VOLUME 2

OLR Act, Conversion & Land Tenure Laws

OLR Act, 1960 & amendments · Section 8-A conversion · tenancy & land transfer laws

02

COMPILED BY

Upendra Luha, OAS

odisharevenuelaws.com

Edition · November 2026

Memo No. 10810 /R&DM, dtd. 26 MAR 2021

Copy forwarded to the Secretray Board of Revenue, Odisha Cuttack/DLRS Odisha, Cuttack/ LRC Odisha Cuttack for formation and necessary action.

Addl. Secretary to Government

Memo No. 10811 /R&DM, dtd. 26 MAR 2021

Copy forwarded to all RDCs for formation and necessary action.

Addl. Secretary to Government

Memo No. 10812/R&DM, dtd. 26 MAR 2021

Copy forwarded to all Sub-Collectors/Tahasildars for formation and necessary action.

Addl. Secretary to Government

Memo No. 10813 /R&DM, dtd. 26 MAR 2021

Copy forwarded to the Senior Technical Director, NIC for information and necessary action. He is requested to make necessary modifications in the application software.

Addl. Secretary to Government

Memo No. 10814 /R&DM, dtd. 26 MAR 2021

Copy forwarded to the Joint Secretary to Government, e-Governance Cell, Revenue & D.M. Department for information and necessary action. She is requested to publish the letter in the website of Revenue & D.M. Department.

Addl. Secretary to Government

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By e-Mail/FAX

GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT

No. RDM-LRB-POLICY-0004-2021 6317 /R&DM dated 24 FEB 2022

From

Sri Amiya Kumar Sahoo, OAS(S)
Joint Secretary to Government

To

All Collectors

Sub:- Unauthorized conversion of agricultural land

Sir,

I am directed to say that in the recent Inspection Report on the Accounts of R&DM Department, it has been brought to notice of Government that a good number of plots are being utilized for non-agricultural purpose without conversion under the OLR Act. As reported, in some of the test checked cases, it was ascertained that the Tahasildars are not verifying the physical status of neighbouring plots during conducting of field verification for conversion of a plot and allowing conversion mechanically on basis of RI report.

It may be noted that the authorized officer under OLR Act should make or cause an enquiry as per provisions U/r 12-A of OLR (General) Amendment Rules, 1997 before granting permission for conversion of agricultural land for non-agricultural purposes. In this context a Department letter No. 38971/ R&DM dated 11.10.2006 has been issued wherein it was instructed that the authorized officer, while conducting enquiry in the field should also verify the physical status of neighbouring lands, inconvenience like water logging, drainage issues, etc, caused to the adjacent land owners by proposed conversion and initiate cases U/s 8(1)(C) of OLR Act against such neighbouring raiyats, if they have unauthorizedly converted agricultural land for non-agricultural purpose.

Further, Govt. have also issued instruction for eviction in case of sale of agricultural land through plotted housing schemes for non agricultural purpose without going through the due process of conversion under section 8-A of OLR Act, 1960.

I would, therefore, request you to kindly instruct all authorized officers to ensure and follow the instructions as stated above before granting permission for conversion of agricultural land for non-agricultural purposes and take necessary steps for detection of unauthorized conversions under your jurisdiction.

Yours faithfully,

Joint Secretary to Government
24/2/22

PTO

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GOVT. OF ORISSA, R & DM DEPARTMENT

No. 38971/R&DM., Dated 11.10.2006

11. Conversion of agricultural land for nonagricultural purposes - Prevention of leakage of Government revenue :

Ref. : 1. Circular No. 40032 dt. 14/10/2004.

2. Orissa gazette Notfn. No. 965, dt. 7.7.2006 - OLR (Amendment) Act, 2006.

With reference to the subject cited above, I am directed to say that the above cited circular at Reference 1 governs the points to be kept in mind by the Authorised Officer while exercising his functions under Rule 12-A.

It is once again reiterated that the authorized officer should make or cause enquiry as per the provisions u/r 12-A OLR (General) Amendment Rules, 1997 and ensure the following aspects before granting permission.

1. The proposed conversion does not obstruct natural water courses like stream, nala, Nayanjories, or any drainage channel and irrigation channel.
2. It does not cause any inconvenience or difficulty to the neighbouring land owners.
3. It shall be ascertained for what purpose the land will be used after conversion and whether the conversion will not affect the normal agricultural operation in the neighbourhood.
4. It should be seen that whether the present conversion along with the conversion already allowed will obstruct the passage of men, animals and agricultural implements.
5. It should also be seen that small scale industries set up on the converted land do not affect in any way the agricultural operation in the neighbouring plots.

It is requested that suitable instructions may please be issued to all concerned to follow the procedure laid down in Rule 12-A of the Act meticulously and ensure that no agricultural land particularly lying in ayacut areas of irrigation projects are allowed for conversion for non-agricultural purpose without sufficient reasons.

It is also equally important that the revenue machinery is watchful as to whether cases of conversion may be happening without valid orders under Section 8-A of OLR Act.

It is hereby cautioned that all steps need to be taken to see that the conversion fees due under the Act is realized without fail. It is instructed that the authorized officer, while conducting enquiry in the field shall also verify the physical status of neighbouring lands. He shall initiate cases U/S 8(1)(C) of OLR Act against such neighbouring raiyats, if they have unauthorizedly converted agricultural land for non-agricultural purposes.

He should appropriately dispose of such cases of neighbouring lands, so that agricultural land conversion to non-agriculture purposes shall necessarily happen only after realization of conversion fees and the valid orders U/S 8 of OLR Act, but not otherwise.

Yours faithfully
Sd/-
Commissioner-cum-Secretary to Government

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GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT

NOTIFICATION

No. RDM-LRB-POLICY-0003-2022 - 9181 /R&DM

Bhubaneswar dated the 10 MAR 2023

In exercise of the powers conferred by clause (c) of section 73 of the Odisha Land Reforms Act,1960(Odisha Act 16 of 1960), the State Government do hereby specify that the areas coming under the Town Planning Schemes prepared and approved under the Odisha Development Authorities Act,1982 (Odisha Act 14 of 1982) being reserved for urban purposes shall be exempted from the application of the provisions particularly from payment of premium leviable under the provisions of section 8A of the Odisha Land Reform Act,1960 for conversion of agricultural land to any purpose other than agriculture namely the urban purposes coming under such approved Town Planning Schemes.

By order of the Governor,

10/3/2023

Additional Chief Secretary to Government

Memo No. 9182 /R&DM., Dt. 10 MAR 2023

Copy with soft copy forwarded to the Gazette Cell(Commerce &Transport(Commerce) Department with a request to publish in an extraordinary issue of the Gazette. This will bear S.R.O Number.

500 printed copies to this Department/50 copies to the Member, Board of Revenue, Odisha, Cuttack may be supplied

13/3/2023

Additional Secretary to Government

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Top Priority

By Fax / e-Mail

Government of Odisha

Revenue & Disaster Management Department

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L. No. 1076 / R & DM dated, 2020 8 JAN 2021
RDM-LRB-POLICY-0008-2020

From

Shri Bishnupada Sethi, IAS

Principal Secretary to Government

To

All Collectors

Sub: **Disposal of cases u/s 23 and 23-A of OLR Act, 1960.**

Madam/Sir,

I am to say that while the provisions of OLR Act, more specifically, Section 22, 23 and 23-A of the OLR Act,1960 are meant to secure the interests of ST/SC persons in the state, it has been noticed that the Revenue Officers are very slow in disposing of such cases. A copy of the monthly progress report on institution, disposal and pendency of cases u/s 23 and 23-A of OLR Act, 1960 for the month of September, 2020 as furnished by the BoR, Odisha indicates that as on 30.9.2020, **13,830** cases u/s 23 and 23-A of OLR Act were pending in different districts which is a matter of serious concern.

Recently, a petition has been filed by Odisha State SC/ST Youth and Students Council alleging that the Sub-Collectors are not strictly following the provisions of law while according permission u/s 22 of OLR Act and taking up eviction of unauthorised persons from ST/SC land u/s 23-A of OLR Act.

RDM-LRB-POLICY-0008-2020/I/2021

One of the objectives of OLR Act is to safeguard the interest of ST & SC people in Odisha which altogether constitutes 39.98% of state's population.

You are, aware that, in case of any transfer in contravention of provisions under section 22 of OLR Act, the Revenue Officer on his own motion or on the application of any person interested in the land, may issue notice and conduct an enquiry as deemed proper and after hearing the persons interested, may declare such transfer to be invalid. He may impose on the transferee a penalty as prescribed and may also order such portion of the penalty as deemed fit to be paid to the transferor or his heirs. It is also provided that, on declaration being made, the Revenue Officer, suo-motto or on the application of any person interested may cause restoration of the property to the transferor or his heirs and for the purpose, he may take such steps as may be necessary for compliance. However, if Revenue Officer is of the opinion that restoration of the property is not reasonably practicable, he shall record reasons thereof and shall subject to the control of the Government, settle the said property with another member of a ST/SC or in absence of any such member, with any other person in accordance with the provisions of OGLS Act/ Rules.

Section 23-A of the OLR Act provides that where a person is found to be in unauthorised occupation of the whole or part of the holding of a raiyat belonging to ST/ SC within any part of the state other than a scheduled area by way of trespass or otherwise, the Revenue Officer may either on application by the owner or any person interested therein or on his own motion after giving the parties concerned due opportunity of being heard, order eviction of the person so found to be in unauthorised occupation and shall cause restoration of the property to the said raiyat or to his heir in accordance with the provisions of sub-section (3) of section 23. This may be appreciated that corresponding rules for enforcement have been provided in Odisha Land Reforms (General) Rules, 1965.

In order to streamline the disposal of cases under the above provisions, the following instructions are issued:

1. *The Revenue Officer shall ensure that cases registered u/s 23 and 23-A of OLR Act are properly reflected in the corresponding registers. Steps should be taken for preparation of digital registers at the level of Revenue Officer.*

2. *After application is filed u/s 23, it should bear requisite Court fee and*

application should be signed and verified.

3. *Revenue Officer shall endeavour to conduct necessary enquiry himself for better appreciation of the case. Enquiry is to be made in the concerned village or at least in local R.I. Office.*

4. *Adequate precautions are to be taken in service of notices including show cause notices. Copy of such show cause notices should be sent to the DWO / ADWO and concerned Tahasildar.*

5. *On completion of enquiry, Revenue Officer shall pass a speaking order. If the order is to restore the land to the transferor, Revenue Officer shall enforce his order by issuing a warrant of delivery as provided under the Code of Civil Procedure, 1968 read with sec.65 of the OLR Act and rule 47 made thereunder .*

6. *Before passing any order, the Revenue Officer shall give reasonable opportunity to all concerned, so that there will be no violation of natural justice.*

7. *On effecting delivery of possession of land to the person entitled, i.e., transferor or transferee as the case may be, an intimation should be sent to the concerned Tahasildar for effecting correction in land record including updating record in Bhulekh.*

8. *All cases filed u/s 23 and 23-A of OLR Act, 1960 shall be disposed of within a period of* ***12 months*** *from the date of institution of such case, unfailingly, except for legal reasons, if any. The case record shall be classified and consigned to the Record Room in accordance with the provisions laid down under the Odisha Records Manual. In addition to preservation of physical record, Revenue Officer shall cause the entire case record to be scanned and a digitised copy of the record shall also be kept for easy reference.*

These instructions may please be brought to the notice of all concerned. Any deviation will be viewed seriously.

Yours faithfully,

Principal Secretary to Government

RDM-LRB-POLICY-0008-2020/1/2021

Memo No. 1077 / Dt 8 JAN 2021

Copy forwarded to the Secretary, BoR, Odisha, Cuttack / LRC, Odisha, Cuttack for information and necessary action.

Addl. Secretary to Govt.

Memo No. 1078 / Dt 8 JAN 2021

Copy forwarded to all Revenue Divisional Commissioners for information and necessary action.

Addl. Secretary to Govt.

Memo No. 1079 / Dt 8 JAN 2021

Copy forwarded to all Sub Collectors / Addl. Sub-Collectors for information and necessary action..

Addl. Secretary to Govt.

Memo No. 1080 / Dt 8 JAN 2021

Copy forwarded to all Tahasildars for information and necessary action.

Addl. Secretary to Govt.

Memo No. 1081 / Dt 8 JAN 2021

Copy forwarded to all DSRs/SRs for information and necessary action

Addl. Secretary to Govt.

Memo No. 1082 / Dt 8 JAN 2021

RDM-LRB-POLICY-0008-2020/1/2021

Copy forwarded to Joint Secretary, e-Governance for information and necessary action.

Addl. Secretary to Govt. 5/1/2021

RDM-LRB-POLICY-0008-2020/1/2021

Memo No. 3874 /LR. dated 11.4.78..
Copy to Guard file to D.A./ H.A. Ceiling.

I.C. DAS
DEPUTY LAND REFORMS COMMISSIONER.

I..C..DAS..

GOVERNMENT OF ORISSA
REVENUE DEPARTMENT

No. Re- I -151/78-31863/R.

From

SRI A.R. MISHRA, O.A.S.
UNDER SECRETARY TO GOVT.

To

LAND REFORMS COMMISSIONER.

Dated, Bhubaneswar, the 11th May, 1978

Sub: Clarification regarding 'land' and 'homestead' defined under Sections 2(14) and 2(12) of the O.L.R. Act, 1960.

Ref: Revenue Department letter No.Re-50/72-75665/R. dated 15.12.72.

Sir,

I am directed to say that certain categories of 'land' and 'homestead' which do not confirm to the defination of these terms as provided under clauses (14) and (12) of Section 2 of the Orissa Land Reforms Act, 1960 rspectively may not be subjected to ceiling under the provisions of the said Act.

A doubt has however been entertained in some quarters as to whether the following categories of land and homestead may not be subjected to ceiling under the O.L.R. Act, 1960.

(i) Drinking water tanks.
(ii) Air-strips.
(iii) Built-up areas or open spaces in urban areas.
(iv) House-sites in Towns and urban areas.
(v) Garden not used for garden produce.
(vi) Forest parks.
(vii) Un-cultivable lands including open spaces unfit for cultivation.
(viii) Palaces of the Ex-Soverign rulers of the ex-States including its appurtment areas.

2. It has been advised by the Law Department as follows.

(i) Drinking water tanks.

The definition of land, given in the O.L.R. Act relates to lands of different classes which are capable of being used for agricultural purposes. Drinking water tanks if capable of being used for agricultural purposes can come under the definition of land as it is

(ii)Air Strips.

Taking into consideration the definition of land it is to be seen whether the air strip is capable of being used for the purpose of agriculture. If on the point of facts it is found that it is capable of being used for the purpose of agriculture, then it will come under the definition of land as it is existing.

(iii) & (iv) - Built -up areas or open spaces in urban areas and house-sites in town and urban areas.

It is to be seen and finding of facts has to be established whether these categories of lands referred to above are homestead, ancillary and incidental to agriculture. If the answer is in the affirmative then they will come under the definition of lands.

(v) Garden not used for raising garden produce.

It is not clear how a land can be called a garden simply because it was being used sometimes in the part as garden. Here perhaps the test is whether the land is capable of being used for agriculture. If the answer is in the affirmative then it will come under the definition of lands.

(vi) Forest Parks.

Agriculture has been defined under Section 2(1) and it includes lands which are used for forests. In that view forest parks will come under the category of lands as defined in the Act.

(vii) Un-cultivable lands including open spaces unfit for cultivation.

The purpose of the O.L.R.Act being to include lands that are either being used for the purpose of agriculture or capable of being used for the purpose of agriculture, uncultivable lands cannot come within its fold. But it should be always kept in view to record a finding that the land is useless for agriculture.

(viii) Palaces of the Ex-Soverign rulers of ex-States including its appurtment areas.

The palaces of the ex-rulers do not appears to be ancillary or incidental to agriculture. Hence the palaces may not come under the definition of land'.

3. It is, therefore, requested that suitable instructions in the matter may please be issued to all concerned under intimation to Revenue Department.

Yours fathfully,

A.K. MISHRA.
UNDER SECRETARY TO GOVT.

Memo No. XV-66/78-5748/LR. Dated 12.6.78.

Copy forwarded to all Revenue Divisional Comissioners/ All Collectors /All Sub-Divisional Officers /All Tahsildars for information and guidance.

I.C. DAS.
DEPUTY LAND REFORMS COMMISSIONER,
BOARD OF REVENUE, ORISSA, CUTTACK.

Memo No. 5749/Lr. Dated 12.6.78

Copy to file No. XV-11/78-/Guard file of O.L.R. (Policy)
Seat / Head Asst.

I. C. DAS.
DEPUTY LAND REFORMS COMMISSIONER.

By Speed Post

GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
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No. RDM-LRA-MISC-0008-2023 44414 /R&DM dated 17 DEC 2024

From

Shri Sashadhar Nayak, IAS

Additional Secretary to Government

To

The Collector, Mayurbhanj/ Sundargarh/ Koraput/ Nawrangpur/ Rayagada/ Malkangiri/ Kandhamal/ Ganjam/ Keonjhar/ Sambalpur/ Balasore/ Kalahandi/ Gajapati

Sub:- Safeguarding land rights of the Scheduled Tribes (STs) in Scheduled Areas of the State under Orissa Scheduled Areas Transfer of Immovable Property (OSATIP) (by Scheduled Tribes) Regulation, 1956.

Sir,

In inviting a reference to the above subject, I am directed to say that to protect and safeguard the land rights of STs in Scheduled Areas of the State and to control and check transfer of their immovable property in the Scheduled Areas, State Government have promulgated Orissa Scheduled Areas Transfer of Immovable Property (OSATIP) (by Scheduled Tribes) Regulation, 1956 and brought Amendment Regulation, 2000 which prohibit transfer of land belonging to ST persons to non-ST with effect from 4th September, 2002.

2. Clause 3(A) of the OSATIP mandates that where a person is found to be in unauthorized occupation of any immovable property of a member of the Scheduled Tribes by way of trespass or otherwise, the Competent Authority may, either on application by the owner or any person interested therein, or on information received from the Gram Panchayat or on his own motion, and after giving the parties concerned an opportunity of being heard, order ejectment of the person so found to be in unauthorized occupation and shall cause restoration of possession of such property to the said member of the Scheduled Tribe or to his heirs.

3. Clause 3(B) of the Amendment Regulation provided that non-ST persons in possession of agricultural land acquired from the ST person

between 4th October,1956 and 4th September, 2002, shall have to furnish a declaration to the Competent Authority stating circumstance and manner of possession of land. The declaration has to be furnished within two years from 4th September, 2002. In case the declaration is found to be unsatisfactory or the possessor fails to furnish declaration, the agricultural land shall be reverted back to the original tribal owner.

4. The State Government have appointed Sub-Collectors and Officers on Special Duty (Land Reforms) under OSATIP Regulation to perform functions of Competent Authorities of the respective Sub-Divisions within the Scheduled area located in different districts of the State. C&AG's draft report on "Land management in the Scheduled Areas of the State" for the year 2022 for the State of Odisha has pointed out that the Competent Authorities are not taking effective steps for disposal of cases in a time bound manner. Many cases are pending for disposal for periods beyond ten years and inordinate delay in disposal of cases has been detrimental to the protection of the land rights of the ST members under the provisions of the OSATIP Regulation, 1956.

5. Manner of conducting enquiry and process of adjudication by Competent Authorities are detailed under rules made under the Regulation-2 of 1956 which are as follows :-

(a)Either on receipt of information u/s-3(B) as prescribed under the rule mentioned supra, or on receipt of petition from ST persons or submission of report by RI/Tahasildar, ADWO/DWO, the Competent Authority shall cause the material particulars to be entered in a register, number the forms, start a case record and fix a date of hearing not later than 30(thirty) days from the date of registration of the case.

(b) The Competent Authority then shall issue a notice to the person who submitted the information to appear on the date fixed for hearing with all his documents and material witness if any, in support of his claim. He should also issue notice to the concerned Opposite Parties.

(c) The Sub-Collector may also issue notice to any other person, whom he considers qualified to depose before him to arrive at a correct finding.

(d) The Sub-Collector may also serve a public notice on the

village in which the land is situated, inviting their comments and views, if any, on the information within a period of 15 days from the date of service of notice.

(e) The Sub-Collector may, if considered necessary, call for any information from the Registration and other offices of the State for a proper appreciation of evidence before him.

6. The Competent Authority also shall seek a report from concerned Tahasildar for hearing of the case. After examination of documents submitted by parties concerned and the report submitted by the Tahasildar, the Competent Authority shall pass an order for restoration where ST land has been sold/occupied unauthorisedly. Thereafter, the Competent Authority shall issue restoration warrant to the Tahasildar. The concerned Tahasildar shall execute restoration warrant within the time prescribed in the warrant and report regarding restoration of land to the Competent Authority after which the case will be shown as finally disposed of. It is reiterated that the Competent Authority conducts only summary enquiry and cases should be disposed within a time limit.

7.It is noticed that many Sub-Collectors are allowing cases for hearing for indefinite period. Adjournments are given in a routine manner. No limit has been fixed on the maximum number of time-petitions to be allowed, the maximum time by which the cases are to be disposed of. The cases are lingering for years for disposal. Non receipt of inquiry reports from concerned Tahasildars in time also causes delay in disposal. Instance has come to the notice of the Government where the petitioner failing to get his grievances addressed by the Competent Authority under OSATIP Regulation, moved to the Hon'ble High Court, Odisha seeking redressal of his grievance.

8. In many cases, despite receipt of enquiry reports from the concerned RIs/ Tahasildars intimating unauthorized possession of ST land, the cases have not been disposed of by the Adjudicating Authorities.

9. It is also noticed that no register/ consolidated statement showing restoration warrants issued, executed and returned by the Tahasildar is maintained by the Competent Authorities/ Tahasildars. While OSATIP regulations aimes at protecting landed property right of STs, non-execution of warrants by the Tahasildars defeats the very purpose of the Regulation. No responsibility is being fixed by the Competent Authorities on Tahasildars for non-execution of restoration warrants, Tahasildars are not executing the warrant timely and execution of warrant depends upon their convenience.

The Sub-Collectors, as Competent Authority, fail to dispose the cases timely and fail in securing the execution of warrants issued by them.

10. In many cases, even after restoration of land to STs, RoRs are not corrected; as a result RoRs continue in the name of non-STs who subsequently transfer the land belonging to STs.

11. Against the backdrop of above circumstances and for prompt disposal of cases filed under OSATIP Regulation, the following guidelines are issued which should be followed scrupulously :

a. Case under 3(A) & 3(B) should be instituted forthwith after receipt of intimation from concerned source.
b. Notice should be issued to concerned parties within a week of the institution of the case without fail.
c. The field enquiry report by RI/Tahasildar should be furnished within a month.
d. The hearing of the case should start within a month.
e. Maximum 3 (three) adjournments may reasonably be given with intimation to the concerned parties.
f. The case is to be disposed within 3(three) months. The Competent Authorities should exhibit promptitude in disposing the pending cases at the earliest for the benefit of the ST population.
g. If ST land is illegally occupied, the restoration warrant is to be issued promptly.
h. Sub-collector shall see to it that the warrant issued by him is executed by Tahasildar within fortnight, if there is no stay.
i. If it is not executed within a fortnight, a reminder may be issued. Despite issue of such reminder, if the warrant is not executed promptly, show cause may be issued to the defaulting officer. The Tahasildars who had not executed the warrants issued by the Competent Authorities for restoration of land should be made accountable for such lapses.
j. Both Sub-collector and Tahasildar should maintain warrant registers.
k. After restoration, the Tahasildar shall correct the RoR and enter the same in Bhulekh.
l. The Government has been placing great emphasis on actual restoration of land to lawful owner. It is necessary that 10% of restored cases in the field should be checked by Collectors / ADMs and 20% cases by Sub-Collectors concerned.
m. Grievance petitions particularly on restoration of Govt. Land should be verified in the field for immediate action.

The above matter shall be reviewed by RDCs in every three months. Collectors shall review the matter in monthly revenue meeting. The matter shall be reviewed the Department in the next state level review meeting. There shall be no deviation from the above guidelines. The Monthly Progress Report (MPR) should be furnished in the prescribed format enclosed as **Annexure-'A'**.

Yours faithfully,

17/12/2024

Additional Secretary to Government

Memo No. 44415 /R&DM Dated 17 DEC 2024

Copy forwarded to all Revenue Divisional Commissioners for information and necessary action.

17/12/2024

Additional Secretary to Government

Memo No. 44416 /R&DM Dated 17 DEC 2024

Copy forwarded to all ADMs/ all Sub-Collectors/ all Tahasildars for information and necessary action.

17/12/2024

Additional Secretary to Government

Annexure 'A'															
Name of the District	Category of the cases	Pending before the month		No. of cases detected during the month		No. of cases disposed during the month		No. of cases disposed till the month		No. of cases in which land was restored to STs		No. of cases rejected		No. of cases pending	
		No.	Area	No.	Area	No.	Area	No.	Area	No.	Area	No.	Area	No.	Area
	3(A)														
	3(B)														
	Total														

Agency Tracts Interest and Land Transfers Act, 1917

1 of 1917

[14th August, 1917]

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1. Short title
2. Definitions
3. Maximum interest that may be allowed as against a member of hill tribe
4. Transfer of immovable property by a member of a hill tribe
5. Suits against a member of a hill tribe to be instituted in the Agency Courts
6. Attachment of immovable property
7. Framing of rules
8. Savings

Agency Tracts Interest and Land Transfers Act, 1917

1 of 1917

[14th August, 1917]

An Act to regulate the rate of interest and the transfer of land in the Ganjam, Vizagapatnam and Godavari Agency Tracts. Preamble : Whereas it is expedient to limit the rate of interest and to check transfers of land in the Agency tracts of the Ganjam, Vizagapatnam and Godavari districts ; It is hereby enacted as follows :

1. Short title :-
This Act may be called the Agency Tracts Interest and Land Transfers Act, 1917.

2. Definitions :-
In this Act unless there is anything repugnant in the subject or context

(a) "Agency tracts" means the scheduled districts as defined in Acts XIV and XV of 1847 and included within the districts of Ganjam, Vizagapatnam and Godavari.

(b) "Agent" means "Agent to the Governor" in the districts of

Ganjam and Vizagapatnam and "Government Agent" in the district of Godavari :

(c) "Hill tribe" means any body or class of persons resident in the Agency tracts (not being a landholder as defined in the Andhra Pradesh (Andhra Area) Estates Land Act, 1908 (Act 1 of1908) that may from time to time be notified as such for the purposes of the Act by the State Government.

(d) "Immoveable property" does not include standing timber, growing crops or grass.

(e) "Prescribed" means prescribed by rules made under this Act.

(f) "Transfer" means mortgage with or without possession, lease, gift, exchange or any other dealing with property not being a testamentary disposition and includes a charge or any contract relating to immovable property.

3. Maximum interest that may be allowed as against a member of hill tribe :-
In any suit instituted after the commencement of this Act, notwithstanding any agreement to the contrary, 197

(a) interest on any debt or liability shall not as against a member of a hill tribe allowed or decreed at a higher rate than twenty four per centum per annum nor shall any compound interest or any collateral advantage be allowed as against him ;

(b) the total interest allowed or decreed on any debt or liability as against a member of a hill tribe shall not exceed the principal amount.

4. Transfer of immovable property by a member of a hill tribe :-

(1) Notwithstanding any rule of law or enactment to the contrary, any transfer of immovable property situated within the Agency tracts by a member of a hill tribe shall be absolutely null and void unless made in favour of another member of a hill tribe, or with the previous consent in writing of the Agent or of any other prescribed officer.

(2) Where a transfer of property is made in contravention of sub section (1), the Agent or any other prescribed officer may, on application by anyone interested, decree ejectment against any

person in possession of the property claiming under the transfer and may restore it to the transferor or his heirs.

(3) Subject to such conditions as may be prescribed an appeal against a decree or order under sub section (2) if made by the Agent shall lie to the *{State Government} and if made by any other officer shall lie to the Assistant Agent or to the Agent as may be prescribed.

5. Suits against a member of a hill tribe to be instituted in the Agency Courts :-

Notwithstanding the provisions of any law to the contrary, every suit against a member of a hill tribe instituted after the commencement of this Act shall be instituted only in the Courts of the Agency tracts.

6. Attachment of immovable property :-

In execution of a money decree against a member of a hill tribe, no immovable property owned by him within the Agency tracts shall be liable to be attached and sold except as and if prescribed.

7. Framing of rules :-

(1) The {State Government} may from time to time make rules to carry out the purposes of the Act.

(2) All rules made under this section shall be published in the {Official Gazette} and, on such publication, shall have the same effect as if enacted in this Act.

8. Savings :-

(1) This Act shall not affect transfers made or debts or liabilities incurred before the coming into force of this Act.

(2) Nothing in this Act shall affect a landholder s right to proceed against the ryot in accordance with the provisions of the Andhra Pradesh (Andhra Area) Estates Land Act, 1908(Act 1 of 1908) or the first charge declared by Section 5 of that Act, or the provisions of the said Act regarding relinquishment of a holding by a ryot.

THE CENTRAL PROVINCES TENANCY ACT, 1883.

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SCHEDULE.—ACTS REPEALED.

ACT No. IX OF 1883.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd June, 1883.)

An Act to consolidate and amend the law relating to Agricultural Tenancies in the Central Provinces.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. **1.** (*1*) This Act may be called the Central Provinces Tenancy Act, 1883: and

Local extent. (*2*) It extends to all the territories for the time being administered by the Chief Commissioner of the Central Provinces, except those specified in the Scheduled Districts Act, 1874, Schedule I, Part VI. XIV of 1

Commencement. (*3*) This Act shall come into force on such day as the Chief Commissioner, with the previous sanction of the Governor General in Council, may by notification in the local official Gazette direct.

Nevertheless, any notification, rule, order or appointment to an office may be made under this Act at any time after the passing thereof, but shall not take effect before this Act comes into force.

Repeal of Acts. **2.** On and from the day on which this Act comes into force, the Acts mentioned in the schedule hereto annexed shall be repealed.

3. In

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land:

(2) "tenant" means a person who holds land of another person, and is, or, but for a special contract, would be, liable to pay rent for that land to that other person. But it does not include a farmer, mortgagee or ṭhíkádár of proprietary rights:

Explanation.—An inferior proprietor is not, as such, a tenant:

(3) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or, but for a special contract, would be, liable to pay rent for that land:

(4) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

(5) "pay", "payable", and "payment", used with reference to rent, include "deliver", "deliverable" and "delivery":

(6) "arrear" means an instalment or part of an instalment of rent which is not paid on or before the date on which it is payable:

(7) "holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

(8) "improvement" means, with reference to a holding, any work which adds to the letting-value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it:

Explanation I.—It includes the reclaiming, enclosing

ing or clearing of lands for agricultural purposes; but it does not include such embankments, temporary wells and water-channels as are made by tenants in the ordinary course of agriculture; and no work executed by the tenant of a holding is an improvement if it substantially diminishes the value of any other part of the estate of his landlord:

Explanation II.—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement:

(9) "Revenue-officer" and "Settlement-officer", in any provision of this Act, mean respectively such Revenue-officer or Settlement-officer appointed under the Central Provinces Land-revenue Act, 1881, as the Chief Commissioner may, from time to time, by notification in the official Gazette, direct by name or by virtue of his office to discharge the functions of a Revenue-officer or Settlement-officer (as the case may be) under that provision: XVIII of 1881

(10) "agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified local area, from time to time, by notification in the official Gazette, appoint:

(11) "sír-land" means—

(*a*) land recorded as "sír" in the papers of the last preceding settlement of the local area in which the land is situate;

(*b*) land not so recorded, but which has been cultivated by the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years;

(*c*) waste land which has been broken up by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years; and

(*d*) the "bhogra" lands of Sambalpúr:

Explanation.—Land which has, after the date of the

the above-mentioned settlement, or the expiration of the above-mentioned period of twelve years or six years (as the case may be), been for a period of six consecutive years unoccupied by the proprietor is not sír-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sír-rights:

(12) "village" includes any tract of land which, at the last settlement of the same, has been recognised as a village, or which the Chief Commissioner declares to be a village for the purposes of the Central Provinces Land-revenue Act, 1881: and

II of 1. (13) "record-of-rights" includes the supplementary administration paper prepared at or after the time of making a settlement before the Central Provinces Land-revenue Act, 1881, came into force.

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CHAPTER II.

Of Tenants generally.

A.—Classification of Tenants.

Classes of tenants.

4. There shall be four classes of tenants, namely:—

(1) Absolute occupancy-tenants;
(2) Occupancy-tenants;
(3) Sub-tenants;
(4) Ordinary tenants.

B.—Provisions relating to Rent.

Presumption as to amount of rent payable.

5. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of the holding in the agricultural year immediately preceding that year.

Date from which order fixing rent operates.

6. An order fixing, altering or commuting the rent of a holding on an application under this Act may, as the officer making the order thinks fit, take effect from the commencement of the agricultural year next following the date of the application, or from

from any subsequent day, or, if it is made on the ground of increase, diminution or deterioration of the holding, from the date of that increase, diminution or deterioration, or from any subsequent day.

Time for payment of rents.

7. Rents shall be payable in such instalments and on such dates as the Chief Commissioner may, from time to time, by notification in the official Gazette, prescribe, and, in the absence of any such notification applicable to the case, according to the contract between the parties, or, where there is no such contract, according to local usage.

Rents payable to a number of landlords.

8. When two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to any rule which the Chief Commissioner may, from time to time, by notification in the official Gazette, make in this behalf, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or others; and, subject as aforesaid, those persons shall, if the tenant so desires, appoint one of their number or some other person to receive the rent.

Power to deposit rent in certain cases with Revenue-officer.

9. (*a*) When a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant,

(*b*) when a tenant, in the case mentioned in section eight, desires the appointment of a person to receive rent payable in money and the appointment is not made within a reasonable time, and

(*c*) when a tenant in any case is doubtful as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for permission to deposit in his court the amount of rent which he believes to be due; and that officer shall receive the deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application, and that it was made in good faith, and if the applicant pays the fee (if any) chargeable

chargeable for the issue of the notice next hereinafter referred to.

Effect of depositing rent.

10. (*1*) When a deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(*2*) The officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(*3*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing in this clause shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid by a Revenue-officer.

Penalty for levy of anything in excess of rent by landlord.

11. Every tenant from whom, except under any special enactment for the time being in force, anything is levied by his landlord in excess of the rent legally payable, shall be entitled to recover from the landlord such sum as the Court thinks fit, not exceeding five hundred rupees, or, when double the amount or value of what is so levied exceeds five hundred rupees, not exceeding double that amount or value.

Penalty for refusing receipt, or giving defective receipt.

12. If a landlord refuses a receipt for rent paid by a tenant, or grants a receipt but refuses or neglects to specify therein the holding, and the period or crop, in respect of which the payment is made, or the amount paid, the tenant shall be entitled to recover from him such sum, not exceeding double the amount or value of the rent so paid, as the Court thinks fit.

Enhancement of rent when pro-

13. Notwithstanding anything in the record-of-rights, but subject to any contract in writing between the

ductive power of holding increased by landlord.

the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue-officer on the ground that an improvement has been made in accordance with this Act by or at the expense of the landlord whereby the productive power of the holding has been increased.

Power to alter rent when holding is increased, diminished or deteriorated.

14. When the area of a holding the rent of which is payable in money is increased or diminished by the encroachment of the tenant or the landlord, or by fluvial action or otherwise, or the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or other like calamity, a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to that increase, diminution or deterioration.

Power to alter rent in case of new assessment.

15. When a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, while the lease or contract is in force,—

(*a*) land-revenue is for the first time made payable in respect of the holding, or

(*b*) land-revenue having been previously payable in respect of it, the revenue payable when the lease or other contract was granted or made is increased or diminished,

a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to the revenue.

Commutation of rent payable in kind.

16. (*1*) In all cases in which an absolute occupancy-tenant or occupancy-tenant pays rent for a holding in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another or others, the landlord or tenant may, notwithstanding anything in the record-of-rights or any contract between the parties, other than a contract whereby waste-land is let

let for the purpose of reclamation, apply during the progress of a settlement to a Settlement-officer, or at any other time, if the Chief Commissioner thinks fit to appoint a Revenue-officer in this behalf, to that officer, to commute the rent to a fixed money-rent.

(*2*) On the receipt of the application, the officer shall determine the sum to be paid as money-rent, and shall order that the tenant shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(*3*) If the application is opposed, the officer may, for reasons to be recorded by him in writing, refuse to grant the same.

C.—Of the Landlord's Lien on the Produce of a Holding.

Definition of produce of a holding.

17. In sections eighteen to twenty-four (both inclusive) the produce of a holding means—

(*a*) crops and other products of the earth standing or ungathered on the holding;

(*b*) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

Power of landlord, by notice, to prohibit removal of produce.

18. Where an arrear is due in respect of a holding, the landlord may, by notice served as hereinafter provided, prohibit the removal of the produce of the holding:

Provided that—

first, such a prohibition shall not be made on account of an arrear which has been due for a longer period than one year, or in respect of any produce which is under attachment by order of any Court; and

secondly, such a prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

19. (*1*) Every

Contents and service of notice; time for which it remains in force.

19. (*1*) Every notice under section eighteen shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order or agreement, as the case may be, for the payment of that amount.

(*2*) The notice shall be served on the person in charge of the produce, and shall remain in force until the rent specified in the notice is paid, or, if that rent is not previously paid, until the expiration of thirty-five days from the date of service of the notice.

Right to reap, &c., produce not affected.

20. A notice under section eighteen shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Effect of instituting suit for rent while notice is in force.

21. If, while the notice is in force, the landlord institutes a suit for the recovery of the rent, the notice shall continue in force until the Court trying the suit otherwise directs; and, if the landlord obtains a decree in the suit, the amount of that decree shall be the first charge upon the produce.

Procedure when produce is under attachment.

22. (*1*) If the produce of the holding on which the arrear is due is under attachment by order of a Court, the landlord may apply to the Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(*a*) any rent which has fallen due to him in respect of the holding within the year immediately preceding the application; and

(*b*) the instalment of rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

And the Court, if on inquiry it finds the landlord's claim to the whole or any part of the rent to be proved, shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds

ceeds of the sale in the first instance to satisfy the claim.

(*2*) The finding of a Court on an inquiry under this section shall have the force of a decision in a suit between the parties.

Conflict between rights of superior and inferior landlord.

23. Where land is sublet and any conflict arises under sections eighteen to twenty-two (both inclusive) between the rights of a superior and of an inferior landlord, the right of the superior landlord shall prevail.

Penalty for illegal distraint by landlord, and for illegal removal of produce.

24. (*1*) Any landlord of a holding who distrains or attempts to distrain the produce of the holding, or prevents or attempts to prevent, otherwise than in accordance with this Act, any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, and

where a notice in respect of the produce of a holding has been served under section nineteen and is in force, any person who, knowing or having reason to believe that the notice is in force, removes, attempts to remove or abets the removal of the produce, except for any of the purposes mentioned in section twenty,

shall be punished with fine which may extend to five hundred rupees.

(*2*) Nothing in this section, and, except as provided in section 546 of the Code of Criminal Procedure, no proceeding under this section, shall affect the right of any person to recover compensation in a civil suit.

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D.—Commissions for dividing or estimating Crops.

Commission for dividing or estimating crops.

25. Whenever rent is taken by division of the produce, or by estimate or appraisement of the crop, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate or appraisement, or if there is a dispute about the division of the produce or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission

mission to such person as the officer thinks fit, directing him to divide, estimate or appraise the crop.

Appointment of assessors, &c.

26. (*1*) When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section twenty-five, the officer may, in his discretion, direct the Commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting those assessors (if any), and the procedure to be followed in making the division, estimate or appraisement.

(*2*) The Commissioner so appointed shall make the division, estimate or appraisement in accordance with those instructions.

Remedy for error in division.

27. (*1*) If in any division under the foregoing provisions either party receives less than the share to which he is entitled, he may, within three months from the date on which the division is completed, institute a suit against the other party to recover the value of the additional portion of the crop due to him at the price which prevailed on that date.

(*2*) If no such suit is instituted within the said period of three months, the division shall for all purposes be deemed as between the parties thereto to have been rightly made.

Procedure when crop has been estimated or appraised.

28. (*1*) When a crop has been estimated or appraised under the foregoing provisions, the estimate or appraisement shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued.

(*2*) The Revenue-officer shall consider the Commissioner's report, and, after such hearing and inquiry (if any) as he may think necessary, shall pass an order thereon either confirming or varying the estimate or appraisement, and that order shall be final.

E.—Of Improvements and Compensation therefor.

Right to make improvements.

29. (*1*) In respect of the holding of an absolute occupancy-

occupancy-tenant, or occupancy-tenant, the tenant, and in respect of the holding of an ordinary tenant, the landlord, shall be entitled to make improvements.

(*2*) If an ordinary tenant whose holding does not consist entirely of sír-land, or the landlord of an absolute occupancy-tenant or of an occupancy-tenant, desires that any improvement be made in respect of the holding, he may deliver, or cause to be delivered, to his landlord or tenant, as the case may be, a request in writing calling upon him to make the improvement within a reasonable time, and, if he is unable or neglects to comply with that request, may, subject to such rules of procedure as the Chief Commissioner from time to time, by notification in the official Gazette, prescribes in this behalf, make the improvement himself.

Liability to pay to tenant on ejectment compensation for improvements.

30. (*1*) If an absolute occupancy-tenant, occupancy-tenant or ordinary tenant is ejected from his holding, he shall be entitled to compensation for improvements which he or the persons under whom he claims may have made in accordance with this Act or with the landlord's consent otherwise than in accordance with this Act, and for which compensation has not already been made.

(*2*) Whenever a Court makes a decree or order for the ejectment of a tenant, it shall determine the amount of compensation (if any) due under this section to the tenant for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the tenant.

(*3*) No compensation shall be claimable under this section for an improvement where the tenant has made the improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

(*4*) Improvements made by a tenant before this Act comes into force, in lands other than sír-land, shall

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shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Assessment of compensation.

31. (*1*) The Chief Commissioner may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under section thirty for an improvement, such number of assessors as the Chief Commissioner thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

(*2*) In estimating the compensation to be awarded under section thirty for an improvement, regard shall be had—

(*a*) to the amount by which the letting value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

(*b*) to the labour and capital required for the making of such an improvement; and

(*c*) to any reduction or remission of rent or other advantage given by the landlord to the tenant in consideration of the improvement.

(*3*) When the amount of the compensation has been assessed, the landlord and tenant may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Avoidance of provisions barring right to make, or be compensated for, improvements.

32. An entry in the record-of-rights of any village or a stipulation in a contract providing—

(*a*) that a landlord shall be entitled to prevent a tenant from making, or to eject him for making, such improvements on his holding as he is entitled to make under this Act, or

(*b*) that a tenant ejected from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled

entitled to such compensation,

shall be void.

F.—Miscellaneous.

Surrender of holdings.

33. (*1*) Any tenant not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

(*2*) But notwithstanding the surrender, the tenant shall continue to be liable for the agricultural year next following the date of the surrender for the rent of the holding, unless he gives to his landlord, at least thirty days before he surrenders, notice of his intention to surrender.

(*3*) In the following cases, the Court shall presume that such notice was so given, that is to say:—

(*a*) if the tenant takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(*b*) if the tenant ceases, at least thirty days before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate; and

(*c*) if the landlord himself, at any time during the agricultural year next following the surrender, cultivates or lets to another tenant the holding or any part thereof.

Where land uncultivated and rent unpaid, tenant's right to be deemed surrendered.

34. Any tenant other than an absolute occupancy-tenant who leaves his holding uncultivated and the rent of it unpaid for a period of two years shall, at the expiration of that period, be deemed to have surrendered the holding:

Provided that, in reckoning that period, any time during which, owing to an inundation or any other accident to the land beyond the tenant's control, it may have been impossible to cultivate the land, shall be excluded.

35. When

Tenant taking thíká or farm.

35. When a person, at the time of taking a thíká or farm, is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking the thíká or farm

CHAPTER III.

OF ABSOLUTE OCCUPANCY-TENANTS.

Definition of absolute occupancy-tenant.

36. Every person who, on the day when this Act comes into force, is the tenant of any holding in respect of which he, or a person whose rights he has acquired, has been recorded in any record-of-rights made before that day as an "absolute occupancy-raiyat", or in terms equivalent thereto, shall, unless he has parted with his rights, be deemed to be an absolute occupancy-tenant of that holding.

Rents fixed for period of settlement.

37. (*1*) The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised, and the rent so fixed shall not be altered during the currency of the settlements, except under the provisions of section thirteen, section fourteen or section sixteen.

(*2*) The rent payable by any such tenant in respect of his holding when this Act comes into force shall be deemed to have been fixed at the last preceding settlement of the area in which his holding is comprised.

Right heritable and transferable after notice to landlord, who may claim to purchase.

38. (*1*) The right of an absolute occupancy-tenant in his holding shall on his death devolve as if it were land, and shall be transferable subject to the conditions contained in this section.

(*2*) If an absolute occupancy-tenant intends to transfer any right in his holding by sale or gift, or by mortgaging the same for a sum which, together with the interest payable thereon during the five years immediately succeeding the mortgage and the

the previous sums (if any) secured by mortgage of it, would exceed eight times the annual rent of the holding, or by sub-letting the same in consideration of a fine or premium exceeding five times that rent, he shall give to his landlord a written notice of his intention, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is given.

(*3*) If the intended transfer is by sale or gift, the landlord may, within the said period of one month—

(*a*) claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix; or

(*b*) permit the sale or gift, in which case he shall be entitled to a sum equal to the rent for one year, and that sum shall be a first charge on the holding.

(*4*) If the intended transfer is by mortgage or sub-lease, the landlord may, within the said period of one month, claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(*5*) When the right of an absolute occupancy-tenant in his holding is sold by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall have the same right of pre-emption as is given in the case of a sale by sub-section (*3*), clause (*a*).

(*6*) When an application is made to a Revenue-officer under this section to fix the value of an absolute occupancy-right which is already mortgaged, he shall fix the value of the right as if it were not mortgaged; and if the landlord purchases the right, the mortgage-debt shall be a charge on the purchase-money in exoneration of the land.

(*7*) Any transfer made in contravention of this section shall be void.

39. Notwithstanding

Absolute occupancy-tenant not liable to ejectment.

39. Notwithstanding any contract to the contrary, or any provision of a record-of-rights, an absolute occupancy-tenant shall not be ejected from his holding by his landlord as such for any cause.

Rent first charge on holding.

40. The rent of the holding of an absolute occupancy-tenant shall be a first charge on that holding.

CHAPTER IV.

OF OCCUPANCY-TENANTS.

Definition of occupancy-tenant.

41. Every tenant who, when this Act comes into force, has held the same land continuously for twelve years, otherwise than as an absolute occupancy-tenant or a sub-tenant, and every person who is, when this Act comes into force, or thereafter becomes, a tenant (not being an absolute occupancy-tenant or a sub-tenant) of land in the districts of Chánda, Nimár and Sambalpúr, shall be deemed to be an occupancy-tenant of that land:

Provided that the land is not—

(*a*) sír-land, or

(*b*) held in lieu of wages, or

(*c*) held, in any district other than Sambalpúr, under a written lease in which it is expressly agreed that a right of occupancy in the land shall not be acquired, or that the tenant shall quit the land at the termination of the lease.

Explanation I.—The occupation of any person from whom the tenant inherited his holding is, for the purposes of this section, deemed to be the occupation of the tenant.

Explanation II.—Where, by the custom of any village, the holdings of tenants are, or have been, liable to periodical redistribution, land which a tenant or any person under whom he claims has, in accordance with that custom, from time to time, received in exchange for land previously held by him is, for the purpose of calculating, under this section,

section, the period of twelve years, deemed to be the same land as the land which he held before the exchange.

Cases in which ex-proprietors become occupancy-tenants of their sír-land.

42. Every person whose proprietary rights in land comprising sír-land are, after this Act comes into force, transferred in any of the following cases, namely :—

(*a*) when he sells those rights without expressly agreeing to transfer his right to cultivate the sír-land,

(*b*) when those rights are sold for an arrear of land-revenue,

(*c*) when those rights are sold in execution of any decree which does not expressly direct the sale of his rights in the sír-land,

shall become an occupancy-tenant of that sír-land, and the rent payable by him as such shall be fixed by a Revenue-officer on application made by him or by his landlord.

Devolution and transfer of occupancy-right.

43. (*1*) When an occupancy-tenant dies his right in his holding shall devolve as if it were land : Provided that, except in the districts of Chánda, Nimár and Sambalpúr, a collateral relative of the tenant shall not be entitled to inherit that right, unless at the death of the tenant he was a co-sharer in the holding.

(*2*) A transaction by which an occupancy-tenant attempts to effect a transfer of property in respect of his holding by sale, gift, mortgage, sub-lease or otherwise shall be void, unless—

(*a*) it is entered into with his landlord's consent, or

(*b*) the transfer is one to a person who, if he survived the tenant, would inherit the right of occupancy, or between persons in favour of whom, as co-sharers, the right of occupancy originally arose, or who have become, by succession, co-sharers therein;

(*3*) The

(*3*) The right of an occupancy-tenant shall not be sold in execution of a decree.

Rent of occupancy-tenant to be fixed at settlement.

44. The rent of the holding of every occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised.

Fixation of rents during currency of settlement in Chánda, Nimár and Sambalpúr.

45. (*1*) In the districts of Chánda, Nimár and Sambalpúr, the rent fixed under section forty-four shall not be altered during the currency of any settlement except under section thirteen, section fourteen or section sixteen.

(*2*) The rent payable in respect of his holding by a tenant in any of those districts when this Act comes into force shall be deemed to have been fixed at the last preceding settlement of the area in which that holding is comprised.

(*3*) Subject to the provisions of sections thirteen, fourteen and sixteen, the rent payable by any such tenant in respect of a holding acquired by him after this Act comes into force shall, pending the recurrence of the settlement of the area in which that holding is comprised, be the rent fixed by agreement between him and his landlord at the time he acquires that holding, or, in the absence of any such agreement, or on the expiration of the term for which any such agreement has been made, a rent fixed by a Revenue-officer on the application of either party at the following rate, that is to say :—

(*a*) in the districts of Chánda and Nimár, the rate which the Chief Commissioner has prescribed for occupancy-tenants and caused to be entered in the record-of-rights at the last settlement;

(*b*) in the district of Sambalpúr, the average rate at which at the last settlement the rents of other lands in the same village of similar quality and possessing similar advantages were fixed.

46. The

Enhancement during currency of settlement in other districts.

46. The rate of rent payable in money by an occupancy-tenant in any other district may, during the currency of a settlement, on the application of the landlord to a Revenue-officer, be enhanced subject to the rules made under section eighty-two and for the time being in force:

Provided that—

(*a*) an application under this section shall not be entertained when the rent of the holding has within the ten years immediately preceding the application been fixed under any provision of this Act except section thirteen or section fourteen, or under any Act hereby repealed; and

(*b*) no order shall be made on any such application which is inconsistent with any contract made after the last preceding settlement and still in force.

Tenant's improvements how treated in fixing rent.

47. When the land in respect of which an application is made under section forty-five or section forty-six has been improved in accordance with this Act by the agency or at the expense of the tenant, the quality and advantages of the land shall, notwithstanding anything contained in any contract or record-of-rights, be deemed, for the purposes of that section, to be the quality and advantages which the land would have had and enjoyed if the improvements had not been made.

Grounds for ejectment.

48. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an occupancy-tenant shall not be ejected from his holding by his landlord as such except,—

(*a*) as hereinafter provided, for arrears of rent; or

(*b*) in execution of a decree of a Civil Court passed on the ground of his having diverted the land to non-agricultural purposes, or being chargeable with some other act or omission which, by custom not inconsistent with

with this Act or with any other enactment for the time being in force, renders him liable to be ejected.

Tenant changing land in accordance with village-custom.

49. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical redistribution, and exchanging that land in accordance with the custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

Tenant changing land in other cases.

50. If a tenant having a right of occupancy in any land ceases to hold that land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that the tenant has accepted that other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

CHAPTER V.

OF SUB-TENANTS.

Definition of sub-tenant.

51. A tenant who holds land from another tenant is a sub-tenant of that land.

Tenure according to agreement.

52. A sub-tenant shall, subject to the provisions of sections seven, fourteen and fifteen, hold on such terms as may be agreed upon between him and his landlord.

CHAPTER VI.

OF ORDINARY TENANTS.

Definition of ordinary tenant.

53. Every tenant who is not an absolute occupancy-tenant, or an occupancy-tenant or a sub-tenant, is an ordinary tenant.

Rent of ordinary tenant regulated by agreement.

54. An ordinary tenant shall, subject to the provisions of sections fourteen and fifteen, pay such rent as

as may, from time to time, be fixed by agreement between him and his landlord.

Grounds on which an ordinary tenant may be ejected.

55. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an ordinary tenant shall not be ejected from his holding by his landlord as such except—

(*a*) as provided in the case of an occupancy-tenant in section forty-eight;

(*b*) in execution of a decree for ejectment passed on the ground that he has refused to agree to an enhancement of rent demanded by his landlord in accordance with the provisions next hereinafter contained, or that the holding consists entirely of sír-land.

Notice of enhancement to be served through Civil Court.

56. When a landlord wishes to enhance the rent of an ordinary tenant whose holding does not consist entirely of sír-land and whose rent is not fixed by an agreement in writing, and the tenant does not agree to the enhancement, the landlord may cause to be served on the tenant through the Civil Court a notice of the enhancement not less than six months before the commencement of the agricultural year in which the landlord desires the enhancement to take effect.

Liability of tenant to ejectment in default of his agreeing to enhancement.

57. (*1*) If, within the period of one month from the service of a notice under section fifty-six, the tenant on whom the notice has been served presents to the Court issuing the notice a statement in writing declaring his willingness to pay the enhanced rent, he shall be deemed to have agreed to pay that rent from the commencement of the agricultural year next following.

(*2*) If the tenant does not, within the said period of one month, present to the Court a statement as aforesaid, the landlord may, not less than ten weeks before the commencement of the agricultural year next following, institute a suit to eject the tenant.

Procedure in ejectment-suit.

58. (*1*) If in any suit instituted under section fifty-seven the defendant appears and agrees to pay the enhanced rent demanded, his agreement shall thereupon

thereupon be recorded, and he shall not be ejected, but shall be liable to pay that rent from the commencement of the agricultural year next following the date of the agreement.

(*2*) If the defendant does not appear, or if, on appearing, he does not agree to pay the enhanced rent demanded, the Court may pass a decree for his ejectment on condition that, within fifteen days from the date of the decree, the landlord deposits in Court—

(*a*) such sum (if any) as may be declared by the decree to be payable to the tenant as compensation for improvements ; and

(*b*) a further sum as compensation for disturbance equal to seven times the yearly increase of rent demanded.

Conditions on which ejectment-decree is to be executed.

59. (*1*) If these sums are so deposited, the decree shall be made absolute, and the sums deposited shall be paid to the tenant.

(*2*) If these sums are not so deposited, the decree shall become void, and the tenant shall remain in occupation of his holding at the rent previously paid by him.

Fresh proceedings not to be taken for seven years.

60. When a tenant has agreed, under section fifty-seven or section fifty-eight, to pay an enhanced rent for his holding, or a decree to eject him from that holding has become void under section fifty-nine, no notice shall be served on him under section fifty-six in respect of that holding during the seven years next following the date on which he has so agreed, or the decree has become void, as the case may be.

Devolution and transfer of ordinary tenancy.

61. (*1*) When an ordinary tenant dies, his right in his holding shall devolve as if it were land :

Provided that a collateral relative of the tenant shall not be entitled to inherit his right unless at the death of the tenant he was a co-sharer in the holding.

(*2*) A transaction by which an ordinary tenant attempts to effect a transfer of property in respect of his holding by sale, gift, mortgage, sub-lease or otherwise

otherwise shall be void, unless it is entered into with his landlord's consent.

(*3*) The right of an ordinary tenant shall not be sold in execution of a decree.

Obligation of landlord to confer occupancy-rights on ordinary tenant.

62. (*1*) Notwithstanding any contract to the contrary, the landlord of any holding held by an ordinary tenant shall, at the request of the tenant and on the tender by the tenant to him of a sum equal to twice and one-half the annual rent payable in respect to the holding, together with the cost of preparing any instrument required for this purpose, confer upon the tenant the rights of an occupancy-tenant in respect of the holding; and when those rights have been so conferred, the rent of the tenant shall be deemed to be fixed under this Act, within the meaning of section forty-six, at the rate at which rent was payable by the tenant at the date of the request and tender:

Provided that the landlord may, upon any such request and tender being made to him, apply to a Revenue-officer to fix the rent of the holding for the purposes of this section; and if he proves to the satisfaction of the officer that the rate of rent payable in respect of the holding is less than the rate usually paid by ordinary tenants of holdings situate in the same or adjoining tahsíls for land of similar quality with like advantages, the officer shall fix the rent at the latter rate, and the rent so fixed shall, for the purposes of this section, be deemed to be, and to have been at the date of the request and tender, the rent payable by the tenant.

(*2*) If a landlord, to whom a request and tender is made by a tenant under sub-section (*1*), refuses or neglects for a period of one month to confer the rights of an occupancy-tenant on the tenant, the tenant may deposit the sum aforesaid in the court of a Revenue-officer, and apply to that officer to confer upon him the rights of an occupancy-tenant in respect of the holding.

(*3*) The officer, after giving notice of the application to the landlord and hearing him if he appears, and

and making such inquiry as he thinks necessary, may execute any instrument required for conferring those rights upon the tenant, and the execution shall have the same effect as an execution by the landlord.

(*4*) A person upon whom the rights of an occupancy-tenant are conferred under this section shall be deemed to be an occupancy-tenant for the purposes of this Act.

(*5*) Nothing in this section shall apply to a holding consisting entirely of sír-land.

CHAPTER VII.

JURISDICTION AND PROCEDURE.

Jurisdiction of Civil Courts barred in certain cases.

63. No Court other than the Court of a Revenue-officer or Settlement-officer shall fix any rent or call in question any rent fixed by a Revenue-officer or Settlement-officer, or shall take cognizance of any dispute or matter in which any of the following applications might be made, namely:—

(*a*) applications for permission to deposit rent in Court (section nine);

(*b*) applications to enhance rent on account of improvements made by, or at the expense of, the landlord (section thirteen);

(*c*) applications to alter the rent of a holding on account of increase or diminution or deterioration of the holding, or of a new assessment of revenue (sections fourteen and fifteen);

(*d*) applications for the commutation of rents paid in kind (section sixteen);

(*e*) applications for a commission to divide, estimate or appraise a crop (section twenty-five);

(*f*) applications to fix the price at which a landlord may purchase in case of an intended transfer (section thirty-eight);

(*g*) applications to fix rent or confer occupancy-rights (section sixty-two);

(*h*) applications

(*h*) applications to measure or ascertain the condition of holdings (section eighty); and

(*i*) applications relating to such other matters as Revenue-officers or Settlement-officers are empowered to deal with under this Act or the rules made under this Act.

Procedure on applications to Revenue and Settlement-officers, and appeals from their orders.

64. (*1*) In fixing rents and disposing of the matters referred to in section sixty-three, Revenue-officers and Settlement-officers shall, as nearly as may be practicable, subject to the provisions of this Act, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land-revenue Act, 1881.

VIII of 81.

(*2*) From every decision or order of a Revenue-officer or Settlement-officer fixing rent or disposing of any matter referred to in section sixty-three, an appeal shall lie as if that decision or order had been passed by that officer under the said Land-revenue Act.

VIII of 81.

Jurisdiction of Civil Courts in suits between landlords and tenants.

65. Except as provided in section sixty-three, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such:

Provided that—

(*a*) a Judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue-officer or Settlement-officer, hear any such suit; and

(*b*) the Chief Commissioner may, from time to time, subject to the provisions of this Act, direct that all or any class of such suits shall be heard and determined only in such Courts competent to try the same as he thinks fit, and not otherwise.

Power to direct that suits between landlords and tenants be entered in separate register.

66. The Chief Commissioner may, from time to time, direct that all suits, or any specified class of suits, between landlords and tenants as such, shall not be registered in the registers of civil suits kept under the Code of Civil Procedure, but in such other registers as he may prescribe.

IV of 1882.

67. (*1*) In

Plaint in such suits.

67. (*1*) In suits between landlords and tenants as such, the plaint shall, in addition to the matters mentioned in section 50 of the Code of Civil Procedure, XIV of 1882. specify the area of the land to which the suit relates, and, where the fields comprised in that land have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which it is payable.

(*2*) When the land to which the suit relates comprises parts of numbered fields, or has not been divided into numbered fields, an accurate and sufficient description of the land and its boundaries shall be given in the plaint.

Legal practitioners' fees not allowed, unless for special reasons.

68. In suits between landlords and tenants as such, the fees of a legal practitioner shall not be allowed as costs, unless the Court considers, for reasons to be recorded by it in writing, that those fees ought to be allowed.

Set-off when allowed in suits for arrears.

69. No set-off shall be allowed in any suit for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue-officer or Settlement-officer.

Interest on arrears.

70. In suits for arrears, interest on the arrears may be allowed up to the date of institution, at such rate, not exceeding twelve per cent. per annum, as the Court thinks fit.

No appeal in certain suits for arrears.

71. A decree or order passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class, as defined in the Central Provinces Courts Act, 1865, shall not XIV of 186 be subject to appeal, unless—

(*a*) the amount or value of the subject-matter of the suit exceeds one hundred rupees; or

(*b*) a question relating to a title to land, or some interest in land, has been determined as between parties having conflicting claims thereto.

72. (*1*) If

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Ejectment for non-payment of an arrear due under a decree.

72. (*1*) If a decree for an arrear is passed against a tenant other than an absolute occupancy-tenant and remains unsatisfied, the landlord may, at any time before the execution of the decree is barred by limitation, apply to the Court having authority to execute the decree to cause a notice to be served on the tenant, directing him either to pay the amount due under the decree not later than the expiration of the agricultural year, or to surrender his holding not later than that time.

(*2*) If that amount is not so paid, and the holding is not so surrendered, the Court may in its discretion, but subject to the provisions of this Act, make an order to eject the tenant from the holding.

Power of Court to deal with cases of drought or other calamity in suits for arrears.

73. (*1*) Where, in answer to a suit for an arrear, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail or other extraordinary calamity beyond his control, the Court in its discretion may, notwithstanding any contract to the contrary, allow in its decree any deduction from the arrear, and direct payment of the amount decreed (if any) in such instalments (if any) as it thinks fit.

(*2*) In any such case the Court may order that the provisions of section seventy-two shall not apply to the decree.

(*3*) In making a decree under this section the Court shall have regard to—

(*a*) the value of the produce of the holding for the whole agricultural year in respect of which the arrear accrued; and

(*b*) the proportion which the amount of rent payable for that year by the tenant bears to that value.

(*4*) If in any such suit it appears that the land-revenue of the village in which the holding is situate has been suspended or remitted on account of drought,

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drought, hail or other extraordinary calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that the diminution or destruction alleged by the tenant has taken place.

Relief against forfeitures.

74. (*1*) A suit for the ejectment of a tenant on the ground that he has done or omitted to do something for doing or omitting to do which he is liable to ejectment, or that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment, shall not be entertained unless the landlord has requested the tenant, where the damage or breach is capable of remedy, to remedy the same, and, in any case, to pay reasonable compensation for the damage or breach, and the tenant has failed to comply within a reasonable time with that request.

(*2*) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the damage or breach, and whether, in the opinion of the Court, the damage or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the damage or breach is declared to be capable of remedy, to remedy the same.

(*3*) The Court may, from time to time, extend a period fixed by it under sub-section (2) for remedying a damage or breach.

(*4*) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the damage or breach is declared by the Court to be capable of remedy, remedies the damage or breach to the satisfaction of the Court, the decree shall not be executed.

Rights of ejected tenant in respect of

75. The following rules shall be applicable in the case of every tenant ejected from a holding:—

(*a*) When the tenant has, before the date of his ejectment,

ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon. crops and land prepared for sowing.

(*b*) When the tenant has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing the land, together with reasonable interest thereon:

Provided that a tenant shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage.

76. When a landlord elects, under section seventy-five, clause (*a*), to allow a tenant to retain possession of any land for the purpose specified in that clause, the tenant shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court may deem reasonable. Payment by tenant for occupation of land under section 75.

77. In all suits and proceedings for ejectment, the Court shall inquire into and determine all claims under this Act by the landlord against the tenant as such, or by the tenant against the landlord as such. All claims between landlord and tenant to be determined in ejectment-proceedings.

78. (*1*) When it appears to a Court making an inquiry under section seventy-seven that the amount payable by the landlord to the tenant as such exceeds the amount payable by the tenant to the landlord as such, the decree or order for ejectment (if any) shall, unless Procedure when, on ejectment, money is due by the landlord to the tenant.

unless the landlord and tenant come to an arrangement regarding the payment of the excess sum, specify a time within which it must be paid into Court.

(*2*) If it is so paid within the time specified the Court shall eject the tenant ; and

if it is not so paid, the Court shall refuse to eject the tenant.

Ejectment-decrees and orders to have effect from beginning of agricultural year.

79. All decrees and orders for ejectment under this Act shall take effect from the beginning of the agricultural year next following the date of the decree or order.

Applications to measure or ascertain condition of holdings.

80. (*1*) If any landlord or tenant of a holding desires that the extent of that holding be ascertained, or that evidence relating to any improvement made in respect thereof, or to the state of the holding at any specified time, be recorded, he may apply to a Revenue-officer; and that officer shall thereupon, in presence of the parties,—

(*a*) make, or cause to be made, such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, and record his finding thereon, or

(*b*) (where the applicant seeks to have evidence recorded) record that evidence :

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

(*2*) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

Limitation in suits by tenant to

81. The period of limitation for a suit instituted by a tenant other than an absolute occupancy-tenant to

to recover possession of land from which he has been ejected shall be two years from the date on which he is ejected. recover possession.

In other respects the limitation of every such suit shall be governed by the Indian Limitation Act, 1877. XV of 1877.

CHAPTER VIII.

POWER TO MAKE RULES.

82. The Chief Commissioner may, from time to time, by notification in the official Gazette, make rules consistent with the provisions of this Act— Rules by Chief Commissioner.

(*a*) for the guidance of Revenue-officers and Settlement-officers in fixing, altering and commuting rents; and

(*b*) for the guidance of all other persons in matters connected with the enforcement of this Act.

SCHEDULE.

(*See section 2.*)

ACTS REPEALED.

Number and year of Act.	Title.
Act X of 1859 ...	To amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal.
Act XIV of 1863 ...	To amend Act X of 1859.
Act XXII of 1872 ...	To explain and amend Act X of 1859.

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The Orissa Communal Forest and Private Lands (Prohibition of Alienation) Act, 1948

(Received the assent of the Governor General in the 5th February, 1948)

An Act to prohibit the alienation of Communal, Forest and Private Lands in the [2][State] of Orissa

WHEREAS it is expedient to prohibit the alienation of all communal forests and private lands in the [2][State] of Orissa in the manner hereinafter appearing;

It is hereby enacted as follows;

1. Short title, extent and commencement – (1) This Act may be called the Orissa Communal, Forest and Private Lands (Prohibition of Alienation) Act, 1948.

(2) It extends to the whole of the [1][State] of Orissa except the district of Sambalpur.

(3) It shall be deemed to have come into force on the 1st day of April, 1946.

2. Definitions- In this Act, unless there is anything repugnant in the subject or the context-

(a) Communal land means;

(i) in relation to estates governed by the Madras Estates Land Act, 1 of 1908, land of the description mentioned in Sub-clause (a) or Sub-Clause (b) of Clause (16) of section 3 of that Act : and

(ii) in relation to cases governed by the Orissa Tenancy Act, 11 of 1913, lands recorded as gochar rakshit, or sarbasadharan in the record-of-rights or waste lands which are either expressly or impliedly set apart for the common use of the villagers, whether recorded, as such, in the record-of-rights or not:

(b) Estate and Private land shall have the same meanings respectively assigned to those expressions either in the Madras Estates Land Act, 1 of 1908 or in the Orissa Tenancy Act, 11 of 1913.

(c) Forest land includes any waste land containing shrubs and trees and any other class of land declared to be forest land by a notification of the [1][State] Government.

(d) Landlords means-

(i) in relation to estates governed by the Madras Estates Land Act, 1 to 1908, land holder as defined in that Act; and

(ii) in relation to cases governed by the Orissa Tenancy Act, 11 of 1913, landlord as defined in that Act.

CASE LAWS : Section 2 (a) and 3- Communal land-Lands not recorded as Gochar, Rakshit or Sarbasadharan in Record-of-Rights- No evidence that the land was either expressly or impliedly set apart for the common use of villagers-Land is held not a communal land to attract prohibition under Section 3 : **1992 (ll) OLR 529.**

Section 2- Meaning of Communal Land-Implied grant can be inferred from long user: ILR 1973 cutt. 1080: **39 (1973) CLT 1136.**

Section 2 (a) –Meaning of-Communal Land-Defendant not a village-No right to claim the communal character: **28(1962) CLT 24.**

Section 2 (a) (ii)-Scope-A tank in the Anabadi Khata of the landlord.It has a note in the record of rights that the villagers have got a right of user of water – If the tank can be held to be communal-interpretation of "expressly or impliedly set apart for the common use of the villagers"- Fishery right and common use-Distinction thereof: **34(1968) CLT 1340.**

Section 2 (a) (ii) - "Communal land" and using the tank for bathing not sufficient to establish implied grant: **ILR 1971 Cutt. 1077: 37 (1971) CLT (Notes) 148.**

Section 2 (c)- "Forest Land"- Meaning of- The intention of the Legislature was not to convert all Bagayats lying within the State of Orissa to forest lands and thereby make Orissa Act of 1948 applicable to all Bagayats wherever situate : **36 (1970) CLT 536.**

Section 2 (c) read with Section 3 – "Landlord" –Not restricted by Madras Estates Land Act, 1908 or Orissa Tenancy Act, 1913: **39(1973) CLT (Notes) 5.**

Section 2 (c) - 'Forest land'- Nature of-Definition inclusive and the term not defined in Indian Forest Act- Dictionary meaning to be sought : **64 (1987) CLT 41.**

3. Prohibition of Alienation of Communal Forest and Private Lands – (1) Notwithstanding anything contained in any other law for the time being in force or any express or implied agreement but subject to the provisions of Sub- section (2), no landlord shall, without the previous sanction of the Collector sell, mortgage, lease or otherwise assign or alienate or convert into raiyati land any communal forest or private land or create occupancy rights therein:

Provided that nothing in this sub-section shall be deemed to prohibit a landlord from leasing out his private land for a period not exceeding two years without previous sanction of the Collector.

(2) When a piece of land comes within the definition of "forest" as given in the Orissa Preservation of Private Forests Act, VIII of 1947, and also within the definition of "communal land" or "forest land" as given in this Act the previous sanction given by the appropriate authority under the clause (a) of sub-section (1) of section (3) of that Act shall be deemed to be the previous sanction as required by sub-section (1)

(3) Any landlord who contravenes the provisions of sub-section (1) and any agent of the landlord who abets such contravention shall be punishable with fine which may extend to 1000 rupees:

Provided that no landlord shall be liable to the penalty provided in this sub-section of any contravention that took place prior to the date of the passing of this Act.

Case Laws-: Section 3 – Khasmahal land and lease by Collector acting on behalf of the State, the landlord – previous sanction not necessary: **28(1962) CLT 24.**

Section 3- Character of communal land – Not Changed after vesting the reason is that it is not the nature of any encumbrance, but only represent the character of the land : **40(1974) CLT 38.**

Section 3- Land not mentioned as communal land in the record of rights- can not be treated as communal land in absence of evidence to the effect: **ILR 1965 Cutt. 22: 31(1965) CLT 654.**

Section 3- Govt. order No. 850 Dt. 2.8.1949- Delegation of Revenue powers-S.D.O. empowered to grant lease of waste land up to 15 acres-Effect of : **36 (1970)CLT 536.**

4. Transaction of the Nature Specified in Section 3 to be void – (1) Any transaction of the nature prohibited by Section 3 which took place on or after the 1 st day of April, 1946, shall be void and inoperative and shall not confer to take away or be deemed to have conferred to taken away any right whatever on or from any party to the transaction.

Provided that nothing contained in this Sub- section shall be deemed to invalidate-

(i) any such transaction in respect of private land or forest land entered into prior to the 30th day of November, 1947 in favour of any religious, charitable or educational institution or of any hospital or of any local authority or cooperative society registered either under the Madras Co operative Societies Act, VI of 1932 or the Bihar and Orissa Co-operative Societies Act, VI of 1935, as the case may be, of any other public body or institution;

(ii) any such transaction in respect of private land or forest land entered into prior to the 30th day of November, 1947 in favour of any person in good faith and for valuable consideration.

(2) If any dispute arises as to the validity of the claim of any person to any land under Clauses (i) and (ii) of the proviso to Sub-section, (1) it shall be upon to such person to apply to the District Judge of the district in which the land is situated for a decision as to the validity of such claim

(3) The District Judge to whom an application is made under Sub-section (2) shall, after giving notice to all the persons concerned in the transaction or interested in the land also, where the application is not made by the [1][State Government] to the State Government decide whether the claim to the land is valid or not; and his decision shall be final and not subject to appeal or revision in any superior Court.

(4) The [1][State Government] may, by notification makes rules for the purpose of carrying into effect the provisions of this section and in particular as to the fees to be paid in respect to the application referred to in Sub-section (3) and the procedure to be followed by the District Judge.

Explanation- In Sub- section (2), (3) and (4) the expression "District Judge" shall include "Additional District Judge" in respect of those cases that may be transferred to him for disposal.

Case Laws: Section 4 (1)- Civil Court's jurisdiction to determine the validity of a lease to "Nij –jote land" as contemplated under-Scope of – Lessees to file such an application to enforce the law : **ILR 1964 Cutt. 111: 30(1964) CLT. (Notes) 6.**

Section 4 (2)- Jurisdiction of the Court – District Judge appointed as competent authority to decide the validity of claim- Jurisdiction of the ordinary Civil Court barred **: 30 (1964) CLT 481.**

Section 4 (2) and section (7) of the Orissa Estates Abolition Act, 1951- Plaintiff claiming "khas possession " under section of the O.E.A. Act on the basis of a sale deed which defendant disputes being void under Act (1) of 1948-Order of Estate Abolition Collector setting land on plaintiff without considering validity of sale deed and plaintiff not filing dispute before District Judge for decision –Decree passed of Civil Court basing on such sale deed and order of settlement of land under section (7) of O.E.A. Act invalid : **36 (1970) CLT 636.**

Section 4(2) and (3) Application of Lease after 1.4 .1946 Provisions not applicable- No application of District Judge lies: **ILR 1972 Cutt.753.**

Section 4 land leased out without previous sanction of Collector void: **64(1987) CLT 41.**

5 Collector to Sanction Prosecution- No prosecution shall be instituted under this Act against any person without the previous sanction of the Collector.

6. Bar of Jurisdiction-No notification or order of the State Government or of the Collector under this Act shall be liable to be questioned in any Court of Law.

7. Modification of Madras Act, **1 of 1908 and Bihar and Orissa Act, 11 of 1913-** The provisions of this Act shall, as far as may be read and construed as forming part of Madras Estates Land Act, 1 of 1903 , or as the case may be, of the Orissa Tenancy Act,11 of 1913:

Provided that where any of the provisions of this act is inconsistent or repugnant to the provisions of the aforesaid acts, it shall prevail and the said provisions of the aforesaid acts shall be deemed to be modified to that extent.

8. Power to Remove Difficulties-If any difficulty arises in giving effect to the provisions of the Act, the [1][State Government] may as occasion may arise by order do anything which appears to them necessary for the purpose of removing the difficulty.

THE ODISHA CONSOLIDATION OF HOLDINGS AND PREVENTION OF FRAGMENTATION OF LAND (AMENDMENT) ACT, 2023

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PREAMBLE :

SECTIONS :

1. Short title and commencement.
2. Omission of Chapter V.
3. Insertion of new Section 36-A.

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

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LAW DEPARTMENT

NOTIFICATION

The 29th December, 2023

No.20396–l-Legis-35/2023/L.– The following Act of the Odisha Legislative Assembly having been assented to by the Governor on the 19th December,2023 is hereby published for general information

THE ODISHA CONSOLIDATION OF HOLDINGS AND PREVENTION OF FRAGMENTATION OF LAND (AMENDMENT) ACT, 2023

AN

ACT

FURTHER TO AMEND THE ODISHA CONSOLIDATION OF HOLDINGS AND PREVENTION OF FRAGMENTATION OF LAND ACT, 1972

BE it enacted by the Legislature of the State of Odisha in the Seventy-fourth Year of the Republic of India as follows:-

Short title and commencement.

1. (1) This Act may be called the Odisha Consolidation of Holdings and Prevention of Fragmentation of Land (Amendment) Act, 2023.

(2) They shall come into force at once.

Ommission of Chapter V.

2. In the Odisha Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 (hereinafter referred to as the Principal Act) , Chapter V shall be omitted. Odisha Act 21 of 1972

Insertion of new Section 36 A.

3. In the Principal Act, after section 36, the following section shall be inserted, namely :—

Validation of the transactions.

"**36A.** Any transfer or partition of agricultural land in a locality creating fragmentation made under the Principal Act before the commencement of the Odisha Consolidation of Holdings and Prevention of Fragmentation of Land (Amendment) Act , 2023, shall be treated as valid:

Provided that cases where any eviction has been made by the Collector under sub-section (2) of Section 35 of the Principal Act as omitted in this Act shall not be reopened.".

By Order of the Governor

MANAS RANJAN BARIK

Principal Secretary to Government

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ORISSA ACT 43 OF 1975

THE ORISSA AGRICULTURAL CREDIT OPERATIONS AND MISCELLANEOUS PROVISIONS (BANKS) ACT, 1975

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SCHEDULE

[82 Law 32]

ORISSA ACT 43 OF 1975

* THE ORISSA AGRICULTURAL CREDIT OPERATIONS AND MISCELLANEOUS PROVISIONS (BANKS) ACT, 1975

[*Received the assent of the President on the 24th October 1975, first published in an extraordinary issue of the* Orissa Gazette, *dated the 12th November 1975*]

AN ACT TO MAKE PROVISIONS TO FACILITATE ADEQUATE FLOW OF CREDIT FOR AGRICULTURAL PRODUCTION AND DEVELOPMENT THROUGH BANKS AND OTHER INSTITUTIONAL CREDIT AGENCIES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

Be it enacted by the Legislature of the State of Orissa in the Twenty-sixth Year of the Republic of India, as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Orissa Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1975.

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

(3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf and different dates may be appointed for different provisions of this Act and for different areas of the State.

Definitions

2. In this Act, unless the context otherwise requires,—

(*a*) "agriculture" shall include making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, raising and harvesting of crops, horticulture, forestry, planting and farming and cattle breeding, animal husbandry, dairy farming, seed farming, pisciculture, apiculture, sericulture, piggery, poultry farming and such other activities as are generally carried on by agriculturists, dairy farmers, cattle breeders, poultry farmers and other categories of persons engaged in similar activities including marketing of agricultural

*For the Bill see *Orissa Gazette*, Extraordinary, dated the 19th March, 1975 (No. 574).

products, their storage and transport and the acquisition of implements and machinery in connection with any such activity and the expression "agricultural purpose" shall be construed accordingly;

(*b*) "agriculturist" means a person who earns income from agriculture;

(*c*) "Agro-Industries Corporation" means a company or other body corporate, one of the principal objectives of which is to undertake activities connected with or intended for the development of agriculture and not less than fifty-one per cent of the paid up share capital of which is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments ;

(*d*) "bank" means—

(*i*) a banking company within the meaning of the Banking Regulation Act, 1949, 10 of 1949

(*ii*) the State Bank of India constituted under the State Bank of India Act, 1955; 23 of 1955

(*iii*) a subsidiary Bank within the meaning of the State Bank of India (Subsidiary Banks) Act, 1959; 38 of 1959

(*iv*) a corresponding new bank within the meaning of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; 5 of 1970

(*v*) the Agricultural Refinance Corporation established under the Agricultural Refinance Corporation Act, 1963; 10 of 1963

(*vi*) the Agro-Industries Corporation as defined in clause (*c*);

(*vii*) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956; and 1 of 1956

(*viii*) any other financial institution notified by the State Government as a bank for the purposes of this Act;

(*e*) "co-operative society" means a co-operative society registered or deemed to be registered under the Orissa Co-operative Societies Act, 1962, the object of which is to provide financial assistance as defined in clause (*f*) to its members and includes a land development bank as defined in that Act; Orissa Act 2 of 1963.

(*f*) "financial assistance" for the purpose of this Act, means assistance granted by way of loans, advances, guarantee or otherwise for agricultural purpose;

(*g*) "Registrar of Co-operative Societies" means, the person appointed as such by the State Government under section 3 of the Orissa Co-operative Societies Act, 1962. Orissa Act 2 of 1963.

CHAPTER II

RIGHTS OF AGRICULTURISTS TO CREATE CHARGE ON LAND AND INTERESTS THEREIN IN FAVOUR OF BANKS

Creation of charge on crop and other movable property in favour of banks.

3. (1) It shall be lawful for an agriculturist to create a charge on the movable property owned by him or on the crops raised by him, standing or otherwise, or other produce from land cultivated by him, to the extent of his interest therein, in favour of a bank to secure financial assistance.

(2) Notwithstanding anything to the contrary in the Orissa Co-operative Societies Act, 1962 or in any other law for the time being in force, in cases where the financial assistance given by a bank is prior in point of time to that of the financial assistance extended by a Co-operative Society, no charge in respect of such financial assistance extended by the Co-operative Society shall have priority over a charge on the crops raised by him, standing or otherwise, or on any other movable property in respect of any financial assistance given to him by a bank. Orissa Act 2 of 1963.

Creation of charge on land in favour of a bank by a declaration.

4. (1) Where an agriculturist creates a charge on land, or any other immovable property which he owns or in which he has an interest in respect of any financial assistance given to him by a bank, he shall make a declaration in the form set out in the schedule hereto or as near thereto as circumstances permit, declaring that thereby he creates, in favour of the bank, a charge on such land or his interest therein, or other immovable property, as the case may be, to secure the financial assistance given to him by the bank.

(2) A declaration made under sub-section (1) may be varied from time to time by the agriculturist with the consent of the bank in whose favour the declaration has been made and any such variation shall take effect from such date on which the variation, if it had been an original declaration, would have effect under section 7.

CHAPTER III

CHARGES AND MORTGAGES IN FAVOUR OF BANKS AND THEIR PRIORITIES

Removal of disability in creation of charge and mortgages.

5. Notwithstanding anything to the contrary contained in the Orissa Co-operative Societies Act, 1962 or in any other law for the time being in force and notwithstanding that any land or interest therein stands already charged or mortgaged in favour of a co-operative society, it shall be lawful for an agriculturist to create a charge or mortgage on such land or interest therein in favour of a bank as security for any financial assistance given to the agriculturist by that bank. Orissa Act 2 of 1963.

Priority of charges and mortgages in favour of Government or a Co-operative Society.

6. (1) Notwithstanding anything to the contrary in any law for the time being in force,—

(*a*) no charge or mortgage created on any land or interest therein, after the commencement of this Act, in favour of Government in respect of a loan under the Land Improvement Loans Act, 1883 or the Agriculturists' Loans Act, 1884 or in favour of a co-operative society in respect of a loan granted by such society, shall have priority over a charge or mortgage on such land or interest created 19 of 1883 4 of 1884

by an agriculturist in favour of a bank as security for financial assistance given to the agriculturist by the bank after the commencement of this Act and prior to the charge or mortgage in favour of Government or the co-operative society, as the case may be ; and

(*b*) any charge or mortgage created on any land or interest therein in favour of a bank in respect of financial assistance given to an agriculturist by that bank shall have priority over any other charge or mortgage that may have been created over such land or interest in favour of any person other than Government, a co-operative society or any other bank, prior to the date on which the charge or mortgage was created in favour of the bank.

(2) where different charges or mortgages over the same land or interest therein have been created by an agriculturist in favour of Government, a co-operative society or a bank or more than one bank, any such charge or mortgage created as security for financial assistance given by Government, co-operative society or the bank or banks by way of term loan for development purposes shall have priority over the other charges or mortgages created in favour of Government, co-operative society or any of the banks, provided prior notice of any such financial assistance by way of term loan for development purpose had been given to such Government, co-operative society or bank and such Government, co-operative society or bank has concurred in such financial assistance, and where more than one such charge or mortgage is as security for financial assistance given by way of term loan, the charges or mortgages by way of security for term loan for development purposes will rank for priority in accordance with the dates of their creation.

Explanation—For the purposes of this section, "term loan for development purpose" shall mean financial assistance which would generally lead to improvement of agriculture or building up of assets in agriculture, but shall not include financial assistance for meeting working capital expenses, seasonal agricultural operations and marketing of crops.

(3) Nothing in this section shall apply to borrowings only from one or more co-operative societies.

Registration of charges and mortgage in favour of banks.

7. Notwithstanding anything contained in the Registration Act, 1908, a charge in respect of which a declaration has been made under sub-section (1) of section 4, or in respect of which a variation has been made under sub-section (2) of that section, or a mortgage executed by an agriculturist in favour of a bank in respect of financial assistance given by that bank, shall be deemed to have been duly registered in accordance with the provisions of that Act, with effect from the date of such charge, variation or mortgage, as the case may be, provided that the bank sends to the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property charged or mortgaged is situate, within a period of thirty days, by registered post with acknowledgement due, two copies of the document creating such charge, variation or mortgage duly certified to be true copies by an employee of the bank authorised to sign on its behalf. 16 of 1908

Restrictions on creation of tenancy by an agriculturist borrower.

8. (1) Notwithstanding anything contained in any law for the time being in force, an agriculturist who has availed himself of financial assistance from a bank by creating a charge or mortgage on land or interest therein, shall not, so long as the financial assistance continues to be outstanding, lease out or create any tenancy rights on such land or interest without prior permission in writing of the bank.

(2) Any lease granted or tenancy rights created in contravention of this section shall be void.

CHAPTER IV

ARRANGEMENTS FOR RECOVERY OF DUES BY BANKS

Removal of bar to attachment and sale by process of court.

9. Nothing in any law shall prevent in any manner a bank from causing any land, crop, movables or any interest therein charged or mortgaged to it by an agriculturist to secure any financial assistance, to be attached and sold through a civil court and applying the proceeds of such sale towards all moneys due to it from that agriculturist including the costs and expenses as may be awarded by the court.

Recovery of dues of a bank through a prescribed authority.

10. (1) An officer of the State Government notified by them as the prescribed authority for the purposes of this section may, on the application of a bank and after such enquiry as he deems proper, make an order on any agriculturist or his heir or legal representative, directing the payment of any sum due to the bank on account of financial assistance availed of by the agriculturist, by the sale of any land or any interest therein upon which the payment of such money is charged or mortgaged :

Provided that no order shall be made by the prescribed authority under this section unless the agriculturist or the heir or legal representative of the agriculturist, as the case may be, has been served with a notice by the prescribed authority calling upon him to pay the amounts due.

(2) Every order passed by the prescribed authority under sub-section (1) shall be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court.

(3) Nothing in this section shall debar a bank from seeking to enforce its rights in any other manner open to it under any other law for the time being in force.

Right of a Bank to acquire and dispose of immovable property.

11. (1) Notwithstanding anything contained in any law for the time being in force, a bank shall have power to itself acquire agricultural land or interest therein or any other immovable property which has been charged or mortgaged to it by an agriculturist in respect of any financial assistance availed of by him, provided the said land or interest therein or any other immovable property has been sought to be sold by public auction and no person has offered to purchase it for a price which is sufficient to pay to the bank the money due to it.

(2) A bank which acquires land or interest therein or any other immovable property in exercise of the power vested in it under sub-section (1), shall dispose it of by sale, within a period to be specified by the State Government in this behalf.

(3) If the bank has to lease out any land acquired by it under sub-section (1), pending sale thereof as indicated in sub-section (2), the period of lease shall not exceed one year at a time and the lessee shall not acquire any interest in that property, notwithstanding any provision to the contrary in any other law for the time being in force.

(4) A sale by a bank of land or interest therein in terms of this section shall be subject to the provisions of any law in force which provides for restrictions on purchase of land by non-agriculturists or by a person not belonging to a Scheduled Tribes or Scheduled Castes or for restrictions against fragmentation of land or which provides for a ceiling on acquisition of land.

Exemption to banks from restriction on acquisition of land in excess of ceiling.

12. Nothing in any law for the time being in force placing a ceiling or limit on the holding of land shall apply to a bank acquiring land in terms of section 11 and holding such land till such time the bank is in a position to sell the land in the manner provided in that section or otherwise, at a price which is adequate to cover its dues.

CHAPTER V

FINANCING OF CO-OPERATIVE SOCIETIES BY BANKS

Banks eligible to become member of a co-operative society.

13. Notwithstanding anything contained in the Orissa Co-operative Societies Act, 1962 or in any law for the time being in force, it shall be lawful for a bank to become a member of a Co-operative Society. Orissa Act 2 of 1963.

Power of co-operative societies to borrow from banks.

14. Notwithstanding anything contained in the Orissa Co-operative Societies Act, 1962 it shall be lawful for any Co-operative Society to borrow from a Bank. Orissa Act 2 of 1963.

Inspection of books of co-operative society by a bank.

15. (1) A bank shall have the right to inspect the books of any co-operative society which has either applied to the bank for financial assistance or is indebted to the bank on account of financial assistance granted earlier.

(2) The inspection may be carried out by an Officer or any other member of the paid staff of the bank with the previous sanction in writing of the Registrar of Co-operative Societies.

(3) The Officer or any other member of the paid staff of the bank undertaking such inspection, shall, at all reasonable times, have access, to the books of accounts, documents, securities, cash and other properties belonging to or in the custody of the Co-operative Society inspected by him, and shall also be supplied by such society such information, statements and returns as may be required by him to assess the financial condition of the society and the safety of financial assistance to be made to the society or already made to it.

Disputes between a bank and a co-operative society.

16. (1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, management or the business of a co-operative society, between a bank financing a co-operative society and the co-operative society so financed, other than disputes regarding the disciplinary action taken by the society or its committee against a paid employee of the society, shall be referred by either of the parties to the dispute to the Registrar of Co-operative Societies for decision.

(2) Where any question arises whether, for purposes of the foregoing sub-section, a matter referred to for decision is a dispute or not, the question shall be decided by the Registrar of Co-operative Societies whose decision thereon shall be final.

Settlement of disputes.

17. (1) If the Registrar of Co-operative Societies is satisfied that any matter referred to him or brought to his notice is a dispute within the meaning of section 16, he shall decide the dispute himself or refer it for disposal to a nominee or a Board of nominees appointed by him.

(2) Where any dispute is referred under sub-section (1) for decision to the nominee or Board of nominees, the Registrar may, at any time, for reasons to be recorded in writing, withdraw such dispute from his nominee or Board of nominees and may decide the dispute himself or refer it for decision to any other nominee or Board of nominees appointed by him.

(3) Notwithstanding anything contained in section 16, the Registrar may, if he thinks fit, suspend the proceedings in regard to any dispute if the question at issue between a co-operative society and a bank is one involving complicated questions of law and fact, until the question has been tried by a regular suit instituted by one of the parties to the dispute and if any such suit is not instituted, within two months from the order of the Registrar suspending the proceedings, the Registrar shall take action as is provided in sub-section (1).

Procedure for hearing of disputes.

18. The Registrar of Co-operative Societies or his nominee or Board of nominees hearing a dispute under section 17 shall, as far as practicable, decide the dispute in the manner provided in the Orissa Co-operative Societies Act, 1962 and the rules made thereunder. Orissa Act 2 of 1963.

Decision of Registrar or his nominee or Board of nominees.

19. (1) When a dispute is referred for decision, the Registrar or his nominee or the Board of nominees may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings, on fees and on the expenses payable to the Registrar or his nominee or, as the case may be, the Board of nominees.

(2) Any such award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute and shall, subject to appeal, review or revision as provided under the Orissa Co-operative Societies Act, 1962, be binding on the parties to the dispute. Orissa Act 2 of 1963.

Recovery of money awarded.

20. Every award made under section 19, shall, if not carried out, on a certificate signed by the Registrar, be deemed to be a decree of a Civil Court and shall be executed in the same manner as a decree of such court.

Powers of a bank to proceed against defaulting members of a Co-operative Society.

21. (1) If a co-operative society is unable to pay its debts to a bank from which it has borrowed, by reason of its members defaulting in the payment of the moneys due by them, the bank may direct the committee of such society to proceed against such members by taking action under the Orissa Co-operative Societies Act, 1962. Orissa Act 2 of 1963.

(2) If the committee of the co-operative society fails to proceed against its defaulting members within a period of ninety days from the date of receipt of such direction from the bank, the bank itself may proceed against such defaulting members in which event, the provisions of the said Act and the rules and bye-laws made thereunder shall apply as if all references to the society or its committee in the said Act, rules and bye-laws were references to the bank.

(3) Where a bank has obtained a decree or award against a co-operative society indebted to it, the bank may proceed to recover such moneys firstly from the assets of the co-operative society and secondly from the members of the co-operative society to the extent of their debts due to the society.

Audit, inspection and inquiry reports of societies to be available to banks.

22. The Registrar of Co-operative Societies shall draw the attention of the bank financing a co-operative society to the defects noticed in every audit or inquiry or inspection of such society conducted under the provisions of the Orissa Co-operative Societies Act, 1962, and shall also supply a copy each of such audit, inquiry or inspection report if demanded, in writing, by the bank. Orissa Act 2 of 1963.

CHAPTER VI

MISCELLANEOUS

Exemption from legislations relating to money lending and agriculturists debt relief.

23. Nothing in any law for the time being in force relating to money lending or agriculturists' debt relief shall apply to the financial assistance availed of by an agriculturist from a bank.

Mortgages executed by Managers of joint Hindu families.

24. (1) Notwithstanding anything contained in any law for the time being in force, mortgages executed after the commencement of this Act by the manager of a joint Hindu family in favour of a bank for securing financial assistance for an agricultural purpose shall be binding on every member of such joint Hindu family.

(2) Where a mortgage executed in favour of a bank is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members (whether such members have attained majority or not) thereof, the burden of proving the same shall lie on the party alleging it.

Modified application of section 8 of Act 32 of 1956.

25. Section 8 of the Hindu Minority and Guardianship Act, 1956, shall apply to mortgages in favour of a bank subject to the modification that reference to the court therein shall be construed as reference to the Collector or his nominee and the appeal against the order of the Collector or his nominee shall lie to the Revenue Divisional Commissioner having jurisdiction. 2 of 1956

Power of State Government to make rules.

26. The State Government may, by notification, make rules to provide for all or any of the matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

SCHEDULE

Declaration under section 4 (1)

I,..... aged.....years residing at..... being desirous of availing myself of financial assistance from the.....Bank, make this declaration as required by section 4 (1) of the Orissa Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1975, that I .....own/have interest as a tenant in the land specified below, and I hereby create a charge on the said land/interest in land in favour of the bank for securing the financial assistance which the bank may make and for all future assistance, if any, which the bank may make to me together with interest and costs and expenses thereon.

Name of Village	Name of Tahasil	Name of District	Survey No.		Boundaries	
			City Survey No.		South-East	North-West
			Plot No.	Plot Hissa		
1	2	3	4		5	

Area	Assessment		Approximate value	Encumbrances, if any		Remarks, if any
Acres	Rupees	Paise		Nature	Amount	
6	7		8	9		10

In witness whereof, I, Shri.....hereunder set my hand this.....day of.....in the year one thousand nine hundred and.....

Witnesses

Signed and delivered by the above-named in the presence of :

(1)

(2)

Signature of declarant

Attested by

Forwarded to the Sub-Registrar with a request to retain a copy of the document in his office and record the particulars of the charge.....created in the property of the executant.

Manager/Agent

.....Bank

Place

Acknowledgement

Copy to Manager/Agent.....Bank. The charge created under the declaration is duly recorded and a copy with necessary endorsement is returned herewith.

Sub-Registrar

———

THE ORISSA LAND REVENUE (ABOLITION) ACT, 1978

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PREAMBLE

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1. Short title, extent and commencement
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3. Abolition of Land Revenue
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ORISSA ACT 6 OF 1978

*[THE ORISSA LAND REVENUE (ABOLITION) ACT, 1978]

[*Received the assent of the Governor on the 22nd March 1978, first published in an extraordinary issue of the* Orissa Gazette, *dated the 27th March 1978*]

AN ACT TO PROVIDE FOR THE ABOLITION OF PAYMENT OF LAND REVENUE IN RESPECT OF CERTAIN CATEGORIES OF LAND

BE it enacted by the Legislature of the State of Orissa in the Twenty-ninth Year of the Republic of India, as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Orissa Land Revenue (Abolition) Act, 1978.

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

(3) It shall be deemed to have come into force with effect from the 1st day of April, 1977.

Definitions

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

(*a*) "Government" means the State Government of Orissa ;

(*b*) "land revenue" means all sums and payments in money or in kind or in both, by whatever name designated or locally known, received or claimed by or on behalf of Government from a raiyat or tenant for use or occupation of the land held by him and includes rent, but does not include cess ;

(*c*) "municipality" or "notified area" means a municipality or notified area constituted under the Orissa Municipal Act, 1950 ; Orissa Act 23 of 1950.

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

(*e*) "rent" means whatever is payable or deliverable in money or in kind or in both, except by way of a special contract by a tenant or a raiyat to Government on account of use or occupation of the land held by him ;

(*f*) "small scale industry" means an industry the capital investment in respect of which does not exceed one lakh of rupees or an industry wherein the number of labourers employed on any day during the previous agricultural year does not exceed twenty ; and

(*g*) words and expressions used in this Act but not defined herein shall have the same meaning as are respectively assigned to them in the land revenue and tenancy laws for the time being in force in the State.

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* For the Bill, *see* Orissa Gazette, Extraordinary, dated the 16th February, 1978 (No. 200).

Abolition of land revenue.

3. (1) Notwithstanding anything to the contrary contained in any other law, custom, or usage for the time being in force in the State, no raiyat or tenant shall be liable to pay land revenue in respect of any land held by him directly under Government provided such land is used for purposes of agriculture, horticulture or pisciculture or for purposes of any small scale industry located outside the limits of a municipality or notified area.

(2) The provisions contained in sub-section (1) shall be without prejudice to and shall not affect the operation of any law providing for assessment of land revenue or for recovery of any sum as arrears of land revenue.

Adjustment and refund.

4. Any sum paid by or on behalf of a raiyat or tenant towards land revenue after the commencement of this Act shall, if he was not liable to pay such sum in accordance with the provisions contained in section 3, be adjusted towards other dues, if any, payable by him to Government under any law and the balance shall be refunded to him on an application made in that behalf in the prescribed manner.

Computation of land revenue.

5. Without prejudice to the provisions of section 3, for the purposes of computation, the land revenue in respect of any land which was settled or assessed prior to the 1st day of April, 1945, shall include a surcharge of an amount equal to fifty percentum of such land revenue:

Provided that the surcharge shall cease to be so included with effect from the date on which the land revenue settled under the Orissa Survey and Settlement Act, 1958 or under the Orissa Consolidation of Holding and Prevention of Fragmentation of Land Act, 1972 in respect of the said land takes effect. Orissa Act 3 of 1959. Orissa Act 21 of 1972.

Power to make rules.

6. The Government may make rules for carrying out all or any of the purposes of this Act.

Repeal of Orissa Act 33 of 1975.

7. (1) The Orissa Land Revenue (Re-imposition) Act, 1975 and the provisions of any other enactment in so far as they are repugnant to the provisions of this Act, are hereby repealed. Orissa Act 33 of 1975.

(2) Notwithstanding such repeal, all documents and revenue records relating to landlords and tenants shall continue to be valid to the extent of their use for purposes which are not inconsistent with or repugnant to the provisions of this Act.

Repeal of Orissa Ordinance No. 7 of 1977.

8. (1) The Orissa Land Revenue (Abolition) Ordinance, 1977 is hereby repealed. Orissa Ordinance No. 7 of 1977.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

ORISSA REGULATION 1 OF 2002

THE ORISSA SCHEDULED AREAS TRANSFER OF IMMOVABLE PROPERTY (BY SCHEDULED TRIBES) AMENDMENT REGULATION, 2000

[Received the assent of the President on the 20th August 2002, published in an extraordinary issue of the *Orissa Gazette*, dated the 4th September, 2002 (No. 1429)]

A

REGULATION

FURTHER TO AMEND THE ORISSA SCHEDULED AREAS TRANSFER OF IMMOVABLE PROPERTY (BY SCHEDULED TRIBES) REGULATION, 1956.

Whereas it is expedient to amend the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 ;

Now, therefore, in exercise of the powers conferred by sub-paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitution of India, the Governor of Orissa is pleased to promulgate the following Regulation made by him in the Fifty-first Year of the Republic of India:—

Short title.

1. This Regulation may be called the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Amendment Regulation, 2000.

Amendment of section 2.

2. In section 2 of the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 (hereinafter referred to as the principal Regulation), — Orissa Regulation 2 of 1956.

(*i*) clause (aa) shall be omitted ;

(*ii*) for clause (b), the following clause shall be substituted, namely:—

'(*b*) "Grama Panchayat" and "Grama Sasan" shall respectively mean the Grama Panchayat and Grama Sasan as defined in the Orissa Grama Panchayats Act, 1964 ; ' ; and Orissa Act of 1965.

(*iii*) clause (e-1) shall be omitted.

Amendment of Section 3.

3. In Section 3 of the principal Regulation,—

(*a*) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Notwithstanding anything contained in any law for the time being in force any transfer of immovable property by a member of a Scheduled Tribe, except by way of mortgage executed in favour of any public financial institution for securing a loan granted by such institution for any agricultural purpose, shall be absolutely null and void and of no force or effect whatsoever, unless such transfer is made in favour of another member of a Scheduled Tribe :

Provided that—

(*i*) nothing in this sub-section shall be construed as to permit any member of a Scheduled Tribe or his successor-in-interest to transfer any immovable property which was settled with such member of Scheduled Tribe by or under any authority of the State or the Central Government or under any law for the time being in force ;

(*ii*) in execution of any decree for realisation of the mortgage money, no property mortgaged as aforesaid shall be sold in favour of any person not being a member of a Scheduled Tribe ; and

(*iii*) a member of a Scheduled Tribe shall not transfer any land if the total extent of his land remaining after the transfer will be reduced to less than two acres in case of irrigated land or five acres in case of unirrigated land.

Explanation I—For the purposes of this sub-section, a transfer of immovable property—

(*a*) in favour of a female member of a Scheduled Tribe, who is married to a person not belonging to any Scheduled Tribe, shall be deemed to be a transfer made in favour of a person not belonging to a Scheduled Tribe ; and

(*b*) shall include a transfer of immovable property to a person belonging to a Scheduled Tribe for consideration paid or provided by another person not belonging to any such Tribe.

Explanation II—For the purposes of clause (iii) of the proviso, the expression "irrigated land" shall mean such land which is irrigated at least for one crop in a year, and the expression "unirrigated land" shall be construed accordingly" ; and

(*b*) in sub-section (2),—

(*i*) after the words "any one interested therein", the words "or on information received from the Grama Panchayat" shall be inserted ; and

(*ii*) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where it is decided by the competent authority to settle the said property with any person other than a person belonging to a Scheduled Tribe in accordance with the Orissa Government Land Settlement Act, 1962, he shall obtain prior approval of the concerned Grama Panchayat, accorded with the concurrence of the Grama Sasan.";

Orissa Act 33 of 1962.

Amendment of section 3-A.

4. In section 3-A of the principal Regulation,—

(*a*) in sub-section (1), after the words "any person interested therein" the words "or on information received from the Grama Panchayat" shall be inserted; and

(*b*) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) In every case after finalisation of the proceedings under sub-section (1), the competent authority shall make a report to the concerned Grama Panchayat about the order of ejection passed in respect of any person in unauthorised occupation of any immovable property of a member of a Scheduled Tribe and the restoration of possession of the property to such member on his heirs and in case of failure of such restoration, the reasons for such failure.".

Insertion of new section 3-B.

5. After section 3-A of the Principal Regulation, the following section shall be inserted, namely:—

Reversion of land of members of Scheduled Tribes which was transferred by fraud.

"3-B. (1) Every person who, on the date of commencement of the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Amendedment Regulation, 2000 (hereinafter referred to in this section as the Amendment Regulation of 2000), is in possession of agricultural land which belonged to a member of a Scheduled Tribe at anytime during the period commencing on the 4th October, 1956 and ending on the date of commencement of the Amenedment Regulation of 2000 shall, within two years of such commencement, notify to the Sub-Collector in such form and in such manner as may be prescribed, all the information as to how he has come in possession of such land.

(2) If any person fails to notify the information as required by sub-section (1) within the period specified therein it shall be presumed that such person has been in possession of the agricultural land without any lawful authority and the agricultural land shall on the expiration of the period aforesaid, revert to the person to whom it originally belonged and if that person be dead, to his heirs.

(3) On receipt of the information under sub-section (1), the Sub-Collector shall make such enquiry as may be necessary about all such transactions of transfer and if he finds that the member of Scheduled Tribe has been defrarded of his legitimate right he shall declare the transaction null and void and,—

(a) where no building or structure has been erected on the agricultural land prior to such finding, pass an order revesting the agricultural land in the transferor and if he be dead, in his heirs;

(b) where any building or structure has been erected on the agricultural land prior to such finding, he shall fix the price of such land in accordance with the principles laid down for fixation of price of land in the Land Acquisition Act, 1894 and order the person referred to in sub-section (1) to pay to the transferor the difference, if any, between the price so fixed and the price actually paid to the transferor: 1 of 1894.

Provided that where the building or structure has been erected after the commencement of the Amendment Regulation of 2000, the provisions of clause (b) shall not apply:

Provided further that fixation of price under caulse (b) shall be with reference to the price on the date of registration of the case before the Sub-Collector.".

Amendment of sections 7 and 7-A.

6. For sections 7 and 7-A of the principal Regulation, the following sections shall be substituted, namely:—

Punishment of offences.

"7. (1) If any person is found to be in possession of any immovable property in contravention of the provisions of this Regulation, then, without prejudice to his liability to ejectment under this Regulation, or where any person, having been evicted under any provision of this Regulation from any immovable property belonging to a member of Scheduled Tribe, continues to be in possession of the same, he shall be punishable with rigorous imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

(2) Where any person, having been evicted under any provision of this Regulation from any immovable property belonging to a member of a Scheduled Tribe, reoccupies the same shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both.

(3) When a Court imposes sentence of fine or a sentence of which fine forms a part, the Court may, when passing judgement, order the whole or any part of the fine to be paid to the member of Schedule Tribe to whom the immovable property belongs, or to his heirs.

Offences to be tried by Executive Magistrate and to be cognizable.

7-A. (1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of the offences under this Regulations, and on such conferment of powers the Excutive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure. 1973, to be a Judicial Magistrate of the first class or of the second class, as the case may be. 2 of 1974.

(2) An offence under this Regulation may be tried summarily by a Magistrate.

(3) Every offence under this Regulation shall be cognizable.".

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