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LAW DEPARTMENT

NOTIFICATION

The 10th August, 2017

No.8452-I-Legis-23/17/L.—The following Ordinance promulgated by the Governor of Odisha on 10.08.17 is hereby published for general information.

ODISHA ORDINANCE NO 1 OF 2017

THE ODISHA MUNICIPAL CORPORATION (AMENDMENT)

ORDINANCE, 2017

AN

ORDINANCE

FURTHER TO AMEND THE ODISHA MUNICIPAL CORPORATION ACT, 2003 IN ORDER TO PROVIDE FOR ASSIGNING PROPERTY RIGHTS TO IDENTIFIED SLUM DWELLERS, FOR REDEVELOPMENT, REHABILITATION AND FOR UPGRADATION OF SLUMS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS the Legislative Assembly of the State of Odisha is not in session;

AND WHEREAS the Governor of Odisha is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Odisha Municipal Corporation Act, 2003 in order to provide for assigning property right to identified slum dwellers for redevelopment, rehabilitation and for upgradation of the slums in the manner hereinafter appearing;

NOW, THEREFORE in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Odisha is pleased to make and promulgate the following Ordinance in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Ordinance may be called the Odisha Municipal Corporation (Amendment) Ordinance, 2017.

(2) It shall come into force on such date as the Government may, by notification, appoint and different dates may be appointed for different Corporation areas.

Amendment of section 2.

2. In the Municipal Corporation Act, 2003 (hereinafter referred to as the principal Act), in section 2, for sub-section (75), the following sub-section shall be substituted, namely: -

Odisha Act 11 of 2003

“(75) ‘slum’ or ‘slum area’ means a compact settlement of at least twenty households with a collection of poorly built tenements, mostly of temporary nature, crowded together usually with inadequate sanitary and drinking water facilities in unhygienic conditions, which may be on Government land in a Corporation area;”

Amendment of Chapter XXI.

3. In the principal Act, for Chapter XXI, the following Chapter shall be substituted, namely: —

“CHAPTER- XXI PROPERTY RIGHT TO SLUM DWELLERS

Definitions.

482. In this Chapter, unless the context otherwise requires, -

- (a) “affordable cost” means the cost determined by the Government, from time to time, as the reasonable cost to be paid by the slum dweller belonging to EWS category for allotment of dwelling space;
- (b) “Authorised Officer” means the head of the Slum Redevelopment and Rehabilitation Committee or any officer authorized by the Government, by order, to exercise the powers as may be prescribed;
- (c) “basic urban services” means services of drinking water supply, sanitation, drainage, sewerage, solid waste disposal and street lighting;
- (d) “Committee” means the Slum Redevelopment and Rehabilitation Committee constituted under section 486;
- (e) “dwelling space” means a dwelling unit or a site for construction of a dwelling unit;
- (f) “dwelling unit” means an all-weather unit in a multi-storied super structure or otherwise as provided in the Scheme;
- (g) “EWS” means an economically weaker section beneficiary whose household income is upto such limit as notified by the Government, from time to time;
- (h) “family” means husband, wife, unmarried son, unmarried daughter or any other person related by blood and wholly dependent on the slum dweller;
- (i) “Financial Institution” means any company possessing licence under the Banking Regulation Act, 1949 to carry on banking business and includes a Housing Finance Institution which has obtained certificate of registration under the National Housing Bank Act, 1987;

10 of 1949.

53 of 1987.

- (j) "Government Land" means any land owned or acquired by the Government or its undertakings or the Corporation;
- (k) "landless person" means a person who is a citizen of India and does not own either in his own name or in the name of any member of his family any land or dwelling unit or property rights granted or inherited under this Act, in the Corporation area;
- (l) "member" means a member of the Committee or sub-committee, as the case may be, and includes the Chairperson;
- (m) "occupation" means occupation of a land by a slum dweller for residential purposes;
- (n) "property right" means right to dwelling space allotted to slum dwellers under section 483;
- (o) "public interest" means land usage as prescribed under the statutory development plans, by whatever name they are known or the provision of basic urban services to public at large or prohibition of human habitation in environmentally hazardous or sensitive sites or heritage sites;
- (p) "redevelopment" means improvement of a slum at the same site by taking up a housing project as per the Scheme;
- (q) "rehabilitation" means a scheme for relocation of slum dwellers to other location for providing dwelling units or sites for construction of dwelling units, as the case may be;
- (r) "Scheme" means any special arrangement or plan prepared under this Chapter for slum dwellers, to be notified by the Government, from time to time and includes scheme for redevelopment and rehabilitation;
- (s) "slum dweller" means any landless person in occupation within the limits of a slum area;
- (t) "tenable settlements" means the settlement as decided by the Committee, where existence of human habitation does not entail undue risk to the safety or health or life of the residents or habitation or such site is not considered contrary to public interest or the land is not required for any public or development purpose;
- (u) "untenable settlements" means such areas where existence of human habitation entails undue risk to the safety or health or life of the inhabitants themselves or where habitation on such areas is considered by the Committee not to be in public interest.

Property
Rights to
slum
dweller.

483. (1) Notwithstanding anything contained in this Act, or in any other State law for the time being in force, every landless person in occupation of land in a slum in any Corporation area by such date as may be notified by the Government, shall be entitled to allotment of a dwelling space of such size, at such affordable cost, in such manner and on such terms and conditions as provided under the Scheme to be notified by the Government, from time to time, provided he belongs to EWS category:

Provided that any slum dweller belonging to any category other than EWS category but eligible otherwise, shall be entitled to a dwelling space of such size, at such cost, in such manner and on such terms and conditions as provided under the Scheme.

(2) Every slum dweller eligible as per sub-section (1), shall be issued a 'certificate of property right' by the Authorised Officer in accordance with the Scheme.

(3) The dwelling space so allotted under sub-section (1), shall be heritable but not transferable by sub-lease, sale, gift, or any other manner whatsoever:

Provided that if the dwelling space so allotted is a dwelling unit then the same may be transferred to another eligible beneficiary after ten years from the date of its handover on such terms and conditions as provided in the Scheme:

Provided further that the dwelling space so allotted may be mortgaged for the purpose of raising finance in the form of housing loan from any financial institution.

(4) The certificate of property right shall be issued jointly in the name of both the spouses in case of married persons and in the name of the head of the household, if headed by a single person.

(5) If the slum dweller, to whom the dwelling space has been allotted, transfers such dwelling space except by way of mortgage in contravention of sub-section (3) or uses the said dwelling space for any purpose other than residential purpose, the following consequences shall follow, namely:-

- (a) the certificate of property right issued under sub-section (2) shall stand automatically cancelled;
- (b) such transfer shall be null and void;
- (c) no rights shall accrue to the transferee in respect of such dwelling space;
- (d) the Authorised Officer shall dispossess the person who is in actual possession of such dwelling space;
- (e) such slum dweller shall be debarred from getting any dwelling space under this Act; and
- (f) such slum dweller shall be guilty of an offence under this Chapter.

(6) The slum dweller to whom the dwelling space has been allotted under this Chapter, shall not hold any certificate of property right in any other Corporation area of the State and if he holds any such certificate, he shall surrender all such certificates to the Authorised Officer in such manner as may be provided in the Scheme.

(7) If any slum dweller is found to have obtained more than one certificate of property rights, by way of misrepresentation of facts, the Authorised Officer shall, after giving reasonable opportunity of being heard to the slum dweller, cancel all the property rights and without prejudice to the penalty that may be imposed under this Chapter, dispossess the person from such dwelling space.

(8) The evidence for grant of certificate of property right under sub-section (2) in favour of slum dweller shall include –

- (a) Government authorised documents such as Aadhaar Card, voter identity card, ration card under National Food Security Act, 2013, smart card under Rashtriya Swasthya Bima Yojana (RSBY) or passport; 20 of
2013.
- (b) Government records such as Census, survey, maps, satellite imagery, plans, reports, reports of committees and commissions, Government orders, notifications, circulars, resolutions.

(9) The certificate of property right granted under sub-section (2) shall be acceptable as evidence for address proof of residence.

Redevelopment
and
rehabilitation
of slums.

484. (1) Subject to the provisions of this Chapter, the property rights under sub-section (2) of section 483 shall, as far as practicable, be provided in the existing slum in accordance with the Scheme:

Provided that where the Government decides that the site has untenable settlements or a separate layout has been identified or developed, as the case may be, then in such circumstances, the slum dwellers shall be rehabilitated elsewhere in accordance with the Scheme:

Provided further that, -

(a) where, it is decided that the slum dweller shall be rehabilitated elsewhere, the said site shall be utilized for any other purpose as the Government may decide;

(b) where, after providing dwelling space in the existing slum to a slum dweller, any land remains surplus, the Government may utilize such land for any purpose as it may decide.

(2) In the event of redevelopment or rehabilitation scheme, as the case may be, the applicable planning and building regulations shall be applied, and wherever any relaxation in planning norms are required, the same may be provided in the Scheme and such relaxations shall have an overriding effect on the existing planning and building regulations.

(3) During implementation of redevelopment Scheme, adequate transit arrangements shall be made for the slum dwellers as per the provisions of the Scheme.

Abatement
of
proceedings.

485. All proceedings relating to eviction of slum dwellers pending on the ground of unauthorised occupation before any authority or Court under any State law shall abate on issue of certificate of property right under this Act.

Slum
Redevelop-
ment and
Rehabilitation
Committee.

486. (1) For the purpose of this Chapter, the Government shall, by notification, constitute a Committee called "Slum Redevelopment and Rehabilitation Committee" for each Corporation area with the name of such Corporation area, as it deems necessary and such Committee shall have the authority to approve the list of persons to whom the dwelling space shall be allotted under this Chapter and shall exercise jurisdiction over the areas and exercise such powers and functions as may be prescribed.

(2) Every Committee shall be headed by the Commissioner of the Corporation or the Collector of the district as may be appointed by the Government and shall comprise of such other members as may be notified by the Government, from time to time.

(3) Without prejudice to the generality of the powers and functions under sub-section (1), the Committee shall, -

(a) undertake necessary surveys, undertake spatial mapping, fix the physical boundary of the slums, identify eligible slum dwellers with community participation, prepare and publish the list of slum dwellers to whom certificate of property right shall be issued, in such manner as may be provided in the Scheme;

(b) for the purpose of facilitating the implementation of the provisions of this Act and rules made thereunder, constitute such sub-committee for each slum area or cluster of slums, comprising of such number of members as may be specified by the Committee.

(4) For the purpose of efficient functioning of the Committee, the Government shall provide such officer and employees as may be required.

Conduct of
Business of
the
Committee.

487. The procedure and conduct of business and functions of the Committee shall be such as may be prescribed.

Appeal.

488. (1) Subject to such rules as may be made, an appeal from any decision or order made under this Chapter shall lie to such officer, as may be appointed by the Government.

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

(3) Every order passed by the Appellate Authority under this section shall be final.

Penalty for contravention of the provision.

489. Whoever contravenes the provisions of sub-sections (5) and (7) of section 483 or fails to comply with any notice or order issued under this Chapter or rules made thereunder, shall be punished with imprisonment of either description for a term which may extend to one year or with fine, which may extend to twenty thousand rupees, or with both.

Urban Poor Welfare Fund.

490. (1) There shall be constituted a fund called the Urban Poor Welfare Fund in each Corporation to which the moneys received from the slum dwellers under this Chapter shall be credited and in addition to the same, the following receipts may also be credited to the said fund, namely:—

- (a) contributions from the State Government and Central Government, if any;
- (b) contributions from organizations, philanthropists, individuals and Non-Government Organisations ; and
- (c) any other funding source as may be notified by the Government.

(2) The constitution and administration of the fund shall be in such manner as may be prescribed.

Nodal Agency.

491. The Government may authorize an officer or any other Authority to act as Nodal Agency for the implementation of the provisions of this Chapter.

Bar of Jurisdiction of Civil Court.

492. No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Government or Committee constituted under this Chapter is empowered by or under this Chapter to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.

Cognizance of offence.

493. No Court shall take cognizance of any offence punishable under this Chapter, except upon a complaint in writing made by the Authorised Officer or any officer of the Government or Committee, authorised by the Government.

Effect of other laws.

494. The provisions of this Chapter or rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other State laws."

(DR. S. C. JAMIR)

GOVERNOR OF ODISHA

Dated the 10th August, 2017

B.P.ROUTRAY

Principal Secretary to Government