

Orissa Government Land Settlement Act, 1962

[26 November 1962]

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Orissa Government Land Settlement Act, 1962

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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 and 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. REFERRED TO: O.G.L.S. Act, 1962-Objective and purpose of the Act Case covered under approved Lease Principles does not come under the Act: 78 (1994) CLT 467: AIR 1994 Ori. 310.

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.

(3) The sections shall come into force at once and the remaining provisions of this Act shall come into force [Sections 2 to 9 came into force w.e.f. 1.1.1965 vide Notfn. No. 43 GD (GL) 425/64-R.] on such date as Government may, by notification, appoint in that behalf.

2. Definitions :-

In this Act unless the context otherwise requires-

[Inserted vide Orissa Act No. 5 of 1974.][(a) "Collector" shall include an Additional District Magistrate;

[Re-lettered *ibid.*][(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 [Inserted vide Orissa Act No. 48 of 1975.] [Gochar] or by any other description whatsoever;

[Inserted vide Orissa Act No. 1 of 1991.][Explanation- The expression "any other description, whatsoever" shall include-

(i) Khasmahalland, 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 [Inserted vide Orissa Act No. 1 of 1991.] [Bengal Regulation IX of 1825];

(ii) Nazullands situated in the State;

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

(iv) Anabadi lands situated in the State;

[Substituted vide Orissa Act No. 2 of 1990.][(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 sources 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;]

[Inserted ibid.][(b-2) "person" means any person, 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 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;]

(c) "prescribed" means prescribed by rules made under this Act;

[Inserted vide Orissa Act No. 5 of 1974.][(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,]

REFERRED TO:

Sec. 2 - Judicial notice of misuse of power by Tahsildar High Courts direction to Government to conduct enquiry: 81 (1996) CLT 513.

3. Reservation And Settlement Of Government Land :-

[Re-numbered ibid.][(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

[Substituted vide Orissa Act No. 5 of 1974.][(e) to authorize 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 Subsections (2) and (3) :]

[Inserted vide Orissa Act No. 48 of 1975.][Provided that the Government land recorded as Gochar shall be reserved for any purpose mentioned in Clause (a) or settle under Clause (e) without being de-reserved in accordance with the provisions contained in Section 3-A.]

[Inserted vide Orissa Act No. 48 of 1975.][(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 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.]

[Inserted vide Orissa Act No. 18 of 1981.][(2-a) The maximum extent of land to be settled under this section with any person for purposes of homestead shall be such as may be determined by Government from time to time.]

[Inserted vide Orissa Act No. 5 of 1974.][(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 neighboring 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 [Deleted vide Orissa Act No. 18 of 1981.][* * *] 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.]

[Inserted vide Orissa Act No. 1 of 1991.][(4) Notwithstanding anything to the contrary contained in the preceding subsections or in any law or any custom, practice or usage having the force of law

(a) any Khasmahalland or Nazulland, except where such land is used as homestead in any urban area, which has been leased out prior to the appointed date, shall whether the lease, where it had already expired, has been renewed or not prior to such date, be deemed to have been leased out under this Act to the person holding such land whether as a lessee, or as a sub-lessee either under the lessee or under a sub lessee: Provided that-

(a) (i) any such lessee who is entitled to receive any rent from sub-lessee under him, or

(ii) any such sub-lessee who is entitled to receive any rent from a subsequent sub-lessee under him, under any instrument executed for such lease or sub-lease, as the case may be, shall be paid a compensation by the sub-lessee or subsequent sublessee, as the case may be, equivalent to ten times the solid rent in the manner as may be prescribed.

(b) the compensation so payable shall, if not paid by the concerned sub-lessee or subsequent sub-lessee, as the case may be within the prescribed period, be recoverable from him by the Tahasildar having jurisdiction over the area as arrears of land revenue and be paid to the concerned lessee or sub-lessee as the case may be, in the manner as may be prescribed;

(c) any Gramakantha Parambok land or Abadi land, except where such land is used as homestead in any urban area, which is in occupation by any person for not less than five years as on the appointed date, shall be settled with the said person in such manner, by such officer and subject to such terms and conditions as may be prescribed:

Provided that any such land which is situated in an urban area shall be settled on leasehold basis and in case of other lands settlement shall be on raiyati basis:

(c) any Khasmahalland, Nazulland, Gramakantha Parambok land or Abadi land, which is used and in occupation by any person as homestead in any urban area for not less than five years as on the appointed date, shall, subject to the payment of compensation in the case of Khasmahal and Nazulland as mentioned in the proviso to Clause (a), be settled

(i) in the case of Khasmahal or Nazulland, with the person lawfully holding such land on and from the date the compensation is paid; and

(ii) in the case of Gramakantha Parambok and Abadi land with the person in occupation of such land on and from the appointed date, on permanent basis with heritable and transferable rights.]

Explanation-For the purposes of this Sub-section, the expression appointed date shall mean the date of publication of the Orissa Government Land Settlement (Amendment) Act. 1990 in the Official Gazette.

Referred To:

(i) Sec. 3 - Issue of public notice inviting objection for lease of land - Does not apply to urban land in Bhubaneswar - General Administration Department - Competency to sanction lease: 85 (1998) CLT 319.

(ii) Power and scope of appellate authority indicated When provisions do not indicate any restriction in exercise of powers of appellate authority then it must be assumed that it is as wide as that of the original Authority

When application is made for settlement of land for the purpose of excavating a tank to be used by the villagers, Tahsildar has no jurisdiction to settle the land for construction of a house: 64 (1987) CLT 348.

(iii) Suit for partition with regard to settled Bhogra land is not maintainable as the Bhogra lands are Government lands and the same are to be settled with the persons in possession: 55 (1983) CLT 305.

(iv) Authorities directing to pay salami and accepting the same but omit to grant patta-Held, that plaintiff has valid title to the land (See Index No. 894) Judicial Index to the cases to the O.H.C. 521 and also set: 34 (1968) CLT 1169: 1973 (2) CWR 987: ILR 1965 Cult. 22 (Dist).

[Inserted vide Orissa Act No. 5 of 1974.]

3A. Power To Do-Reserve Land :-

(1) The Government may, by notification in the Official Gazette, authorize any officer, not below the rank of a Collector, to de-reserve any land which has been reserved under Clause (a) of Section 3 [Inserted vide Orissa Act No. 48 of 1975.] [of any Government land recorded as gochar] or any portion thereof.

(2) Any officer authorized 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 Subsection 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:

[Inserted vide Orissa Act No. 48 of 1975.][Provided that the officer so authorized 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.]

3B. Resumption Of Land And Imposition Of Penalty :-

(1) Any officer authorized under Clause (a) of Section 3 may resume any land settled by him, if he has reasons to believe that the person with whom the land was settled has used it for any purpose other than that for which it was settled and may impose a penalty of an amount not exceeding one hundred rupees on such person:

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

(2) [Deleted vide Orissa Act No. 18 of 1981.][* * *]

Note-In Sections 3-A and 3-B there is reference to Clause (n) and Clause (e) of Section 3 with regard to de-reservation and resumption of the Government land, but after going through Section 3 it would be seen that there is no such Clauses (a) and (e) of Section 3 respectively rather the same would indicate and means to Clause (a) and Clause (e) of Subsection (1) of Section 3-Legislature must have meant the same -But somehow mistake has crept into.

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:

[Added ibid.][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.

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.

[Inserted vide Orissa Act No. 5 of 1974-after Section 5 by Presidents Act No. 22 of 1973.]

5A. 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 I 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).

[Substituted vide Orissa Act No. 5 of 1974.]

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 such manner as may be prescribed.]

Referred To:

Scope of power of the appellate authority - Enumerated-There is no restriction on the power of the appellate authority while hearing an appeal against an order made under Section 3 of the Act: 64 (1987) CLT 348.

[Inserted vide Orissa Act No. 38 of 1976.]

7A. Revision :-

(1) The Collector may revise any order made under Sub-section (1) [Inserted vide Orissa Act No. 38 of 1976.] [or under Subsection (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.

[Substituted vide Orissa Act No. 18 of 1981.] [(3) The Collector may, of his own motion or otherwise, call for and examine the records of any proceeding in which any authority, subordinate to it has passed an order under this Act for the purpose of satisfying himself that any such order was not passed under a mistake of fact 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:

[Substituted vide Orissa Act No. 38 of 1976.] [Provided further that no proceeding under this Sub-section shall be initiated after the expiry of fourteen years from the date of the order.]

REFERRED TO:

(i) Sec. 7-A(3) read with Sec. 2(b) - Cancellation of lease-Lessee being a Govt. employee drawing a salary of Rs. 400/- per month not coming under the definition of landless agricultural labourers - Held, cancellation of lease justified.

The pre-amended provision shows that the applicant must be a landless agricultural labourers who has no profitable means of livelihood other than agriculture - Admittedly the lessee was a Government employee and was drawing a salary of Rs. 400/- per month at the relevant time - That means he cannot be said to be a person with "no profitable means of livelihood" - Thus, under the pre-amended provision the lessee was not entitled to be settled with any Government land: 90 (2000) CLT 877.

(ii) Sec. 7-A(3) - Addl. Dist. Magistrate can cancel-a lease on the ground of mistake of fact or fraud or misrepresentation or material irregularity in the procedure - But in the instant case where lease is based on possession, entries in settlement records and records of consolidation proceedings, cancellation is not proper simply because the lower Court records are missing inasmuch as a party was serving in office of Tahsildar - Also there is no material to show that case of ex-servicemen of armed forces, landless agricultural labourers or Raiyats cultivating was ignored - No allegation by villagers - The consolidation case was also contested by State - Cancellation improper: 83 (1997) CLT 680.

(iii) Sec. 7-A(3) vis-a-vis Government lease principles - Rules framed under the Act provide the procedure for settlement of land under the Act it has a purpose different from lease principles - If a particular land has been leased out or settled in favour of an applicant, either under the approved lease principle or otherwise but not under the provisions of the Act, the settlement or lease cannot be set aside exercising jurisdiction under Sec. 7-A(3) of the Act -Position of law explained: 1997 (1) OLR 52: 83 (1997) CLT 55.

(iv) 1996 (II) OLR 182.

(v) 1996 (I) OLR 532.

(vi) Sec. 7-A(3) - Revision quashing Tahsildars order settling land in question in contravention of the mandatory provisions - High Court exercising writ jurisdiction

held not to interfere as the revisional authority correctly exercised its powers: 81 (1996) CLT 513.
(vii) 1995 (1) OLR 439.
(viii) 1994 (II) OLR 149.
(ix) 1994 (I) OLR 507.
(x) Sec, 7-A - Settlement of land without complying with Rule 3(5) of OGLSRules, 1974 - Priority for settlement was not kept in mind - Cancellation of settlement by suo motu revision is justified: 71 (1991) CLT 786.
(xi) 1990 (I) OLR 22.
(xii) 1990 (I) OLR 22.
(xiii) 1989 (II) OLR 302.
(xiv) 1989 (I) OLR 302.
(xv) 1988 (I) OLR 359.
(xvi) When appellate order is not challenged, it becomes final and as such the same cannot be interfered with by the provisional authority: 64 (1987) CLT 348.
(xvii) 1986 (I) OLR 28.
(xviii) 1986 (I) OLR 28.
(xix) 1986 (I) OLR 28.
[Substituted vide Orissa Act No. 5 of 1974.]

7B. 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].

[Inserted vide Orissa Act No. 2 of 1990.]

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.]

[Substituted vide Orissa Act No. 5 of 1974.] [S-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, 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 dereserved;

(d) the preparation of schemes for management and development

of gochar lands;

[Substituted vide Orissa Act No. 18 of 1981.][[(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 these Rules.]

REFERRED TO:

Section 8-A - Settlement of land-Sub-Divisional Officer nor making settlement -Remitting matter for fresh settlement to the Tahasildar - Show cause notice to Government department is not necessary: AIR 1993 Ori. 77.

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 there under, which appears to them necessary for the purposes of removing the doubt or difficulty.

SAVINGS

(ORISSA ACT 5 OF 1974)

8. Repeal-

(1) The Orissa Government Land Settlement (Amendment) Act, 1973 (Presidents Act 22 of 1973) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Act shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act.

9. Validation of actions taken by Tahsildars-

Notwithstanding: anything to the contrary contained in the principal Act, no action taken or order passed by a Tahasildar being a. Chief Officer in-charge of the revenue administration of a Tahasil, under the principal Act within the period from the 1st day of February, 1974 to the date of commencement of this section shall be deemed to be invalid merely on the ground that such

Tahasildar was not duly authorized under the principal Act and all such actions taken and orders passed, shall be deemed to have been taken or passed, as the case may be, by a Tahasildar duly authorized under the principal Act as amended by this Act.

(ORISSA ACT 48 OF 1975)

5. Validation of certain actions-

Notwithstanding anything contained in the principal Act no de-reservation of any gochar land and the subsequent thereof made by the Collector of any district prior to the 8th day of October, 1975 in the belief or purported belief that such de-reservation or settlement was authorized under the principal Act, shall be questioned in any Court of law or otherwise be open to challenge merely on the ground that the de-reservation and the settlement were not authorized under the principal Act and all such de-reservation and settlement shall be deemed to have been validly made in exercise of the powers conferred by or under the principal Act as amended by this Act.

6.

(1) The Orissa Government Land Settlement (Amendment) Ordinance, 1975 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.