

Maharashtra Sale of Trees by Occupants belonging to Scheduled Tribes (Regulation) Act, 1969

23 of 1969

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An Act to regulate the disposal of trees standing in the holdings of person belonging to Scheduled Tribes in the State of Maharashtra. WHEREAS. it is necessary to regulate the disposal of trees standing in the holdings of persons belonging to Scheduled Tribes in the State of Maharashtra and to provide for matters connected therewith; it is hereby enacted in the Twentieth Year of the Republic of India as follows:-

1. Short title and commencement :-

(1) This Act may be called the Maharashtra Sale of Trees by

Occupants belonging to Scheduled Tribes (Regulation) Act, 1969

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(2) It shall be deemed to have come into force on the 3rd day of March 1969.

2. Definitions :-

(1) In this Act, unless the context otherwise requires,-

(a) "appointed day" means the 3rd day of March 1969;

(b) "Code" means the Maharashtra Land Revenue Code, 1966 ; (Mah XLI of 1966)

(c) "Collector" includes a revenue officer not below the rank of a Tahsildar specially empowered by the State Government to perform the functions of a Collector under this Act;

(d) "Forest Officer" means a Forest Officer within the meaning of the Indian Forest Act, 1927 ; (XVI of 1927)

(e) "occupant" means an occupant belonging to a Scheduled Tribe;

(f) "prescribed" means prescribed by rules;

(g) "revenue officer" means a revenue officer within the meaning of the Code.

(h) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Maharashtra under article 342 of the Constitution of India;

[(i) "trees" means any trees in the holding of an occupant.]

(2) Words and expressions used, but not defined in this Act, shall have the meanings respectively assigned to them in the Code.

3. Prohibition :-

(1) No occupant shall, after the appointed day, sell any trees in his holding except with the [* * *] assistance of the Collector as hereinafter provided.

(2) Any sale of trees made in contravention of the provisions of sub-section (1) shall be invalid; and no person shall fell any trees in pursuance of any sale of trees which is invalid.

4. Past contracts for sale of trees required to be approved :-

(1) If any occupant has entered into a contract with any person before the appointed day for the sale of any trees in his holding and if such contract is subsisting on the appointed day, then both the occupant and the purchaser [or either of them] shall apply to the Collector for the approval of such contract.

(2) On receipt of the application [or of his own motion] the Collector may, if he considers it just, direct the purchaser by an order in writing to refrain from felling or removing any trees under or in pursuance of the contract [till the sale or agreement for sale is approved or approval is refused.]

(3) After hearing the parties and making such inquiry as he may deem fit, the Collector shall record his findings determining the following matters, namely:-

(a) whether, the occupant has, voluntarily agreed to the sale of trees,

(b) whether the consideration paid, or agreed to be paid, is reasonably adequate,

(c) whether, the amount of consideration is actually recovered by the occupant from the purchaser,

(d) the value of trees (if any) removed by the purchaser under the contract,

(e) the expenses incurred by the purchaser in felling and cutting the trees which he has been prevented from removing by reason of the proceedings under this Act.

(4) If, on such inquiry, the Collector is satisfied that having regard to his findings, there is no objection so to do, he shall approve the sale or, as the case may be, agreement for sale, and inform the occupant and purchaser accordingly.

(5) If, on such inquiry, the finding is that the occupant has not voluntarily agreed to the sale or that the consideration paid or agreed to be paid in respect of the trees is not reasonably adequate, the Collector shall make an order in writing refusing to approve the sale or, as the case may be, agreement for sale:

Provided that, if the finding is that the consideration paid or agreed to be paid is not reasonably adequate, the Collector may by order

in writing require the purchaser to pay the price which in the opinion of the Collector is reasonably adequate and on payment of such price, or as the case may be, the difference, in his presence, the Collector may by order in writing approve the sale or, as the case may be, the agreement for sale.

(6) If the sale of trees has not been approved, or the purchaser does not pay the price which in the opinion of the Collector is reasonably adequate, the purchaser shall restore possession of the trees to the occupant; and where the purchaser has felled any trees, he shall also hand over possession of trees so felled, and thereupon, the purchaser shall be entitled to recover from the occupant the amount by which the aggregate of the amounts determined under clauses (c) and (e) of sub-section (3) exceeds the amount determined under clause (d) of that sub-section.

(7) If the occupant is unable to refund the amount to the purchaser within seven days from the date on which possession of trees is restored to the occupant, the Collector shall make an order in writing for arranging to sell the trees or trees already felled under or in pursuance of the contract, in the manner provided by Section 6. On realisation of the sale proceeds, the Collector shall refund the amount of the consideration determined as aforesaid and received by the occupant, to the purchaser and pay the balance, if any, to the occupant after deducting the expenses of the sale and such other expenses as have been incurred.

Explanation;- A contract shall be deemed to be subsisting for the purposes of this Section if the trees sold or agreed to be sold under such contract have not been removed by the purchaser [outside the Village from the holding in which such trees stand].

5. Procedure for sale of trees after appointed day :-

Deleted by Mah.31 of 1974, s. 4.

6. Sale of trees through Forest Officers or by auction :-

(1) Any occupant, who on and after the commencement of the Maharashtra Sale Trees by Occupants belonging to Scheduled Tribes (Regulation) (Amendment) Act, 1974, intends to sell any trees on his holding, shall make an application to the Collector for assistance for the sale of the trees. Such application shall be in the prescribed form, and shall be accompanied by a certified copy of the permission, if any, granted under S.3 of the Maharashtra Felling of Trees (Regulation) Act, 1964, and where such permission

is deemed to have been granted under sub-section (1C) of Section 3 of that Act, the application shall state such fact therein.

(2) On receipt of an application under sub-section (1), the Collector shall, after hearing the applicant and making such inquiry as he may deem fit, decide whether the assistance sought for

(3) If the Collector decides to grant such assistance, the Collector shall arrange for the sale of the trees in such manner as the State Government may by order direct (including provision in such direction for circumstances in which deposits made at sales may be forfeited) through a Forest Officer who is duly authorised by the State Government in this behalf, so as to secure the maximum price for such trees.

(4) If the Collector decides that having regard to the number of trees or the quality of the trees to be sold or any other relevant factor, the trees should be sold by auction, the Collector shall, after fixing the upset price in respect of the trees to be sold, arrange to hold the auction in such manner as the State Government may by order direct (including provision in such direction for confirmation of such sales and the circumstances in which deposits made at such sales may be forfeited) through any officer authorised by the State Government in this behalf.

(5) The proceeds of the sale, when realised, shall, with all convenient speed, be paid by the Collector to the occupant whose trees have been sold, after deducting the expenses of the sale and such other expenses as have been incurred.

7. Appeal :-

Every person aggrieved by an order or decision of the Collector under this Act may, within the thirty days of the receipt of such order, appeal to such authority as may be prescribed in this behalf. Subject to such rules of procedure as may be prescribed, the appellate authority may, after giving such person a reasonable opportunity of being heard, pass such order on the appeal as it thinks just and proper.

7A. Revision :-

(1) The State Government or the Commissioner of the Division concerned may, suo motu or on an application made to it or him by an aggrieved person, for the purpose of satisfying itself or himself as the legality or propriety of any decision or order passed by, or as

the regularity of the proceedings (including proceedings relating to auctions arranged under Section 6 of the Collector or any Forest Officer or any authorised officer under sub-section (4) of Section 6 , acting in exercise of any power conferred on him by or under this Act, call for and examine the record of any inquiry or proceedings of any case pending before or disposed of by such Collector or Forest Officer or the authorised officer:

Provided that no such record shall be called for by the State Government or the Commissioner of the Division, if the application is made after six months from the date of receipt by the applicant of the decision or order sought to be revised.

(2) If, in any case, it shall appear to the State Government or the Commissioner that any decision or order or proceedings so called for should be modified, annulled or reversed, it or he may pass such order thereon as it or he thinks fit:

Provided that the State Government or the Commissioner shall not pass any order under this Section which adversely affects any person, unless such person has been given a reasonable opportunity if being heard.]

8. Penalty :-

(1) Any person, who fells any trees in any holding or removes them in there from in pursuance of any sale which is invalid under Section 3 , or in contravention of any order made by the Collector under Section 4 , shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, and trees felled, if any, in contravention of this Act my be confiscated by order of the court.

(2) The Magistrate may order that the whole or any part of the fine so imposed may be paid to the occupant as compensation.

9. Officers to be public servants :-

The officers exercising the powers or discharging any duties or functions under this Act shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 .

10. Execution of order for payment of money :-

Any sum the payment of which has been directed by the Collector under this Act may be recoverable from the person ordered to pay

the same as an arrear of land revenue.

11. Bar of proceedings :-

No suit or proceedings shall lie against the State Government or against any person empowered to exercise the powers or to perform the duties or to discharge the functions under this Act for anything in good faith done or purported to be done by or under this Act.

12. Provisions of this Act to be in addition to any other law for the time being in force :-

The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force prohibiting or regulating the felling of trees.

13. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying into effect the purposes of this Act.

(2) Every rule made under this Section shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify such decision in the Official Gazette, the rule shall, from the date of such notification, have effect only in such modified form or be of no effect, as the case may; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

14. Repeal of Mah. Ord. V of 1969 and saving :-

(1) The Maharashtra Sale of Trees by Occupants belonging to Scheduled Tribes (Regulation) Ordinance, 1969, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any rules made) under the said Ordinance shall be deemed to have been done or taken under this Act.