

ORISSA ACT 22 OF 1989

THE ORISSA HINDU RELIGIOUS ENDOWMENTS
(AMENDMENT) ACT, 1989

[Received the assent of the President on the 24th October 1989 first published in an extraordinary issue of the *Orissa Gazette*, dated the 16th November 1989].

AN ACT TO AMEND THE ORISSA HINDU RELIGIOUS
ENDOWMENTS ACT, 1951

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

Short title

1. This Act may be called the Orissa Hindu Religious Endowments (Amendment) Act, 1989.

Amendment
of section
19.

2. In section 19 of the Orissa Hindu Religious Endowments Act, 1951 (hereinafter referred to as the principal Act),—

Orissa Act
2 of 1951.

(a) after sub-section (1), the following explanation and sub-sections shall be inserted, namely :—

“*Explanation*—A lease for a term not exceeding five years but with a condition of renewal permitting continuance of the lease beyond five years shall, for the purposes of this sub-section, be deemed to be a lease for a term exceeding five years.

(1-a) The fact of execution of a lease deed with a condition for renewal or renewal of such a deed shall be communicated to the Commissioner by the Trustee not later than fifteen days from the date of execution.

(1-b) After expiry of the term of the lease the lessee shall deliver possession of the leasehold land to the lessor, failing which, the Commissioner may take action in accordance with the provisions of section 68 :

Provided that all structures, permanent or temporary, if any, constructed plants and machineries and other things installed and kept on the leasehold land, which is a subject matter of a lease executed after commencement of the Orissa Hindu Religious Endowments (Amendment) Act, 1989 by the lessee, his servants, or agents, shall become the property of the religious institution unless removed from the land within such period, as may be prescribed, after expiry of the term of lease, in respect of which the Commissioner shall take action under the provisions of section 68.

Orissa Act
22 of 1989.

(1-c) Notwithstanding anything contained in the proviso to sub-section (1-b), no property belonging to a person other than the lessee shall be subjected to confiscation under the said proviso, unless such person fails to remove his property within a period of thirty days from the date of publication of a notice which shall be issued by the Trustee within such period as may be prescribed after the expiry of the term of lease:

Provided that any person whose property is affected under sub-section (1-e), may file an application to the Commissioner claiming the property whose decision shall, subject to the decision of the Civil Court, be final."

(b) In sub-section (5) after the words and comma, "it appears to the State Government," the words "that the alienation is not necessary or beneficial to the institution or" shall be inserted.

Insertion of
new sections
19-A and 19-
B.

3. After section 19 of the principal Act, the following new sections shall be inserted, namely :—

Regulation
of registration
of documents.

"19-A. Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under section 17 of the Registration Act, 1908, purports to evidence a transfer, by exchange, sale, mortgage or by lease for a term exceeding five years, of any immovable property belonging to or given or endowed for the purpose of any public religious institution, no Registering Officer, appointed under that Act, shall register any such document unless the transfer or produces before such Registering Officer, the sanction order passed by the Commissioner under section 19, or as the case may be, no objection certificate in the prescribed form granted by the Commissioner or any Officer authorised by him in that behalf :

16 of 1908

Provided that a no objection certificate granted under this sub-section shall not be a bar to a dispute or abate any dispute, if pending under section 41 :

Provided further that a no objection certificate shall be deemed to have been granted, if the Registering Officer is satisfied that the transfer or having applied for grant of no objection certificate to the Commissioner or the authorised officer, as the case may be, has not received the same within three months from the date of the application under section 19 is moved before the Commissioner and that the application has not been rejected before expiry of that period.

Restriction
against
money
lending.

19-B. Notwithstanding anything contained in any other law for the time being in force, no religious institution shall lend or borrow money without the prior sanction of the Commissioner :

Provided that no such sanction shall be necessary for borrowing such amount as may be prescribed for meeting the urgent expenses to carry on the daily rituals of a religious institution."

Amendment
of section
68..

4. In section 68 of the principal Act, after sub-section (5), the following new sub-section shall be inserted, namely :—

“(6) The provisions contained in this section shall *mutatis mutandis* apply to cases,—

- (a) for delivery of possession of a religious institution along with its endowments or records, accounts and properties thereof to a succeeding hereditary trustee ; and
- (b) for recovery of pension of leasehold land belonging to a religious institution after expiry of the term of the lease.”.

Amendment
of section 70..

5. In section 70 of the principal Act, after sub-section (1), the following new sub-sections shall be inserted, namely :—

“(1-a) If any person executes any deed of transfer of immovable property belonging to any religious institution in contravention of the provisions contained in section 19, such person shall, unless he shows reasonable cause to the satisfaction of the Commissioner, be liable to pay such penalty, not exceeding an amount equal to the value of the property, as the Commissioner may impose.

(1-b) Any person aggrieved by an order of the Commissioner imposing any penalty under this section may, within one month from the date of intimation of the order to him by the Commissioner, prefer an appeal before the State Government.”.

Insertion of
new sec-
tion 70-A.

6. After section 70 of the principal Act, the following new section shall be inserted, namely :—

Failure to
deliver
possession
in contra-
vention of
direction
and filing of
prosecution.

“70-A.(1) Any Trustee other than a hereditary trustee, Executive Officer, or other person who fails to deliver possession of the religious institution, any money, record, accounts or property thereof without any reasonable or sufficient cause, in contravention of any direction of the Commissioner, Deputy Commissioner or Assistant Commissioner shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) In respect of an offence committed under sub-section (1) the Officer authorised in this behalf, by the Commissioner by general or special order, shall institute the prosecution with the written consent of the authority whose direction has been contravened.”.