

Andhra Pradesh Occupants Of Homesteads (Conferment Of Ownership) Act, 1976

21 of 1976

[09 March 1976]

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PREAMBLE

An Act to provide for the conferment of right of ownership on landless agriculturists, agricultural labourers and artisans in respect of sites occupied by and adjacent to, their dwelling houses or huts in rural areas of the State of Andhra Pradesh.

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

1. Short title, extent, commencement and application :-

This Act may be called the Andhra Pradesh Occupants of Homesteads (Conferment of Ownership) Act, 1976.

(2) It extends to the whole of the State of A.P.

(3) It shall be deemed to have come into force on the 14th August, 1975.

(4) It shall apply to all local areas of the State, other than those comprised within the jurisdiction of the Municipal Corporation of Hyderabad and of any Municipality Constituted in clauses (b) and (c) of Article 39 of the Constitution of India.

2. Declaration as to giving effect to certain Directive Principles :-

It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in Clauses (b) and (c) of Article 39 of the Constitution of India.

3. Definitions :-

In this Act, unless the context otherwise requires;

(1) agricultural labourer means a person whose principal means of livelihood is the income derived from the wages for his manual labor on agricultural land;

(2) agricultural land means any land used for any of the following purposes namely:-

(a) horticulture;

(b) the raising of crops, grass or garden produce;

(c) grazing;

(d) the raising of manure crops;

(e) daily farming;

(f) poultry farming;

(g) live-stock breeding;

(h) growing of trees; and

(i) includes any land used for any purpose subservient to the above purposes, any forest land, pasture land, plantation, orchard and tope, but does not include house-site or land used exclusively for non-agricultural purposes;

(3) agriculturist means a person who cultivates agricultural land by the contribution of his own manual labour or of the manual labour of any member of his family:

Explanation:--For the purposes of this clause, the term family shall consist of the agriculturist, his wife and dependent parents and children;

(4) artisan includes a village carpenter, blacksmith, barber, washerman, potter and other persons engaged in such other callings or employment as may be specified by the Government in this behalf;

(5) authorised officer means any Tahsildar specially authorised by the Government by notification to exercise the powers conferred on, and perform the functions entrusted to, the authorised officer by or under this Act, for such areas as may be specified in the notification;

(6) date of commencement of this Act means the date specified in sub-section (8) of Section 1;

(7) dwelling house includes a hut;

(8) government means the State Government;

(9) homestead means the site of any dwelling house occupied, either as licensee or otherwise, by any landless agriculturist or agricultural labourer or artisan in any village and includes such other area adjacent to the dwelling house as may be necessary for the convenient enjoyment of such dwelling house:

(10) landless agriculturist means an agriculturist, who does not hold any agricultural land as owner, or who owns an extent of agricultural land which does not exceed one hectare if it is a wet land, and two hectares if it is a day land;

(11) land-owner means an owner of the homestead and includes a lessor, licensor in relation to any homestead, trustee, usufructuary mortgagee and any other intermediary who has an interest in the homestead;

(12) notification means a notification published in the Andhra Pradesh Gazette; and the word notified shall be construed accordingly:

(13) occupant of homestead means any landless agriculturist or agricultural labourer or artisan for the time being in occupation of the dwelling house built at his expense or at the expense of his predecessor in title on a homestead belonging to a land owner;

Explanation:- it shall be presumed until the contrary is proved that the dwelling house has been built by the occupant thereof, at his

expense;

(14) prescribed means prescribed by rules made by the Government under this Act;

(15) village means any local area which is recognised as village in the revenue accounts of the Government.

4. Bar to eviction of an occupant of homestead from dwelling house of homestead :-

(1) If in any village, an occupant of homestead is in occupation of a dwelling house on the date of commencement of this Act, the said occupant of homestead, shall not be evicted from such dwelling house or homestead, unless the land-owner proves that the homestead belongs to him and that the dwelling house thereon was built at his expense and the person occupying the dwelling house is only a tenant and not an occupant of homestead.

(2) The provisions of sub-section (1) shall not apply to a dwelling house which is situated on any agricultural land from which a tenant of such agricultural land has been evicted consequent upon the lawful resumption of the land by the land-owner in accordance with any law for the time being in force in that behalf.

(3) If an occupant of homestead who was in occupation of a dwelling house on or after the 6th October, 1971, has been evicted before the commencement of this Act, the authorised officer shall, on an application made by the said occupant of the homestead, within six months from the date of such commencement or may, suo motu at any time, after making such inquiry as may be prescribed restore the possession of the homestead and dwelling house to the said occupant of homestead and on such restoration, the provisions of this Act shall apply as if he were in occupation of the said homestead and dwelling house on the date of commencement of this Act.

Explanation:-- For the purposes of this Section tenant means any person who had paid or has agreed to pay rent or other consideration for his being allowed by another to enjoy the land of the latter under a tenancy agreement express or implied, and includes his heirs and legal representatives.

5. Occupant of homestead to become owner :-

(1) Subject to the other provisions of this Act, an occupant of homestead in occupation of a dwelling house on the date of commencement of his Act, or an occupant of homestead who is restored to possession of the homestead and dwelling house under sub-section (3) of Section 4 shall, with effect on and from the said date of commencement, be the owner of such homestead and dwelling house:

Provided that the extent of homestead which the occupant of homestead is entitled to become an owner under this sub-section shall not exceed 0.056 hectares (5 cents).

(2) The right of ownership conferred on an occupant of homestead under sub-section (1) shall be heritable but not alienable.

6. Issue of certificate of ownership of homestead :-

(1) As soon as may be, after the commencement of this Act, the authorised officer may either suo motu or shall on an application made by an occupant of homestead, after making such enquiry as may be prescribed, determine the total extent of homestead in his occupation on the date of commencement of this Act, the extent of homestead in respect of which he is entitled to become owner under sub-section (1) of Section 5, and the price payable therefor, and the amount of each instalment of the price and the time within which it is payable.

(2) The price determined under sub-section (1) shall in no case exceed an amount which is equal to fifty times the land revenue

payable in respect of the homestead and it shall be paid by the occupant of homestead at his option either in one lump sum or in fifteen equal annual instalments.

Explanation:--For the purposes of this section "land revenue" means the land revenue as defined in clause (f) of Section 2 of the Andhra Pradesh Land Revenue (Enhancement) Act, 1967 or as the case may be, as determined under the Act, together with the additional land revenue payable thereunder:

Provided that in the case of any land in respect of which no land revenue is payable, the land revenue in respect of such land shall be the same as the land revenue payable for similar land in the vicinity.

(3) (a) The authorised officer shall, after satisfying himself that the entire price in one lump sum or the first instalment thereof as determined by him under sub-section (1), has been deposited with the Government in such manner as may be prescribed, issue a certificate of ownership to the occupant of homestead concerned in such form and containing such particulars, as may be, prescribed; and on the issue of such certificate the homestead and the dwelling house shall vest in him absolutely free from all encumbrance with effect from the date of commencement of this Act.

(b) The certificate issued under clause 1 (a) shall be conclusive evidence of the ownership in the land specified in the said certificate having been vested in the said occupant as against the landowner, and all other persons claiming under him or having any interest therein.

(c) The price deposited by the occupant of homestead with the Government under clause (a) shall be paid to the land owner in such manner as may be prescribed.

(4) Where a certificate of ownership has been issued under subsection (3) on the deposit by the occupant of homestead with

the Government of only the first instalment of the price, the homestead shall be deemed to be the security for the payment of the remaining instalments.

(5) If the occupant of the homestead to whom a certificate of ownership has been issued under sub-section (3) fails to deposit any instalment of the price within the time specified in the said certificate, the instalment which has become due shall, on an application made in this regard by the landowner to the authorised officer, be recovered from the occupant of the homestead as an arrear of land revenue.

7. Dispute to be decided by the authorised officer :-

If any dispute arises between the land-owner and an occupant of homestead regarding any matter governed by provision of this Act including any dispute as to whether or not any agriculturist or agricultural labourers or artisan, was occupying any dwelling house on the date of commencement of this Act, such dispute shall be decided by the authorised officer, after following such procedure as may be prescribed.

8. Appeal :-

Any person aggrieved by any order or decision of the authorised officer under this Act may appeal to the Revenue Divisional Officer within such period as may be prescribed and the Revenue Divisional Officer shall decide the appeal after following such procedure as may be prescribed.

9. Revision :-

The District Collector may either sua motu or on an application call for and examine the records of any officer subordinate to him in respect of any decision, order or other proceedings made under this Act to satisfy himself as to the correctness, legality or propriety of any such decision, or order or as to the regularity of such proceedings, and if, in any case it appears to the District Collector that such decision, order or proceedings should be modified annulled, reversed or remitted for reconsideration, he may pass orders accordingly.

Provided that the District Collector shall not pass any order adversely affecting any party unless such party has been given an opportunity of making his representation.

10. Powers of authorised officer to call for information, summoning of witnesses, etc. :-

(1) The authorised officer may, for the purpose of carrying out the provisions of this Act, by order, require any person to furnish such information in his possession relating to any dwelling house or homestead.

(2) The authorised officer shall, while holding an inquiry under this Act, have all the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath:

(b) requiring the discovery and production of any document:

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any Court or office;

(e) issuing commission for examination of witnesses;

11. Bar of jurisdiction of civil Courts :-

No Civil Court shall have jurisdiction in respect of any matter which the Government are, or the authorised officer is, empowered by or under this Act, to determine and no order of eviction shall be passed 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 Act.

12. Authorised officer, etc., to the public servant :-

The authorised officer and any person empowered by him under this Act shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code.

13. Protection of action taken in good faith :-

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith, done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government or the authorised officer or any authority or officer subordinate to the Government or the authorised officer for any damage caused or likely to be caused by anything which is, in good faith, done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

14. Act to override other laws :-

The provisions of this Act and Rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom, usage, or contract or decree or order of a Court or other authority.

15. Power to make Rules :-

(1) The Government may, by notification make rules, for carrying out all or any of purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate-

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the fees payable in respect of any application or statement under this Act.

(c) the manner of service of notice and order under this Act.

(3) Every rule made under this section shall, immediately after it is made be laid before each House of the State Legislature, if it is not in session, in the session immediately following, for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified, have effect only in such modified form or stand annulled as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

16. Exemption :-

Nothing in this Act shall apply to the following lands, namely:-

(a) lands held by the State or Central Government or any local authority;

(b) lands held by religious, charitable, medical or educational institutions, including a wakf;

(c) lands held by an undertaking owned, controlled or managed by-

(i) a Government company as defined in Section 617 of the Companies Act, 1956:

(ii) a Corporation established or by under a Central, Provincial or State Act, which is controlled or managed by the State Government or the Central Government;

(d) such other lands or classes of lands as may be notified by the Government, from time to time, in this behalf.

17. Repeal to Ordinance 3 of 1975 :-

The Andhra Pradesh Occupants of Homesteads (Conferment of Ownership) Ordinance, 1975, is hereby repealed.