

Orissa Consolidation Of Holdings And Prevention Of Fragmentation Of Land Act, 1972

2 of 1989

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Orissa Consolidation Of Holdings And Prevention Of

Fragmentation Of Land Act, 1972

2 of 1989

AN ACT TO PROVIDE FOR CONSOLIDATION OF HOLDINGS AND PREVENTION OF FRAGMENTATION OF LAND FOR DEVELOPMENT OF AGRICULTURE IN THE STATE OF ORISSA Be it enacted by the Legislature of the State of Orissa in the Twenty-third Year of the Republic of India, as follows : 1 Statement of Objects and Reasons.-
-In the context of strategy for increasing agricultural production, in the country and in pursuance thereof to give inducement and incentive to the cultivators, it is considered expedient to initiate legislation for consolidation of scattered holdings and re-arrange the holdings including fragmented holdings among various landowners to make them more compact and to provide against future fragmentation of holdings. This will help in economic farming and application of improved implements and methods of farming which are necessary for development of agriculture and increased agricultural production. The present bill seeks to achieve this object. *. Published vide Orissa Gazette Ext. No. 1656/30.11.1972, O.A.No. 21 of 1972. 1. See Orissa Gazette Ext. No. 52/7.1.1972.

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972.

(2) It extends to the whole of the State of Orissa.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date¹[or dates] as the State Government may, by notification, appoint in this behalf and different dates may be appointed for different areas of the State.

1. The Act came into force w.e.f. 10.8.1973, vide Orissa Gazette Ext. No. 1000/ 8.8.1973.

2. Definitions :-

In this Act, unless the context otherwise requires-

(a) "agriculture" includes the raising of crops, grass or garden produce, horticulture, dairy farming, breeding and keeping of live-stock, pisciculture, poultry farming and use of land as pasture or for forest or for any purposes where such use is ancillary to agriculture;

- (b) "agricultural land" means land held or occupied for agriculture or for purposes connected with agriculture and includes-
- (i) a house or similar structure standing over such land ancillary to agriculture; and
 - (ii) trees, wells and other improvements existing on such land-
- (c) "Assistant Consolidation Officer" means a person notified as such by the Consolidation Commissioner to exercise the powers and perform the duties of an Assistant Consolidation Officer under this Act and the rules made thereunder;
- (d) "Board of Revenue" means the Board of Revenue constituted under the Orissa Board of Revenue Act, 1951 (Orissa Act 23 of 1951);
- (e) "Chak" means a compact parcel of land allotted to a landowner on consolidation;
- (f) "Consolidation" means amalgamation and re-distribution of a parcel or parcels of land comprised in different holdings of a unit for the purpose of rendering such holdings more compact.

Explanation - For the purpose of this clause, holding shall not include the following :

- (i) lands which are covered by (orchards, groves or homesteads) by the date of publication of a notification in the Official Gazette under Sub-section (1) of Section 6;
- (ii) land which, in the opinion of the Director of Consolidation, is subject to severe fluvial action, intensive soil erosion or prolonged water-logging or is otherwise unfit for cultivation; and
- (iii) such other areas as the Director of Consolidation may declare to be unsuitable for the purpose of consolidation :

Provided that no such declaration shall be made on a claim preferred by any land-owner if such claim is preferred after the date of publication of the Provisional Consolidation Scheme relating to the area under Section 18;

1[(g) "Consolidation area" means the village or villages in respect of which a notification under Sub-section (1) of Section 3 has been issued and includes the lands covered under the explanation to Clause (f);]

(h) "Consolidation Commissioner" means the Consolidation Commissioner notified as such by the State Government to exercise the powers and perform the duties of the Consolidation Commissioner under this Act and the rules made thereunder;

(i) "Consolidation Committee" means Committee to be constituted for each unit in the proscribed manner for the purpose of this Act which shall consist of at least one representative of the landless

persons and of each category of land-owners of the unit and one person from among the members of the Scheduled Castes and Scheduled Tribes of the unit if the aforesaid representatives do not include a member of the said Castes and Tribes;

(j) "Consolidation Officer" means a person notified as such by the Board of Revenue to exercise the powers and perform the duties of Consolidation Officer under this Act and the rules made thereunder;

(k) "Consolidation scheme" means the scheme of consolidation prepared under this Act;

(k-1) "Co-operative Society" means a society registered or deemed to have been registered under the Orissa Co-operative Societies Act, 1962 (Orissa Act 2 of 1963) and includes a Land Development Bank as defined in that Act;

(l) "Director of Consolidation" means the person notified as such by the State Government to exercise the powers and to perform the duties of the Director of Consolidation under this Act and the rules made thereunder and shall include an Additional Director of Consolidation, a Joint Director of Consolidation and a Deputy Director of Consolidation appointed by the State Government to discharge any of the functions of the Director under this Act;

(m) "fragment" means a compact parcel of agricultural land held by a land-owner by himself or jointly with others comprising an area which is less than-

(i) one acre in the district of Cuttack, Puri, Balasore and Ganjam and in the Anandpur subdivision in the district of Keonjhar, and

(ii) two acres in the other areas of the State;

(n) "holding" means a parcel or parcels of land forming the subject-matter of a separate tenancy;

(o) "land" means land of whatever description;

(p) "land-owner" means-

(i) a raiyat,

(ii) a service tenure holder,

(iii) a tenant,

(iv) a land holder,

and includes a Gram Panchayat, a Local Authority or a Co-operative Society which holds land ;

(q) "prescribed" means prescribed by rules made under this Act;

(r) "public purpose" includes any purpose in relation to any common need, convenience or benefit of the village;

(s) "rectangulation" means the process of dividing the area unit into rectangles and parts of rectangles of convenient sizes with a view to regulating the allotment of Chaka during consolidation;

(t) "rules" means rules made under this Act;

(u) "unit" means one or more villages notified, as such under Subsection (1) of Section 6 for the purpose of farming a single scheme of consolidation in respect thereof;

(v) "village" means any tract of land which has been recognised as a village in the revenue records or which the Board of Revenue may, from time to time, declare to be a village or which has been constituted as such under Sub-section (4) of Section 7 ; and

(w) words and expressions used in this Act but not defined shall have the same meanings as assigned to them in the Orissa Land Reforms Act, 1960 (Orissa Act 16 of 1960) :

Provided that such of the words and expressions as aforesaid which are not defined in the Orissa Land Reforms Act, 1960 (Orissa Act 16 of 1960) shall have the same meanings as assigned to them in the Orissa Survey and Settlement Act, 1958 (Orissa Act 3 of 1959).

1. Substituted vide Orissa Gazette Ext. No. 434/16.3.1989-O. A. No. 2 of 1989.

CHAPTER 2

PREPARATION OF MAP AND LAND REGISTER

3. Declaration And Notification Regarding Consolidation :-

1[(1) The State Government may, where they are of the opinion that any area, which shall comprise a village or group of villages, may be brought under consolidation operations, issue a notification to that effect whereupon it shall become lawful for the Consolidation Officer or his subordinate or any other Officer acting under his authority.]

(a) to enter upon and survey in connection with rectangulation or otherwise and to take levels of any land in such area, if necessary;

(b) to clear by cutting or removing any tree, jungle, fence, standing crop or other material obstruction during such survey or taking of levels; and

(c) to do all acts necessary to ascertain the suitability of the area for consolidation operations.

(2) The Consolidation Officer shall cause public notice of the notification issued under Sub-section (1) to be given in the prescribed manner.

(3) The Assistant Consolidation Officer shall tender compensation to the person concerned for any damage which may have been caused by any action taken under Sub-section (1) and in case of any dispute as to the assessment or payment of the amount so

tendered, he shall refer the matter for decision by the Consolidation Officer whose decision thereon shall be final and shall not be questioned in any Court of law.

1. Substituted vide Orissa Gazette Ext. No. 434/16.3.1989 w.e.f. 10.8.1973.

4. Effect Of Notification :-

Upon the publication of the notification issued under Sub-section (1) of Section 3 in the Official Gazette. The consequences as hereinafter set forth, shall, subject to the provisions of this Act, ensue in the consolidation area till the publication of notification under Section 41 or Sub-section-(1) of Section 5, as the case may be-

(1) The consolidation area shall be deemed to be under consolidation operations and the duty of preparation of record of rights and map of each village comprised in the area shall be performed by the Assistant Consolidation Officer who shall prepare them in the manner hereinafter provided;

1[(2) Notwithstanding anything contained in any law for the time being in force no land-owner, except with the permission, in writing of the Consolidation Officer previously obtained, shall, after publication of the notification under Sub-section (1) of Section 13, transfer by way of sale, gift, mortgage or exchange any land, and no document purporting to effect any such transfer shall be registered by a Registering officer appointed under the Registration Act, 1908 unless the document is accompanied by a certified copy of the aforesaid written permission :

Provided that no permission of the Consolidation Officer shall be necessary for transfer by way of sale, gift, mortgage or exchange of lands, which are covered by orchards, groves or homestead lands, which in the opinion of the Director of Consolidation is subject to several fluvial action, intensive soil erosion, or prolonged water-logging or is otherwise for cultivations.]

(2-a) No landowner shall, after the publication of the map and land register under Section 9, convert any land in the unit to be used in any manner so as to render it unsuitable for consolidation without obtaining the permission in writing of the consolidation officer;

(3) Every proceeding, relating to survey, preparation and maintenance of record-of-rights and settlement of rent shall stand abated after publication of the notification under Sub-section (1) of Section 6; and

(4) Every suit and proceedings for declaration of any right or interest in any land situate within the consolidation area in regard to which proceedings could be or ought to be started under this Act, which is pending before any Civil Court, whether of the first instance or appeal reference or revision shall, on an order being passed in that behalf by the Court before which such suit or proceeding is pending stand abated:

Provided that no such order shall be passed without giving the parties concerned an opportunity of being heard :

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 it they had never abated :

Provided also that such abatement shall be without prejudice to the right of the person affected to agitate the right or interest which formed the subject-matter of the said suit or proceeding before the consolidation authority in accordance with the provisions of this Act or the rules made thereunder.

1. Substituted vide Orissa Gazette Ext. No. 434/16.3.1989.

5. Cancellation Of Notification :-

(1) It shall be lawful for the State Government at any time to cancel, by publication of an order to that effect in the Official Gazette, the notification made under Sub-section (1) of Section 3 in respect of the whole or any part of the area specified therein.

(2) Where a notification has been cancelled in respect of any area under Sub-section (1), such area shall cease to be under consolidation with effect from the date of the cancellation.

6. Preparation Of Map, Land Register And Determination Of Valuation And Share In Joint Holdings :-

(1) As soon as may be after publication of the notification under Sub-section (1) of Section 3, the Director of Consolidation shall issue a notification constituting under and initiating preparation of maps and land register in respect of each unit which shall be published at a conspicuous place of the village for a period of not

less than fifteen days.

(2) Upon publication in the village of the notification under Sub-section (1) and subject to the provisions hereinafter contained, the Assistant Consolidation officer shall-

(a) prepare the map of each village in the consolidation area in the prescribed manner;

(b) prepare a Register known as the Land Register showing particulars of the lands, interests therein rent and cess settled therefor and such other details as may be prescribed;

(c) determine in consultation with the Consolidation Committee the valuation of-

(i) lands, after taking into consideration their productivity, location, availability of irrigation facilities and other relevant factors, if any, and

(ii) houses, structures, trees, wells and other improvements existing on such land :

(d) determine the shares of individual landowners in joint holdings for the purpose of effecting partition to ensure proper consolidation.

Explanation - The expression "Interest" shall include the rent-receiving interests of land-owner and of the interests of tenant.

(3) The valuation determined under Clause (c) of Sub-section (2) shall be approved by the Consolidation Officer with such changes as deems necessary.

(4) The Assistant Consolidation Officer shall also prepare such other records as may be prescribed to facilitate consolidation operation in the unit.

7. Powers Relating To Partition Of Joint Holding, Amalgamation Of Holdings And To Determine Rent And Cess And Effect Change In The Village Boundaries :-

(1) Upon the publication of the notification issued under Subsection (1) of Section 3, no partition of a holding lying in the consolidation area under Section 19 of the Orissa Land Reforms Act, 1960 (Orissa Act 16 of 1960) shall be effected by the Revenue Officer till the publication of the notification under Section 41 or Sub-section (1) of Section 5, as the case may be, and the Assistant Consolidation Officer and the Consolidation Officer shall, in addition to the powers vested in them under this Act, have powers to effect partition of joint holdings on application of any party interested notwithstanding anything to the contrary contained in any other law for the time being in force:

Provided that a partition on the basis of specific parcels of land may, on an application made in that behalf, be effected-

- (a) where all the concerned land-owners agree, by the Assistant Consolidation Officer or the Consolidation Officer ; and
- (b) where all the concerned land-owners do not agree, by the Consolidation Officer:

Provided further that except where all the concerned land-owners agree, a partition on the basis of specific parcels of land shall not be effected without giving the parties concerned a reasonable opportunity of being heard.

(2) The Assistant Consolidation Officer and the Consolidation Officer shall have powers while disposing of objections under Sections 10 and 11 to entertain requests for amalgamation of holdings of like tenure on such terms as may be agreed to by the concerned land-owners and to pass orders effecting such amalgamation.

(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 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 :

1[Provided further that no such settlement or rent or cess shall be made in respect of any land the rent whereof has been settled within ten years preceding the date of publication of the notification issued under Subsection (1) of Section 3.]

(4) Notwithstanding anything contained in any other law for the time being in force, the Director of Consolidation shall have powers to effect changes in the boundary of an existing village and to constitute a new village :

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.

1. Substituted vide Orissa Gazette Ext. No. 434/16.3.1989.

8. Preparation Of Statement Of Principles :-

(1) After publication of the notification under Sub-section (1) of

Section 6 the Assistant Consolidation Officer shall, in consultation with the Consolidation Committee, prepare in respect of each unit under consolidation operations, a statement (hereinafter called the Statement of Principles) setting forth the principles to be followed in carrying out consolidation operations in the unit.

(2) The Statement of Principles shall also contain the following details, namely :

(a) specific areas, as far as they can be determined, to be ear-marked for such public purposes and to such extent as may be prescribed; and

(b) the basis on which and the extent to which the land-owners shall contribute land for public purposes.

(3) The Statement of Principles shall be approved by the Consolidation Officer with such modifications as he deems necessary.

(4) Nothing contained in the Orissa Government Land Settlement Act, 1962 (Orissa Act 33 of 1962) shall apply to lands required to be ear-marked for public purposes as aforesaid.

9. Publication Of Records And Issue Of Extracts And Notices

:-

(1) The copy of the map, land register and other records, if any prepared under Section 6 together with the Statement of Principles prepared under Section 8 shall be published in the unit in the prescribed manner and copies thereof shall also be forwarded to the local Tahsildar.

(2) Notices containing relevant extracts from the land register showing rights and liabilities of land-owners in relation to land, specific shares of individual landowners in joint holdings were necessary to ensure proper consolidation, valuation of lands and valuation of houses, structures, trees, walls and other improvements for calculating compensation therefor and its appointment among the land-owners, if there be more land-owners than one, shall be sent to the land-owners mentioned in the land register.

(3) Any person to whom a notice under Sub-section (2) has been sent or any other person interested may within thirty days of the receipt of the notice or of the publication under Sub-section (1), as the case may be, file before the Assistant Consolidation Officer objections on the correctness of entries in the records and the extracts furnished therefrom, or on the Statement of Principles or

relating to partition.

10. Disposal Of Objection By The Assistant Consolidation Officer :-

(1) Such objections relating to right, title and interest in land as can, in conformity with the laws in force, be disposed of by conciliating among the parties concerned, shall be disposed of by the Assistant Consolidation Officer:

Provided that where any party does not appear before the Assistant Consolidation Officer on the date fixed after due service of notice in that behalf, he shall set him ex parte and proceed with the conciliation among the parties appearing before him and orders passed on such conciliation shall, subject to the orders in an appeal or revision, if any, be binding on the parties who are set ex parte.

(2) All objections which cannot be disposed of by conciliation under Sub-section (1) and all other objections including those relating to valuation or the Statement of Principles or the rent or cess settled under this Act shall be forwarded by the Assistant Consolidation Officer to the Consolidation Officer for disposal.

11. Disposal Of Objection By The Consolidation Officer :-

(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 (Orissa Act 1, of 1965) within whose jurisdiction the land is situated.

12. Appeal :-

Any person aggrieved by an order of the Assistant Consolidation Officer or the Consolidation Officer under Section 10 or 11 may, within thirty days from the date of the order file an appeal in the prescribed manner before the Director of Consolidation whose decision shall, except as otherwise provided by or under this Act,

be final.

13. Revision Of Map And Land Register :-

(1) The map, land register and other records, if any, prepared under Section 6 shall be revised, if necessary, on the basis of the orders passed under Sections 10, 11 and 12 and shall be published for a period of fifteen days in the unit for information of all concerned.

(2) [Deleted].

(3) The map, land register and other records, if any, may thereafter be maintained from time to time on the basis of orders passed by competent authorities under the relevant provisions of this Act.

(4) Where in respect of any village an order is published under Subsection (1) of Section 5 at any time after the publication of the map and land register under Sub-section (1), the map and the record-of-rights prepared on the basis of such land register shall, for all intents and purposes, be deemed to have been prepared under the Orissa Survey and Settlement Act, 1958 (Orissa Act, 3 of 1959), provided they are published in the same manner as required by Sub-section (2) of Section 22 and extracts of the record-of-rights are supplied to the land-owners at the time of such publication.

14. Bar On Objection :-

Subject to the provisions contained in Section 15, no question in respect of-

(a) right, title and interest in land;

(b) partition of joint holdings, or

(c) valuation of lands, houses, structures, trees, wells and other improvements, where the question is sought to be raised by a land-owner recorded in the land register prepared under Section 6 which question might or ought to have been raised under Section 9 but has not been raised, shall be raised or heard at any subsequent stage of the consolidation proceedings.

15. Decision Of Matters Relating To Chances And Transactions Affecting Right Of Interest Recorded In Revised Records :-

(1) All matters relating to changes and transfers affecting any of

the rights, title and interest recorded in the land register published under Section 13 for which cause of action arose after the publication of records under Section 9 may be raised before the Assistant Consolidation Officer as and when they arise but not later than the date of publication of the order, if any, under Sub-section (1) of Section 5 or the date of confirmation of the scheme under Sub-section (1) of Section 21, whichever is earlier:

Provided that it shall also be competent for the Assistant Consolidation Officer to consider such cases suo motu.

(2) The provisions of Sections 6 to 12 shall, mutatis mutandis, apply to the hearing and disposal of any matter raised under Sub-section (1) as if it were a matter raised under the aforesaid sections.

CHAPTER 3

PREPARATION OF CONSOLIDATION SCHEME

16. Condition To Be Fulfilled By Consolidation Scheme :-

A Consolidation Scheme shall fulfil the following conditions, namely :

(1) a land-owners rights and liabilities as recorded in the land register published under Section 13 shall be secured in lands allotted to him on consolidation, subject to deductions, if any, made on account of contributions for public purposes under this Act;

(2) the valuation of lands allotted a land owner shall be equal to the valuation of lands originally held by him subject to deductions if any, made on account of contributions for public purposes under this Act:

Provided that with the permission of the Director of Consolidation obtained in writing, the area of the holding or holdings allotted to a land owner shall not differ from the area of his original holding or holdings by more than thirty three and one-third per cent of the latter;

(3) the land owner shall be awarded-

(a) compensation determined under this Act or the rules for the houses, structures, trees, wells and other improvements existing on lands originally held by him and allotted to another landowner or existing on land contributed by him for public purposes, and

(b) an amount determined as aforesaid for land contributed by him for public purposes ;

(4) the principles laid down in the Statement of principle shall be

allowed;

(5) every land-owner shall, as far as practicable, be allotted a compact area at the place where he holds the largest part of his holding ; provided that no land-owner shall be allotted more than three "Chakas" in any unit.

Explanation -For the purposes of this clause, the expression "landowner" shall not include-

(a) a land-holder in respect of lands held by raiyats or service tenure-holders under him, and

(b) a tenant-

(6) every land-owner shall, as far as practicable, be allotted the land or which exists his private source of irrigation together with an area in the vicinity the value of which shall be equal to the valuation of lands originally held by him there;

(7) every land-owner shall, as far as possible, be allotted "Chakas" in conformity with the process of rectangulation wherever such process is adopted; and

(8) such other conditions as may be prescribed.

17. Preparation Of Provisional Consolidation Scheme :-

(1) The Assistant Consolidation Officer shall, as soon as may be after publication of the map, land register and other records under Sub-section (1) of Section 13 and in consultation with the Consolidation Committee prepare a Provisional Consolidation Scheme for the unit on the basis of the map and land register published under Section 13 and as revised under the provisions of this Act.

(2) Notwithstanding anything contained in this Act or in any law for the time being in force, it shall be lawful for the Assistant Consolidation Officer while preparing the Provisional Consolidation Scheme, to allot to a landowner after determining its valuation, any land belonging to the State Government and any land used for public purposes :

Provided that where any land is used for public purpose, it shall be allotted only after the Assistant Consolidation Officer has declared in writing that it is proposed to transfer the rights of the village community as well of all individuals in or over that land to any other land specified in the declaration and ear-marked for that purpose in the Provisional Consolidation Scheme.

18. Publication Of The Provisional Consolidation Scheme And Receipt Of Objections Thereon :-

(1) After preparation of the provisional Consolidation Scheme, the Assistant Consolidation Officer shall cause to be sent to the land-owners concerned notice containing relevant extracts therefrom and shall publish the Provisional Consolidation Scheme in the unit in the manner prescribed.

(2) Subject to the provision contained in Section 14 any person to whom a notice has been sent under Sub-section (1) and any other person affected by the Provisional Consolidation Scheme disputing the correctness of the entries made therein within thirty days of the receipt of the notice or the date of publication of the Provisional Consolidation Scheme, as the case may be, file an objection before the Consolidation Officer or the Assistant Consolidation Officer duly authorised by the Consolidation Officer in that behalf.

19. Disposal Of Objection :-

(1) The Consolidation Officer shall, in the prescribed manner, dispose of objections filed under Section 18 after giving the Consolidation Committee and the parties concerned a reasonable opportunity of being heard.

(2) The Consolidation Officer shall have powers to modify the Provisional Consolidation Scheme to such an extent or to remand the same to the Assistant Consolidation Officer with such directions as he considers necessary in the interest of proper consolidation.

20. Appeal :-

(1) Any person aggrieved by an order of the Consolidation Officer under Section 19 may, within thirty days from the date of the order prefer an appeal before the Director of Consolidation whose decision thereon shall, except as otherwise provided by or under this Act, be final.

(2) The Director of Consolidation shall have powers to revise the Provisional Consolidation Scheme to such an extent or to remand the same to the Assistant Consolidation Officer or the Consolidation Officer with such directions as he deems necessary.

21. Confirmation Of Provisional Consolidation Scheme :-

(1) The Director of Consolidation shall confirm the Provisional Consolidation Scheme after the disposal of all objections and appeals relating to the unit with such modifications as he considers

necessary in the interests of proper consolidation or for giving effect to the final order, if any, passed under Section 15.

(2) The Provisional Consolidation Scheme so confirmed shall be published in the unit and except as otherwise provided under this Act, shall be final.

22. Preparation And Publication Of Final Map And Record-Of-Rights And Coming Into Force Of The Final Consolidation Scheme :-

(1) (a) As soon as may be after confirmation of the Provisional Consolidation Scheme the Consolidation Officer shall cause to be prepared for each village in the consolidation area a final map and record-of-rights on the basis of the Consolidation Scheme so confirmed.

(b) The map and the record-of-rights shall contain such particulars as are required under the Orissa Survey and Settlement Act, 1958 (Orissa Act 3 of 1959) with such modifications as may be prescribed and shall also show the rent and cess determined under Sub-section (3) of Section 7.

(2) The map and the record-of-rights prepared under Sub-section (1) shall be published in the prescribed manner and the Final Consolidation Scheme shall come into force from the date of such publication.

(3) The relevant extract of the record-of-rights shall be supplied to the land-owners at the time of publication.

(4) The map and the record-of-rights published under Sub-section (1) shall, subject to alterations and modifications made in pursuance of orders passed under Section 15 or 36 or orders referred to in Sub-section (3) of Section 41, for all intents and purposes be deemed to have been prepared under the Orissa Survey and Settlement Act, 1958.

CHAPTER 4

ENFORCEMENT OF THE SCHEME

23. Entering Into Possession By Land Owner :-

On and after the date of publication of the map and the record-of-rights under Sub-section (2) of Section 22, a land owner shall be entitled to enter into possession of the lands allotted to him.

24. Compensation For Houses, Structures, Trees, Wells, Etc :-

(1) On and from the date of entering into possession, every land-owner shall pay or receive compensation according as the valuation of houses structures, trees, wells and other improvements existing on the lands allotted to him in the final consolidation scheme is more or less than the valuation of such properties existing on the land originally held by him.

Explanation-For the purpose of Sub-section (1) "compensation" shall be the difference between valuation of houses, structures, trees, wells and other improvements existing on the lands allotted to him under the final consolidation scheme and the valuation of such properties originally held by him.

(2) The amount of compensation determined shall be intimated to the land-owners concerned in the prescribed manner.

25. Delivery Of Possession :-

(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 lands so allotted, and in doing so, shall have all the powers as are exercisable by a Civil Court in execution of 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 lands to him.

(3) Notwithstanding the provisions contained in Sub-section (2) where no application is made under Sub-section (1) by a land-

owner and, the Assistant Consolidation Officer has reasons to believe the land-owner has not entered into possession of the land allotted to him, he may, on his own motion and at any time before the issue of a notification under Sub-section (1) of Section 41, put the landowner in actual physical possession of the lands so allotted in the same manner and; subject to the same conditions as specified in Sub-section (1).

(4) The powers conferred on the Assistant Consolidation Officer under Sub-section (3) shall, in like manner and in like circumstances be exercisable by the Tahasildar having jurisdiction after the issue of notification under Sub-section (1) of Section 41

26. Compensation For Standing Crop :-

(1) Where possession of standing crops is delivered along with the land under Section 25, Assistant Consolidation Officer shall determine, in consultation with the Consolidation Committee, the compensation payable in respect of such crops by the land-owner put in possession.

Explanation -"Compensation" for this purpose shall mean the anticipated value of the standing crop when marketable less, reasonable expenses to be incurred for harvesting and marketing of the crop.

(2) Any person aggrieved by an order under Sub-section (1) may, within thirty days from the date of the order, prefer an appeal before the Consolidation Officer whose decision thereon shall be final.

27. Recovery Of Compensation :-

(1) Where a land-owner from whom compensation is recoverable under this Act, falls, to pay the same within six months from the date of intimation under Sub-section (2) of Section 24, the person entitled to receive the same may, in addition to any other mode of recovery open to him, apply to the Collector within six months from the expiry of the aforesaid period to recover on his behalf the amount due as if it were a public demand payable to the State Government.

(2) Interest at the rate of six per cent per annum shall be charged on the amount of compensation remaining unpaid after expiry of the earlier period referred to in Sub-section (1).

28. Reduction Of Rent And Cess On Account Of Contribution

Of Land For Public Purpose :-

Where as a result of contribution of public purposes, under the provisions of Section 8, the valuation of the original holding of a land owner is reduced, the rent and cess payable for the holding shall be reduced by the Assistant Consolidation Officer notwithstanding anything contained in any other law for the time being in force, in the same proportion as the valuation of the area so contributed bears to the original total valuation of the holding.

29. Amount To Be Paid For Land Contributed For Public Purpose :-

(1) An amount equal to five per cent of the market value of the land contributed for public purposes as determined, in the prescribed manner shall be paid to the land-owner or owners concerned.

(2) An amount equal to the market value of houses, structures, trees, wells, and other improvements existing on the land contributed for public purposes as determined under this Act shall also be paid to the landowners concerned.

30. Vesting Of Land Contributed For Public Purposes And Allotted To State Government :-

(1) The lands set apart for public purposes under the Final Consolidation Scheme shall, with effect from the date of coming into force of the final scheme, be utilised for the said purposes.

(2) The land allotted to the State Government under the Final Consolidation Scheme shall, with effect from the aforesaid date, vest and be always deemed to have vested in the State Government.

(3) Where under a declaration under the proviso to Sub-section (2) of Section 17, any land belonging to the State Government or used for public purposes is allotted to a land-owner, the right of the village community as well as of all the individuals and of the State Government in such lands shall cease to be attached to such land shall be attached to the lands specified for the purpose in the Final Consolidation Scheme.

31. Consequences To Ensur On Land-Owner Entering Into Possession :-

With effect from the date on which a land-owner enters or is deemed to have entered into possession of the Chaka allotted to him in accordance with the provisions of this Act, the following consequences shall ensue -

(1) The right, title, interest and liabilities of every land-owner in respect of his original holding shall cease :

Provided that where the land-owner is allotted his original holding either wholly or in part in the Final Consolidation Scheme his right, title, interest and liability in such holding or part thereof, as the case may be, shall remain unaffected;

(2) Every landowner shall have the same right, title, interest and liabilities in the "Chaka" allotted to him as he had in the original holding and the rights and interests of all other persons in respect of such original holdings shall stand transferred to the said "Chaka" or to such part thereof as specified in the Final Consolidation Scheme.

Explanation -Every such land-owner shall enjoy the benefit of irrigation existing on the land allotted to him.

32. Cost Of Consolidation Operation :-

(1) The State Government may recover as they may fix from the land-owners of the unit towards the cost of the operations conducted under this Act :

Provided that the aforesaid amount shall not be fixed at a rate exceeding ten rupees per acre and shall be recovered in five equal annual instalments.

(2) An amount payable as costs under this section shall be recoverable as a public demand.

CHAPTER 5

PREVENTION OF FRAGMENTATION

33. Application Of This Chapter :-

This Chapter shall apply to an area in respect of which a notification under Section 41 has been issued.

34. Prevention Of Fragmentation :-

(1) No agricultural land in a locality shall be transferred or partitioned so as to create a fragment.

(2) No fragment shall be transferred except to a land-owner of a contiguous Chaka :

Provided that a fragment may be mortgaged or transferred in favour of the State Government, a Co-operative Society, a scheduled bank within the meaning of the Reserve Bank of India Act, 1934 (2 of 1934) or such other financial institution as may be notified by the State Government in that behalf as security for the loan advanced by such Government, Society, Bank or institution, as the case may be.

(3) When a person, intending to transfer a fragment, is unable to do so owing to restrictions imposed under Sub section (2), he may apply in the prescribed manner to the Tahasildar of the locality for this purpose whereupon the Tahasildar shall, as far as practicable within forty-five days from the receipt of the application determine the market value of the fragment and sell it through an auction among the landowners of contiguous Chakas at a value not less than the market value so determined.

1[(3-a) Any person aggrieved by an order of the Tahsildar under Subsection (3) may, within sixty days from the date of such order, prefer an appeal in the prescribed manner before the concerned Sub-divisional Officer, whose decision thereon shall be final.]

(4) When the fragment is not sold in course of the auction it may be transferred to the State Government and the State Government shall, on payment of the market value determined under Sub-section (3), purchase the same and thereupon the fragment shall vest in the State Government free from all encumbrances.

(5) Nothing in Sub sections (1) and (2) shall apply to a transfer of any land for such public purposes as may be specified by notification in this behalf by the State Government.

1. Inserted vide Orissa Gazette Ext. No. 434/16.3.1989.

35. Consequences Of Transfer Or Partition Contrary To Provisions Of Section 34 :-

(1) A transfer or partition in contravention of the provisions of Section 34 shall be void.

(2) A person occupying or in possession of any land by virtue of a transfer or partition which is void under the provisions of this Act, may summarily evicted by the Collector.

CHAPTER 6 **MISCELLANEOUS**

36. Revision :-

(1) The Consolidation Commissioner may, on an application by any

person aggrieved by any decision of the Director of Consolidation within ninety days from the date of the decision, revise such decision and for the said purpose, he may call for and examine the records :

Provided that no such order shall be passed without giving the parties concerned a reasonable opportunity of being heard.

(2) All orders passed under this section shall be final and shall not be void in question in any Court of law.

37. Power To Call For Records :-

(1) The Consolidation Commissioner may call for and examine the records of any case decided or proceedings taken up by any subordinate authority for the purpose of satisfying himself as to the regularity of the proceedings or as to the correctness, legality or propriety of any order passed by such authority in the case or proceedings and may, after allowing the parties concerned a reasonable opportunity of being heard make such order as he thinks fit.

(2) The power under Sub-section (1) may be exercised by the Director of Consolidation in respect of authorities subordinate to him.

38. Powers Of Board Of Revenue :-

The Board of Revenue shall have powers to superintend and regulate all measures under this Act including issue of instructions for the efficient and proper working of the provisions of this Act.

39. Exchange Of Possession :-

(1) Where change of possession becomes necessary amongst land-owners as a result of orders passed under Sections 36 and 37, it shall be lawful for them to exchange possession amongst themselves in accordance with such orders.

(2) Where change of possession cannot be effected by mutual arrangement, the Assistant Consolidation Officer shall effect delivery of possession to the land-owners concerned in accordance with the provisions of Section 25.

40. Mutual Exchange Of Chakas Among Land-Owners :-

It shall be lawful for the Consolidation Officer at any stage of the consolidation proceedings but before the preparation of the final

records under Section 22 to allow mutual exchange of Chakas or part thereof by agreement between or among the landowners where he is satisfied that the exchange will improve the shape of the Chakas or reduce their number and generally lead to development of agriculture in the unit.

41. Closure Of Consolidation Operations :-

(1) As soon as may be after the final maps and the records have been prepared under Section 22, the State Government shall issue a notification to the effect that the consolidation operations have been closed in the unit and then the village or villages forming part of the unit shall cease to be under the consolidation operations :

Provided that the issue of a notification under this section shall not affect the operation of the provisions contained in Chapter IV.

(2) Notwithstanding anything contained in Sub-section (1), consolidation operations shall not be deemed to have been closed in respect of case or proceeding pending under the provisions of this Act on the date of issue of notification under Sub-section (1).

(3) The orders passed by the competent authorities in matters referred to in Sub-section (2) shall be given effect to by such authorities as may be prescribed.

42. Exemption From Court-Fee :-

Notwithstanding anything contained in the Court-fees Act, 1870 (7 of 1870) no Court-fee shall be payable on any application made or on any document filed in any proceeding under the provisions of this Act.

Explanation - For the purposes of this section "document" shall not include a Vakalatnama.

43. Instrument Not Necessary For Transfer :-

Notwithstanding anything contained in any other law for the time being in force, no instrument in writing shall be necessary for effecting, a transfer of a holding involved in giving effect to a Final Consolidation Scheme nor shall any such instrument, if executed, require registration.

44. Powers Of Civil Court To Be Exercised By Authorities Under This Act :-

(1) The Consolidation Commissioner, Director of Consolidation,

Collector, Consolidation Officer, Assistant Consolidation Officer and Tahasildar shall have all such powers, rights and privileges as are vested in a Civil Court in respect of the following matters in trying a suit-

- (a) summoning and enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise and the issue of a commission;
- (b) compelling the production of documents;
- (c) admission of evidence by affidavit; and
- (d) any other matter that may be prescribed.

(2) A summons signed by such officer may be substituted for and shall be equivalent to any formal process capable of being issued in any action by a Civil Court enforcing the attendance of witnesses and compelling the production of documents.

45. Power As Regards Production Of Documents :-

(1) Subject to any condition or restriction that may be prescribed, the Consolidation Commissioner, Director of Consolidation, Collector/Consolidation Officer, Assistant Consolidation Officer or Tahasildar may, by a written order, require any person to produce such documents, papers and registers or to furnish such information as he may deem necessary for the proper exercise of his powers or the proper discharge of his duties under this Act.

(2) Every person required to produce any document, paper or register or to furnish any information under this section shall be deemed legally bound to do so within the meaning of Sections 175 and 176 of the Indian Penal Code, 1860 (45 of 1860).

46. Power To Enter Upon Land For Survey And Demarcation :-

Any officer mentioned in this Act or any person acting under orders of any one of them may, in the discharge of any duty under this Act, enter upon and survey any land and erect survey marks thereon and demarcate the boundaries thereof, take levels and do all other acts necessary for the performance of his duty.

47. Jurisdiction Of Courts :-

All authorities hearing any application, appeal or revision under any of the provisions of this Act shall do so as Revenue Courts.

48. Correction Of Clerical And Arithmetical Mistake :-

Notwithstanding anything contained in any law for the time being in force, if at any time before the issue of a notification under Section 41 the Consolidation Officer or Assistant Consolidation Officer is satisfied that a clerical or arithmetical error apparent on the face of the record exists in any document prepared under any provision of this Act, he shall, either on his own motion or on the application of any person interested correct the same after giving to the parties concerned a reasonable opportunity of being heard.

49. Powers Of Subordinate Authority To Be Exercised By A Superior :-

Where powers are to be exercised or duties are to be performed by any authority under this Act or the rules made thereunder, such powers or duties may also be exercised or performed by any authority superior to it.

50. Delegation Of Powers :-

The State Government may, by notification and subject to such restrictions and conditions as may be specified therein-

- (a) delegate to any officer or authority, any of the powers conferred upon them by this Act;
- (b) confer powers of the Consolidation Commissioner, Director of Consolidation, Collector and Consolidation Officer under this Act of the rules made thereunder on any other officer or authority.

51. Bar Of Jurisdiction Of Civil Courts :-

Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions contained in Clause (3) of Section 4 and Sub-section (1) of Section 7-

(1) all questions relating to right, title, interest and liability in land lying in the consolidation area, except those coming within the jurisdiction of Revenue Courts or authorities under any local law for the time being in force, shall be decided under the provisions of this Act by the appropriate authority during the consolidation operations; and

(2) no Civil Court shall entertain any suit or proceedings in respect of any matter which an officer or authority empowered under this Act is competent to decide.

52. Indemnification Of Acts Done In Good Faith :-

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 under this Act or the rules made thereunder.

53. Transfer Made In Contravention Of The Provisions Of The Act :-

A transfer made in contravention of any of the provisions of this Act shall not be valid or recognised, anything contained in any other law for the time being in force notwithstanding.

54. Penalty For Contravening Provision Of The Act :-

(1) Any person contravening any provision of this Act shall be liable to pay a penalty not exceeding five hundred rupees by an order passed by the Sub-divisional Officer of the locality :

Provided that the Sub-divisional Officer, before passing an order levying penalty, shall give to the person concerned a reasonable opportunity of being heard.

(2) An appeal against any order passed under Sub-section (1) shall lie, if filed within thirty days from the date of the order, to the Collector whose decision thereon shall be final.

55. Penalty For Destruction, Damage Or Removal Of Survey Marks :-

(1) If any person destroys, damages or removes without lawful authority a survey or rectangulation mark lawfully erected, he may be ordered by the Consolidation Officer to pay such compensation not exceeding fifty rupees for each mark so destroyed, damaged or removed as may, in the opinion of that Officer, be necessary to defray the expenses of restoring the same and of rewarding the person, if any, who gives information of the destruction, damage or removal.

(2) An order for payment of compensation passed under Sub-section (1) shall not bar a prosecution under Section 434 of the Indian Penal Code, 1860 (45 of 1860).

(3) An appeal against any order passed under Sub-section (1) shall lie, if filed within thirty days from the date of the order, to the Director of Consolidation whose decision thereon shall be final.

56. Penalty And Compensation Recoverable As Public Demand :-

The penalty imposed under the provisions of this Act or the compensation ordered to be paid under Section 55 shall be recoverable as a public demand.

57. Limitation :-

Subject to the provisions of this Act, the provisions of the Limitation Act, 1963 except Sections 6, 7, 8, 9, 18 and 19 shall apply to all applications, appeals, revisions and other proceedings under this Act, or the rules made thereunder.

58. Rules :-

(1) The State Government may make rules for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, they may make rules in respect of all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under this section shall, as soon as may be after they are made be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period, the State Legislature makes modifications, if any, therein, the rules shall thereafter have effect only in such modified form; so however, that such modifications shall be without prejudice to the validity of anything previously done under the rules.

59. Act For Override Other Laws :-

Save as otherwise provided the provisions of this Act shall have effect notwithstanding anything to the contrary in any other law, custom, usage, agreement, decree or order of Court.

60. Repeal :-

The Central Provinces Consolidation of Holdings Act, 1928 in its application to the State of Orissa and Chapter VI of the Orissa Agriculture Act, 1951, are hereby repealed.