

ORISSA ACT 15 OF 1976
***THE ORISSA CONSOLIDATION OF HOLDINGS AND PREVEN-**
TION OF FRAGMENTATION OF LAND (AMENDMENT)
ACT, 1976

[Received the assent of the Governor on the 25th April 1976, first published in an extraordinary issue of the Orissa Gazette, dated the 30th April 1976]

AN ACT TO AMEND THE ORISSA CONSOLIDATION OF HOLDINGS AND PREVENTION OF FRAGMENTATION OF LAND ACT, 1972

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

Short title

1. This Act may be called the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land (Amendment) Act, 1976.

Amendment of section 2.

2. In section 2 of the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 (hereinafter referred to as the principal Act),—

Orissa Act 21 of 1978.

(a) in clause (f), for item (i) under the Explanation, the following item shall be substituted, namely :—

“(i) lands which are covered by orchards or groves by the date of publication of a notification in the official Gazette under sub-section (1) of section 6;”;

(b) after clause (k), the following new clause shall be inserted, namely :—

“(k-1) “co-operative society” means a society registered or deemed to have been registered under the Orissa Co-operative Societies Act, 1962 and includes a Land Development Bank as defined in that Act;”.

Orissa Act 2 of 1963.

Amendment of section 4.

3. In section 4 of the principal Act, for the second proviso, the following proviso shall be substituted, namely :—

“Provided further that on the issue of a notification under sub-section (1) of section 5 in respect of the said area or part thereof,—

(a) every order passed by the Court under clause (4) in relation to the lands situate in such area or part thereof, as the case may be, shall stand vacated ; and

(b) all such suits and proceedings as are referred to in clause (3) or clause (4) which relate to lands situate in such area or part thereof, as the case may be, shall be proceeded with and disposed of in accordance with the law as if they had never abated.”.

4. In section 7 of the principal Act,—

- (a) for sub-section (3) including the provisos thereto, the following sub-sections and provisos shall be substituted, namely :—

“(3) The Assistant Consolidation Officer and the Consolidation Officer shall, notwithstanding anything contained in any other law for the time being in force, but subject to the rules made in this behalf, have power to settle the fair and equitable rent and cess payable in respect of any land in accordance with the provisions hereinafter contained.

- (3-a) Where the land is used for agriculture, such settlement shall be made having regard to—

- (i) the average price of crops during the preceding ten years other than the years which the Government may notify to be or to have been either famine years or abnormal years in respect of any local area;
- (ii) the crop or crops normally grown on such land;
- (iii) the situation of the land and the nature of the soil; and
- (iv) the maximum rent assessed on land of similar quality and productivity elsewhere in the State.

Provided that while considering the situation of the land and the nature of the soil, the said Officer shall take the following factors into consideration :—

- (a) availability of irrigation facilities;
- (b) salinity of the soil;
- (c) susceptibility to floods and deposit of silt;
- (d) general fertility of the land; and
- (e) such other factors as may be prescribed.

Explanation—For the purposes of this sub-section,—

- (a) “agriculture” includes raising of crops, grass or garden produce, horticulture or use of land as pasture or forest or for any other purpose ancillary to agriculture other than residential purpose;
- (b) the cultivable waste land of a tenant shall be deemed to be land used for agriculture; and
- (c) the crop or crops which could have been grown in any land referred to in the preceding clause or in any land which is used for any purpose ancillary to agriculture shall be deemed to be the crop or crops normally grown on such land.

(3-b) Where the settlement of fair and equitable rent and cess is to be made in respect of any land used for any purpose other than agriculture including all kinds of homestead lands in urban and rural areas of the State, such settlement shall be made having regard to—

- (a) the situation of the land;
- (b) purpose for which it is used;
- (c) communication and marketing facilities; and
- (d) market value of the land.

(3-c) The rates of rent and cess so fixed shall be deemed to be the rent and cess payable for the land :

Provided that Government may, subject to such conditions as they may impose, direct remission or reduction of the fair and equitable rent so fixed in respect of any land which is owned by any religious or charitable institution of a public nature and is utilised for the promotion of education, health, culture, fine arts sports or games or for social welfare and the cess payable in respect of the land shall be remitted or reduced accordingly:

Provided further that no such settlement of rent or cess shall be made in respect of any land the rent whereof has been settled after the 31st day of December, 1950.”;

(b) after sub-section (4), the following proviso shall be inserted, namely:—

“Provided that the Director of Consolidation shall, if he deems it necessary for the purpose of this sub-section, be competent to effect changes in the boundary of a village situated outside the Consolidation area.”.

Substitution of
section 11.

5. For section 11 of the principal Act, the following section shall be substituted, namely:—

“11. (1) The Consolidation Officer shall dispose of objections forwarded to him under sub-section (2) of section 10 after giving the parties concerned a reasonable opportunity of being heard and after such local inspection as he deems necessary :

Provided that in disposing of objections relating to valuation and the Statements of Principles, he shall consult the Consolidation Committee.

(2) For the purpose of disposing of objections, the Consolidation Officer shall hold his sittings at the headquarters of the Grama Panchayat constituted under the Orissa Grama Panchayat Act, 1964 within whose jurisdiction the land is situated.”.

Orissa Act
1 of 1965.

Substitution of
Section 25.

6. For section 25 of the principal Act, the following section shall be substituted, namely:—

"25. (1) On an application made within sixty days from the date of coming into force of the final Consolidation Scheme by the land-owner who is unable to enter into possession of the lands allotted to him under the said Scheme, the Assistant Consolidation Officer may, within six months from the date of the application, put the land owner in actual physical possession of the lands so allotted, and in doing so, shall have all the powers as are exercisable by a Civil Court in execution of a decree for delivery of possession of immovable property:

Provided that the delivery of possession as aforesaid shall not affect the right of the person from whom possession is transferred to tend and gather the crops standing on such lands or part thereof on the date of the delivery unless the Assistant Consolidation Officer decides, for reasons to be recorded, that possession of the crops shall be delivered.

(2) On the expiry of six months from the date on which the land-owner becomes entitled to enter into possession of the lands allotted to him in accordance with section 23 or, where an application has been duly made under sub-section (1), on the expiry of six months from the date of such application, the concerned land-owner shall, if he has not entered into possession earlier, be deemed to have entered into actual physical possession of the lands allotted to him."

Amendment of
section 31.

7. In section 31 of the principal Act, after the words "land-owner enters", the words "or is deemed to have entered" shall be inserted.

Amendment of
section 51.

8. In section 51 of the principal Act, for the words, figures and brackets "sub-section (3) of section 4", the words, figures and brackets "clause (3) of section 4" shall be substituted.