

The Odisha Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

ORISSA ACT 10 OF 1964

An Act for vesting of certain properties in the Grama Sasan for better management and control thereof and for extinguishment of rights therein

Whereas it is expedient in the public interest to provide for the vesting of the possession, management and control of orchards, tanks and trees, belonging to Government in the Grama Sasans for the better management, control and utilisation of such properties in the manner hereinafter appearing;

It is hereby enacted by the Legislature of the State of Orissa in the Fifteenth Year of the Republic of India as follows:

1. Short title, extent and commencement :— (1) This Act may be called the Orissa Vesting of Properties (in Grama Sasans) Act, 1964.

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force on such date as the Government may, by notification, appoint in that behalf.

2. Definitions :— In this Act unless the context otherwise requires—

(a) **“Claims Officer”** means a Sub-divisional Officer and includes any other Officer not being below the rank of a Deputy Collector appointed as such by Government;

(b) **“Government”** means the State Government of Orissa;

(c) **“Grama Sasan”, “Grama Panchayat” and “Grama Fund”** shall respectively mean the Grama Sasan. Grama Panchayat and Grama Fund constituted under the Orissa Grama Panchayats Act, 1948 (Orissa Act 15 of 1948):

(d) **“prescribed”** means prescribed by rules made under this Act.

3. Vesting of orchards and tanks belonging to Government :— (1) The Collector may, in the public interest by notice published in the prescribed manner declare the possession, management and control of any tank, orchard

*. *Published vide Orissa Gazette Ext./4.7.1964-O.A. No. 10 of 1964. For Statement of Objects and Reasons see Orissa Gazette Ext. No. 134/04.03.1963; and for Report of the Select Committee see ibid. No. 679/26.09.1963.*

or tree belonging to Government to have vested in the Grama Sasan having jurisdiction:

Provided that no such declaration shall be made in respect of any such property wherein any village community or a Section thereof has any rights other than rights as were liable to be terminated without payment of compensation at any time by or on behalf of Government unless the Grama Panchayat of the Grama Sasan having jurisdiction, by resolution passed by two-thirds majority, expresses its willingness to take over such property.

(2) Upon a declaration being made under Sub-Section (1) the rights, if any, of all persons including any village community or a Section thereof in respect of such tank, orchard or tree shall stand extinguished:

Provided that nothing herein contained shall affect—

- (a) the customary use of water of such tank for purposes of drinking or bathing; or
- (b) any irrigation rights therein allowed under the law in force in the area.

4. Filing of Claims :— (1) Upon the extinguishment of rights under Section 3 any person interested, whose rights are so extinguished may within sixty days from the date of publication of the notification under the said Section apply in the prescribed manner to the Claims Officer having jurisdiction for determination of the compensation, if any, payable in respect of such rights:

Provided that no compensation shall be payable in respect of rights as were liable to be terminated without payment of compensation at any time by or on behalf of Government.

(2) On receipt of an application under Sub-Section (1) the Claims Officer shall after giving the parties concerned and the concerned Grama Panchayat an opportunity of being heard and after holding an enquiry in the prescribed manner determine the nature of the rights and the compensation, if any, payable in respect thereof in accordance with the provisions of Sub-Section (1) of Sections 23 and 24 of the Land Acquisition Act, 1894 (1 of 1894).

(3) The compensation determined by the Claims Officer under Sub-Section (2) shall be paid by Government in the manner prescribed.

(4) Government shall have the right to be impleaded as party to the proceedings before the Claims Officer.

5. Taking over possession and management of properties vested in Grama Sasans :— (1) Upon a declaration being made under Section 3, the Grama Sasan concerned shall subject to such conditions and restrictions as may be prescribed be entitled to the possession, management and control of the property in respect of which such declaration has been made and in the event of any obstruction in taking over possession of any such property the Grama Sasan may apply to the Collector who shall take such steps as may be necessary to put the Grama Sasan in possession of the property.

(2) The income from the aforesaid properties shall be credited to the Grama Fund.

(3) The accounts in respect of such properties shall be maintained in the prescribed manner.

6. Special provisions in respect of properties already vested :– (1) The provisions of this Act and the rules and orders made thereunder shall, so far as may be, apply in relation to a tank, orchard or tree belonging to Government, the possession, management and control whereof has vested in the Grama Sasan in pursuance of an order made by Government before the date of commencement of this Act and shall, subject to the provisions of Sub-Section (2), have force and effect as fully and effectively as if the vesting of possession, management and control of such property in the Grama Sasan had been effected under this Act on the date aforesaid:

Provided that nothing herein contained shall have the effect of extinguishing any rights in such property validly created in favour of any person by the Grama Sasan at any time after the date of the orders of Government as aforesaid.

(2) In respect of any tank, orchard or tree to which the provisions of Sub-Section (1) apply–

- (a) a declaration specifying such property shall be deemed to have been made by the Collector under Section 3 on the date of commencement of this Act;
- (b) an application under Sub-Section (1) of Section 4 may be made within sixty days from the date of commencement of this Act; and
- (c) all proceedings pending on the said date in any Civil or Revenue Court or before any other revenue authority in so far as they relate to any rights extinguished by the operation of this Act shall stand annulled.

(3) The provisions of this Section shall have effect notwithstanding anything to the contrary contained in any other law or contract or in any judgment, decree or order of any Court or other authority.

7. Withdrawal from Management :– (1) If at any time it appears to Government that–

- (a) the Grama Sasan is not capable of efficiently managing any property specified in any declaration made under Section 3; or
- (b) it is otherwise necessary in the public interest so to do; they may by order direct that the possession, management and control of such properties shall stand transferred to the Government:

Provided that on such order being made–

- (a) the Grama Sasan shall be entitled to such compensation as may

be determined by Government in respect of improvements of a permanent nature, if any, affected by the Grama Sasan at its own cost; and

- (b) the rights, if any, created in favour of any person by the Grama Sasan at any time during the period such Grama Sasan remained in possession shall stand extinguished and such person shall be entitled to compensation, so far as may be, in accordance with the provisions of Section 4 on an application made in that behalf within sixty days from the date of the said order.

(2) On and from the date of the order made under Sub-Section (1) the declaration under Section 3 shall cease to have effect and the income of such property after the said date shall be credited to the Consolidated Fund of the State.

8. Appeal and revision and bar of jurisdiction of Civil Courts :– (1) Any person aggrieved by any decision of the Claims Officer under Section 4 may, within thirty days from the date of the order, prefer an appeal before the, Revenue Divisional Commissioner having jurisdiction.

(2) Any person aggrieved by any order passed in an appeal under Sub-Section (1) may, within ninety days from the date of such order, file an application for revision on a question of law before the High Court.

(3) Subject to the decisions in appeal or revision, if any, under the preceding Sub-Sections all orders made under this Act shall be final.

(4) No Civil Court shall have jurisdiction to entertain any suit of proceeding so far as it relates to any matter which any Officer or other competent authority is empowered by or under this Act to decide.

Explanation :– For the purposes of this Section “person” shall include Government.

9. Authorities to exercise certain Powers of Civil Court :– (1) The Claims Officer, Collector and the Revenue Divisional Commissioner shall for the purposes of this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of-

- (a) summoning and enforcing the attendance of witnesses and examining them on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit; and
- (d) such other matters as may be prescribed.

(2) All enquiries and proceedings before the aforesaid authorities under this Act shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 and 228 of the Indian Penal Code (45 of 1860).

10. Power to make Rules :– (1) The Government may make rules to carry out purpose of this Act.

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

- (a) the procedure to be followed by the Claims Officer, Collector and the Revenue Divisional Commissioner while proceeding under any of the provisions of this Act;
- (b) the forms of applications, notices. and books of account;
- (c) all other matters which, under the provisions of this Act, are required to be or may be prescribed.

(3) All rules made under this Section shall be laid before the Legislative Assembly as soon as possible after they are made for a total period of fourteen days which may be comprised in one or more sessions and shall be subject to such modifications as the Assembly may make during the said period.

11. Act to override other Laws :– Save as otherwise expressly provided the provisions of this Act shall have affect, notwithstanding anything to the contrary in any other law, custom, or usage or agreement, sanad or other grant or in any decree or order of Court or any other authority.

12. Power to remove doubts and difficulties :– If any doubt or difficulty arises in giving effect to the provisions of this Act, Government may, as occasion may require, by order, do anything not in consistent with the provisions of this act or the rules made thereunder, which appears to them necessary for purposes of removing the doubt or difficulty.
