such street or land;



<sup>1</sup>[(xxxviii-a) "Transferable Development Rights" means a development right to transfer the potential of a plot designated for a public purpose in a development plan, expressed in terms of total permissible built up space calculated on the basis of floor area ratio allowable for that plot, for utilization by the owner himself or by way of transfer by him to someone else from the present location to a specified area within the development plan, as additional built up space over and above the permissible limit, in lieu of compensation for the surrender of the concerned plot free from all encumbrances to the Authority;]

(xxxix) "Tribunal" means the Tribunal constituted under Section 87;

(xl) "unauthorised occupation" in relation to any premises means the occupation by any person of the premises belonging to the Authority without any authority for such occupation and included the continuance of this occupation by any person of the premises after the authority (whether by way of grant or any other mode of transfer under which he was allowed to occupy) the premises has expired or has been determined for any reasons whatsoever;

<sup>2</sup>[(xli) "urban local body" means municipality as defined in clause (e) of article 243P of the Constitution of India;]

(xlii) "Valuation Officer" means the Valuation Officer appointed under Section 33 of this Act;

(xliii) "Vice-Chairman" means the Vice-Chairman of the Authority;

(xliv) "zone" means any one of the divisions into which a development area may be divided for the purposes of development under this Act;

(xlv) words and expressions used in this Act but not defined shall have the same meaning as assigned to them in the Odisha Municipal Act, 1950 (Odisha Act 23 of 1950) as amended from time to time.

#### CHAPTER-I

#### Development Areas and Development Authorities and their Objects

**3. Declaration of development areas and constitution of Development Authority-** (1) Upon enforcement of this Act in any area or areas under Sub-section (3) of Section 1, the State Government shall, for the purposes of proper development of such area or areas, by notification, declare such area or areas to be a development area for the purposes of this Act and shall assign a name to such area.

(2) The State Government may, by notification and in accordance with such rules as may be made in that behalfs-

(a) exclude from a development area comprised therein ; or

(b) include in a development area any other area.

(3) As soon as may be after the declaration of a development area under Sub-section (1), the State Government shall, by notification, constitute for the said development area a Development Authority with effect from such date as may be specified therein.

1. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015

2. Subs. vide O.G.E. No. 1427, Dt. 06.10.2015

<sup>2</sup>[Provided that the State Government may, by notification and in accordance with such rules as may be made in this behalf, exclude any area from a development area of two or more Development Authorities and declare such area or areas as so excluded to be a development area for the purposes of this Act and assign a name to such area and constitute for the said development area a Development Authority with effect from such date as may be specified therein;]

<sup>2</sup>[(3-a) Notwithstanding anything contained in this Act, if the State Government is satisfied that proper development of development area can be ensured if two or more Development Authorities are amalgamated into a single Authority, the State Government may, after consultation with such Authorities specified, by notification, direct such amalgamation and constitute an Authority with effect from the date of such notification.

(3-b) From the date of such notification, —

(a) all properties, funds and dues which are vested in or be realizable by the existing Authorities, shall vest in or be realizable by the Authority so constituted after such amalgamation;

(b) all liabilities which are enforceable against the amalgamated Authorities shall be enforceable against the Authority so constituted after such amalgamation;

(c) for the purpose of carrying out any development which has not been carried out by the amalgamated Authorities and for the purpose of realizing properties, funds and dues as referred to in clause (a), the function of the amalgamated Authorities shall be discharged by the Authority so constituted after such amalgamation]

(4) Every Authority so constituted shall be a body corporate by the name of the development areas for which it is constituted having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable and to contract, and shall by the said name sue and be sued.

(5) The "Authority" shall consist of the following members, namely:

(a) a Chairman, who shall be appointed by the State Government;

(b) <sup>1</sup>[a Vice-Chairman, who shall be an officer of the Central or State Government to be appointed by the State Government either on whole-time or on part-time basis and shall be the Chief Executive of the Authority ;

Provided that nothing in this clause shall debar the State Government to appoint a part-time Vice-Chairman during the vacancy caused due to the absence of the Vice-Chairman, either whole-time or part-time, to avoid dislocation in the functioning of the Authority ;]

(c) an Engineer-member, to be appointed by the State Government ;

(d) a Finance and Accounts member, to be appointed by the State Government ;

(e) a Town and Regional Planning member, to be appointed by the State Government ;

(f) <sup>2</sup>[an Environment member], to be appointed by the State Government;

(g) the Secretary, Housing and Urban Development Department, Government of Odisha or his representative, member *ex officio*;

1. Substituted vide Odisha Act No. 3 of 1993.

2. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015

3. Subs. vide O.G.E. No. 1427, Dt. 06.10.2015



“(h) Chairpersons of urban local bodies, not exceeding three comprised within the development area, as may be nominated by the State Government, members, ex officio]

“[Provided that the State Government may appoint such other two members as may be considered by it, in addition to the members stated above, for any Authority, as the State Government may deem fit and such members, if appointed in any Authority, shall be subject to same terms and conditions as are applicable to the members appointed under clauses (c) to (f).]

(6) “[The members appointed under Clauses (c) to (f) of Subsection (5) may either be whole-time or part-time members.]

(7) The Vice-Chairman and the whole-time Members shall be entitled to receive from the funds of the Authority such salaries and allowances, if any, and governed by such condition of service as may be prescribed by rules made in this behalf.

(8) The Chairman, Vice-Chairman and members appointed under Clauses (c) to (f) of Sub-section (5) shall hold office during the pleasure of the State Government.

(9) “[The Vice-Chairman and any member] specified in Clauses (c) to (f) of Sub-section (5), if part-time, and the members specified in Clause (h) of that Sub-section may be paid from the funds of the Authority such allowances, if any, as may be fixed by the State Government in this behalf.

(10) A member, other than an *ex officio* member, may resign his office by writing under his hand addressed to the State Government but shall continue in office until his resignation is accepted by the State Government.

(11) No act or proceedings of the Authority shall be invalid by reason of the existence of any vacancy in, or defect in the constitution of the Authority.

(12) The Authority shall meet at such times and shall observe such rules of procedure in regard to the transaction of its business at its meeting (including quorum at meetings) as may be provided by regulations.

**Note-<sup>2</sup>**[In exercise of the powers conferred by Sub-section (1) of Section 3 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby declare that the areas in which the said Act has been enforced in the notification of the Government of Odisha in Housing and Urban Development Department No. 37631/H.U.D., dated the 31st August, 1983 shall be a Development Area for the purposes of the said Act, and shall be assigned the name The Cuttack Development Area, with effect from the 1st day of September, 1983.]

**Note-<sup>4</sup>**[In exercise of the powers conferred by Clause (h) of Subsection (5) of Section 3 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby appoint the Chairman of Choudwar Municipal Council as member of the Development Authority constituted for Cuttack Development Area with effect from the 1st day of September, 1983.]

**Note-<sup>5</sup>**[In exercise of the powers conferred by Sub-section (3) and Sub-section (5) of Section 3 of Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982) the State Government do hereby constitute a Development Authority for the Bhubaneswar Development Area declared -as such in the notification of Government of Odisha in the Housing and Urban Development Department No. 37627-H.U.D., dated the 31st August, 1983 to be known as “The Bhubaneswar Development Authority” with effect from the 1st day of September, 1983 consisting of the following members, namely :

1. Substituted vide Odisha Act No. 4 of 1985.
2. Substituted vide Odisha Act No. 3 of 1993.
3. Vide Notfn. No. 37633-HUD/31.8.1983.
4. Vide Notfn. No. 37703-T.P. Esst. 65/83 HUD/31.8.1983.
5. Vide Notfn. No. 37627-HUD/31.8.1983.
6. Subs. vide O.G.E. No. 1427, Dt. 06.10.2015
7. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015

- |  |                                   |
|--|-----------------------------------|
| 1. Minister of State, Housing and Urban Development    |                                   |
| 2. I.A.S.  | Chairman                          |
| 3. Superintending Engineer                             | Vice-Chairman                     |
| 4. O. F. S.  | Engineer-Member                   |
|  | Finance and Account               |
|  | Member                            |
| 5. Associate Town Planner                              | Town and Regional Planning-Member |
| 6. Senior Assistant Architect                          | Architect-Member                  |
| 7. Secretary, Housing and Urban Development Department | Member <i>ex officio</i>          |
| 8. Chairman, Bhubaneswar Municipal Council             | Member <i>ex officio</i>          |
| 9. Chairman, Jatni Notified Area Council               | Member <i>ex officio</i>          |
| 10. Chairman, Khurda Notified Area Council             | Member <i>ex officio</i> ]        |

“[3A. Declaration of Special Planning Area and Designation of Special Planning Authority : (1) Any Authority may, by notification, declare a part of the development area under its jurisdiction to be a Special Planning Area.

(2) As soon as may be, after the declaration of Special Planning Area under sub-section (1), the Authority may, by notification, designate a Local Authority or other Authority constituted or incorporated under the provisions of any State Act, to be Special Planning Authority for such Special Planning Area.

(3) Any power exercisable by the Authority under this Act except the power to make regulations, may also be exercised by such Special Planning Authority to such limits and on such terms and conditions as may be specified in the notification issued by the Authority in this behalf.]

**4. Staff of the Authority -** (1) Subject to such control and restrictions as may be prescribed by rules, the Authority may appoint a Secretary and such number of other officers and employees (including experts for technical work) as may and employees (including experts for technical work) as may be necessary for the efficient performance of its functions and may determine their designation and grades.

(2) The Secretary and other officers and employees of the Authority shall be entitled to receive from the funds of the Authority such salaries and such allowances, if any, and shall be governed by such conditions of service as may be determined by regulations made in this behalf.

“[(3) Notwithstanding anything contained in this Act or in the rules or regulations made thereunder, for the purpose of smooth and efficient administration of the affairs of the Authorities, the State Government may, at the instance of any Authority or otherwise, direct any Authority for transfer of any officer or employee of such Authority, by way of deputation, to another Authority for such period not exceeding six years at a time and on such conditions, as may be specified in the direction.

1. Substituted vide O. G. E. No. 442 dated 28.3.2006.
2. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015



(4) Whenever, any officer or employee belonging to an Authority is transferred under Sub-section (3), the Authority to which the officer or employee is so transferred shall be bound to accept the joining report forthwith, employ him in the service of the Authority and pay all amounts due to him on account of his pay, allowances and other dues from out of the fund of that Authority.]

<sup>2</sup>[(5) Notwithstanding anything contained in this Act or Rules or Regulations made thereunder, the State Government may, at the instance of any Local Authority or Department of the State Government or any other Authority constituted or incorporated under the provisions of any State Act or otherwise, direct any Authority for transfer of any Officer or employee of such Authority, by way of deputation, to such Local Authority or Department of the State Government or any other Authority constituted or incorporated under the provisions of the State Act for such period not exceeding six years at a time and on such terms and conditions, as may be specified in the direction and the provision of sub-section (4), shall apply to such deputation mutatis mutandis.]

#### CASE LAW :

**Sec. 4(3)(4) - Odisha Development Authorities Rules, 1983 - Rule 6(4) - Transfer order - Bhubaneswar Development Authority to Sambalpur Development Authority - Writ - For the purpose of smooth and efficient administration of the affairs of the Authorities, the State Government can direct any Authority for transfer of any Officer or employee of such Authority by way of deputation to another authority for such period which shall not exceed six years at a time and on such conditions, as may be specified in the direction - Held, order of transfer of the Government has been passed by exercise of power under Sub-section (3) of Sec. 4 of the Act, 1982 - Said order amounts to transfer of the petitioner on deputation to the SDA and such transfer cannot amount to be a transfer to a different cadre : *Md. Qaisar Iqbal Ali v. State of Odisha and others : 2013 (Supp.-II) OLR 630***

**5. Advisory Council-** (1) The State Government shall, as soon as may be after the constitution of the Authority, by notification, constitute an advisory Council for the purpose of advising the Authority on the preparation of development plans and development schemes and on such other matters relating to the planning of development, or arising out of, or in connection with, the administration of this Act as may be referred to it, by the Authority.

(2) The Advisory Council shall consist of the following members, namely :

- <sup>1</sup>[(a) The President, who shall be appointed by the State Government;]
- <sup>2</sup>[(a-1) the Vice-Chairman, member *ex officio*;
- (b) the members of the Authority referred to in Clauses (g) and (h) of Sub-section (5) of Section 3, member *ex officio*;
- (c) a member of the Odisha Legislature, representing the whole or any part of the development area, to be nominated by the State Government-member;
- (d) other members not exceeding fifteen in number to be nominated by the State Government of whom at least five shall be such non-officials who in the opinion of the State Government have special knowledge or practical experience of matters relating to labour, industry, landscaping, economics or environmental science.

1. Substituted vide Odisha Gazette Ext. No. 2185/15.12.1984 Ordinance. No. 12 of 1984.
2. Inserted vide Odisha Gazette Ext. No. 2185/15.12.1984 Ordinance. No. 12 of 1984.
3. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015

(3) The Advisory Council shall meet twice in a year and shall have the powers to regulate its own procedure.

(4) Members of the Advisory Council, other than the *ex officio* members shall hold office during the pleasure of the State Government,

(5) Members of the Advisory Council excepting the members specified in Clause (e) of Sub-section (2) may be paid such fees and allowances for attending its meetings, as may be determined by regulations made in this behalf.

**Note-<sup>1</sup>**[In exercise of the powers conferred by Sub-section (1) of Section (5) read with Clause (b) of Sub-section (2) of the said section, the State Government do hereby appoint the Chairman of Choudwar Municipal Council as a member of the Advisory Council of Cuttack Development Authority with effect from the 1st day of September, 1983.]

**Note-<sup>2</sup>**[In exercise of the powers conferred by Sub-section (1) of Section 5 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby constitute an Advisory Council for Bhubaneswar Development Authority with effect from the 1st day of September, 1983 consisting of the following members namely :

- |  |                                       |
|--|---------------------------------------|
| 1. Vice-Chairman of Bhubaneswar Development Authority  | <i>Ex officio</i> President           |
| 2. Secretary, Housing and Urban Development Department or his representative                                   | <i>Ex officio</i> Member              |
| 3. Chairman, Bhubaneswar Municipal Council   | Ditto                                 |
| 4. Chairman, Jatni Notified Area Council   | Ditto                                 |
| 5. Chairman, Khurda Notified Area Council<br>M. L. A., Jatni Constituency Member                               | <i>Ex officio</i> Member <sup>6</sup> |
| 7. Chief Architect, Odisha, Bhubaneswar  | Member                                |
| 8. Director of Town Planning, Odisha, Bhubaneswar  | Member                                |
| 9. Director of Estates and <i>ex officio</i> Deputy Secretary to Government, General Administration Department | Member                                |
| 10. Chief Engineer, Roads, Odisha, Bhubaneswar   | Member                                |
| 11. Chief Engineer, Public Health, Odisha, Bhubaneswar   | Member                                |
| 12. Chief Conservator of Forests Odisha, Cuttack   | Member                                |
| 13. Secretary to Government, Finance Department or his nominee   | Member                                |
| 14. Director of Tourism Odisha, Bhubaneswar  | Member                                |

1. Vide Notfn. No. 37706-HUD, Dt 31.8.1983.
2. Vide Notfn. No. 37628-HUD/31.8.1983.



- |  |          |
|--|----------|
| 16. Vice-Chancellor Odisha University of Agriculture and Technology, Bhubaneswar | Member   |
| 16. Member of Parliament   | Member   |
| 17. M. L. A., Khurda Constituency  | Member   |
| 18. M. L. A., Bhubaneswar Constituency   | Member   |
| 19. President, Bhubaneswar Chamber of Commerce                                   | Member.] |

*Note:* [In exercise of the powers conferred by Sub-section (1) of Section 5 of the Odisha Development Authorities Act, 1982 (Odisha Act, 14 of 1982) the State Government do hereby constitute an Advisory Council for Cuttack Development Authority with effect from the 1st day of September, 1983 consisting of the following members, namely :

- |  |                      |
|--|----------------------|
| 1. Vice-Chairman of Cuttack Development Authority              | Ex officio President |
| 2. Chairman, Cuttack Municipal Council                         | Ex officio Member    |
| 3. Chief Architect Odisha, Bhubaneswar                         | Member               |
| 4. Director of Town Planning, Odisha, Bhubaneswar              | Member               |
| 5. Chief Engineer, Roads, Odisha, Bhubaneswar                  | Member               |
| 6. Chief Engineer, Public Health, Odisha, Bhubaneswar          | Member               |
| 7. Chief Conservator of Forests, Odisha Cuttack                | Member               |
| 8. Secretary to Government, Finance Department of his nominee  | Member               |
| 9. Director of Tourism, Odisha, Bhubaneswar                    | Member               |
| 10. Vice-Chancellor, Utkal University, Vani Vihar, Bhubaneswar | Member               |
| 11. Member of Parliament                                       | Member               |
| 12. M. L. A., Cuttack Sadar                                    | Member               |
| 13. President, Cuttack Chamber of Commerce                     | Member.]             |

**6. Constitution of Committees-** (1) The Authority may constitute as many committees consisting wholly of members or wholly of other persons or partly of members and partly of other persons and for such purpose or purposes as it may think fit.

(2) A Committee constituted under this section shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be determined by regulations made in this behalf.

(3) The members of a Committee (other than those who are members of the Authority) shall be paid such fees and allowances for attending its meetings and for attending to any other work of the Authority, as may be determined by regulations made in this behalf.

1. Vide Notfn. No. 37635-HUD/31.8.1983.

**[6A. "Constitution of Special Purpose Vehicle:** The Authority may, for the purpose of carrying out any of the objects of this Act and with the approval of the State Government, constitute as many Special Purpose Vehicles as may be considered necessary consisting wholly of members or partly of members and partly of other persons.]

**7. Objects of the Authority-** The objects of the Authority shall be to promote and secure the development of all or any of the area comprised in the development area concerned according to plan <sup>2</sup>[by itself or through a Special Purpose Vehicle constituted for the purpose or through an agency or a Developer Entity] and for that purpose the Authority shall have power to acquire, hold, manage and dispose of land and other property, to carry out building, engineering, mining and other operations, to execute works in connection with supply of water and electricity, disposal of sewage, and other services and amenities and generally to do anything (including controlling development and coordinating developmental programmes of related agencies) necessary or expedient for purposes of such development and for purposes incidental thereto :

Provided that save as provided in this Act, nothing contained in this Act shall be construed as authorising the disregard by the Authority of any law for the time being in force.

### CHAPTER-III

#### Development Plans

**8. Preparation of interim development plan-** (1) The Authority shall, as soon as may be, prepare in interim development plan for the whole or part of the development area concerned :

Provided that if before the constitution of an Authority for any development area, a Master Plan of such development area or part thereof has been published under Section 31 of the Odisha Town Planning and Improvement Trust Act, 1966 (Odisha Act 10 of 1957) or approved under Section 32 of the said Act, the said Master Plan shall be deemed to be an interim development plan published by the Authority or, as the case may be, approved by the State Government under the relevant provision of this Act.

(2) The interim development plan shall indicate broadly the manner in which the area covered by it shall be used and shall contain zoning regulations regulate the development in each zone.

**9. Preparation of comprehensive development plan-** (1) Simultaneously with the preparation of the interim development plan or immediately, thereafter, the Authority shall carry out a civic survey and prepare a comprehensive development area or the part thereof, as the case may be :

The comprehensive development plan shall-

- (a) define the various zones into which the land covered by the comprehensive development plan may be divided for the purposes of development and indicate the manner in which the land in each zone is proposed to be used (whether by the carrying out thereon of development or otherwise) and the stages by which any such development shall be carried out ; and

1. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015

2. Subs. vide O.G.E. No. 1427, Dt. 06.10.2015



- (b) serve as a basic pattern of frame-work within which the zonal development plans of the various zones may be prepared.

(2) The comprehensive development plan may provide for any other matter which is necessary for the proper development of the area covered by such plan and for the health, comfort, convenience and general betterment of the present and future inhabitants of the development area.

**10. Preparation of zonal development plan-** (1) Simultaneously with the preparation of comprehensive development plan or as soon as may be thereafter, the Authority shall proceed with the preparation of a zonal development plan for each of zones into which the area covered by the comprehensive development plan may be divided.

(2) A zonal development plan may -

- (a) contain a site-plan and use-plan for the development of the area covered, by the zonal development plan and show the approximate location and extent of land-uses proposed in that area for such things as public buildings and other public works and utilities, roads, housing, recreation, industry, business, market, schools, hospitals and other categories of public and private uses;
- (b) specify the standards of population density and building density;
- (c) show every area which may, in the opinion of the Authority, be required or declared for development or re-development;
- (d) provide for all, or any of, the matters that have to be or may be indicated, defined or provided for in the comprehensive development plan with such modification as the Authority may deem fit;
- (e) provide for the improvement of areas of bad layout or obsolete development and for slum areas and for re-location of population;
- (f) in particular, contain provisions regarding all or any of the following matters, namely:
  - (i) the division of any site into plots for the erection of buildings;
  - (ii) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and other public purposes;
  - (iii) the development of any area into a township, or colony and the restrictions and the conditions subject to which such developments may, be undertaken or carried out;
  - (iv) the erection of buildings on any site and the restrictions and conditions in regard to the open spaces to be maintained in or around buildings, the percentage of built up area for a plot, the locations, number, size, height, number of storeys, the use and purpose to which buildings and specified areas of land may or may not be appropriated or used, parking spaces, and loading and unloading sites for any building and the size of projections and advertisement signs, boardings and character of building;
  - (v) the alignment of buildings on any site;
  - (vi) the architectural features of the elevation or frontage of any building to be erected on any site;

- (vii) the number of residential buildings which may be erected on any plot or site;
- (viii) the amenities to be provided in relation to any site or buildings on such site whether before or after the erection of buildings and the person or authority by whom or at whose expenses such amenities are to be provided;
- (ix) the prohibitions or restrictions regarding erection of shops, workshops ware-houses, or factories or buildings of a specified architectural feature or buildings designed for particular purposes in the locality;
- (x) the maintenance of walls, fences, hedges or any other structural or architectural construction and the height at which they shall be maintained;
- (xi) the restrictions regarding the use of any site for purposes other than erection of buildings; and
- (xii) any other matter which is necessary for the proper development of the area covered by the zonal development plan or any part thereof according to plan and for preventing buildings being erected haphazardly in that area or part thereof.

[(3) For the purpose of effective and dynamic planning mechanism, a Zonal Development Plan may be divided into various sectors and it shall indicate the manner in which the land in each sector is proposed to be used and the stages at which any such development of sectors shall be carried out.]

**10A. Preparation of local development plan :** (1) Simultaneously with the preparation of zonal development plan or as soon as may be thereafter, the Authority shall proceed with the preparation of local development plan for each of the sectors into which the area covered by zonal development plan has been divided:

Provided that the Authority may proceed with the preparation of local development plan for any area, which is part of the development area, but for which no interim, comprehensive or zonal development plan, has been prepared and in such cases, local development plans so prepared shall be incorporated as such in those development plans, as and when they are prepared and approved by the Authority.

- (2) A local development plan shall contain a site plan with a detailed road network plan for providing access to each plot and the proposed use of each plot of land in the areas under local development plan with provision of amenities besides the matters provided in sub-section (2) of section 10.

**10B. Reservation of land for housing for poor :** The Authority shall, at the time of preparation of development plans, earmark twenty percentum of the vacant land under residential land use for making provisions of housing facilities for Economically Weaker Sections and Lower Income Group categories.

1. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015

2. Subs. vide O.G.E. No. 1427, Dt. 06.10.2015



Explanation. — For the purpose of this section, the expression, —

- (i) "**Economically Weaker Section**" means the section of persons whose household income is up to the limit prescribed by the State Government, from time to time; and
- (ii) "**Lower Income Group**" means group of persons whose household income is up to the limit prescribed by the State Government, from time to time.]

**11. Submission of development plan to the State Government for approval** - Every development plan shall, as soon as may be after its preparation, be submitted by the Authority to the State Government for approval, and the State Government, in consultation with the Director, may, either approve the plan without modifications or with such modifications as it may consider necessary, or reject the development plan, with direction to the Authority to prepare a fresh development plan on lines indicated by the Government.

**12. Procedure regarding preparation and approval of development plans** - (1) Before preparing any development plan finally and submitting it to the State Government for approval, the Authority shall prepare a development plan in draft and publish it by making a copy thereof available for inspection and publishing a notice in such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions from any person with respect to the draft development plan before such date as may be specified in the notice, not being earlier than sixty days from the publication of the notice.

(2) The Authority shall also give reasonable opportunity to every local authority within whose limits any land covered wholly or partly by the development plan is situated, to make any representation with respect to the development plan.

(3) After considering all objections, suggestions and representations that may have been received by the Authority and after giving reasonable opportunity of being heard, to any person including representatives of Government Departments and authorities, who have made requests of being so heard, the Authority shall finally prepare the development plan and submit it to the State Government for approval.

(4) Provisions may be made by rules made in this behalf with respect to the form and content of a development plan and with respect to the procedure to be followed and any other matter, including time limits in connection with the preparation, submission and approval of the development plan.

(5) Subject to the foregoing provisions of this section, the State Government may direct the Authority to furnish such information as the State Government may require for the purpose of approving any development plan submitted to it under this section.

**13. Coming into operation of the development plan** - (1) As soon as may be after a development plan has been approved by the State Government, the Authority shall publish the approved development plan in such manner as may be prescribed by regulations and shall also publish a notice in the *Gazette* and in at least one local newspaper stating that the development plan has been approved and mentioning the hours and the place where a copy of the development plan may be inspected.

(2) A notice under Sub-section (1) shall be conclusive evidence that the development plan has been duly prepared and approved. The said plan shall come into operation from the date of publication of such notice in the *Gazette*.

(3) After coming into operation of the comprehensive development plan, the interim development plan shall stand superseded and shall become inoperative and the provisions of the comprehensive development plan shall have effect.

(4) After coming into operation of the zonal development plan of any zone, the provisions of the comprehensive development plan pertaining to that zone shall stand modified and altered to the extent the provision of zonal development plan are at variance with the comprehensive development plan.

[(5) After coming into operation of local development plan, the provisions of interim, comprehensive and zonal development plans pertaining to such area, shall stand modified and altered to the extent the provisions of Local Development Plan are at variance with such development plans.]

#### CHAPTER-IV

#### Modifications to the Development Plan

**14. Modification to the development plan** - (1) The Authority may make any modifications to any development plan as it thinks fit, being modifications, which, in its opinion, do not affect important alterations in the character of the plan and which do not relate to the extent of land uses or the standards of population density.

(2) The State Government may make any modifications to any development plan whether such modifications are of the nature specified in Sub-section (1) or otherwise.

(3) Before making any modifications to the development plan, the Authority or, as the case may be, the State Government shall publish a notice in such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions from any person with respect to the proposed modifications before such date as may be specified in the notice and shall consider all objections and suggestions that may be received by the Authority or the State Government.

(4) Every modification made under the provisions of this section shall be published in such manner as the Authority or the State Government, as the case may be, may specify and the modifications shall come into operation on the date of the publication or on such other date as the Authority or the State Government may fix.

(5) When the Authority makes any modifications to any development plan under Sub-section (1) it shall report to the State Government the full particulars of such modifications within thirty days of the date on which such-modifications come into operation.

(6) If any question arises, whether the modifications proposed to be made by the Authority are modifications which affect important alterations in the character of the development plan or whether they relate to the extent of land use or the standard of population density; it shall be referred to the State Government whose decision thereon shall be final.



(7) After the coming into operation of any modification under Sub-section (4), the development plan in operation shall stand modified and altered to the extent the provision contained therein, are at variance with the modified development plan.

### CHAPTER-V

#### Development of Land

**15. Prohibition of development without permission-** (1) Notwithstanding anything contained in any other law, after the constitution of an Authority for any development area under Sub-section (2) of Section 3, no person including a department of the Central or a State Government or a local authority or a body corporate constituted under any law shall within the development area-

- (i) '[subdivide or amalgamate through lay out] any land for utilising, selling, leasing out or otherwise disposing it of unless he, after obtaining written permission from the Authority, lays down and makes a street or streets giving access and '[right of way to all final plots] into which he intends to subdivide the land so as to connect them with an existing public or private street and also provides amenities, if any, specified by the development plan in operation or regulations pertaining to planning or building standards made in this behalf;
- (ii) institute or change the use of any land or building or undertake or carry out any development in any building or in or over any land without obtaining permission in writing from the concerned Authority;

Provided that no such permission shall be necessary for-

- (a) the carrying out of such works for the maintenances, improvement or other alteration of any building as may be specified by regulations made in this behalf;
- (b) the carrying out by any local authority or by any department of Government of any works for the purpose of inspecting, repairing or renewing any drains, sewers, mains, pipes, cables or other apparatus including the breaking open of any street of other land, for that purpose;
- (c) operational construction by a department of Central or a State Government or a local authority or a body corporate constituted under any law.

(2) After the coming into operation of any development plan in any area, all developments in that area shall conform to such development plan and no person shall use or permit to be used any land or building in that area otherwise than in conformity with such development plan.

(3) Notwithstanding anything contained in Sub-sections (1) and (2) development of any land begun by any department of the Central or State Government or any local authority or a body corporate constitute under any law before the commencement of this Act may be completed by that department or local authority or body corporate without compliance with the requirements of those sub-sections.

1. Subs. vide O.G.E. No. 1427, Dt. 06.10.2015

'[(4) The State Government may exclude certain categories of development having such low risk as may be prescribed, from the conditions of prior approval, if such development conforms to such terms and conditions as may be prescribed]

#### CASE LAW :

**Sec. 15 - Construction of telephone tower on the roof - Permission from the Development Authority in writing is necessary to institute or change the use of any land or building or for undertaking or carrying out any development in any building or in or over any land - Proviso (a)(b) (c) carved out certain exceptions where permission from the development authority is not required - In the present case held, O.P.Nos. 7 and 9 cannot claim exemption under proviso (c) of Section 15(1) of the Act : Swapna Ghosh and others v. Cuttack Development Authority and others : 2010 (Supp.-II) OLR 773**

**16. Application for permission-** (1) Every person including a department of the Central Government or a State Government or a local authority or a body corporate constituted under any law intending to-

- (a) subdivide '[or amalgamate] his land for utilising, selling, leasing out or otherwise disposing it of, or
- (b) institute or change the use of any land or building or under take or carry out any development in any building ; or in or over any land, except where such development is for any of the purposes specified in the proviso of Sub-section (1) of Section 15;

shall make an application in writing to the Authority for permission in such form and containing such particulars and accompanied by such documents as may be prescribed by regulations.

(2) Every application under Sub-section (1) shall be accompanied by such fee as may be prescribed by rules.

(3) On receipt of any application for permission under Sub-section (1), the Authority shall furnish the applicant with a written acknowledgement of its receipt and after making such enquiry as it considers necessary in relation to any matter specified in the development plan in operation or in relation to the regulations pertaining for planning and building standards or in relation to any other matter as may be prescribed under regulations, shall by order in writing, either grant the permission, subject to such condition, if any, as may be specified in the order or refuse to grant such permission:

Provided that where the provisions of Chapter IX have been brought into force in any area under the jurisdiction of the authority and the application for permission under Sub-section (1) relates to such area, the Authority shall not grant permission unless development charges, '[and City Infrastructure Impact fee] if any, have been paid in respect of the land or building to which the permission relates :

Provided further that before making any order refusing permission, the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused.

(4) Every order granting permission subject to conditions or refusing permission, shall state the grounds for imposing such restrictions or for such refusal, as the case may be.

1. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015



(5) Every permission granted under Sub-section (3) with or without condition shall be in such form, as may be prescribed by regulations.

(6) Every order under Sub-section (3) shall be communicated to the applicant in such manner, as may be prescribed by regulations.

(7) If the Authority does not communicate its decision either granting or refusing permission to the applicant within two months from the date of receipt of the application by the Authority, the applicant shall in the form prescribed by regulations draw the attention of the Vice-Chairman of the Authority with regard to his application, by registered post.

(8) If, within a further period of one month from the date of receipt of the application drawing such attention, as mentioned in Sub-section (7), the Authority does not communicate its decision, either granting or refusing permission such permission shall be deemed to have been granted to the applicant on the date immediately following the date of expiry of the three months' period :

Provided that in computing the period of two months under Sub-section (7) and further one month under Sub-section (8) the period in between the date of requisitioning any further information or documents from the applicant and the date of receipt of such information or document from the applicant shall be excluded.

(9) The order passed under Sub-section (3) shall, subject to the order passed in appeal, if any, be final.

(10) Where permission is refused under Sub-section (3), the applicant or any person claiming through him shall not be entitled to get refund of the fee paid on the application but the Authority may, on an application for refund being made within three months from communication of the grounds of the refusal, direct refund of such portion of the fee as it may deem proper in the circumstances of the case.

(11) The Authority shall keep in such form as may be prescribed by regulations a register of applications for permission made under this section.

(12) The said register shall contain such particulars including information as to the manner in which applications for permission have been dealt with, as may be prescribed by regulations and shall be available for inspection to the public at all reasonable hours on payment of such fees, as may be prescribed by rules.

#### CASE LAW :

**Sec. 16 - Environment Protection Act - Non-allowing of construction activities within the prescribed norms of Coastal Regulation Zone-II by Puri-Konark Development Authority - Writ - For the purpose of urban planning including Town Planning needs to be done following the provisions contained in Municipal Act and Rules - Even after Puri Municipal area is brought under Coastal Regulation Zone the law as existed in February, 1991 will be the law for all purposes i.e. law to be followed as prevailing in the field will be Municipal Act and Rules - P.K.D.A. being an authority under the E.P.Act so far as its action relates to Puri town coming under the Puri Municipality are to be covered under the provision and it has no role to play taking the help of provisions from the Odisha Development Authority Act - Any action undertaken by the PKDA under the provisions of Section 15, 16 or 91 and 92 of the O.D.A. Act are per se illegal and such action cannot be sustained in the eye of law - Held, impugned order being an action contemplated under Sub-section (3) of Section 16 of the O.D.A. Act, the same is illegal being without competency and thus**

*the same quashed PKDA being an implementing agency under the E.P. Act, 1986 needs to act following the provisions under the CRZ Notifications : Bijaya Krushna Das , President, Hotel Association of Puri v. State of Odisha and others : 2015 (I) OLR 588*

**Sec. 16(1), 16(7) and 16(8) - Construction of a residential/commercial S+8 building - Approval of plan - Deemed sanction of plan - A deemed provision is a legal fiction created by a statute and in interpreting a legal fiction the Court is to first ascertain the purpose, for which the fiction is created - In construing the fiction its effect is not to be extended beyond the purpose for which it is created - Court cannot hold that the deemed provision under Sec. 16(8) can be applied in the facts of the case : (M/s.) Z. Engineers Construction (P) Ltd. v. Bhubaneswar Development Authority and another : 2006 (II) OLR 277**

**Sec. 16(8) - Approval of Building plan - Deemed sanction of plan - Conditions in sending the form - Relevant form is Form III and the same is a statutory form - Conditions are to be mandatorily followed by anyone who seeks to invoke the benefit under Sec. 16(8) - This has not been done in the present case - Without compliance with these statutory requirements, the petitioner cannot claim the benefit of Section 16(8) : (M/s.) Z. Engineers Construction (P) Ltd. v. Bhubaneswar Development Authority and another : 2006 (II) OLR 277 .**

**Sec. 16(8) - Deemed grant of permission - Petitioner on 30.09.2008 made an application under Sec. 16 of the Act seeking permission for construction - Petitioner not communicated with any decision either of grant or refusal of permission within two months from the date of the receipt of the application - Petitioner again on 30.11.2008 made another application under Sec. 16(7) of the Act by registered post - Even after lapse of one month of receiving such letter, no communication was received - Held, all the technical requirements have been satisfied in the case - No impediment to come to a conclusion that the benefit of the deemed provision should be extended to the petitioner-company : Praxlar India Pvt. Ltd. v. Sub-Collector and Sub-Divisional Magistrate, Angul and others : 2013 (I) OLR 813 : AIR 2013 Ori. 137.**

**[16A. Common Application Form for permission : (1) Notwithstanding anything contained in this Act or in the Rules or Regulations made thereunder, for the purpose of simplification of process for grant of permission by the Authority under section 16, the State Government may prescribe Common Application Form to be used by persons requiring such permissions.**

**(2) Every person shall make a Common Application to the Authority in such Form, in such manner and subject to such conditions as may be prescribed.**

**(3) On receipt of Common Application Forms, the Authority shall transmit copies of such applications to all such Departments and Agencies of the State Government from which No Objection Certificates are required before grant of permission by the Authority and such Departments and Agencies of the State Government shall consider for grant of such No Objection Certificates to the Authority as per the time limits fixed in the rules and in the event of failure of any Department or Agencies of the State Government to communicate their views within the time limits fixed, then No Objection Certificates shall be deemed to have been obtained.**

**(4) The State Government may make rules for prescribing the detailed procedures for processing of Common Application Forms by Departments and Agencies of the State Government, and also on other such matters as required in this regard.**



(5) Notwithstanding anything contained in this section, any application pending immediately before the commencement of the Odisha Development Authorities (Amendment) Act, 2015 shall be considered in accordance with the provisions existing prior to such commencement.]

**17. Revocation of permission-**If at any time after permission for development has been granted under Sub-section (3) of Section 16, the Authority is satisfied that such sanction was accorded in consequence of any material misrepresentation or fraudulent statement contained in the application for such permission, it may, by order in writing and for reasons to be recorded cancel such permission and any development undertaken in pursuance of such permission shall be deemed to have been undertaken without permission as required under Section 15 :

Provided that before making any such order the Authority shall give reasonable opportunity to the person affected to show cause as to why such order of cancellation should not be made.

**Case Law :**

*Permission for construction of kiosks - Subsequent cancellation - Development Authority has to give a reasonable opportunity to the "person affected" to show cause as to why such order of cancellation should not be made - Principles of natural justice would be violated - In the present case expression "person affected" would include the members of the petitioner-society - Since reasonable opportunity of showing cause not given, order cancelling the earlier permission, quashed - Further direction issued : Rajpath Footpath Byabasai Sangha v. State of Odisha and 3 others : 2005 (1) OLR 21.*

**18. Appeal against the decision of the Authority under Section 16 or 17-** (1) Any applicant aggrieved by an order under Section 16 or Section 17 may, in such manner and accompanied by such fee as may be prescribed by rules prefer an appeal within forty-five days of the receipt of the order to the State Government or an officer appointed by the State Government in this behalf.

(2) The appellate authority may, after giving a reasonable opportunity to the appellant and the Authority of being heard, by order, either dismiss the appeal or allow it by passing an order granting permission unconditionally or granting permission subject to such condition, as it may think fit, or removing the conditions subject to which permission has been granted and imposing conditions, if any as it may think fit.

(3) The decision of the appellate authority shall be final and shall not be questioned in any Court of law.

**Case Law :**

*Appeal under - Right of - Third party has no such right : (M/s.) Swastik Builders and Development Pvt. Ltd. v. State of Odisha and others : AIR 2001 Ori. 80.*

**19. Use of lands and buildings in contravention of development plan -**After the coming into operation of any of the development plans in any area no person shall use or permit to be used any land or building in that area otherwise than in conformity with such development plan :

Provided that it shall be lawful to continue the use upon such terms and conditions as may be prescribed by regulations made in this behalf of any land or building for the purpose and to the extent for and to which it is being used upon the date on which such development plan comes into force.

**20. Duration of permission-**Every permission granted under this Chapter shall remain valid up to three years during which period completion certificate from a registered architect or engineer or a person approved by the Authority in the forms prescribed by regulations shall be submitted and if this is not done, the permission shall have to be re-validated before the expiration of this period on payment of such fee as may be prescribed under rules and such revalidation shall be subject to the rules and regulations then in force.

**[20A. Grant of Occupancy Certificate :** On receipt of Completion Certificate under section 20, the Authority shall consider for grant of Occupancy Certificate in such Form for authorizing occupation of the building or the premises in part or full, on payment of such fees and on such terms and conditions as may be prescribed.]

**21. Power of the Authority to undertake development-** (1) Subject to the provisions of this Act and rules or regulations made thereunder, the Authority may undertake development in any area under its jurisdiction by framing and executing development schemes.

(2) Notwithstanding anything contained in Sub-section (1), it shall be lawful for the Authority to undertake development in any area outside its jurisdiction for the purpose of providing amenities and utilities which are wholly or partly beneficial to the residents of the area under its jurisdiction.

(3) A development scheme may make provision for all or any of the following matters, namely :

- (a) acquisition of land by purchase, lease or otherwise and to erect thereon such buildings or to carry out such operations as may be necessary for the purpose of carrying on its objects;
- (b) construction, maintenance, extension, management and conduct of-
  - (i) any undertaking for the generation or supply and distribution, or for both of electricity and gas to the public;
  - (ii) any undertaking for providing adequate water supply;
- (c) disposal of sewage and manufacture of sewage gas;
- (d) layout or re-layout of vacant or built-up land covered by the scheme;
- (e) filling up or reclamation of low-lying, swampy or unhealthy areas or levelling of land;
- (f) layout of new streets or roads and construction, diversion, extension, alteration, improvement or closure of streets, road, traffic islands and communications;
- (g) construction, reconstruction, alteration, improvement and maintenance of buildings, public streets, bridges, culverts, cause-ways and other structures;
- (h) assembling, relaying out and re-distribution of property comprised in the scheme;
- (i) lighting, watering and cleaning of streets and other public places;



- (j) allotment or reservation of land for roads, open spaces, gardens, recreational grounds, schools, markets, green-belt and dairies, transport facilities and public purpose of all kinds;
- (k) undertaking housing schemes for different income groups, commercial areas, industrial estates and similar type of development;
- (l) construction of roads and highways;
- (m) construction of Schools and educational institutions;
- (n) construction and management of industrial estates or shopping centres, methods of financing and other allied matters;
- (o) acquisition by purchase, exchange or otherwise of any property necessary for or affected by the execution of the scheme;
- (p) provision for drainage and irrigation works;
- (q) closure or demolition of dwelling or portions of dwelling unfit for human habitation;
- (r) demolition of obstructive buildings or obstructive portions of buildings;
- (s) sale, lease, exchange or auction of any property comprised in the scheme;
- (t) provision of sanitary arrangements required for the area comprised in the scheme including drains, disposal of waste and refuse and the conservation of and prevention of injury or contamination to rivers or other sources and means of water supply;
- (u) advance of money for the purposes of the scheme;
- (v) preservation of objects of historical or national interest or natural beauty and of buildings actually used for religious purposes;
- (w) planting and care of trees on roadsides and elsewhere;
- (x) construction and maintenance of rest houses, poor houses, infirmary, children's homes, houses for the deaf and dumb and for disabled and handicapped children and shelters for destitute and disabled persons;
- (y) improvement and clearance of slum areas, re-settlement of inhabitants, etc.;
- (z) construction and maintenance of ware houses and godowns;
- (z a) Organisation, construction, maintenance and management of swimming pools, public washing ghats, bathing places, etc.;
- (z b) any other matter not inconsistent with the object of this Act.

(4) The Authority may, on such terms and conditions as may be agreed upon, undertake execution of any development in a development area on behalf of a local authority, body corporate co-operative society, an employer or a department of the State or the Central Government.

Provided that permission for such development has been obtained from the Authority under the provisions of this Act by the concerned local authority, body corporate, Co-operative society, employer or, as the case may be, the department of the State or Central Government.

“(5) For the purpose of implementation of the provisions of development scheme specially when lands covered under such scheme, do not belong to the State Government and to provide for mechanism for carrying out matters related to clauses (a), (d), (h), (j) and (z) of sub-section (3), and to carry out such other matters not inconsistent with the object of this Act, the State Government may make rules for execution of Land Pooling Schemes for successful implementation of development schemes which shall prescribe for matters related to declaration of intention, reservation and allotment of land under Land Pooling Scheme, methods of verification of land records, provisions to deal with disputed ownership, effect of declaration of intention, manner of preparation of such schemes.

(6) The Authority may, on such terms and conditions as may be prescribed by regulations to be made in this behalf, grant a license to a Developer Entity for framing and executing a development scheme in respect of Land Pooling Scheme in the development area, on behalf of the Authority.]

#### CHAPTER-VI

##### Town Planning Schemes

**22. Preparation of town planning scheme** - Subject to the provisions of this Act and rules made thereunder the Authority may make one or more town planning schemes for the area under its jurisdiction or any part thereof.

(2) Notwithstanding anything contained in Sub-section (1) it shall be lawful for an Authority to undertake preparation and execution of a town planning scheme in any area outside its jurisdiction for the purpose of providing amenities and utilities wholly or partly beneficial to the residents of the area under its jurisdiction.

(3) A town planning scheme may be made in accordance with the provisions of this Act in respect of any land which is in the course of development or is likely to be used for building purposes or is already built upon.

**Explanation** For the purpose of this sub-section the expression “land likely to be used for building purposes” shall include any land likely to be used as, or for the purpose of providing open spaces, roads, streets, parks, pleasure or recreation grounds, parking spaces or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not.

(4) A town planning scheme may make provisions for all or any of the following matters, namely:

- (a) any of the matters specified in Sub-section (2) of Section 10 or Sub-section (3) of Section 21;
- (b) the layout or re-layout of vacant or built upon land comprised in the town planning scheme;
- (c) the filling up or reclamation of low-lying swamps or unhealthy areas or levelling of land;
- (d) layout of new streets or roads or construction, diversion, extension, alteration, improvement or closing of streets, roads or communications;
- (e) the construction or alteration, removal of buildings, bridges, or other structures;



- (f) the re-distribution of sites belonging to owners of property, comprised in the town planning scheme;
- (g) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets, green belt and dairies, transport facilities and public purposes of all kinds;
- (h) undertaking housing scheme for different income groups, and undertaking development or re-development of commercial areas, industrial estates and similar type of development;
- (i) the drainage, sewerage, water-supply, lighting or gas-supply;
- (j) the acquisition by purchase, exchange or otherwise of any property necessary for or affected by the execution of the town planning scheme;
- (k) closure or demolition of dwelling or portion of dwelling unit for human habitation;
- (l) the demolition of obstructive buildings or portion of buildings;
- (m) the sale, lease, exchange of any property comprised in the town planning scheme;
- (n) the provision of sanitary arrangements required for the area comprised in the town planning scheme including drains, the disposal of waste and refuse and the conservation of and prevention of injury or contamination to rivers or other sources and means of water-supply;
- (o) advance of money for the purpose of the town planning scheme;
- (p) the preservation of objects of historical or national interest or natural beauty and of buildings actually used for religious purposes;
- (q) the imposition of conditions and restrictions in regard to open spaces to be maintained around buildings, the percentage of building areas for a plot, the number, size, height and character of buildings allowed in specified areas, the purposes for which buildings or a specified area may or may not be used, the subdivision of plots, the discontinuance of objectionable uses of land in any area in reasonable periods, parking spaces and loading and unloading spaces for any building and their sizes of projection and advertisement signs;
- (r) the suspension as far as may be necessary for the proper carrying out of the scheme, of any rule, bye-law, regulation, notification or order made or issued under any law for the time being in force which the legislature of the State of Odisha is competent to amend;
- (s) the reservation of land to the extent of ten per cent, or such percentage as near thereto as possible of the total area, covered under the town planning scheme, for the purpose of providing housing accommodation to the members of the socially and economically backward classes of people;
- (t) such other matters not inconsistent with the objects of this Act as may be prescribed by rules.

(5) In making provisions in a town planning scheme, for any of the matters referred to in Sub-section (4) it shall be lawful for any Authority with the approval of the State Government and subject to the provisions of Section 30 to provide for suitable amendments of the development plan.

### 23. Declaration of intention to prepare a town planning scheme -

(1) Before making any town planning scheme in respect of any area, the Authority may, by resolution declare its intention to make such a scheme in respect of such area.

(2) Within thirty days from the date of the declaration of the intention to make town planning scheme under Sub-section (1), the Authority shall publish the declaration (hereinafter referred to as declaration) in the Gazette and in such other manner as may be prescribed by rules and despatch a copy thereof, alongwith a plan showing the area which it proposes to include in the town planning scheme, to the State Government.

(3) Within fifteen days from the date of publication of the declaration under Sub-section (2) the Authority shall publish a notice in the manner prescribed by rules in the Gazette and at least in one local newspaper inviting informations in the form prescribed by rules, to be furnished within two months from the date of publication of such notice in respect of any title or interests any person may have, in the lands or buildings covered by the intended town planning scheme.

(4) A copy of the plan despatched to the State Government under Sub-section (1) shall be open to inspection by the public at the time and place to be specified in the notice.

### 24. Preparation and publication of draft town planning scheme etc.-(1)

Within twelve months from the date of declaration of intention to prepare a town planning scheme the Authority shall prepare a draft town planning scheme for the area in respect of which the said declaration has been made :

Provided that on application by the Authority in behalf, the State Government may, from time to time, by notification extend the aforesaid period by such period or periods, as may be specified therein, so however that the period or periods so extended shall not, in any case, exceed six months in aggregate.

(2) The Authority shall immediately after the preparation of the draft town planning scheme prepare a notice stating that draft town planning scheme in respect of the area for which intention to prepare such scheme was declared under Sub-section (1) of Section 23 has been prepared and that the boundaries of the area comprised in the town planning scheme and the place and the time at which particulars of the scheme may be seen, the notice shall also state as to where and during what hours a copy thereof or any extract therefrom certified to be correct, shall, on application, be available for sale to the public at a price to be mentioned in the notice.

(3) The Authority shall-

- (a) cause the said notice to be published in the Gazette and in at least one local newspaper inviting objections and suggestions in writing from the interested person within forty-five days of the publication of the notice in the Gazette ; and
- (b) serve a copy of the notice within thirty days of the publication of the notice in the Gazette under Clause (a), on each of the owners of land comprised in the town planning scheme, or any person or persons believed to be interested therein.

(4) If the Authority fails to make a draft town planning scheme within the period specified in Sub-section (1) or within the period extended under the proviso to Sub-section (1), the declaration shall lapse.



**25. Power of State Government to require Authority to make town planning scheme** - Notwithstanding anything contained in Sections 23 and 24, the State Government may, after making such enquiry as it may deem necessary, by notification, require any Authority to make and publish in the manner prescribed by rules and submit to it for sanction, a draft town planning scheme in respect of any area in regard to which a town planning scheme may be made.

(2) For the purposes of this Act and the rules made thereunder, the publication of notification under Sub-section (1) shall be deemed to be publication of a declaration under Sub-section (2) of Section 23.

**26. Inclusion of additional area in a draft town planning scheme** - If, at any time, before a draft town planning scheme is prepared and submitted to the State Government for sanction, the Authority is of the opinion that an additional area be included within the said scheme, the Authority may, after informing the State Government and after giving notice in the *Gazette* and in at least on local newspaper include such additional area in the draft town planning scheme and thereupon all the provisions of Sections 22, 23, 24 and 25 shall apply in relation to such additional area as they apply to any original area of the town planning scheme and the draft town planning scheme shall be prepared for the original area and such additional area and be submitted to the State Government for sanction.

**27. Contents of draft town planning scheme** - A draft town planning scheme shall contain all or any of the following particulars, as far as may be necessary, namely :

- (a) the ownership, area and tenure of each original plot;
- (b) particulars of land allotted or reserved under Clauses (a) and (g) of Sub-section (4) of Section 22 with a general indication of uses to which such land is to be put and the terms and conditions subject to which, such land is to be put to such use ;
- (c) the extent to which it is proposed to alter the boundary of original plots by reconstitution;
- (d) an estimate of the total cost of the town planning scheme and the net cost to be borne by the Authority;
- (e) a full description of all the details of the town planning scheme with respect to the matters referred to in Sub-section (4) of Section 22 as may be applicable;
- (f) the laying out or re-laying out of land, either vacant or already built upon;
- (g) the filling up or reclamation of low lying swampy or unhealthy areas or levelling up of land, if such land exists in the town planning scheme area ; and
- (h) any other particulars which may be prescribed by rules.

**28. Reconstituted plots** - (1) In the draft town planning scheme, the size and shape of every reconstituted plots shall be determined, so far as may be, to render it suitable for building purposes, and where a plot is already built upon, to ensure that the building, as far as possible, complies with the provisions of the draft town planning scheme as regards open spaces.

(2) For the purposes of Sub-section (1) a draft town planning scheme may contain proposals-

- (a) to form a final plot by reconstitution of an original plot by alteration of the boundaries of the original plot if necessary ;
- (b) to form a final plot from an original plot, by the transfer wholly or partly of any adjoining lands ;
- (c) to provide with the consent of the owners, that two or more original plots, which are owned by several persons or owned by persons jointly be held in ownership in common as a final plot, with or without alteration of boundaries ;
- (d) to allot a final plot to any owner, disposed of land in furtherance of the town planning scheme; and
- (e) to transfer the ownership of an original plot from one person to another.

(3) Where the purposes to which any buildings or specified areas may not be appropriated have been specified in accordance with Clause (q) of Sub-section (4) of Section 22, such buildings or areas shall cease to be used for a purpose, other than the purposes specified in the draft town planning scheme, within such time as may be specified in the final town planning scheme and the person affected by this provision, shall be entitled to compensation from the Authority in the manner and according to the method prescribed by rules :

Provided that in ascertaining such compensation, the time within which the person affected was permitted to change the use shall be taken into consideration.

**29. Disputed ownership** - (1) Where there is dispute as to the ownership of any land included in an area, in respect of which a declaration has been made under Sub-section (1) of Section 23 and any entry in the records-of-right or mutation relevant to such dispute is inaccurate or inconclusive, an enquiry may be held on an application being made by the Authority or the Valuation Officer at any time prior to the date on which the Valuation Officer draws up the preliminary town planning schemes under Section 35 by such officer as the State Government may appoint for the purpose of deciding as to who shall be deemed to be the owner for the purposes of this Act.

(2) Such decision shall not be subject to appeal but it shall not operate as a bar to a regular suit in the Court of competent jurisdiction.

(3) Such decision shall, in the event of the Civil Court passing a decree which is inconsistent therewith, be corrected, modified, or rescinded in accordance with such decree, as soon as practicable, after such decree has been brought to the notice of the Authority by the Civil Court or the person concerned.

(4) Where such a decree of the Civil Court is passed after the final town planning scheme has been sanctioned by the State Government under Section 48 such final scheme shall be deemed to be suitably varied by reason of such decree.

**30. Objection to draft town planning scheme to be considered** - All objections, suggestions or representations received in respect of a draft town planning scheme in response to, and within the period specified in the notice published under Clause (a) of Sub-section (3) of Section 24 shall be



forthwith considered by the Authority which may, after hearing all such persons making any such objections, suggestions or representations as may have desired to, be heard or their duly authorised agents, may, at any time before submitting the draft town planning scheme to the State Government, as hereinafter provided, modify such town planning scheme as it considers fit.

**31. Power of State Government to sanction draft town planning scheme**—The Authority shall, within six months from the date of publication of the notice regarding preparation of the draft town planning scheme under Clause (a) of Sub-section (3) of Section 24, submit the draft town planning scheme with modification, if any, that (may have been made under Section 30, together with the objections, suggestions and representations which may have been communicated to it to the State Government for sanction.

(2) After receiving the draft town planning scheme and after making such enquiry as it may think fit, the State Government may, within six months from the date of its receipt by notification, either sanction the draft town planning scheme with or without modification or subject to such conditions as it may think fit to impose, or refuse to accord sanction.

(3) If the State Government sanctions the draft town planning scheme, it shall in such notification mention the place at which and time during which the draft town planning scheme as so sanctioned shall be open to inspection by the public and the State Government shall also mention therein where and during what hours a copy thereof or any extract therefrom, certified to be correct, shall on application be available for sale to the public at a price to be mentioned in the notice.

**[31A. Effect of sanction of Draft Town Planning Scheme :]** (1) Where a draft scheme has been sanctioned by the State Government under sub-section (2) of section 31 (hereinafter referred to as the sanctioned draft scheme), all land required by the Authority for the purposes specified in clauses (d), (i) and (n) of sub-section (4) of section 22 shall vest absolutely with the Authority free from all encumbrances.

(2) Nothing in sub-section (1) shall affect any right of the owner of the land so vested for the purpose mentioned in that sub-section.

(3) Provisions of sections 51 and 52 shall, mutatis mutandis, apply to the sanctioned draft scheme as if, the sanctioned draft scheme were a preliminary town planning scheme.]

**32. Restriction on use and development of land after publication of draft town planning scheme**—<sup>2</sup>[(1) On or after the date on which declaration of intention has been made by the Authority under sub-section (1) of section 23 and duly published as required under sub-section (2) thereof, no person shall, within the area in respect of which the intention has been declared, carry out any development unless such person has applied for and obtained necessary permission from the Authority for doing so in the form as may be prescribed.]

(2) Where an application for permission under Sub-section (1) is received by the Authority, it shall send to the applicant a written acknowledgement of its receipt and after making such enquiry as it deems fit and in consultation with the Valuation Officer, if any, may either grant or refuse such permission or grant it subject to such conditions as it may think fit to impose.

1. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015

2. Subs. vide O.G.E. No. 1427, Dt. 06.10.2015

(3) The provisions of Sections 90, 91 and 93 shall as far as may be, apply in relation to unauthorised development or use of land included in a town planning scheme.

(4) The restrictions imposed by this section shall cease to operate in the event of the State Government refusing to sanction the draft town planning scheme or the preliminary town planning scheme, or in the event of the withdrawal of the town planning scheme under Section 49 or in the event of the declaration of intention lapsing under Sub-section (4) of Section 24.

(5) Any diminution in the value of an original plot occasioned by any contravention of the provision of Sub-section (1) or of any condition imposed under Sub-section (2) shall, notwithstanding anything contained in Sections 60, 61 and 62 be taken into account in fixing the market value of such plot.

(6) On and after the date referred to in Sub-section (1), the Authority intending to carry out development of any land, within the area included in the town planning scheme, for its own purpose in exercise of its powers under any law for the time being in force, shall carry out such development in conformity with the provisions of such scheme, and of the bye-law and regulations relating to construction of buildings.

(7) The provisions of this section shall not apply to any operational constructions undertaken by the Central Government or a State Government.

**33. Appointment of Valuation Officer**—(1) Within one month from the date, on which the sanction of the State Government to a draft town planning scheme is notified in the Gazette, the State Government shall appoint a Valuation Officer, possessing such qualifications as may be prescribed by rules for the purpose of such town planning scheme and provide him with such number of officers and staff as may be considered necessary and his duties shall be as hereinafter provided.

[Provided that the State Government may, on the request made by the Authority, appoint a Valuation Officer within one month from the date of publication of the draft town planning scheme under subsection(3) of section 24.]

(2) When a person appointed as Valuation Officer under Sub-section (1) ceases to hold the office and another person is appointed in his place, any proceedings pending before such officer immediately before the date he ceases to hold the office, shall be continued and disposed of by the Valuation Officer appointed in his place.

(3) A Valuation Officer appointed under Sub-section (1) for the purpose of any town planning scheme shall cease to hold office with effect from the date on which the final scheme is sanctioned under Section 48.

**34. Duties of Valuation Officer**—Within a period of twelve months from the date of his appointment, subject, however, to the provisions of Sub-section (2) of Section 33, the Valuation Officer shall, after following the procedure prescribed by rules, subdivide the town planning scheme into a preliminary town planning scheme and a final town planning scheme:

Provided that the State Government may, from time to time, by order in writing, extend the said period by such further period or periods, as may be specified in the order and any such order, extending, the period may be made so as to have retrospective effect.

1. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015



35. Contents of preliminary and final town planning scheme-(1) In a preliminary town planning scheme, the Valuation Officer shall -

- (i) after giving notice in the manner and in the form prescribed by rules to the persons affected by the town planning scheme, define and demarcate the areas allotted to, or reserved for, any public purpose, or for any purpose of the Authority and the final plots;
- (ii) after giving notice as aforesaid, determine in a case in which a final plot is to be allotted to persons in ownership in common, the shares of such persons;
- (iii) provide for the total or partial transfer of any right in an original plot to a final plot or provide for the transfer of any right in an original plot, in accordance with the provisions of Section 64;
- (iv) determine the period within which the works provided in the town planning scheme shall be completed by the Authority.

(2) The Valuation Officer shall submit the preliminary town planning scheme so prepared, to the State Government for sanction and shall thereafter prepare and submit to the State Government the final town planning scheme in accordance with the provisions of Sub-section (3).

(3) In a final town planning scheme, the Valuation Officer shall-

- (i) fix the difference between the total of the values of the original plots and the total of the values of the final plots included in the town planning scheme in accordance with the provisions of Clause (f) of Sub-section (1) of Section 60;
- (ii) determine whether the areas used, allotted, or reserved for a public purpose or purposes of the Authority are beneficial wholly or partly to the owners or residents within the area of the town planning scheme;
- (iii) estimate the portion of the sums payable as compensation on each plot used, allotted or reserved for a public purpose, or for the purpose of the Authority which is beneficial partly, to the owners or residents within the area of the town planning scheme and partly to the general public, which shall be in the cost of the town planning scheme;
- (iv) calculate the contribution to be levied under Sub-section (1) of Section 62, on each plot used, allotted or reserved for a public purpose or for the purpose of the Authority, which is beneficial partly to the owners or residents within the area of the town planning scheme and partly to the general public;
- (v) determine the extent of exemption, if any, from the payment of contribution that may be granted in respect of plots exclusively occupied for religious or charitable purposes;
- (vi) estimate the increment to accrue in respect of each final plot included in the town planning scheme in accordance with the provisions of Section 61;
- (vii) calculate the proportion of the contribution to be levied on each plot in the final town planning scheme to the increment estimated to accrue in respect of such plot under Sub-section (1) of Section 62;

- (viii) calculate the contribution to be levied on each final plot included in the final town planning scheme;
- (ix) determine the amount to be deducted from or added to, as the case may be, the contribution leviable from a person in accordance with the provisions of Section 63;
- (x) estimate with reference to claims made before him, after notice has been given by him in the manner and in the form prescribed by rule, the compensation to be paid to the owner of any property or right injuriously affected by the making of the town planning scheme in accordance with the provision of Section 65;
- (xi) draw in the form prescribed by rules the preliminary and the final town planning scheme in accordance with the draft town planning scheme:

Provided that the Valuation Officer may make variation from the draft town planning scheme, but no such variation, if it is of a substantial nature, shall be made except with the previous sanction of the State Government and except after hearing the Authority and any owners who may raise objections.

**Explanation-(i)** For the purpose of this proviso "variation of a substantial nature" means a variation which is estimated by the Valuation Officer to involve and increase of ten per cent in the costs of the scheme as is described in Section 60 or rupees one lakh, whichever is lower, on account of the provisions of new works or the allotment of additional sites for public purposes included in the preliminary town planning scheme drawn up by the Valuation Officer.

(ii) If there is any difference of opinion between the Valuation Officer and the Authority as to whether a variation made by the Valuation Officer is of substantial nature or not, the matter shall be referred by the Authority to the State Government whose decision thereon shall be final.

**36. Certain decision of Valuation Officer to be final-**Except in matters arising out of Clauses (iii), (iv), (vi), (vii), (viii) and (x) of Sub-section (3) of Section 35 every decision of the Valuation Officer shall be final and binding on all persons including the Authority.

**37. Appeal-**All decisions of the Valuation Officer under Clauses (iii), (iv), (vi), (vii), (viii) and (x) of Sub-section (3) of Section 35 shall forthwith be communicated to the party concerned in the form prescribed by rules and any party aggrieved by such decision, may, within one month from the date of communication of the decision, prefer an appeal to the Board of Appeal constituted under Section 38.

**38. Constitution of Board of Appeal-(1)** The State Government shall, by notification, constitute one or more Boards of Appeal having such local jurisdiction as may be specified in the notification.

(2) Each Board of Appeal shall consist of a president and two members to be appointed by the State Government.

(3) [The President shall be a person who is or has been, a District Judge or Additional District Judge in the State of Odisha] and the members shall be persons having knowledge and experience in valuation of land, town planning or civil engineering.

<sup>2</sup>[Provided that such District Judge or Additional District Judge must not have been prematurely retired.]

1. Subs. vide O.G.E. No. 1427, Dt. 06.10.2015

2. Added vide O.G.E. No. 1427, Dt. 06.10.2015



(4) The President and the members shall be appointed for such period as may, from time to time be specified by the State Government.

(5) The State Government after giving an opportunity of being heard may, if it thinks fit, remove for incompetence or misconduct or for any other good and sufficient reason the President or any member appointed under Sub-section (2).

(6) The Board of Appeal shall hear and dispose of appeals preferred to it under Section 37.

(7) If the President or any member is removed or lies, or refuses or neglects to act or becomes incapable of acting, the State Government shall appoint forthwith another person in his place.

**39. Power of the President to require Valuation Officer to be present during hearing-**The President may require the Valuation Officer to be present at the hearing of the appeal for assisting it on matters to be determined by the President.

**40. Place where Board may sit-**The Board of Appeal may sit at such place as the State Government may determine.

**41. Decision of question of law and other questions-** All questions of law and procedure shall be decided by the President and all other questions shall be decided by the President and the two members or by a majority of them.

**42. Powers of Board to decide matters finally-** (1) After making such inquiry as it may think fit, the Board of Appeal may either direct the Valuation Officer to reconsider his proposals or may accept, modify, vary or reject the proposals of the Valuation Officer.

(2) The decision of the Board of Appeal shall be final and binding on all persons.

**43. Board not to be a Court-**Nothing contained in this Act shall be deemed to constitute the Board of Appeal to be a Court.

**44. Remuneration of President and members-** (1) The President and the members shall, save, where they are salaried Government Officers, be entitled to such remuneration, either by way of monthly salary or by way of fees or partly by way of salary and partly by way of fees, as the State Government may, from time to time, determine.

(2) The salary of the President of the Board of Appeal or a member who is a salaried Government officer and any remuneration payable under Sub-section (1) and all expenses incidental to the working of the Board of Appeal shall, unless the State Government otherwise determines be defrayed out of the funds of the Authority and shall be added to the costs of the town planning scheme.

**45. Decision of Valuation Officer to be final in certain matters and variation of scheme in view of decision in appeal-** (1) Where no appeal has been preferred under Section 37 in respect of a matter arising out of Clause (iii), Clause (iv), Clause (vi), Clause (vii), Clause (viii) or Clause (x) of Sub-section 3 of Section 35, the decision of the Valuation Officer shall be final and binding on the parties.

(2) The Board of Appeal shall send a copy of its decision in appeal to the Valuation Officer who shall, if necessary make any variation in the town planning scheme in accordance with such decision and shall forward

the final town planning scheme together with a copy of his decision under Section 36 and a copy of the decision of the Board of Appeal to the State Government for sanction.

**46. Power of Valuation Officer to split up draft town planning scheme into separate sections-** (1) After a Valuation Officer has been appointed under Section 33, the Authority may apply to him to split up the draft town planning scheme into different sections and to deal with each section separately as if such section were a separate draft town planning scheme.

(2) On receipt of an application under Sub-section (1), Valuation Officer may, after making such inquiry as he think fit, split up the draft town planning scheme into sections.

(3) The provisions of this Act and the rules made thereunder shall, so far as may be, apply to each of such sections as if it were a separate draft town planning scheme.

**47. Submission of preliminary town planning scheme to State Government-** The Valuation Officer shall submit to State Government for sanctioning the preliminary town planning scheme also before the final town planning scheme is submitted to the State Government under Sub-section (2) of Section 35, together with a copy of his decision under Section 36.

**48. Power of State Government to sanction or refuse to sanction the town planning scheme and effect of the sanction-** (1) On receipt of the preliminary town planning scheme, or, as the case may be, the final scheme, the State Government may-

- (a) in the case of a preliminary town planning scheme within a period of two months from the date of its receipt; and
- (b) in the case a final town planning scheme within a period of three months from the date of its receipt, by notification, in the *Gazette*, sanction the preliminary town planning scheme or the final town planning scheme or refuse to accord sanction; provided that, in sanctioning any such scheme the State Government may make such modifications as may, in its opinion be necessary for the purpose of correcting an error, irregularity or informality.

(2) If the State Government sanctions the preliminary town planning scheme or the final town planning scheme, it shall state in the notification-

- (a) the place at which the preliminary or the final town planning scheme, as the case may be, shall be kept open for inspection by the public and also state therein that copies of the town planning scheme or extracts therefrom certified to be correct shall, on application be available for sale to public at a price to be mentioned in the notice;
- (b) a date (which shall not be earlier than one month after the date of the publication of the notification) on which all the liabilities created by the town planning scheme shall take effect and the date on which the preliminary or the final town planning scheme shall come into force;

Provided that the State Government may, from time to time, extend such date, by notification by such period, not exceeding three months at a time, as it thinks fit.



(3) One and after the date fixed in such notification, the preliminary town planning scheme, or the final town planning scheme, as the case may be, shall have effect as if it formed part of this Act.

**49. Withdrawal of town planning scheme-** If at any time before the preliminary town planning scheme is forwarded by the Valuation Officer to the State Government, a representation is made to the Valuation Officer by the Authority that the scheme should be withdrawn, the Valuation Officer shall after inviting from all persons interested in the scheme objections to such representation, forward such representation together with the objections, if any, to the State Government.

(2) The State Government, after making such inquiry as it may, deem fit, may, if it is of opinion that it is necessary or expedient so to do, by notification, direct that the town planning scheme shall be withdrawn and upon such withdrawal, no further proceedings shall be taken in regard to such town planning scheme.

**50. Effect of preliminary town planning scheme-** On the day on which the preliminary town planning scheme comes into force-

- (a) all lands required by the Authority shall, unless it is otherwise determined in such scheme, vest absolutely in the Authority free from all encumbrances;
- (b) all rights in the original plots which have been reconstituted into final plots shall stand extinguished and the final plots shall become subject to the rights settled by the Valuation Officer.

**51. Power of Authority to evict summarily-** On and after the date on which a preliminary town planning scheme comes into force any person continuing to occupy any land which he is not entitled to occupy under the preliminary town planning scheme shall, in accordance with the procedure prescribed under rules, be summarily evicted by the Authority.

**52. Power to enforce town planning scheme-** On and after the date on which the preliminary town planning scheme comes into force, the Authority shall after giving the notice prescribed under rules and in accordance with the provisions of the town planning scheme-

- (a) remove, pull down, or alter any building or other work in the area included in the town planning scheme which is such as contravenes the town planning scheme or in the erection or carrying out of which any provision of the town planning scheme has not been complied with;
- (b) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the Authority that delay in the execution of the work would prejudice the efficient operation of the town planning scheme.

(2) Any expenses incurred by the Authority under this section shall be recovered from the person in default or from the owner of the plot in the manner provided for the recovery of sums due to the Authority under the provisions of this Act.

(3) If any question arises as to whether any building or work contravenes a town planning scheme or whether any provision of a town planning scheme is not complied with in the erection or carrying out of any such building or work, it shall be referred to the State Government and the decision of the State Government shall be final and binding on all persons.

(4) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the Authority under the provision for this section except in respect of the building or work begun before the date referred to in Sub-section (1) and only in so far as such building or work has proceeded until that date.

Provided that any claim to compensation, which is not barred by this sub-section shall be subject to the condition of any agreement entered into between the claimant and the Authority.

(5) The provisions of this section shall not apply to any operational construction undertaken by the Central Government or a State Government.

**53. Power to vary town planning scheme on ground of error, irregularity or informality-** (1) If after the preliminary town planning scheme or the final town planning scheme has come into force, the Authority considers that any of such scheme is defective on account of an error, irregularity or informality the Authority may apply in writing to the State Government for the variation of the town planning scheme.

(2) If on receiving such application or otherwise, the State Government is satisfied that the variation required is not substantial, the State Government shall publish a draft of such variation in the manner prescribed by rules.

(3) The draft variation published under Sub-section (2) shall state every variation proposed to be made in the scheme and if any such variation relates to a matter specified in any of the Clauses (b), (c), (d), (e), (g) and (i) of Sub-section (4) of Section 22, the draft variation shall also contain such other particulars as may be prescribed by rules.

(4) The draft variation shall be open to inspection of the public at the head office of the Authority during office hours.

(5) Within one month of the date of publication of the draft variation any person affected thereby may communicate in writing his objections to such variation to the State Government and send a copy thereof to the Authority.

(6) After receiving the objections under Sub-section (5), the State Government may, after making such inquiry as it may think fit, by notification-

- (a) appoint a Valuation Officer and thereupon the provisions of this Chapter shall, so far as may be, apply to such draft variation as if it were a draft town planning scheme sanctioned by the State Government; or
- (b) make the variation with or without modification; or
- (c) refuse to make the variation.

(7) From the date of the notification making the variation, with or without modification, such variation shall take effect as if it were incorporated in the town planning scheme.

**54. Variation of town planning scheme by another scheme-** Notwithstanding anything contained in Section 53, a town planning scheme may at any time be varied by a subsequent town planning scheme made, published and sanctioned in accordance with the provisions of this Act.

**55. Amendment of regulation-** (1) If at any time after the final town planning scheme comes into force the Authority is of the opinion that the regulations relating to a town planning scheme require to be amended, it may publish the requisite draft amended in the manner prescribed by rules and invite suggestions or objections as thereto from any person.



(2) If within one month from the date of publication of the draft amendment, any person communicates in writing to the Authority any suggestions or objections relating to such amendment, the Authority shall consider such suggestions or objections and may, at any time before submitting the draft amendment to the State Government as hereinafter provided, modify such amendment as it thinks fit.

(3) The Authority shall within a period of two months from the date of its publication, submit the draft amendment along with the suggestions or objections to the State Government and shall at the same time apply for its sanction.

(4) After receiving such application and after making such inquiry as it may think fit, the State Government may sanction the amendment with or without modifications as it deems necessary or refuse to sanction the amendment.

(5) If the amendment is sanctioned by the State Government, the final town planning scheme shall be deemed to have been varied in accordance with the amendment.

**56. Compensation when town planning scheme varied-** If at any time after the date on which the town planning scheme has come into force, such scheme is varied, any person who has incurred any expenditure for the purpose of complying with such scheme shall be entitled to be compensated by the Authority for the expenditure, if such expenditure is rendered abortive by reason of the variation of such scheme.

**57. Apportionment of costs of town planning scheme withdrawn or not sanctioned-** In the event of a town planning scheme being withdrawn or sanction to a preliminary town planning scheme being refused by the State Government, the State Government may direct that the costs of the scheme shall be borne by the Authority to such extent as may be determined by the State Government.

**58. Right to appear by recognized agent-** Every party to any proceedings before the Valuation Officer or the Board of Appeal shall be entitled to appear either in person or by his recognised agent.

**59. Power of Civil Court in respect of certain matters-** For the purposes of this Act, an officer appointed under Sub-section (1) of Section 29 and the Valuation Officer shall have the same powers in making enquiries under this Act as are vested in a Civil Court in respect of the following matters under the Code of Civil Procedure, 1908 (5 of 1908) in trying a suit, namely-

- (a) summoning and enforcing the attendance of any person and examining him on oath -
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits ;
- (d) issuing commissions for the examination of witnesses or documents.

**60. Costs of town planning schemes-** (1) The costs of a town planning scheme shall include-

- (a) all sums payable by the Authority under the provisions of this Act which are not specifically excluded from the costs of the town planning scheme ;



- (b) all sums spent or estimated to be spent by the Authority in the making and execution of the town planning scheme ;
- (c) all sums payable as compensation for land reserved or designated for any public purpose or for the Authority which is solely beneficial to the owners of land or residents within the area of the town planning scheme ;
- (d) such portion of the sums payable as compensation for land reserved or designated for any public purpose or for the purposes of the Authority which is beneficial partly to the owners of land or residents within the area of the town planning scheme and partly to the general public as is attributable to the benefit accruing to the owners of land or resident, within the area of the town planning scheme from such reservation or designation ;
- (e) all legal expenses incurred by the Authority in the making and in the execution of the town planning scheme ; and
- (f) any amounts by which the aggregate of the values of the original plots exceeds the aggregate of the values of the final plots included in the final town planning scheme, each of such plots being estimated at its market value at the date of publication of the declaration, in the *Gazette*, under Sub-section (2) of Section 23 with all the buildings and works thereon at the said date and without reference to improvements contemplated in the scheme other than improvements due to alteration of its boundaries.

(2) If in any case the aggregate of the value of the plots included in the final town planning scheme exceeds the aggregate of the values of the original plots, each of such plots being estimated in the manner provided in Clause (f) of Sub-section (1), then the amount of such excess shall be deducted in arriving at the costs of the scheme as defined in Sub-section (1).

**61. Calculation of increment-**For the purpose of this Act, the increments shall be deemed to be the amount by which at the date of publication of the declaration in the *Gazette* under Sub-section (2) of Section 23, the market value of the plot included in the final town planning scheme estimated on the assumption that the town planning scheme has been completed would exceed at the same date the market value of the same plot estimated without reference to improvements contemplated in the town planning scheme :

Provided that in estimating such value, the value of buildings or other works erected or in the course of erection on such plot shall not be taken into consideration.

**62. Contribution towards costs of town planning scheme-** (1) The costs of the town planning scheme shall be met wholly or in part by a contribution to be levied by the Authority on each final plot included in the final town planning scheme calculated in proportion to the increment which is estimated to accrue in respect of such plot by the Valuation Officer

Provided that-

- (i) where costs of the town planning scheme does not exceed half the increment, the costs shall be met wholly by a contribution ; and
- (ii) where it exceeds half the increment, to the extent of half the increment it shall be met by a contribution and the excess shall be borne by the Authority ;



- (iii) where a plot is subject to a mortgage with possession or to a lease, the Valuation officer shall determine in what proportion the mortgage or lease on the one hand and the mortgagor or lessor on the other hand shall pay such contribution;
- (iv) no such contribution shall be levied on a plot used, allotted or reserved for a public purpose or for the purpose of the Authority which is sole beneficial to the owners of land or residents within the area of the town planning scheme;
- (v) the contribution levied on a plot used, allotted or reserved for a public purpose or for the purpose of the Authority which is beneficial partly to the owners of land or residents within the area of the town planning scheme and partly to the general public shall be calculated in proportion to the benefit estimated to accrue to the general public from such use, allotment or reservation.

(2) The owner of each final plot included in the final town planning scheme shall be primarily liable for the payment of the contribution leviable in respect of such plot.

**63. Certain amounts to be added to or deducted from contribution leviable from a person-** The amount by which the total value of the final plot included in the final town planning scheme with all the buildings and works thereon allotted to a person falls short of or exceeds the total value of the original plots with all the buildings and works thereon of such person shall be deducted from or, as the case may be, added to the contribution leviable from such person, each of such plots being estimated at its market value at the date of publication of the declaration in the *Gazette* under Sub-section (2) of Section 23 or at the date of the notification issued by the State Government under Sub-section (1) of Section 25, as the case may be, and without reference to improvements contemplated in the town planning scheme other than improvements due to the alteration of its boundaries.

**64. Transfer of right from original to final plot or extinction of such right-** Any right in an original plot which in the opinion of the Valuation Officer is capable of being transferred wholly or in part, without prejudice to the making of a town planning scheme, to a final plot, shall be so transferred and any right in an original plot which in the opinion of the Valuation Officer is not capable of being so transferred shall be extinguished:

Provided that an agricultural lease shall not be transferred from an original plot to a final plot without the consent of all the parties to such lease.

**65. Compensation in respect of property or right injuriously affected by town planning scheme-** The owner of any property or right which is injuriously affected by the making of a town planning scheme shall, if he makes a claim before the Valuation Officer within the time prescribed by rules, be entitled to be compensated in respect thereof by the Authority or by any person benefited or partly by the Authority and partly by such person as the Valuation Officer may in each case determine:

Provided that the value of such property or right shall be deemed to be its market value at the date of the publication of the declaration in the *Gazette* under Sub-section (2) of Section 23 or at the date of the Notification issued by the State Government under Sub-section (1) of Section 25, as the case may be, without reference to improvement contemplated in the town planning scheme.

**66. Exclusion of compensation in certain cases-** (1) No compensation shall be payable in respect of any property or private right which is alleged to be injuriously affected by reason of any provisions contained in the town planning scheme if under any other law for the time being in force applicable to the area for which such scheme is made, no compensation is payable for such injurious effect.

(2) Any property or private right shall not be deemed not injuriously affected by reason of any provision inserted in a town planning scheme which impose any condition or restriction in regard to any of the matter specified in Clause (q) of Sub-section (4) of Section 22.

**67. Provision for cases in which amount payable to owners exceeds amount due from him-** If the owner of an original plot is not provided with a plot in the preliminary town planning scheme or if the contribution to be levied from him under Section 67 is less than the total amount to be deducted therefrom under any of the provisions of this Act, the net amount of his loss shall be payable to him by the Authority in cash or in such other manner as may be agreed upon by the parties.

**68. Provision for case in which value of final plot is less than the amount payable by owner-** (1) If from any cause the total amount which would be due to the Authority under the provisions of this Act from the owner of a final plot to be included in the final town planning scheme exceeds the value of such plot estimated on the assumption that the town planning scheme has been completed, the Valuation Officer shall at the request of the Authority direct the owner of such plot to make payment to the Authority of the amount of such excess.

(2) If such owner fails to make such payment within the period prescribed by rules the Valuation Officer shall, if the Authority so requires, acquire the original plot of such defaulter and operation, the compensation among the owner and other persons interested in the plot on payment by the Authority of the value of such plot estimated at its market value at the date of publication of the declaration in the *Gazette* under Sub-section (2) of Section 23 or at the date of the notification under Sub-section (1) of Section 25, as the case may be, and without reference to improvements contemplated in the town planning scheme and thereupon the plot included in the final town planning scheme shall vest absolutely in the Authority free from all encumbrances but subject to the provisions of this Act:

Provided that the payment, made by the Authority on account of the value of the original plot shall not be included in the costs of the town planning scheme.

**69. Payment by adjustment of account-** All payments due to be made to any person by the Authority under this Act shall, as far as possible, be made by adjustment in such account with the Authority in respect of the final plot concerned or of any of the plot in which he has an interest and failing such adjustment, shall be paid in cash or in such other manner as may be agreed upon by the parties.

**70. Payment of amounts due to the Authority-** (1) The net amount payable under the provisions of this Act by the owner of a final plot included in the final town planning scheme may at the option of the contributor be paid in lumpsum or in annual instalments not exceeding ten.



(2) If the owner elects to pay the amount by instalments, interest at six percent *per annum* shall be charged on the net amount payable.

(3) If the owner of a plot fails to exercise the option on or before the date specified in a notice issued to him in that behalf by the Authority, he shall be deemed to have exercised the option of paying contribution in instalments and the interest on the contribution shall be calculated from the date specified in the notice, being the date before which he was required to exercise the option.

(4) Where two or more final plots included in the final town planning scheme are in the same ownership, the net amount payable by such owner under the provisions of this Act shall be distributed over his several final plots in proportion to the increments which is estimated to accrue in respect of each final plot unless the owner and the Authority agree to a different method of distribution.

**71. Power of Authority to make agreement-**(1) The Authority shall be competent to make any agreement with any person in respect of any matter which is to be provided for in a town planning scheme, and unless it is otherwise expressly provided therein, such agreement shall take effect on and after the day on which the town planning scheme comes into force.

(2) Such agreement shall not in any way affect the duties of the Valuation Officer as described in this Chapter or the rights of third parties but it shall be binding on the parties to the agreement notwithstanding any decision that may be passed by the Valuation Officer :

Provided that if the agreement is modified by the State Government either party shall have the option of avoiding it, if he so elects.

## CHAPTER-VII

### Acquisition and Disposal of Land

**72. Compulsory acquisition of land-**If in the opinion of the State Government any land is required for the purpose of development, or for any other purpose, under this Act the State Government may acquire such land under the provisions of the Land Acquisition Act, 1894 (1 of 1894).

**73. Transfer of acquired land to the Authority or local authority-**Where any land has been acquired by the State Government under Section 72 it may, after it has taken possession of the land, transfer the land to the Authority or any local authority for the purpose for which the land has been acquired on payment by the Authority or the local authority of the compensation awarded under that Act and of the charges incurred by the State Government in connection with the acquisition.

**74. Acquisition of property by the Authority-**(1) The Authority may acquire, movable or immovable properties by purchase, exchange, gift, lease, mortgage or by any other method permissible under law, in accordance with the rules and regulations made for this purpose.

(2) The Authority may, with the written consent of the owner, acquire any land or property or both for providing infrastructure, amenities and facilities for public purposes by way of according Transferable Development Rights (TDR) through issue of Development Rights Certificate in lieu of payment towards cost of land and property, in such manner and on such terms and conditions, as may be prescribed:

1. Subs. vide O.G.E. No. 1427, Dt. 06.10.2015

Provided that the Transferable Development Rights may be arrived at on the basis of relative land values and equivalent amount of both export and import areas as per the bench mark value fixed for such area and such Right may be utilised as additional built up space by the owner who can use this either by himself or transfer it to any other person in full or in part for use within the development area as prescribed or offset the money against the fees and charges payable for development permission subject to fulfilment of all other rules and regulations governed for construction of buildings.

(3) The Authority may, with the consent of the owner, and in the manner prescribed, acquire land and built up space for public purposes, indicated in an approved development plan, by permitting in the form of built up space guided by permitted Floor Area Ratio in addition to built up space required for the amenity, in lieu of the cost of land and the built-up space payable to the owner for the amenity transferred to the Authority.]

**75. Transfer of State Government lands to the Authority-**(1) The State Government may, by notification and upon such terms and conditions as may be agreed upon between that Government and the Authority, place at the disposal of the Authority any developed or undeveloped State Government land situated within the jurisdiction of the Authority for the purpose of development in accordance with the provisions of this Act.

(2) No development of State Government land shall be undertaken or carried out except by or under the control and supervision of the Authority after such land has been placed at the disposal of the Authority under Sub-section (1).

(3) If any State Government land placed at the disposal of the Authority under Sub-section (1) is required at any time thereafter by the State Government, the Authority shall, by notification replace it at the disposal of that Government upon such terms and conditions as may be agreed upon between that Government and the Authority.

**75A. Creation and Management of Land bank :** (1) Every Authority shall create and maintain a Land Bank in which land acquired under section 72 to section 75, shall be kept recorded for furtherance of the objects of the Act.

(2) The Land Bank shall be managed by the Authority in such manner as may be prescribed in the regulations.]

**76. Disposal of land by the Authority-**The disposal of any land acquired by the State Government and transferred to the Authority under Section 73 or any land transferred to the Authority under Sub-section (1) of Section 75 or any other land without carrying out development thereon, or any other movable or immovable properties belonging to the Authority shall be done in accordance with the rules made for the purpose in this behalf.

## CHAPTER-VIII

### Finance, Account and Audit

**77. Fund of the Authority-**(1) The Authority shall have and maintain its own fund to which shall be credited-

(a) all moneys received by the Authority from the State Government by way of grants, loans, advances or otherwise ;

1. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015



- (b) all moneys borrowed by the Authority from sources other than the State Government by way of loans or debentures ;
- (c) all fees and charges received by the Authority under this Act;
- (d) all moneys received by the Authority from the disposal of land, buildings and other properties, movable and immovable;
- (e) all moneys received by the Authority under Sections 78 and 79 ;
- (f) all moneys received by the Authority by way of rents and profits or in any other manner or from any other source.

(2) The fund shall be applied towards meeting the expenses incurred by the Authority in the administration of this Act and for an other purpose.

(3) The Authority may keep in any scheduled bank or banks such sum of money out of its fund as it may deem fit.

(4) The State Government may make such grants, advances and loans to the Authority as the State Government may deem necessary for the performance of the functions, of the Authority under this Act, and all grants, loans and advances made shall be on such terms and conditions as the State Government may determine.

(5) The Authority may from time to time borrow money by way of loans and debentures from such sources and on such terms and conditions as may be approved by the State Government.

[(5-a) The State Government may direct any Authority, to constitute and maintain a Comprehensive Development Plan Infrastructure Development Fund (CIDF), into which such money, fees or charges shall be credited as may be specified in such direction and the same is to be utilised, for such purposes, in such manner and subject to such conditions and exceptions as may be directed by the State Government.]

(6) The Authority shall maintain a sinking fund for the re-payment of moneys borrowed under Sub-section (5) and shall pay every year into the sinking fund such sum as may be sufficient for re-payment within the period fixed, of all moneys so borrowed.

(7) The sinking fund shall be applied in or towards, the discharges of the loan for which such fund was created and until such loan is wholly discharged, it shall not be applied for any other purpose.

(8) The Authority shall be deemed to be a local authority as defined in the Local Authority Loans Act, 1914 (9 of 1914) for the purpose of borrowing money under that Act but the provisions of that Act and the rules made thereunder shall have effect subject to the provisions contained in this Act.

(9) The State Government may make rules to regulate the borrowing by the Authority under Sub-section (5).

#### **[78. Duty on certain transfers on immovable properties- \*\*\*]**

**79. Contribution by urban local body-**(1) Every urban local body within the development area shall pay to the concerned Authority on the first day of each half year, so long as the Authority continues to exist, a sum not exceeding ten *per centum* of its revenues in a year from all sources other than service taxes, as may be determined by the State Government, from time to time.

1. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015

2. Omitted vide O.G.E. No. 489, Dt. 20.03.2013

(2) The payment provided by Sub-section (1) shall be made in priority to all other payments due from the concerned urban local body except those referred to in Section 116 of the Odisha Municipal Act, 1950 (Odisha Act 23 of 1950).

**80. Budget of the Authority-**The Authority shall prepare in such form and at such time every year as may be prescribed by rules a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure of the Authority and shall forward to the State Government such number of copies thereof as may be prescribed by rules.

**81. Accounts and Audit-**(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such form as the State Government may by rules prescribe in consultation with the Accountant General, Odisha.

(2) The accounts of the Authority shall once in every financial year, be examined and audited under the provisions of the Odisha Local Fund Audit Act, 1948 (Odisha Act 5 of 1948).

(3) The accounts of the Authority shall also be subject to Audit annually by the Accountant-General, Odisha and any expenditure incurred by him in connection with such audit shall be payable by the Authority to the Accountant-General, Odisha.

(4) The Accountant-General, Odisha and any person appointed by him in connection with the audit of accounts of the Authority shall have the same right, privilege and Authority in connection with such audit as the Accountant-General, Odisha has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Authority.

(5) The accounts of the Authority as certified by the Accountant General, Odisha or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the State Government and that State Government shall cause a copy of the same to be laid before the State Legislature.

(6) Notwithstanding, anything contained in Sub-sections (2) and (3), the State Government may, at any time get the accounts of the Authority examined and audited by deputing an officer and it shall be the duty of the Authority to furnish all the relevant records requisitioned by the said Officer.

(7) It shall be the duty of the Authority to remedy any defect or irregularities that may be pointed out by any of the audit.

**82. Annual report -**The Authority shall prepare for every year a report of its activities during that year and submit the report to the State Government in such form and on or before such date as may be prescribed by rules and the State Government shall cause a copy of the report along with the annual statement of accounts and balance-sheet prepared by the Authority under Sub-section (1) of Section 81 to be laid before the State Legislature.

**83. Pension and provident fund-**(1) The Authority shall constitute for the benefits of its whole-time paid members and of its officers and other employees in such manner and subject to such conditions as may be prescribed by rules such pensions and provident funds as it may deem fit.



(2) Where any such pension or provident fund has been constituted the State Government may declare that the provisions of the Provident Fund Act, 1925 (Act 19 of 1925) shall apply to such fund as if it were a Government provident fund.

#### CASE LAW :

Sec. 83 - Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Sec. 7-A - Notice issued to conduct an inquiry for assessing the dues of the Cuttack Development Authority, towards Contractor's employees - Writ - The Contractors' employees are engaged by such contracts to execute a work entrusted to them pursuant to the agreement executed between such contracts and the C.D.A. - Such contractors are not labour contractors to provide workmen to the C.D.A. - Such employees of the contractors cannot be governed under the Act, 1952 - Held, the Act, 1952 does not apply to the C.D.A. and as such action of the Regional Provident Fund Commissioner in issuing notice under Sec. 7-A of the Act, 1952 being without jurisdiction is unsustainable : 2010 Lab.I.C. 63 (Ori.) : 2009 (Supp.-II) OLR 447.

#### CHAPTER-IX

#### [Levy of Development charges, City Infrastructure Impact fees, User Fees etc.]

84. Levy of development charges-Subject to the provisions of this Act and the rules made thereunder, the Authority may, with the previous sanction of the State Government, by notification levy a development charge on lands and buildings within the area under its jurisdiction 'at such rates as the State Government may, by notification, specify, from time to time, in this behalf]

Provided that different rates of development charges may be specified for different parts of the relevant area or areas and for different uses.

85. Rates of development charges-(1) The development charges on lands and buildings leviable under Section 84 shall be assessed with reference to their use for different purposes, such as-

- (i) Industrial ;
- (ii) Commercial;
- (iii) Residential and
- (iv) Miscellaneous :

Provided that in classifying the lands or buildings under any of the purposes mentioned in Sub-section (1) the predominant purpose for which such lands and buildings are used shall be the main basis.

(2) The rates of development charges shall be determined-

- (a) in the cases of development of land, at a rate to be specified per hectare; and
- (b) in the case of development of a building at a rate to be specified per square metre of the floor area of the building :

1. Subs. vide O.G.E. No. 1427, Dt. 06.10.2015

2[1[\*\*\*]

Provided 2[\*\*\*]that where land appurtenant to a building is used for any purpose independent of a building, development charge may be levied separately for such use also.

86. Assessment and recovery of development charge-Any person who intends to carry out any development or institute or change any use of any land or building for which permission is required under this Act whether he has applied for such permission or not, and any person who has commenced the carrying out of any such development or has carried out such development or instituted or changed any such use shall apply to the Authority, within such time and in such manner as may be prescribed by rules for the assessment of development charges payable in respect thereof.

(2) On an application being made under Sub-section (1) or if no such application is made, after serving a notice in writing on the person liable to such payment, the Authority shall, after giving the person concerned an opportunity of being heard, and after calling for a report in this behalf from the officer concerned of the Authority, determine whether or not any development charge is leviable in respect of that land or building as a result of the carrying out such development or institution of charge of use, the amount payable and fix a date by which such payment shall be made.

(3) On determination of the development charge leviable on any land or building under Sub-section (2), the Authority shall give to the person liable the pay such charge a notice in writing of the amount of development charge payable by him and the date by which such payment shall be made and such notice shall also state that in the event of failure to make such payment on or before such date, interest at the rate of six percent, *per annum* shall be payable from such date on the amount remaining unpaid.

(4) (a) The development charges payable in respect of any land or building, shall be a first charge on such land or building, subject to the prior payment of land revenue, if any, due to the State Government thereon and any other sum due to the Authority.

(b) All development charges payable in respect of any land or building by any person shall together with interest due up to the date of realisation, be recoverable from such person or his successor-in-interest in such land or building as arrears of land revenue.

(5) Any person aggrieved by an order of assessment of development charge may prefer an appeal to the Tribunal within one month from the date of service of the notice under Sub-section (3) :

Provided that the Tribunal may admit an appeal preferred after the expiration of the said period if it is satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

1. Substituted vide Odisha Act No. 23 of 1982.

2. Omitted vide O.G.E. No. 1427, Dt. 06.10.2015



**[86A. Levy of City Infrastructure Impact Fee :** (1) The Authority may levy City Infrastructure Impact Fee, for the purpose of creation of city level infrastructure facilities as specified in the development plan in operation and such other purposes, at such rate as may be prescribed in the regulation for all —

- (a) commercial buildings;
- (b) apartments and group housing buildings; and
- (c) multistoried building including, residential, commercial or Institutional or Educational.

(2) The City Infrastructure Impact Fee levied under sub-section (1) shall be payable at the time of grant of permission.

(3) All such fees collected shall be credited and maintained in Comprehensive Development Plan Infrastructure Development Fund (CIDF) and same shall be utilized for development of city level infrastructure:

Provided that, no such fees shall be levied during grant of permission for building of Government's Departments and Statutory Bodies established under the provisions of any Act, but such exemptions shall not be available to such buildings which are constructed under commercial projects.]

**87. Tribunal-** (1) The State Government may, by notification constitute a Tribunal, which shall consist of one person only to be appointed by the State Government <sup>2</sup>[who is or has been a District Judge or Additional District Judge in the State of Odisha].

<sup>3</sup>[Provided that such District Judge or Additional District Judge must not have been prematurely retired.]

(2) The Tribunal shall have the power to call for records of all proceedings relating to the dispute and shall, after giving the parties concerned a reasonable opportunity of being heard, pass such orders as it deems fit.

(3) In disposing of an appeal, the Tribunal may make such consequential orders and issue such directions as it may deem necessary for giving effect to its decision.

(4) The decision the Tribunal shall be final and binding on all parties and shall not be called in question in any Court of law.

#### CHAPTER-X

##### Supplemental and Miscellaneous

**88. Art Commission-** (1) The State Government may, by notification, constitute an Art Commission for the State which shall consist of a Chairman and such other members representing among others, visual arts or architecture, Indian History of Archeology and the Environmental Science, as it may appoint.

(2) It shall be the duty of Art Commission to make recommendations to the State Government as to—

- (i) restoration and conservation of urban design and of the environment in the development area ;
- (ii) the planning and development of future urban design and of the environments ;

1. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015  
2. Subs. vide O.G.E. No. 1427, Dt. 06.10.2015  
3. Added vide O.G.E. No. 1427, Dt. 06.10.2015

- (iii) the restoration and conservation of archeological and historical sites and sites of high scenic beauty ;
- (iv) the grants, concessions and other modes of compensation for purchase or acquisition of property to be paid by the State Government or any Authority and the conditions, subject to; which such grants, concessions and compensation should be made ; and
- (v) any other matter referred to the Commission by the State Government.

(3) The powers to be exercised, the functions to be performed and the procedure to be followed by the Art Commission shall be such as may be prescribed by rules.

(4) The State Government may, after consideration of the recommendations of the Art Commission and after giving an opportunity to the Authority to make any representation, issue such directions to, the Authority as it may think fit and the Authority shall comply with every such direction.

#### NOTIFICATION

**[No. 37639-T.P. Esst. 65/83-H.U.D.-31.8.1983-** In exercise of the powers conferred by Sub-section (1) of Section 83 of the Odisha Development Authorities Act, 1982 (Odisha Act, 14 of 1982) the State Government do hereby constitute an Art Commission for the State of Odisha consisting of the Chairman and the Members as specified below, namely :

- |  |                   |
|--|-------------------|
| 1. Chief Architect, Odisha                         | Chairman          |
| 2. Artist  | Member            |
| 3. Principal Government College of Arts and Crafts | Sculptor-Member.] |

**89. Power of entry-** The Director or any officer authorised by him, the Valuation Officer or any person authorised by the State Government, the Authority or by the aforesaid Valuation officer may enter into or upon any land or building with or without assistants or workmen for the purpose of -

- (a) making any enquiry, inspection, measurement or survey or taking levels of such land or building or taking photographs thereof;
- (b) examining works under construction and ascertaining the course of sewers and drains ;
- (c) digging or boring into the sub-soil;
- (d) setting out boundaries and intended lines of works;
- (e) making such levels, boundaries and lines by placing marks and cutting trenches;
- (f) ascertaining whether any land is being or has been developed in contravention of the development plan or without the permission referred to in Section 81 or in contravention of any condition subject to which such permission has been granted; or
- (g) doing any other thing necessary for the efficient administration of this Act :

Provided that-

- (i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner, of the land or building;

1. Vide Notfn. No. 37639-TP-Esst.-65/83-HUD/31.8.1983.



- (ii) sufficient opportunity shall in every instance be given to enable women, if any, to withdraw from such land or building ;
- (iii) due regard shall always be had, so far as may be compatible, with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.

**90. Penalties-** (1) Any person who, whether at his own instance or at the instance of any other person or any body (including a department of Government), undertakes or carries out development of any land in contravention of the development plan or without the permission, approval or sanction referred to in Section 15 or in contravention of any condition subject to which such permission, approval or sanction has been granted, shall on conviction, be punishable with simple imprisonment for a term, which may extend to six months, or with fine which may extend to ten thousand rupees or with both and the Court shall in such order of conviction direct that if such contravention continues after the date of the order of conviction, a fine not exceeding five hundred rupees per day during the period during which the contravention continues, shall be recovered from the person so convicted :

Provided that in the absence of special and adequate reasons to the contrary, to be mentioned in the judgment of the Court, the fine shall not be less than two thousand rupees, and the case of continuing contravention of the provisions, the fine shall not be less than one hundred rupees per day.

(2) Any person who uses or permits the user of any land or building in contravention of the provisions of Section 19 or in contravention of any terms and conditions prescribed by regulations made under the proviso to that section shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both, and in the case of continuing offence, with further fine which may extend to two hundred rupees for everyday, during which the offence continues after conviction.

(3) Any person who obstructs the entry of any person empowered, or duly authorised under Section 89 to enter into or upon any land or building or prevents in any manner such person from the discharge of his lawful duties, after such entry shall, on conviction be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees or with both.

(4) Whoever contravenes any provision of this Act or any rule or regulation made thereunder or any direction issued in pursuance of any development plan approved under this Act and if such contravention is not punishable under the foregoing sub-sections, shall, on conviction be punishable with simple imprisonment for a term which may extend to three months or with fine which shall not be less than fifty rupees and not more than one thousand rupees or with both and in the case of continuing offence, with further fine which shall not be less than ten rupees and more than fifty rupees for everyday during which the offence continues after conviction.

**91. Removal of unauthorised development-** (1) Where any development has been commenced or is being carried on or has been, completed in contravention of the development plan or without the permission, approval or sanction referred to in Section 15 or in contravention of any condition

subject to which such permission, approval or sanction has been granted <sup>1</sup>[or any development deemed to be a development undertaken, carried out or completed without a permission as referred to in Section 15 under Clause (b-1) of Sub-section (2) of Section 128] any officer of the Authority empowered by it in this behalf, may in addition to any prosecution that may be instituted under this Act, make an order directing that such development shall be removed by demolition, falling or otherwise <sup>2</sup>[or secured by sealing] by the owner thereof or by the person at whose instance the development has been commenced or is being carried out or has been completed, within such period not being less than five days and more than fifteen days from the date on which a copy of the order of removal, with a brief statement of the reasons therefor, has been delivered to the owner or that person as may be specified in the order and on his failure to comply with the order, the officer of the Authority may remove or <sup>3</sup>[cause to be removed the development or seal or cause to be sealed such development and the expenses incurred therefor] shall be recovered from the owner or the person at whose instance the development was commenced or was being carried out or was completed as arrears of land revenue :

Provided that no such order shall be made unless the owner or the person concerned has been given reasonable opportunity to show cause why the order should not be made.

(2) Any person aggrieved by an order under Sub-section (1) may appeal to the State Government or an Officer appointed by the State Government in this behalf, against that order within thirty days from the date thereof, and the Government or the Officer, as the case may be, may after hearing the parties to the appeal either allow or dismiss the appeal or may reverse or vary any part of the order. The decision of the State Government or the Officer shall be final and shall not be questioned in any Court of law.

(3) The provisions of this section shall be in addition to, and not in derogation of any other provision relating to demolition of buildings contained in any other law for the time being in force.

#### CASE LAWS :

*Unauthorised construction by builders - Compounding of deviations - To be dealt with at a higher level by multi-membered High Powered Committee so that the builders cannot manipulate - Officials who have connived at unauthorized or illegal constructions should not be spared - In developing cities the strength of staff which is supposed to keep a watch on building activities should be suitably increased : Friends Colony Development Committee v. State of Odisha and others : 2005 (1) OLR (SC) 84.*

*Unauthorised construction - Compounding and regularisation - Stability report by structural analyst suggested removal of 5th floor and cantilevers constructed by the respondent - High Court directed that if the builder submits a revised plan for the construction the authority should consider the same in accordance with law - Held, Regularization of deviations by way of compounding as per Municipal Laws should be sparingly used - Only such deviations deserve to be condoned as are bona fide or are attributable to some misunderstanding or are such deviations where the benefits gained by demolition would be far less than the disadvantage suffered - Deviations by professional builders need to be dealt sternly than an individual constructing his own building - Fund to compensate unwary purchasers to be built up therefrom : Friends Colony Development Committee v. State of Odisha and others : 2005 (1) OLR (SC) 84.*

1. Inserted vide Odisha Gazette Ext. No. 21/85/15.12.1984-Ordinance No. 12 of 1984.
2. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015
3. Subs. vide O.G.E. No. 1427, Dt. 06.10.2015



Demolition of unauthorised construction - Construction made deviating approved plan without leaving any set back - House situated in thickly built area where construction with no set back is allowed - No objection certificates filed by neighbours - Unauthorised construction compoundable - Owner willing to regularise construction after paying compounding fees - Demolition order set aside : *Smt. Santilata Sahoo v. State of Odisha and Others* : AIR 2003 Ori 114.

Whether provisions contained in Sec. 91(2) of the Act to the effect that the "decision of the State Government or the Officer shall be final" and "shall not be questioned" in any Court of law impliedly ousts the jurisdiction of the Civil Court - After discussing in detail the provisions of the Act and taking into consideration the Civil Court jurisdiction the Hon'ble Court has held that the Act has provided for adequate efficacious remedy for redressal of the grievances of a citizen undertaking development/constructions on his own land in shape of appeal to State Government or to designated official; but thereafter he can approach High Court invoking certiorari jurisdiction - A person aggrieved by an order of demolition passed under Sec. 91 of the Act has adequate and efficacious remedy in shape of appeal to State Government and thereafter he can approach High Court invoking certiorari jurisdiction - Powers conferred under Sec. 91 stated in detail - Held, jurisdiction of Civil Court is impliedly barred so far as the redressal of grievances for which as adequate provision has been made - Civil Court has also no jurisdiction to grant interim injunction restraining the Statutory Authorities from exercising statutory powers - But Civil Court shall have jurisdiction to examine cases where there are allegations that provisions of the Act have not been complied with or the statutory authorities have not acted in conformity with fundamental principles of judicial procedure : *Puri Konark Development Authority v. Ratna Bhadra and others* : 2002 (II) OLR 128 : AIR 2002 Ori. 207.

Allegation of unauthorised construction and for removal of the same - Show cause notice issued According to facts and circumstances simple issue of show cause notice not sufficient - Personal hearing should be given-There should be a proper enquiry -Otherwise rules of natural justice are violated-Even though there is no provision for enquiry, yet it should be read into the provision -Held, when facts and circumstances cry aloud for an enquiry for resolution of disputed and contentions issues of fact, absence of an enquiry at the original stage would not be just and proper -1986 (I) OLR 621.

**Secs. 91, 92** - Construction of multi storied residential building - Order of demolition as approval not obtained from B.D.A. - Plea of petitioners that B.D.A. has no jurisdiction to insist for permission, when the permission was granted by the Sarpanch of 'K' Gram Panchayat - 'K' Gram Panchayat was included in the B.D.A. at a later stage by virtue of the Notification dated 24.3.2003 - Held, Act not applicable and provisions of such cannot be extended and applied to the territories of Gram Panchayat - B.D.A. having been constituted for the area comprising master plan area of Bhubaneswar, Khurda and Jatni has no authority or power or jurisdiction to include the villages of 'K' Gram Panchayat by notification dated 24.3.2003 under Sec. 3(2) of the Act without creating any Development Authority - Notification dated 24.3.2003 is also contrary to the provisions of Sub-section (1) of Section 3 of the Act : *Jagadish Prasad Naik and another v. State of Odisha and another* : 2012 (Supp.-II) OLR 325

**Sec. 91(1), 16** - Construction of either A.C. sheet/thatched roofed houses by petitioners - Petitioners have not produced any title deeds to show their occupation of the property/land, which have been earmarked for the proposed alignment of 200 ft. wide development plan road in the development area - They have not obtained permission/approval for construction - As per sec. 16 of the Act every person including the department of the Central Government or a State Government or a local authority is required to obtain permission from the authorities constituted under the Act - Show cause notices were issued to the petitioners and as they did not submit any reply, order was passed directing the petitioners to remove unauthorised constructions - Appellate Authority upheld the orders of demolition and eviction of the petitioners - Findings based on finding of facts - Petitioners have no right to challenge the order of demolition/eviction - No interference : *Surendra Ojha v. State of Odisha and others* : 2013 (Supp.-I) OLR 1090.

**Sec. 91 (2)** - No appeal is maintainable under the Section at the instance of a third party : *Santosh Kumar Tripathy v. State of Odisha & 2 others* : 2015 (I) OLR 1000

**Sec. 91(2), 103** - CDA land - Allotment - CDA is the authority for taking decision for allotment of land on such terms as may be considered expedient and has to be at market price - Sale Government, in its capacity as appellate authority/revisonal authority under Sec. 91(2) or under Sec. 103(3), can only interfere if there is any illegality or impropriety in the decision of the CDA - Scope of Sec. 103 (1) is limited to the issue of policy directions and not for dealing with any individual allotment : *Residents Development Association of Sector-7, Markatnagar Abhinab Bidanasi, Cuttack v. State of Odisha and 4 others* : 2014 (Supp.-I) OLR 713.

[Note-In exercise of the powers conferred by Sub-section (2) of Section 91 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby appoint the Secretary to Government, Housing and Urban Development Department as appellate authority to hear and decide appeals against the order of the Development Authorities under Sub-section (1) of the said section of the said Act.]

**92. Powers to stop unauthorised development**-(1) Where any development in any area has been commenced in contravention of the development plan or without the permission, approval or sanction referred to in Section 15 or in contravention of any conditions subject to which such permission, approval or sanction has been granted, the Authority or any officer of the Authority empowered it by in this behalf, may, in addition to any prosecution that may be instituted under this Act, make an order requiring the development to be discontinued on and from the date of the service of the order, and such order shall be complied with accordingly.

(2) Where such development is not discontinued in pursuance of the order under Sub-section (1), the Authority or the officer of the Authority, as the case may be, may require any police officer to remove the person by whom the development has been commenced and all his assistants and workmen from the place of development<sup>2</sup>[and to secure such place of development by sealing] within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) After the requisition under Sub-section (2) has been complied with, the Authority, or the officer of the Authority, as the case may be, may depute by a written order a police officer or an officer or employee of the Authority to watch the place in order to ensure that the development is not continued.

(4) No compensation shall be claimed by any person for any damage which he may sustain in consequence of the removal of any development under Section 91 or the discontinuance of the development under this section.

(5) The provisions of this section shall be in addition to and not in derogation of any other provision relating to stoppage of building, operations contained in any other law for the time being in force.

#### CASE LAW :

**Sec. 92(1)** - Unauthorised constructions - Stoppage of - Unless a coordinated effort is made by the Development Authorities as well as law enforcing agencies, one cannot expect to stop the unauthorised constructions - Action to be taken indicated : *Nirakar Sahoo v. Bhubaneswar Development Authority and others* : 2011 (II) OLR 556

1. Vide Notfn. No.7058-T.P.-A. 2584-HUD/15 2.1984-see Odisha Gazette Ext. No. 371/14.3.1984.

2. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015



35.

**34. Offence by companies.**—“(1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in Sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or through the neglect of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

**Explanation:** For the purpose of this section—

- (a) ‘company’ includes a body corporate and also includes a firm or other association of individuals; and
- (b) ‘director’ in relation to a firm means a partner in the firm.

**35. Transfer to Authority for purposes of development of land or building vested in local authority.**—“(1) Whenever any building or any street, square or other land or any part thereof which is situated within any development area and is vested in any local authority is required for the purposes of development by the Authority, it shall give notice accordingly to the Executive Officer of the concerned local authority, and such building, street, square, other land or part thereof shall notwithstanding anything contained in the law under which the said local authority is constituted, thereupon vest in the Authority.

(2) Where any property vests in the Authority under Sub-section (1) and the Authority makes a declaration the said property shall be retained for a period to be specified in the declaration, the property shall, in the expiration of the said period, revert to the local authority.

(3) Where a declaration is made under Sub-section (2) no compensation shall be payable by the Authority to the concerned local authority in respect of the property so vested in the Authority.

(4) Where any land or building vests in the Authority under Sub-section (1) and a declaration is made under Sub-section (2) in respect of the land or building, the Authority shall pay to the local authority concerned as compensation a sum equal to the market value of such land or building as at the date of notice under Sub-section (1).

Provided that land of equal market value may be given in exchange in lieu of compensation.

Enacted at Jakarta No. 10 of 1985-86 on 10-8-1985.

(5) If in any case where the Authority has made a declaration in respect of any land under Sub-section (2) and claims or disposed of the land, and if the terms of the declaration so that the land does not vest in the local authority, the Authority shall pay to the concerned local authority compensation in respect of such land in accordance with the provisions of Sub-section (3).

(6) If any question or dispute arises—

- (a) as to whether compensation is payable under Sub-section (3) or Sub-section (4); or
- (b) as to the amount of compensation paid or proposed to be paid under Sub-section (3) or Sub-section (4); or
- (c) as to whether any building, street, square, or other land or any part thereof is required for the purposes of development by the Authority.

the matter shall be referred to the State Government whose decision thereon shall be final.

**36. Restriction in power of a local authority to make rules, regulations or bye-laws in respect of certain matters.**—“(1) Notwithstanding anything contained in any law for the time being in force, no rule, regulation or bye-law shall be made or amended by a local authority in respect of matters specified in Sub-section (2) unless the Authority upon consideration of the rule, regulations or bye-law certifies that it does not contravene any of the provisions of any development plan or regulations pertaining to planning and building standards.

(2) The matters referred to in Sub-section (1) are the following, namely:

- (a) water supply, drainage and sewerage disposal;
- (b) erection or re-erection of buildings, including grant of building permissions, licences and modification of restrictions on use and subdivision of land and building;
- (c) subdivision of land into building plots, blocks and areas, recreational plots and sites for community facilities; and
- (d) development of land, improvement schemes and housing and re-housing schemes.

**37. Notice to be given of suits.**—“(1) No suit shall be instituted against the Authority or any member thereof or any of its officers or other employees or any person acting under the directions of the Authority or any member or any officer or other employees of the Authority in respect of any act done or purporting to have been done in pursuance of this Act or any rule or regulation made hereunder until the expiration of two months after notice in writing has been in case of the Authority, left at its office and in any other case, delivered to or left at the office or places of abode of the person to be sued and unless such notice states explicitly the cause of action, the nature of compensation claimed and the name and place of residence of the intending plaintiff and unless the plaint contains a statement that such notice has been so left or delivered.

(2) No suit such as is prescribed in Sub-section (1) shall, unless it is a suit for recovery of immovable property or for a declaration of title, be instituted after the expiry of six months from the date on which the cause of action arises.



(3) Nothing contained in Sub-section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the objection would be defeated by the giving of the notice or by the postponement of the institution of the suit.

**98. Compounding of offence etc.**-(1) The Authority or any person authorised by it in this behalf by general or special order, may-

- (a) institute, defend or withdraw from any legal proceeding under this Act or any rule made thereunder;
- (b) either before or after the institution of the proceedings, compound any offence made punishable under this Act or any rule made thereunder; and
- (c) admit, compromise or withdraw any claim made under the Act or any rule made thereunder :

[Provided that the Authority or any person authorised by it in this behalf shall not withdraw any legal proceeding pending in-

- (a) Criminal Court without the consent of that Court ; and
- (b) Civil Court without leave of that Court, wherever it is necessary under the provisions of the Code of Civil Procedure, 1908 (5 of 1908.)]

(2) When an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

**99. Members and employees of the Authority to be public servants.** All members, officers and employees of the Authority, the members of the Advisory Council and committees and all other persons entrusted with the execution of any function under this Act shall be deemed, when acting or purporting to act in pursuance of this Act or the rules or regulations made thereunder, to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (45 of 1860).

**100. Protection of action taken in good faith.**-No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

**101. Duty of police officer.**-It shall be the duty of every police officer-

- (a) to co-operate with the Authority for carrying into effect and enforcing the provisions of this Act or any rule or regulation made thereunder;
- (b) to communicate without delay to the proper officer or employee of the Authority any information which such police officer receives of a design to commit, or of the commission of any offence against this Act or any rule or regulation made thereunder ; and
- (c) to assist any officer or employee of the Authority reasonably demanding the aid of such police officer for the lawful exercise of any power vested in him under this Act or any rule or regulation made thereunder.

**102. Mode of recovery of dues of the Authority.**-Any money due to the Authority on account of fee or charges, or from the disposal of lands, buildings or other properties, movable or immovable or by way of rents and profits or in pursuance of any agreement executed by the Authority with any

1. Added vide Odisha Act No. 15 of 1984-w.e.f. 6.6.1984.

beneficiary may, if the recovery thereof is not expressly provided for in any other provision of this Act, shall be recoverable by the Authority as arrear of land revenue [and the State Government may appoint an officer of the Authority as Certificate Officer who shall be deemed to be the Certificate Officer within the meaning of the provisions of the Odisha Public Demands Recovery Act, 1962 to recover such dues of the Authority.]

**103. Control by State Government.**-(1) The Authority shall carry out such directions as may be issued to it, from time to time, by the State Government for the efficient administration of this Act.

(2) If in, or in connection with the exercise of its powers and discharge of its functions by the Authority under this Act, any dispute arises between the Authority and the State Government, the decision of the State Government on such dispute shall be final.

(3) The State Government may, at any time, either on its own motion or otherwise, call for the records of any case disposed of, or order passed by the Authority for the purpose of satisfying itself as to the legality or propriety of any order passed or directions issued and may pass such order or issue such directions in relation, as it may think fit :

Provided that the State Government shall not pass an order prejudicial to any person without giving such person a reasonable opportunity of being heard.

**104. Returns and inspection.**-(1) The Authority shall furnish to the State Government such reports, returns and other information, as the State Government may, from time to time, require.

(2) Without prejudice to the provisions of Sub-section (1), the State Government or any officer authorised by the State Government in this behalf, may call for reports, returns and other information from the Authority in regard to the implementation of any development scheme or town planning scheme.

(3) Any person authorised by the State Government or the officer referred to in Sub-section (2) may enter into or upon any land without assistants or workmen for ascertaining whether the provisions of the development plan are being or have been implemented, or whether the development is being or has been carried out in accordance with such plan or such scheme.

(4) No such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the concerned land or building.

**105. Service of notices etc.**-(1) All documents including notices and orders required by this Act or any rules or regulations made thereunder to be served upon any person shall, save as otherwise provided in this Act or rules or regulations, be deemed to be duly served-

- (a) where the document is to be served on a Government Department, railway, local authority, statutory authority, company, corporation, society, or other body, if the document is addressed to the head of the Government Department, General Manager of the Railway, Secretary or principal officer of the local authority, statutory authority, company, corporation, society or any other body at its principal branch, local or registered office, as the case may be, and is either-

1. Added vide O.G.E. No. 1427, Dt. 06.10.2015



- (i) sent by registered post to such office; or
- (ii) delivered at such office;
- (b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either-
  - (i) sent by registered post, or
  - (ii) delivered at the said place of business;
- (c) in any other case, if the document is addressed to the person to be served; and :
  - (i) is given or tendered to him, or
  - (ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates,
  - (iii) is sent by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed "the owner" or "the occupier", as the case may be, of that land or building naming or describing that land or building without further name or description and shall be deemed to be duly served, if the document so addressed is sent or delivered in accordance with Clause (c) of Sub-section (1).

(3) Where a document is served on a partnership in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any property the Secretary to the Authority, may by notice in writing require the occupier, if any, of the property to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

**Explanation**-A domestic servant is not a member of the family within the meaning of this section.

**106. Public notice how to be made known**-Every public notice to be given under this Act or the rules or regulations made thereunder shall be in writing over the signature of the Secretary to the Authority or, as the case may be, over the signature of the Valuation Officer and shall be widely made known in the locality to be effected, thereby by affixing copies thereof in conspicuous public places within the said locality or by publishing the same by beat of drum or by advertisement in a local newspaper and by such other means which the Secretary may think fit.

**107. Notices, etc. to fix reasonable time**-Where any notice, order or other document issued or made under this Act or any rule or regulations made thereunder requires anything to be done for the doing, of which no time is fixed under this Act or the rule or regulation, the notice, order or other document shall specify a reasonable time for doing the same.

**108. Authentication of orders, documents, etc.**-All permissions, sanctions, orders, decisions, notices and other documents shall be authenticated-

- (a) on behalf of the Authority, by the signature of the Secretary, to the Authority,
- (b) on behalf of the Valuation Officer, by himself,

or by any other officer authorised in this behalf by the Authority or, as the case may be, by the Valuation Officer.

**109. Jurisdiction of Courts**-All offences committed under the Act or any rule made thereunder shall, on a complaint being made, be, cognizable by a Magistrate of the first class.

**110. Sanction of prosecution**-No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Authority or any officer authorised by the Authority in this behalf.

**111. Power to delegate**-(1) The Authority may, by notification, direct that any power exercisable by it under this Act, except the power to make regulations, may also be exercised by such officer or local authority or committee constituted under Section 6 '[or Special Purpose Vehicle constituted under section 6A or Special Planning Authority designated under section 3A] as may be mentioned therein, in such cases and subject to such conditions, if any as may be specified therein.

(2) The State Government may, by notification, direct that any power exercisable by it under this Act, except the power to make rules, may also be exercised by such officer '[or such Committee, to be constituted by the State Government for the purpose,] as may be mentioned therein, in such cases and subject to such conditions, if any, as may be specified therein.

(3) The Chairman or the Vice Chairman with the prior approval of the Authority, may by order, direct that any power exercisable by him under this Act, may also be exercised by such officer as may be mentioned therein in such cases and subject to such conditions, if any, as may be specified therein.

**112. Fines when realised to be paid to the Authority**-All fines realised in connection with prosecutions under this Act shall be paid to the Authority at such time and in such manner as may be prescribed by rules.

**113. Power of Authority to require local authority to assume responsibility in certain cases**-Where any area has been developed by the Authority it may require the local authority within whose local limits the area so developed is situated, to assume responsibility for the maintenance of the amenities which have been provided in the area by the Authority and for the provision of the amenities which have not been provided by the Authority but which in its opinion should be provided in the area, on terms and conditions agreed upon between the Authority and that local authority, and where such terms and conditions cannot be agreed upon, on terms and conditions settled by the State Government in consultation with the local authority on a reference of the matter to State Government by the Authority.



**114. Power of the Authority in default by persons-** (1) If the Authority after holding a local enquiry or upon report from any of its officers or other information in its possession, is satisfied that any amenity which in the opinion of the Authority is to be provided for any land but has not been provided for such land or that any development of the land for which permission, approval or sanction has been obtained under this Act but has not been carried out, it may, after giving reasonable opportunity of show-cause, serve upon the owner of the land or the person responsible for providing the amenity or carrying out the development, as the case may be, a notice requiring him to provide the amenity or carry out the development within such time as may be specified in the notice.

(2) If such amenity is not provided or any such development is not carried out within the time specified in the notice, then the Authority may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it may think fit:

Provided that before taking any action under this sub-section, the Authority shall give reasonable opportunity to the owner of the land or to the person responsible, for providing the amenity or for carrying out the development to show cause as to why such action should not be taken.

(3) All expenses incurred by the Authority or the agency employed by it in providing the amenity or carrying out the development, together with interest from the date when a demand for expenses is made until payment at such rate as the State Government may by order fix, shall be recovered by the Authority from the owner or the persons responsible for providing the amenity as arrears of land revenue.

**115. Registration of documents, maps, plans not required-** (1) Nothing in the Indian Registration Act, 1908 (Act No. 16 of 1908) shall be deemed to require the registration of any documents, plan or map prepared, made or sanctioned in connection with a development plan or a town planning scheme which has come into force.

(2) All such documents, plans and maps shall, for the purpose of Sections 48 and 49 of the said Act be deemed to have been registered in accordance with the provisions of that Act:

Provided that documents, plans and maps relating to be approved development plan and scheme shall be accessible to the public in the manner prescribed by regulations.

[116. \*\*\*]

**117. Exemption from Stamp Duty under Indian Stamp Act, 1899-** Notwithstanding anything contained in the Indian Stamp Act, 1899 (Act No. 2 of 1899) no duty shall be imposed on any deed of transfer of immovable property either by or in favour of the Authority.

**118. Power to make agreement-** Unless otherwise provided in this Act the Authority shall be competent to make any agreement with any person or party in respect of any matter which is provided for under this Act, or the rules or regulations made thereunder.

**119. Effect of other laws-** (1) Save as otherwise provided in Sub-section (3) of Section 91 or Sub-section (5) of Section 92, the provisions of this Act and the rules and regulations made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law.

1. Deleted vide Odisha Act No. 10 of 1985-w.e.f. 13.5.1985.

(2) Notwithstanding anything contained in any other law-

- (a) when permission for development in respect of any land has been obtained under this Act, such development shall not be deemed to be unlawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under such other law for such development has not been obtained; and
- (b) when permission for such development has not been obtained under this Act, development shall not be deemed to be lawfully undertaken or carried out by reason only of the fact the permission, approval or sanction required under such other law for such development has been obtained.

[(3) The person requiring a permission for development on a final plot which has been recorded as agricultural land in the record of rights and which has been carved out and approved under the town planning scheme, development scheme or land pooling scheme or permitted under the provisions of section 16 of the Act, shall not require a written permission for conversion of the use of land for the purpose other than agriculture under the provisions of section 8A of the Odisha Land Reforms Act, 1960 and rules made thereunder, but shall pay the conversion fees at the rate provided in section 8A of that Act which shall be credited to the Comprehensive Development Plan Infrastructure Development Fund referred to in sub-section (5-a) of section 77.]

**120. Mode of proof of record and restriction on the summoning of an officer of the Authority-** (1) A copy of any receipt, application, plan, notice, order, entry in a register, or other documents in the possession of the Authority or the Valuation Officer if duly certified by the legal keeper thereof or other person authorised by the Authority for the Valuation Office in this behalf, shall be received as *prima facie* evidence of the existence of the entry or document, as the case may be, and shall be admitted as evidence of the matters and transactions therein recorded in every case, where, and to the same extent, the original entry of document would, if produced, have been admissible to prove such matters.

(2) The Chairman, Vice-Chairman, member, officer or employee of the Authority or the Valuation Officer or any officer subordinate to him shall not in any legal proceedings to which the Authority or the Valuation Officer is not a party, be required to produce any register or document the contents of which can be proved under the preceding sub-section by a certified copy, or to appear as witness to prove any matter and transaction recorded therein, unless the Court for special reasons so directs.

**121. Development plans to stand modified in certain cases -** (1) Where any land situated in a development area is required by the development plan to be kept as unbuilt upon or is designated in any, such plan for any public purpose or subject to compulsory acquisition, then, if at the expiration of ten years from the date of coming into, operation of the comprehensive development plan under Section 13, the land is not compulsorily acquired or purchased, by the State Government or the Authority, as the case may be, the owner of the land may serve on the State Government a notice requiring his interest in the land to be so acquired.

1. Ins. vide O.G.E. No. 1427, Dt. 06.10.2015



(2) If the State Government fails to commence proceedings for the acquisition of the land under the Land Acquisition Act, 1894 (Act No. 1 of 1894) within six months from the date of receipt of the notice under Sub-section (1) the land, immediately after the expiration of the said six months, shall be deemed to be not required to be kept as unbuilt upon or for public purpose or subject to compulsory acquisition, and shall be available to the owner, subject to the provisions of Chapter V, for development for such uses as is permissible in case of adjacent land in the relevant development plan.

**122. Application of Odisha Public Premises (Eviction of Unauthorised Occupants) Act, 1972 to premises of the Authority**—(1) The State Government may, by notification\*, provided that from such date as is stated therein the Odisha Public Premises (Eviction of Unauthorised Occupants) Act, 1972 (Odisha Act 5 of 1972) shall, subject to the provisions of Sub-section (2) apply to the premises belonging to, vesting in or leased by the Authority.

(2) On a notification being issued under Sub-section (1), the aforesaid Act and the rules made thereunder shall apply to aforesaid premises with the following modifications, namely :

- (a) the State Government shall appoint an officer of the Authority who is holding or has held office, whether under the Government or the Authority, which in the opinion of the State Government is not lower in rank than that of a Deputy Collector or an Assistant Engineer, to be the Estate Officer for the purposes of the aforesaid Act and one or more officers may be appointed as Estate Officer for different areas or for the same area ;
- (b) reference to "public premises" in that Act and those rules shall be deemed to be reference to premises of the Authority and reference to "the State Government" in Sections 6, 12, and 15 thereof shall be deemed to be reference to the Authority.

*[Note—In exercise of the powers conferred by Sub-section (1) of Section 122 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby provide that with effect from the 1st day of November, 1983 the Odisha Public Premises (Eviction of Unauthorised Occupants) Act, 1972, shall apply to the premises belonging to vesting on, or leased by the Cuttack Development Authority.]*

*[Note—In pursuance of Clause (a) of Sub-section (2) of Section 122 of the Odisha Development Authorities Act, 1982 (Odisha Act 14 of 1982), the State Government do hereby appoint Administrative Officer, Cuttack Development Authority to be the Estate Officer for the purpose of the said Act for the areas to which the Odisha Public Premises (Eviction of Unauthorised Occupants) Act, 1972 has been applied in the notification of the Government of Odisha in the Housing and Urban Development Department No. 46627 dated the 31st October, 1983.]*

**123. Power of State Government to make rules**—(1) The State Government, after consultation with the Authority, may make rules to carry out all or any of the purposes of this Act and prescribe forms for any proceedings for which it considers that a form should be provided :

\* Vide Odisha Gazette Part III-A/4.11.1983 applied to Bhubaneswar Dev. Area, w.e.f. 1.11.1983.

1. Vide Notfn. No. 46627/T. P. Esst. 100/83-HUD/31.10.1983.

2. Vide Notfn. No. 46628-HUD/31.10.1983.

Provided that consultation with the Authority shall not be necessary on the first occasion of the making of the rules under this section, but the State Government shall take into consideration any suggestion which the Authority may make in relation to the amendment of such rules after they are made.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :

- (i) the salary, allowances and conditions of service of the Vice-Chairman and whole-time paid members of the Authority under Sub-section (7) of Section 3 ;
- (ii) control and restriction in relation to appointment of Secretary and other officers and employees of the Authority under Sub-section (1) of Section 4 ;
- (iii) the form and the manner in which the notice shall be published inviting objections with respect to the draft development plan under Sub-section (1) of Section 12 ;
- (iv) the form and contents of the development plan, the procedure to be followed and any other matter including time-limit in connection with the preparation, submission and approval of such plan, under Sub-section (4) of Section 12 ;
- (v) the form and the manner in which notice shall be published inviting objections and suggestions with respect to the proposed modification in a development plan under Sub-section (3) of Section 14 ;
- (vi) the fee to be accompanied with the application for permission to develop under Sub-section (2) of Section 16 ;
- (vii) the manner in which and the fee to accompany the appeal against any orders under Section 16 or 17, under Sub-section (1) of Section 18 ;
- (viii) the amount of fee to be paid for re-validation of permission, under Section 20 ;
- (ix) such other matters, which may be provided in a town planning scheme under Clause (i) of Sub-section (4) of Section 22 ;
- (x) the manner of publication of declaration of intention to make a town planning scheme under Sub-section (2) of Section 23 ;
- (xi) the manner in which the Authority shall publish a notice and the form in which information shall be invited in respect of title or interest in the lands or buildings covered by the draft town planning scheme under Sub-section (3) of Section 23 ;
- (xii) the manner of publication of a draft town planning scheme under Sub-section (1) of Section 25 ;
- (xiii) other particulars which a draft town planning scheme may contain under Clause (h) of Section 27 ;
- (xiv) the manner in which and the method by which compensation shall be payable under Sub-section (3) of Section 28 ;
- (xv) the form of permission to be granted by the Authority under Sub-section (1) of Section 32 ;
- (xvi) the qualifications for appointment of Valuation Officer under Sub-section (1) of Section 33 ;
- (xvii) the procedure to be followed by the Valuation Officer for subdividing the town planning scheme under Section 34 ;



- (xviii) the manner and the form of notice to be served by Valuation Officer under Clause (i) of Sub-section (1) of Section 35 ;
  - (xix) the manner and the form of notice to be given by the Valuation Officer under Clause (x) of Sub-section (3) of Section 35 ;
  - (xx) the form in which the preliminary and the final town planning scheme shall be drawn under Sub-section (3) of Section 35 ;
  - (xxi) the form in which the decision of the Valuation Officer, shall be communicated to the party concerned under Section 37;
  - (xxii) the procedure of summary eviction of a person under Section 51;
  - (xxiii) the form of notice to be given under Sub-section (1) of Section 52;
  - (xxiv) the manner of publication of the draft variation of a town planning scheme under Sub-section (2) of Section 53 ;
  - (xxv) the manner of publication of the draft amendment to regulations under Sub-section (1) of Section 55 ;
  - (xxvi) the time within which, any claim is to be made by owner of any property or right injuriously affected by the making of a town planning scheme under Section 65;
  - (xxvii) the period for payment of excess amount by owner under Sub-section (2) of Section 68;
  - (xxviii) rules for regulating the borrowing by the Authority under Sub-section (9) of Section 77;
  - (xxix) the time and the manner in which the collections made under Sub-section (1) of Section 78 shall be paid to the Authority under Sub-section (4) of that section;
  - (xxx) the form in and the time at which the annual budget of the Authority shall be prepared under Section 80;
  - (xxxi) the form in which the Authority shall maintain its accounts and records and prepare annual statement of accounts and balance sheet under Sub-section (1) of Section 81 ;
  - (xxxii) the form in and the date on or before which the Authority shall prepare its annual report under Section 82;
  - (xxxiii) the manner in and conditions subject to which the Authority shall constitute provident fund under Sub-section (1) of Section 83;
  - (xxxiv) the time at and the manner in which application shall be made to the Authority for assessment of development charge under Sub-section (1) of Section 86;
  - (xxxv) the powers to be exercised, the functions to be performed and the procedure to be followed by the Art Commission under Sub-section (3) of Section 88;
  - (xxxvi) the time at and the manner in which the fines realised in connection with the prosecutions under this Act shall be paid to the Authority under Section 112;
  - (xxxvii) the form of no objection certificate under Section 116;
  - (xxxviii) any other matter which has to be, or may be prescribed by rules.
- (3) The State Government shall have power to make rules-
- (a) in respect of conditions on which officers and employees of the Authority may be appointed, reduced in rank, suspended, discharged, removed or dismissed ;

- (b) in respect of accounts to be maintained by the Authority;
- (c) in respect of returns, statements, reports and accounts to be submitted by the Authority to the State Government ;
- (d) prescribing and defining the mutual relationship to be observed between the Authority and the local authority in any matter in which they are jointly interested ;
- (e) in respect of principles, guidelines, planning standards, building regulations, conditions and restrictions in accordance with which development may be undertaken or regulated ;
- (f) in respect of authentication of development plans at the time of approval by the State Government and custody thereof and the procedure for its production before Courts for verification ;
- (g) in respect of calling of tenders, security amount, acceptance of tenders, issue of work orders, entering into contract, execution of works, compromise of claims, and matters ancillary thereto ;
- (h) in respect of such other matter in relation to which the Authority shall make enquiry while considering applications for permission to develop;
- (i) in respect of the stages by which the development of any particular feature of a zone may be carried out ;
- (j) in respect of the local enquiries or other hearing that may be made before a development plan is approved ;
- (k) in respect of the manner in which State Government land after transfer to the Authority shall be dealt with ;
- (l) in respect of matters related to leasing or hiring out or transfer of any property belonging to the Authority and matter ancillary or consequential thereto ;
- (m) in respect of the powers to be exercised and the functions to be performed by the members of the Authority including the Chairman and the Vice-Chairman.

(4) In making any rule, the State Government may provide that a breach thereof, shall be punishable with fine which may extend to one thousand rupees and in the event of the continuance of the offence, a fine which may extend to rupees thirty per day.

**124. Power of the Authority to make regulations-** (1) The Authority may, with the previous approval of the State Government, frame regulations not inconsistent with this Act or the rules made thereunder for carrying out all or any of the purposes of this Act and particularly in regard to all matters expressly required or allowed by this Act or the rules made thereunder to be regulated by the Authority.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for-

- (i) the summoning and holding of meetings of the Authority, the time and the place where such meetings are to be held, the conduct of business at such meeting and the number of members necessary to form a quorum thereat, under Subsection (12) of Section 3 ;
- (ii) the salary and allowances and conditions of service of the Secretary and other officers and employees of the Authority under Sub-section (2) of Section 4 -



- (iii) fees and allowances that may be paid to the members of the Advisory Council for attending its meetings under Sub-section (5), of Section 5;
- (iv) the summoning and holding of meetings of a Committee constituted under Section 6, the time at and the place where such meetings are to be held, the conduct of business at such meeting and the number of members necessary to form a quorum thereat, under Sub-section (2) of Section 6;
- (v) the fee and allowances payable to the members of the Committee (other than the members of the Authority) for attending the meeting of the Committee or any work of the Authority under Sub-section (3) of Section 6;
- (vi) the manner of publication of the approved development plan under Sub-section (1) of Section 13;
- (vii) the procedure for carrying out the functions of the Authority under Chapter III;
- (viii) the planning and building standards, under Clause (i) of Sub-section (1) of Section 15;
- (ix) works for the maintenance, improvement and other alterations of any building for which permission shall not be required under Section 15;
- (x) the form in which application for permission under Sub-section (1) of Section 16 shall be made and, the particulars to be contained in and the documents to be accompanied with such documents;
- (xi) other matters relating to which the Authority shall make enquiry while considering application for permission to develop, under Sub-section (3) of Section 16;
- (xii) the form in which permission granted under Sub-section (3) of Section 16 shall be contained under Sub-section (5) of Section 16;
- (xiii) the manner in which order under Sub-section (3) of Section 16, shall be communicated to the applicant under Sub-section (6) of Section 16;
- (xiv) the form in which the applicant shall draw the attention of the Vice-Chairman with regard to his application to develop under Sub-section (7) of Section 16;
- (xv) the form in which the Authority shall keep register of applications for permission, under Sub-section (11) of Section 16;
- (xvi) the particulars including informations as to the manner in which applications for permission have been dealt with to be contained in the register under Sub-section (12) of Section 16;
- (xvii) the terms and conditions subject to which use of any land and building in contravention of development plan may be continued under Section 19;
- (xviii) the form in which completion certificate shall be obtained by registered architect or engineer or a person approved by the Authority under Section 20;
- (xix) the regulations in accordance with which disposal of land or properties shall be done by the Authority under Section 76;

- (xx) the manner in which the properties belonging to or under the control of the Authority shall be managed;
- (xxi) the manner in which approved development plan shall be accessible to the public, under the proviso to Sub-section (2) of Section 115;
- '[(xxii) the principles and guidelines in accordance with which development may be undertaken or regulated,—
  - (a) in respect of planning standards like transit oriented development, wetland development, water sensitive planning and design;
  - (b) in respect of urban design and built form guidelines;
  - (c) in respect of conditions and restrictions to promote sustainable development and urban transport including street design guidelines and to prescribe institutional framework for implementation of the same; and
  - (d) in respect of special conditions and restrictions in accordance with which development may be undertaken or regulated in a development area or in any part of the development area or special planning area, as the case may be;
- (xxiii) any other matter which has to be or may be prescribed by regulations.]

(3) Until the Authority is established under this Act, any regulation which may be made under Sub-section (1) or Sub-section (2) may be made by the State Government, and any regulation so made may be altered or rescinded by the Authority in exercise of its powers under Sub-section (1).

**125. Procedure for making rules and regulations-**(1) In making rules or regulations under Section 123 or 124, a draft of the same shall be published in the *Gazette*.

(2) There shall be published with the draft a notice specifying a date, being not earlier than fifteen days, on or after which the draft shall be taken into consideration.

(3) The State Government or the Authority, as the case may be, shall consider any objection or suggestion, if any, that may be received before the specified date and make such alterations or modifications as it may deem fit.

(4) All rules and regulations so made shall be published in the *Gazette* and shall come into force on the date of such publication.

**126. Cancellation of regulations by the State Government -**The State Government may, in consultation with the Authority and after previous publication of their intention, rescind any regulations made by the Authority, and thereupon such regulations shall cease to have effect.

**127. Dissolutions of the Authority-**(1) Where the State Government is satisfied that the purposes for which the Authority was established under this Act have been substantially achieved so as to render the continued existence of the Authority unnecessary in the opinion of the State Government, it may, by notification, declare that the Authority shall be dissolved with effect from such date as may be specified in the notification and the Authority shall be deemed to be dissolved accordingly.

(2) From the said date-

- (a) all properties, funds and dues which are vested in or are realisable by the Authority, shall vest in or be realisable by the State Government;



- (b) all liabilities which are enforceable against the Authority shall be enforceable against the State Government;
- (c) for the purpose of carrying out any development which has not been fully carried out by the Authority and for the purpose of releasing properties, funds and dues referred to in Clause (a) the function of the Authority shall be discharged by the State Government.

**128. Repeal and savings-** (1) As from the date of the constitution of the Authority-

- (a) the Odisha Town Planning and Improvement Trust Act, 1956 (Odisha Act 10 of 1957) and Sections, 247 to 251 and Chapter XVII of Odisha Municipal Act, 1950 (Odisha Act 23 of 1950) shall cease to have effect within the area under the jurisdiction of the Authority;
- (b) the Improvement Trusts and Special Planning Authorities (hereinafter referred to as existing Planning Authorities) constituted under the provisions of the said Act in respect of the whole or part of the area under the jurisdiction of the Authority shall stand dissolved.

(2) Notwithstanding the provisions of Sub-section (1)-

- (a) such officer or other employee serving under the existing Planning Authority immediately before the date of the constitution of the Authority as the State Government may decide shall, on and from such date, be transferred to and become an officer or other employee of the concerned Authority with such designations as the concerned Authority may determine and shall hold office by the same tenure, at the same remuneration and on the same terms and conditions of service as he would have held the same, if the existing Planning Authority had not been dissolved and shall continue to do so unless and until such tenure, remunerations and the terms and conditions are duly altered by the Authority;

Provided that any service rendered by any such officer or other such employee before the dissolution of the existing Planning Authority shall be deemed to be the service rendered under the concerned Authority :

Provided further that the concerned Authority may employ any such officer or other employee in the discharge of such functions under this Act as it may think proper and every such officer or other employee shall discharge those functions accordingly-

- (b) anything done or any action taken (including any appointment, delegation, notification, order, scheme, permission, rule, byelaw, regulation or form made, granted or issued) under the Odisha Town Planning and Improvement Trust Act, 1956 (Odisha Act 10 of 1957) and Sections 247 to 251 and Chapter XVII of Odisha Municipal Act, 1950 (Odisha Act 23 of 1950) in respect of whole or part of a development area, shall so far as it is not inconsistent with the provisions of this Act, continue to be in force and be deemed to have done or taken under the provisions of this Act unless and until it is superseded by anything done or any action taken under the said provisions;

[(b-1) Any work or construction or reconstruction of building undertaken, carried out or completed in contravention of Sections 247 to 251

and Chapter XVII of the Odisha Municipal Act, 1950 (Odisha Act 23 of 1950) or any rules, bye-laws or regulations made thereunder in force at the relevant point of time or any orders made or permission granted in respect thereof within the whole or part of development area and to which the provisions of Clause (b) do not apply, shall be deemed to be a development undertaken, carried out or completed without a permission as referred to in Section 15;]

- (c) all debts, obligations and liabilities incurred, all contracts entered into, all matters and things engaged to be done by, with or for the existing Planning Authority shall-
  - (i) in respect of a development area be deemed to have been incurred entered into or engaged to be done by, with or for the concerned Authority;
  - (ii) in respect of area or areas other than a development area be deemed to have been incurred, entered into or engaged to be done by, with or for the Planning Authority or Authorities that may be constituted by the State Government for such area or areas under the provisions of the Odisha Town Planning and Improvement Trust Act, 1956 (Odisha Act 10 of 1957) ;
- (d) all properties, movable and immovable, vested in, and all rents, fees and other sums due to the existing Planning Authority shall-
  - (i) in respect of a development area vested in or be due to the Authority,
  - (ii) in respect of area or areas other than a development area vested in or be due to the Planning Authority or Authorities that may be constituted by the State Government for such area or areas under the provisions of Odisha Town Planning and Improvement Trust Act, 1956 (Odisha Act 10 of 1957) in such manner and in such proportions as may be determined by the State Government;
- (e) all suits, prosecutions and legal proceedings instituted or which might have been instituted by, for or against the existing Planning Authority, shall-
  - (i) in respect of a development area may be continued or instituted by, for or against the concerned Authority;
  - (ii) in respect of areas other than a development area may be continued or instituted by, for or against the Planning Authority or Authorities that may be constituted by the State Government for such area or areas under the provisions, of the Odisha Town Planning and Improvement Trust Act, 1956 (Odisha Act 10 of 1957).

#### CASE LAW :

*Sec. 128-The Odisha Town Planning and Improvement Trust Act, 1956 has been repealed-By virtue of Section 128 no substitution or fresh notice is necessary as the proceedings are to be continued and officers have been transferred-1986 (II) OLR (NOC) 32.*