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ORISSA ACT 33 OF 1962

THE ORISSA GOVERNMENT LAND SETTLEMENT ACT, 1962

(Assented to by the Governor on the 13th November, 1962)

An Act to provide for settlement of Government Land in the State of Orissa.

Be it enacted by the Legislature of the State of Orissa in the Thirteenth Year of the Republic of India, as follows :

Statement of Objects & Reasons

At present settlement of Government waste lands is being made according to the executive instructions issued from time to time and also according to provisions in various Acts, Rules, Orders, customary practices and usage in force in various parts of the State. The power to reserve land for communal and other public purpose, levy of Salami, charging of rent, application fees and other fees and the authority to dispose of such applications are different according to the laws and Rules in force in different parts of the State. This makes its administration difficult and gives cause for complaint by the public due to lack of uniformity. The present Bill is therefore proposed to be enacted as a general legislation formulating a set of uniform principles regarding lease of Government waste lands overriding provisions of various Acts, Rules, Orders, customary practices and usage in force in various parts of the State instead of tinkering with the individual laws with the primary objective of governing the settlement of waste lands in a planned manner uniformly throughout the State.

1. Short title, extent and commencement :— (1) This Act may be called the Orissa Government Land Settlement Act, 1962.

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

*. Published *vide* Orissa Gazette Extraordinary No. 684/26.11.1962-O.A. No. 33 of 1962.

(3) The sections shall come into force at once and the remaining provisions of this Act shall come into force¹ on such date as Government may, by notification, appoint in that behalf.

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

²[(a) **“Collector”** shall include an Additional District Magistrate;

³[(aa) **“Government”** means the State Government of Orissa;]

(b) **“Government land”** means any waste land belonging to Government, whether cultivable or not, recorded as House-site, Anabadi, Chot Jungle, Puratan Patit, Nutan Patit, Parityakta Bedakhali, ⁴[Gochar] or by any other description, whatsoever;

⁵[**Explanation :-** The expression “any other description, whatsoever” shall include—

(i) Khasmahal land, that is to say Mahals held under Khas which are treated as Government estates and the rents of which are payable under Section 3 of the Bengal Land Revenue Settlement Regulation, 1822 [Bengal Regulation VII of 1822] or under Section 4 of the Bengal Land Revenue Settlement Regulation, ⁵[Bengal Regulation IX of 1825];

(ii) Nazul lands situated in the State;

(iii) Gramakantha Parambok lands in the ex-Madras areas; and

(iv) Anabadi lands situated in the State;

⁶[(b-1) **“Landless agricultural labourer”** means a person who has no means of livelihood other than agriculture, provided :

(i) he or any member of his family owns no land excluding homestead; and

(ii) his total annual income, together with the total annual income of all the members of his family who are living with him in common mess from all source does not exceed rupees three thousand and six hundred or an amount which the State Government may, by notification from time to time, specify in that behalf ;]

⁷[(b-2) **“Person”** means ⁸[an individual] , the total extent of whole land excluding homestead, together with lands held by all the members of his family who are living with him in common mess is less than one standard acre

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1. Sections 2 to 9 came into force w.e.f. 1.1.1965 *vide* Notification No. 43 GD (GL) 425/64-R.
 2. Inserted *vide* Orissa Act No. 5 of 1974.
 3. Re-lettered *ibid*.
 4. Inserted *vide* Orissa Act No. 48 of 1975.
 5. Inserted *vide* Orissa Act No. 1 of 1991.
 6. Substituted *vide* Orissa Act No. 2 of 1990.
 7. Inserted *ibid*.
 8. Substituted *vide* Odisha Act No. 26 of 2013, O.G.E. No. 2206, dated 13.11.2013.

and whose total annual income together with the total annual income of all the members of his family living with him in common mess, does not exceed rupees three thousand and six hundred or an amount which the State Government may, by notification from time to time, specify in that behalf ^{A-1}[and includes any company or association or body of individuals whether incorporated or not or any local authority;]

- (c) **“prescribed”** means prescribed by Rules made under this Act;
- ¹[(d) **“Revenue Officer”** means any officer appointed as such by the Government to discharge any of the functions of a Revenue Officer under the provisions of the Orissa Land Reforms Act, 1960, (Orissa Act 16 of 1960);
- (e) **“Tahasildar”** includes and Additional Tahasildar.]

3. Reservation and settlement of Government land :- ²[(1) Notwithstanding anything to the contrary in any law or any custom, practice or usage having the force of law, Government shall not be deemed to be debarred from exercising all or any of the following powers in respect of Government lands, namely :

- (a) to reserve such portion of the lands as they deem proper for the purpose of being used as house-sites or for any communal or industrial purpose or for any other purpose whatsoever;
- (b) to charge premium for settlement of any such land;
- (c) to charge rent for the lands so settled;
- (d) to charge fees on applications for settlement of lands and such other fees as may be necessary for or incidental to the disposal of such fees shall be payable in the prescribed manner; and
- ³[(e) to authorise any officer of Government not below the rank of a Tahasildar to dispose of applications for settlement of lands and to settle the same in such manner as may be prescribed and subject to the provisions of Sub-sections (2) & (3) :]

⁴[Provided that no Government land recorded as Gochar shall be reserved for any purpose mentioned in Clause (a) or settled under Clause (e) without being dereserved in accordance with the provisions contained in Section 3-A.]

⁴[(2) In the settlement of lands under Clause (e) of Sub-section (1), seventy *per centum* thereof shall be settled with the persons belonging to the Scheduled Tribes and the Scheduled Castes in proportion to their respective populations in the village in which the lands are situated and the remaining lands shall be settled with the other persons not belonging to the aforesaid categories:

Provided that if sufficient number of persons belonging to the aforesaid categories are not available in the village in which the lands are situated, or being available, are

A-1. Added *vide* Odisha Act No. 26 of 2013, O.G.E. No. 2206, dated 13.11.2013.

1. Inserted *vide* Orissa Act No. 5 of 1974.
2. Re-numbered *vide* Orissa Act No. 5 of 1974.
3. Substituted *vide* Orissa Act No. 5 of 1974.
4. Inserted *vide* Orissa Act No. 48 of 1975.

not willing to accept the settlement of land so much of the land reserved for the said persons as cannot be settled with them may be settled with other persons.]

¹[(2-a) ²[* * * *]]

³[(3) The settlement of land under this section shall be made in the following order of priority, namely-

- (a) co-operative farming societies formed by landless agricultural labourers;
- (b) any landless agricultural labourers of the village in which the land is situate or of any neighbouring village;
- (c) ex-servicemen or members of the Armed Forces of the Union, if they belong to the village in which the land is situated;
- (d) raiyats who personally cultivate not more than one standard acre of ⁴[* * * *] land;

Explanation– In this clause the expression “Standard Acre” has the meaning assigned to it in the Orissa Land Reforms Act 16 of 1960; and

- (e) in the absence of person belonging to any of the foregoing categories, any other person.]

⁵[(4) Notwithstanding anything to the contrary contained in the preceding sub-sections or in any law or any custom, practice or usage having the force of law-

- (a) any land of the category of Khasamahal, Nazul, Gramkantha Parambok or Abadi, wherever situated and used for any purpose, may, on application, be permanently settled with heritable and transferable right with the person who is in occupation of such land either on the basis of lease or otherwise for a period of at least three years prior to the appointed date, in such manner and subject to payment of such amount to the Government as may be prescribed;

Explanation :– The word ‘lease’ includes sub-lease or subsequent lease by the lessee or the sub-lessee, as the case may be.

- (b) if any person in occupation of the land as mentioned in clause (a) fails to apply under the provisions of the said clause within a period as may be prescribed from the date of publication of the Orissa Government Land Settlement (Amendment) Act, 2009 in the *Official Gazette* for settlement of such land, he shall be summarily evicted in the manner prescribed and such land shall be resumed by the Government; and
- (c) the amount and rent payable to Government for such settlement through the Tahasildar concerned shall be recovered as arrear of land revenue, if the occupant fails to pay the same at the time of settlement.

1. Inserted *vide* Orissa Act No. 18 of 1981.
2. Omitted *vide* Orissa Act No. 15 of 2009 (w.e.f. 26.2.2009).
3. Inserted *vide* Orissa Act No. 5 of 1974.
4. Deleted *vide* Orissa Act No. 18 of 1981.
5. Substituted by Act No. 15 of 2009, (w.e.f. 26.2.2009) previously it was inserted by Orissa Act No. 1 of 1991.

Explanation :- For the purpose of this sub-section the expression “appointed date” shall mean the date of commencement of the Orissa Government Land Settlement (Amendment) Act, 2009.]

¹[(5) Government shall, from time to time determine the maximum extent of land to be settled with any person under the provisions of this Act, for different purpose.]

²**3-A. Power to de-reserve land :-** (1) The Government may, by notification in the *Official Gazette*, authorise any officer, not below the rank of a Collector, to de-reserve any land which has been reserved under Clause (a) of Section 3 ³[of any Government land recorded as Gochar] or any portion thereof.

(2) Any officer authorised under Sub-section (1) shall subject to such conditions and limitations as may be prescribed, have power to de-reserve any land referred to in that sub-section or any portion thereof, as the case may be,-

- (a) is no longer required for the purpose for which it was reserved; or
- (b) can no longer serve the purpose for which it was reserved;
- (c) is in excess of the reasonable requirement for the purpose for which it was reserved :

³[Provided that the officer so authorised shall, in assessing the reasonable requirement for the purpose of Gochar follow the prescribed principles laying down the extent of Gochar land to be set apart for use by the community.]

3-B. Resumption of land and imposition of penalty :- ⁴[Any officer authorized under clause (e) of section 3 may resume any land settled by him, if he has reasons to believe that-

- (a) the person with whom the land was settled, has used it for any purpose other than that for which it was settled; or
- (b) the person, other than homesteadless person or landless agricultural labourer, has not used the land for a period exceeding three years from the date of such settlement,

and may impose a penalty of an amount not exceeding one thousand rupees on such person :

Provided that no order under this section shall be passed without giving such person a reasonable opportunity of being heard in the matter :

Provided further that any land settled prior to the commencement of the Odisha Government Land Settlement (Amendment) Act, 2013, if not used within a period of three years from the date of such commencement, the authorized officer shall resume such land.”.

4. Settlement of char and diara lands :- Nothing in any other law or custom or usage having the force of law shall debar the Government from making a settlement of any char or diara land coming into existence after the date of commencement of this Act such persons and subject to such terms and conditions as Government may deem fit:

⁵[Provided that nothing in this section shall apply to any char land which may form part of the holding of a raiyat under Section 21 of the Orissa Land Reforms Act 16 of 1960.

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1. Inserted *vide* Orissa Act No. 15 of 2009 (w.e.f. 26.2.2009).
 2. Inserted *vide* Orissa Act No. 5 of 1974.
 3. Inserted *vide* Orissa Act No. 48 of 1975.
 4. Substituted *vide* Odisha Act No. 26 of 2013, O.G.E. No. 2206, dated 13.11.2013.
 5. Added *vide* Orissa Act No. 18 of 1981.

Explanation :- For the purpose of this section-

- (a) “Char” means a gradual accretion to the bank formed by alluvial deposits in a river;
- (b) “Diara” means an island formed in the bed of a river or any land formed by the recession of a river.]

5. Section 61 of Orissa Tenancy Act, 1913 not to apply to Government lands

:- The provisions of Section 61 of the Orissa Tenancy Act (Bihar and Orissa Act 2 of 1913) shall not apply to any Government land.

¹[5-A. Preparation of schemes for management and development of Gochar lands :- Notwithstanding anything to the contrary contained in any other law or in any custom, practice or usage having the force of law-

- (a) the Government may, in the prescribed manner, prepare a scheme for the management and development of Gochar lands and different schemes may be prepared in respect of Gochar lands situated in different areas;
- (b) where any such scheme has been prepared in respect to any Gochar land which vests in a Grama Sasan constituted under the Orissa Grama Panchayat Act, 1964 (Act 1 of 1965) the concerned Grama Panchayat shall manage the gochar land in accordance with such scheme; and
- (c) the Government may, if it deems fit, take over any Gochar land for management and development in accordance with the scheme prepared in respect of such land.]

6. Revision during settlement proceedings :- The rent payable in respect of any Government land shall be liable to revision during settlement proceedings under the Orissa Survey and Settlement Act, 1958. (Orissa Act 3 of 1959)

²[7. Appeal :- (1) An appeal shall lie against any order made under Section 3 or Section 3-B-

- (a) where such order is made by an officer below the rank of a Sub-divisional Officer, to the Sub-divisional Officer;
- (b) Where such order is made by a Sub-divisional Officer, to the Collector; and
- (c) where such order is made by a Collector to the Revenue Divisional Commissioner.

(2) No appeal shall be entertained under Sub-section (1), unless it is preferred within thirty days from the date of the order appealed against:

Provided that appellate authority may admit an appeal preferred after the expiration of the aforesaid period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring it within that period.

(3) Every appeal preferred under this section shall be heard and disposed of in

1. Inserted *vide* Orissa Act No. 5 of 1974.
2. Substituted *vide* Orissa Act No. 5 of 1974.

such manner as may be prescribed.]

¹**[7-A. Revision :-** (1) The Collector may revise any order made under Sub-section (1) ²[or under Sub-section (3)] of Section 7 by a Sub-divisional Officer and the Revenue Divisional Commissioner may revise any order made under that sub-section by the Collector, if an application is made by the aggrieved person within a period of ninety days from the date of the order:

Provided that the Collector or the Revenue Divisional Commissioner, as the case may be, may admit an application under this sub-section after the expiration of the aforesaid period of ninety days if he is satisfied that the applicant had sufficient cause for not making the application within that period.

(2) All applications for revision under Sub-section (1) shall be heard and disposed of in such manner as may be prescribed.

³[(3) Notwithstanding anything contained in this Act or any other law, the Collector may, on his own motion or otherwise, call for and examine the records of any proceeding, in which any authority subordinate to him has passed an order under this Act, for the purpose of satisfying himself that any such order was not passed under a mistake of facts or owing to a fraud or misrepresentation or on account of any material irregularity of procedure and may pass such order thereon as he thinks fit :

Provided that no order shall be passed under this sub-section unless the person affected by the proposed order has been given a reasonable opportunity of being heard in the matter.”.]

Provided that no order shall be passed under this sub-section unless the person affected by the proposed order has been given a reasonable opportunity of being heard in the matter:

⁴[Provided further that no proceeding under this sub-section shall be initiated after the expiry of fourteen years from the date of the order.]

⁵**[7-B. Bar of jurisdiction of Civil Courts :-** No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which any officer or authority is empowered by or under this Act to determine and no injunction shall be granted by any Civil Court in respect of any action taken or to be taken in exercise of any power conferred by or under this Act.]

⁵**[8. Delegation of power :-** The Government may by notification in the *Official Gazette* direct that any power exercisable by it under this Act shall, subject to such conditions, if any, as may be specified in the direction, be exercisable also by any authority not below the rank of a Revenue Officer.]

⁶**[8-A. Power to make Rules :-** (1) The Government by notification in the *Official Gazette*, and after previous publication make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power,

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1. Inserted *vide* Orissa Act No. 38 of 1976.
 2. Inserted *vide* Orissa Act No. 18 of 1981.
 3. Substituted *vide* Odisha Act No. 26 of 2013, O.G.E. No. 2206, dated 13.11.2013.
 4. Substituted *vide* Orissa Act No. 38 of 1976.
 5. Inserted *vide* Orissa Act No. 2 of 1990.
 6. Substituted *vide* Orissa Act No. 5 of 1974.

the Government may make rules in respect of all or any of the following matters, namely :

- (a) the rate of fees to be charged under this Act and the manner of payment thereof;
- (b) the form and the manner in which an application for settlement of lands may be made and the manner of settlement of lands;
- (c) the conditions and limitations subject to which lands may be de-reserved;
- (d) the preparation of schemes for management and development of Gochar lands;
- ¹[(e) the procedure to be followed in the settlement of land and in the disposal of appeals and revision; and
- (f) any other matter which has to be or may be prescribed.

(3) All rules made under this section shall, as soon as may be after they are made laid before the Legislative Assembly for a total period of fourteen days which may be comprised in one or more sessions and if during the said period, the Legislative Assembly make modifications, if any, therein the rules shall thereafter have effect only in such modified form, so however, that such modifications shall be without prejudice to the validity of anything previously done under the rules.]

9. Removal of doubts or difficulties :- If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may as occasion may require, by order, do anything not inconsistent with the provisions of this Act or rules made thereunder, which appears to them necessary for the purposes of removing the doubt or difficulty.

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1. Substituted *vide* Orissa Act No. 18 of 1981.