

Orissa Communal Forest And Private Lands (Prohibition Of Alienation) Act, 1948

[05 February 1948]

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Orissa Communal Forest And Private Lands (Prohibition Of Alienation) Act, 1948

[05 February 1948]

An Act to prohibit the alienation of Communal, Forest and Private Lands in the²[State] of Orissa WHEREAS it is expedient to prohibit the alienation of all communal forests and private lands in the²[State] of Orissa in the manner hereinafter appearing; It is hereby enacted as follows;

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Orissa Communal, Forest and Private Lands (Prohibition of Alienation) Act, 1948.
- (2) It extends to the whole of the [State] of Orissa except the district of Sambalpur.
- (3) It shall be deemed to have come into force on the 1st day of April, 1946.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or the context-

- (a) Communal land means;

- (i) in relation to estates governed by the Madras Estates Land Act, 1908, land of the description mentioned in Sub-clause (a) or Sub-Clause (b) of Clause (16) of section 3 of that Act : and
- (ii) in relation to cases governed by the Orissa Tenancy Act, 1913, lands recorded as gochar rakshit, or sarbasadharan in the record-of-rights or waste lands which are either expressly or impliedly set apart for the common use of the villagers, whether recorded, as such, in the record-of-rights or not:
- (b) Estate and Private land shall have the same meanings respectively assigned to those expressions either in the Madras Estates Land Act, 1908 or in the Orissa Tenancy Act, 1913.
- (c) Forest land includes any waste land containing shrubs and trees and any other class of land declared to be forest land by a notification of the [State] Government.
- (d) Landlords means-
 - (i) in relation to estates governed by the Madras Estates Land Act, 1908, land holder as defined in that Act; and
 - (ii) in relation to cases governed by the Orissa Tenancy Act, 1913, landlord as defined in that Act.

3. Prohibition Of Alienation Of Communal Forest And Private Lands :-

- (1) Notwithstanding anything contained in any other law for the time being in force or any express or implied agreement but subject to the provisions of Sub-section (2), no landlord shall, without the previous sanction of the Collector sell, mortgage, lease or otherwise assign or alienate or convert into raiyati land any communal forest or private land or create occupancy rights therein: Provided that nothing in this sub-section shall be deemed to prohibit a landlord from leasing out his private land for a period not exceeding two years without previous sanction of the Collector.
- (2) When a piece of land comes within the definition of "forest" as given in the Orissa Preservation of Private Forests Act, 1947, and also within the definition of "communal land" or "forest land" as given in this Act the previous sanction given by the appropriate authority under the clause (a) of sub-section (1) of section (3) of that Act shall be deemed to be the previous sanction as required by sub-section (1)
- (3) Any landlord to contravene the provisions of sub-section (1) and any agent of the landlord who abets such contravention shall be punishable with fine which may extend to 1000 rupees:

Provided that no landlord shall be liable to the penalty provided in this sub-section of any contravention that took place prior to the date of the passing of this Act.

4. Transaction Of The Nature Specified In Section 3 To Be Void :-

(1) Any transaction of the nature prohibited by Section 3 which took place on or after the 1st day of April, 1946, shall be void and inoperative and shall not confer or take away or be deemed to have conferred or taken away any right whatever on or from any party to the transaction.

Provided that nothing contained in this Sub-section shall be deemed to invalidate-

(i) any such transaction in respect of private land or forest land entered into prior to the 30th day of November, 1947 in favour of any religious, charitable or educational institution or of any hospital or of any local authority or cooperative society registered either under the Madras Co-operative Societies Act, VI of 1932 or the Bihar and Orissa Co-operative Societies Act, VI of 1935, as the case may be, of any other public body or institution;

(ii) any such transaction in respect of private land or forest land entered into prior to the 30th day of November, 1947 in favour of any person in good faith and for valuable consideration.

(2) If any dispute arises as to the validity of the claim of any person to any land under Clauses (i) and (ii) of the proviso to sub-section (1) it shall be upon to such person to apply to the District Judge of the district in which the land is situated for a decision as to the validity of such claim

(3) The District Judge to whom an application is made under Sub-section (2) shall, after giving notice to all the persons concerned in the transaction or interested in the land also, where the application is not made by the [State Government] to the State Government decide whether the claim to the land is valid or not; and his decision shall be final and not subject to appeal or revision in any superior Court.

(4) The [State Government] may, by notification make rules for the purpose of carrying into effect the provisions of this section and in particular as to the fees to be paid in respect to the application referred to in Sub-section (3) and the procedure to be followed by the district Judge.

Explanation- In Sub-section (2), (3) and (4) the expression

"District Judge" shall include "Additional District Judge" in respect of those cases that may be transfer to him for disposal.

5. Collector To Sanction Prosecution :-

No prosecution shall be instituted under this Act against any person without the previous sanction of the Collector.

6. Bar Of Jurisdiction :-

No notification or order of the State Govt. or of the Collector under this Act shall be liable to be questioned in any Court of Law.

7. Modification Of Madras Act,1 Of1908 And Bihar And Orissa Act, 11 Of1913 :-

The provisions of this Act shall, as far as may be read and construed as for being part of Madras estates land act,1 of1903 , or as the case may be, of the Orissa tenancy Act,11 of1913:

Provided that where any of the provisions of this act is inconsistent or repugnant to the provisions of the aforesaid acts, it shall prevail and the said provisions of the aforesaid acts shall be deemed to be modified to that extent.

8. Power To Remove Difficulties :-

If any difficulty arises in giving effect to the provisions of the Act, the [State Government] may as occasion may arise by order do anything which appears to them necessary for the purpose of removing the difficulty.