

ORISSA ACT 33 OF 1962
The Orissa Government Land Settlement
Act, 1962

(Assented to by the Governor on the 13th November, 1962)
An Act to provide for settlement of Government Land in the State of Orissa.
Be it enacted by the Legislature of the State of Orissa in the Thirteenth Year of the
Republic of India, as follows:

Statement of Objects & Reasons

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

1. Short title, extent and commencement-

- (1) This Act may be called the Orissa Government Land Settlement Act, 1962.
- (2) It shall extend to the whole of the State of Orissa.
- (3) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date as Government, may, by Notification, appoint in that behalf.

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

- (a) **Collector** shall include an Additional District Magistrate;
- (aa) **Government** means the State Government of Orissa;
- (b) **Government land** means any waste land belonging to Government, whether cultivable or not, recorded as House-site, Anabadi, Chot Jungle, Puratan Patit, Nutan Patit, Parityakta Bedakhali, Gochar or by any other description, whatsoever;

Explanation - The expression 'any other description whatsoever' shall include-

(i) **Khasmahal lands**, that is to say Mahals held under Khas which are treated as Government estates and the rent of which are payable under Section 3 of the Bengal Land Revenue Settlement Regulation, 1822 or under section 4 of the Bengal Land-Revenue Settlement Regulation, 1825;

(ii) **Nazul lands** situated in the State;

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

(iv) **Abadi lands** situated in the State;

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

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

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

(b-2) **Person** means any person, the total extent of whose land excluding homestead, together with lands held by all the members of his family who are living with him in common mess is less than one standard acre and whose total annual income, together with the total annual income of all the members of his family living with him in common mess, does not exceed rupees fifteen thousand or an amount which the State Government may, by notification from time to time, specify in that behalf;

(c) **prescribed** means prescribed by Rules under this Act;

(d) **Revenue Officer** means any officer appointed as such by the Government to discharge any of the functions of a Revenue Officer under the provisions of the Orissa Land Reforms Act, 1960;

(e) **Tahasildar** includes an Additional Tahasildar.

3. Reservation and settlement of Government lands –

1. Notwithstanding anything to the contrary in any law or any custom, practice or usage having the force of law, Government shall not be deemed to be debarred from exercising all or any of the following powers in respect of Government lands, namely :-

(a) to reserve such portion of the lands as they deem proper for the purpose of

being used as house-sites or for any communal or industrial purpose or for any other purpose whatsoever ;

(b) to charge premium for settlement of any such land ;

(c) to charge rent for the lands so settled ;

(d) to charge fees on applications for settlement of lands and such other fees as may be necessary for or incidental to the disposal of such application at such rates as may be prescribed and all such fees shall be payable in the prescribed manner ; and.

(e) to authorise any office of Government not below the rank of a Tahasildar to dispose of applications for settlement of lands and settle the same in such manner as may be prescribed and subject to the provisions of sub-sections (2) & (3):

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

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

Provided that if sufficient number of persons belonging to the aforesaid categories are not available in the village in which the lands are situated, or being available, are not willing to accept the settlement of land so much of the land reserved for the said persons as cannot be settled with them may be settled with other persons.

(2-a) The maximum extent of land to be settled under this section with any person for purposes of agriculture or for purposes of homestead shall be such as may be determined by Government from time to time.

3. The settlement of lands under this section shall be made in the following order of priority, namely-

(a) co-operative farming societies formed by landless agricultural labourers;

(b) any landless agricultural labourers of the village in which the land is situate or

of any neighbouring village;

(c) ex-servicemen or members of the Armed Forces of the Union, if they belong to the village in which the land is situate;

(d) raiyats who personally cultivate not more than one standard acre of land;

Explanation:-In this clause the expression "Standard Acre" has the meaning assigned to it in the Orissa Land Reforms Act 1960; and',

(e) in the absence of persons belonging to any of the foregoing categories, any other persons.

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

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

Provided that-

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

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

under any instrument executed for such lease or sub-lease, as the case may be, shall be paid a compensation by the said sub-lessee or subsequent sub-lessee, as the case may be, equivalent to ten times the said rent in the manner as may be prescribed;

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

(b) any Gramakantha Parambok land or Abadi land, except where such land is

used as homestead in any urban area, which is in occupation by any person for not less than five years as on the appointed date, shall be settled with the said person in such manner, by such Officer and subject to such terms and conditions as may be prescribed:

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

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

- (i) in the case of Khasmahal or Nazul land, with the person lawfully holding such land on and from the date the compensation is paid; and
- (ii) in the case of Gramakantha Parambok and Abadi land, with the person in occupation of such land on and from the appointed date, on permanent basis with heritable and transferable rights.

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

3-A. Power to de-reserve land –

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

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

- (a) is no longer required for the purpose for which it was reserved; or
- (b) can no longer serve the purpose for which it was reserved; or

(c) is in excess of the reasonable requirement for the purpose for which it was reserved;

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

3-B. Resumption of land and imposition of penalty –

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

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

Notes- In Sections 3A and 3B there is reference to clause (a) and clause (e) of section 3 with regard to de-reservation and resumption of the Government land. But after going through Section 3 it would be seen that there is no such clause(a) and (e) of Section 3 respectively rather the same would indicate and mean to clause (a) and clause (e) of Sub-section (1) of section 3 -Legislatures must have meant the same -but somehow the mistake has crept in.

4.Settlement of char and diara lands-

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

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

Explanation-For the purposes of this sub-section-

(a) "**char**" means a gradual accretion to the bank formed by alluvial deposits in a river;

(b) "**diara**" means an island formed in the bed of a river or any land formed by the recession of a river.

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

The provisions of Section 61 of the Orissa Tenancy Act, 1913 shall not apply to any Government land.

5-A. Preparation of schemes for management and development of Gochar lands-

Notwithstanding anything to the contrary contained in any other law or in any custom, practice or usage having the force of law-

(a) the Government may, in the prescribed manner, prepare a scheme for the management and development of Gochar lands and different schemes may be prepared in respect of Gochar lands situate in different areas;

(b) where any such scheme has been prepared in respect of any Gochar land which vests in a Grama Sasan constituted under the Orissa Grama Panchayat Act, 1964, the concerned Grama Panchayat shall manage the gochar land in accordance with such scheme; and

(c) the Government may, if it deems fit, take over any Gochar land for management and development in accordance with the scheme prepared in respect of such land.

6. Revision during settlement proceedings-

The rent payable in respect of any Government land shall be liable to revision during settlement proceedings under the Orissa Survey and Settlement Act, 1958.

7. Appeal-

(1) An appeal shall lie against any order made under Section 3 or Section 3-B-

(a) where such order is made by an officer below the rank of a Sub-divisional Officer, to the Sub-divisional Officer;

(b) Where such order is made by a Sub-divisional Officer, to the Collector; and

(c) where such order is made by a Collector to the Revenue Divisional Commissioner.

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

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

(3) Every appeal preferred under this section shall be heard and disposed of in such manner as may be prescribed.

7-A. Revision-

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

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

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

(3) The Collector may of his own motion or otherwise call for and examine the records of any proceedings in which any authority subordinate to it has passed an order under this Act for the purpose of satisfying himself that any such order was not passed under a mistake of fact or owing to a fraud or misrepresentation or on account of any material irregularity of procedure and may pass such order thereon as he thinks fit.

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

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

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

any power conferred by or under this Act.

8. Delegation of powers –

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

8-A. Power to make Rules –

(1) The Government may by Notification in the Official Gazette, and after previous publication, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules in respect of all or any of the following matters, namely :

(a) the rate of fees to be charged under this Act and the manner of payment thereof;

(b) the form and the manner in which an application for settlement of lands may be made and the manner of settlement of lands;

(c) the conditions and limitations subject to which lands may be de-reserved;

(d) the preparation of Schemes for management and development of Gochar lands;

(e) the procedure to be followed in the settlement of land and In the disposal of appeals and revision; and

(f) any other matter which has to be, or may be prescribed.

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

9. Removal of doubts or difficulties –

If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything not inconsistent with the provisions of this Act or Rules made thereunder which appears to them necessary for the purpose of removing the doubt or difficulty.