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LAW DEPARTMENT

NOTIFICATION

The 10th August, 2017

No.8449-I-Legis-24/17/L.—The following Ordinance promulgated by the Governor of Odisha on the 10.08.17 is hereby published for general information.

ODISHA ORDINANCE NO 2 OF 2017

THE ODISHA LAND RIGHTS TO SLUM DWELLERS ORDINANCE, 2017.

AN

ORDINANCE

TO PROVIDE FOR ASSIGNING LAND RIGHTS TO IDENTIFIED SLUM DWELLERS, FOR REDEVELOPMENT, REHABILITATION AND UPGRADATION OF SLUMS, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS, the Legislative Assembly of the State of Odisha is not in session;

AND WHEREAS, the Governor of Odisha is satisfied that circumstances exist which render it necessary for him to take immediate action to provide for assigning land right to identified slum dwellers for redevelopment, rehabilitation and upgradation of the slums in the manner hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Odisha is pleased to make and promulgate the following Ordinance in the Sixty- eighth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the Odisha Land Rights to Slum Dwellers Ordinance, 2017.

(2) It extends to urban areas in the whole of the State of Odisha.

(3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different urban areas.

Definitions. 2. In this Ordinance, unless the context otherwise requires,—

- (a) “Authorised Officer” means the head of the Slum Redevelopment and Rehabilitation Committee or any officer authorized by the State Government, by order, to exercise powers as may be prescribed;
- (b) “basic urban services” means services of drinking water supply, sanitation, drainage, sewerage, solid waste disposal and street lighting;
- (c) “Collector” means the Collector of a district and includes Additional District Magistrate or any officer specially appointed by the State Government to perform the functions of a Collector under this Ordinance;
- (d) “Committee” means the Urban Area Slum Redevelopment and Rehabilitation Committee constituted under section 6;
- (e) “EWS” means an economically weaker section beneficiary whose household income is upto such limit as notified by the State Government, from time to time;
- (f) “family” means husband, wife, unmarried son, unmarried daughter or any other person related by blood and wholly dependent on the slum dweller;
- (g) “Financial Institution” means any company possessing licence under the Banking Regulation Act, 1949 to carry on banking business and includes a Housing Finance Institution which has obtained certificate of registration under the National Housing Bank Act, 1987; 10 of 1949.
53 of 1987.
- (h) “Government land” means any land owned or acquired by the State Government or its undertakings or the Municipal Council or the Notified Area Council, as the case may be;
- (i) “in-situ redevelopment” means the process of redevelopment of existing slum areas by providing basic civic and infrastructural services to the slum dwellers, on the land on which the slum is based;
- (j) “landless person” means a person who is a citizen of India and does not own either in his own name or in the name of any member of his family any house or land, or land rights granted or inherited under this Ordinance ,in the urban area;
- (k) “land right” means right to land assigned to slum dwellers under section 3;
- (l) “member” means a member of the Committee or sub-committee, as the case may be, and includes the Chairperson;
- (m) “occupation” means occupation of a land by a slum dweller for residential purposes;
- (n) “prescribed” means prescribed by rules made under this Ordinance;

- (o) “public interest” means land usage as prescribed under the city development plan or zonal development plans under the approved city development plan or the provision of basic urban services to public at large or prohibition of human habitation in environmentally hazardous sites or ecologically sensitive sites or heritage sites;
- (p) “redevelopment” means improvement to the existing slum by providing basic urban services and facilitating improvement of housing conditions in accordance with the housing scheme framed by the State Government, from time to time;
- (q) “rehabilitation” means relocation of slum dwellers to other location in accordance with the housing scheme framed by the State Government, from time to time;
- (r) “slum” or “slum area” means a compact settlement of at least twenty households with a collection of poorly built tenements, mostly of temporary nature, crowded together usually with inadequate sanitary and drinking water facilities in unhygienic conditions, which may be on the State Government land in an urban area;
- (s) “slum dweller” means any landless person in occupation within the limits of a slum area;
- (t) “tenable settlements” means the settlement as decided by the Committee, where existence of human habitation does not entail undue risk to the safety or health or life of the residents or habitation or such sites are not considered contrary to public interest or the land is not required for any public or development purpose;
- (u) “untenable settlements” means such areas where existence of human habitation entails undue risk to the safety or health or life of the inhabitants themselves or where habitation on such areas is considered by the Committee not to be in public interest;
- (v) “urban area” means the area comprised within the limits of Municipal Council and Notified Area Council constituted under the Odisha Municipal Act, 1950;
- (w) Words and expressions used herein but not defined shall have the same meaning as assigned to them under the Odisha Municipal Act, 1950.

Odisha
Act 23
of 1950.

Odisha
Act 23
of 1950.

CHAPTER II

LAND RIGHTS

Land
right to
slum
dweller.

3. (1) Notwithstanding anything contained in any other State law for the time being in force, and subject to provisions of sub-section (2), every landless person, occupying land in a slum in any urban area by such date as may be notified by the State Government, shall be entitled for settlement of land and certificate of land right shall be issued in accordance with the provisions of this Ordinance.

(2) The land shall be settled in favour of a slum dweller to the extent specified hereinafter, namely: —

(a) A slum dweller shall be entitled to a land as nearly as may be,—

(i) where the slum is situated within the Municipal Council area, not exceeding forty-five square meter;

- (ii) where the slum is situated within the Notified Area Council area, not exceeding sixty-square meter:

Provided that where a slum dweller is not getting in-situ settlement, in such event the maximum limit of land in a relocation site shall not exceed thirty square meter:

Provided further that where the slum dweller is in occupation of land in any of the area mentioned in sub-clauses (i) or (ii), less than the maximum area mentioned therein, the land in actual occupation of such slum dweller shall be settled accordingly.

- (b) Where the slum dweller belongs to EWS category,—
- (i) the land shall be settled free of cost; and
 - (ii) where settlement of land is made in excess of thirty square meter subject to maximum limit fixed in clause (a), the cost of such excess land shall be calculated at such percentum of the benchmark value of land as may be determined by the State Government, from time to time.
- (c) where the slum dweller belongs to any category other than EWS, the land shall be settled at such cost which shall be calculated at such percentum of the benchmark value of the land, as may be determined by the State Government, from time to time; and
- (d) where a slum dweller occupies land beyond the maximum permissible limit provided under clause (a), he shall voluntarily vacate such excess land and the Authorised Officer shall take over the possession of such excess land before the issue of the certificate of land right.

(3) The land so settled as per sub-section (1) shall be heritable but not transferable by sub-lease, sale, gift, or any other manner whatsoever:

Provided that the land so settled may be mortgaged for the purpose of raising finance in the form of housing loan from any financial institution.

(4) The certificate of land right shall be issued jointly in the name of both the spouses in case of married persons and in the name of single head in the case of a household headed by a single person.

(5) If the slum dweller, with whom the land has been settled or right has been accrued for allotment of any land under this Ordinance, transfers such land except by way of mortgage under sub-section(3) or uses the said land for any purpose other than residential purpose, the following consequences shall follow, namely:—

- (a) the certificate of land right issued under sub-section (1) shall stand automatically cancelled;
- (b) such transfer shall be null and void;
- (c) no right shall accrue to the transferee in respect of such land;
- (d) the Authorized Officer shall dispossess the person who is in actual possession of such land;
- (e) such slum dweller shall be debarred from getting any land in future under this Ordinance; and
- (f) such slum dweller shall be guilty of an offence under this Ordinance.

(6) The slum dweller, with whom the land has been settled under this Ordinance, shall not hold any certificate of land right in any other urban area of the State and if he holds any such

certificate, he shall surrender all such certificates to the Authorised Officer in such manner as may be prescribed.

(7) If any slum dweller is found to have obtained more than one certificate of land rights by way of misrepresentation of facts, the Authorised Officer shall, after giving reasonable opportunity of being heard to the slum dweller, cancel all the certificate of land rights and, without prejudice to the penalty that may be imposed under this Ordinance, dispossess the person from such land.

(8) The evidence for grant of certificate of land right under sub-section (1) in favour of slum dweller shall include—

- (a) Government authorized documents such as Aadhaar Card, voter identity card, ration card under National Food Security Act, 2013, smart card under Rashtriya Swasthya Bima Yojana (RSBY) or passport; or
- (b) Government records such as Census, survey, maps, satellite imagery, plans, reports, reports of committees and commissions, Government orders, notifications, circulars, resolutions.

(9) The certificate of land right granted under sub-section (1) shall be acceptable as evidence for address proof of residence.

Redevelopment of slums.

4. (1) Subject to the other provisions of this Ordinance, the land rights conferred under sub-section (1) of section 3 shall, as far as practicable, be provided in-situ and on as-is where-is basis:

Provided that where the State Government decides that the site has untenable settlements, in such circumstances the slum dwellers shall be rehabilitated elsewhere:

Provided further that,—

- (a) where, it is decided that the slum dweller shall be rehabilitated elsewhere, the said site shall be utilized for any other purpose as the State Government may decide;
- (b) where, after providing land in the existing slum to slum dweller, any land remains surplus, the State Government may utilize such land for any purpose as it may decide.

(2) In the event of in-situ redevelopment, the applicable planning and building regulations shall be applied, and wherever any relaxation is felt necessary for implementation of the redevelopment plan, the same may be deemed to have been granted under permissible deviation under the said regulations.

(3) During redevelopment of the slum area, transit space shall be provided to the slum dwellers for such duration as may be necessary as provided under the housing scheme issued by the State Government, from time to time.

Abatement of Proceedings.

5. All proceedings relating to eviction of slum dwellers pending on the ground of unauthorized occupation before any authority or Court under any State law shall abate on issue of certificate of land right under this Ordinance.

CHAPTER III

AUTHORITY AND PROCEDURE FOR SETTLEMENT OF LAND RIGHTS

Urban Area Slum Redevelopment and Rehabilitation Committee.

6. (1) For the purpose of this Ordinance, the State Government shall, by notification, constitute a Committee called the Urban Area Slum Redevelopment and Rehabilitation Committee for each urban area with the name of such urban area, as it deems necessary and such Committee shall have the authority to approve the list of persons on whom the land under this Ordinance shall be settled and shall exercise jurisdiction over the areas and exercise such powers and functions as may be prescribed.

(2) Every Committee shall be headed by the Collector of the district and shall comprise of such other members as may be prescribed.

(3) Without prejudice to the generality of powers and functions under sub-section (1), the Committee shall,—

(a) undertake necessary surveys, undertake spatial mapping, fix the physical boundary of the slums, identify eligible slum dwellers with community participation, prepare and publish the list of slum dwellers to whom certificate of land right has been issued, in such manner as may be prescribed;

(b) for the purpose of facilitating the implementation of the provisions of this Ordinance and rules framed thereunder, constitute such sub-committee for each slum area or cluster of slums, comprising of such number of members as may be specified by the Committee.

(4) For the purpose of efficient functioning of the Committee, the State Government shall provide such officers and employees as may be notified, from time to time.

Conduct of
Business
of the
Committee

7. The procedure and conduct of business and functions of the Committee shall be such as maybe prescribed.

Appeal.

8. (1) Subject to such rules as may be made, an appeal from any decision or order made under this Ordinance shall lie to such officer as may be appointed by the State Government.

(2) Every appeal, preferred under this section, shall be heard and disposed of in such manner as may be prescribed.

(3) Every order passed by the Appellate Authority under this section shall be final.

CHAPTER IV OFFENCES AND PENALTIES

Penalty for
contraventi-
on of the
provision.

9. Whoever contravenes the provisions of sub-sections (5) and (6) of section 3 or fails to comply with any notice or order issued under this Ordinance or rules made thereunder, shall be punished with imprisonment of either description for a term which may extend to one year or with fine, which may extend to twenty thousand rupees, or with both.

CHAPTER V MISCELLANEOUS

Urban
Poor
Welfare
Fund.

10. (1) There shall be constituted a fund called the Urban Poor Welfare Fund at the level of each urban local body to which the moneys received from the slum dwellers under this Ordinance shall be credited and in addition to the same, the following receipts may also be credited to the said fund, namely:—

- (a) contributions from the State Government and Central Government, if any;
- (b) contributions from organizations, philanthropists, individuals and Non-Government Organisations; and
- (c) any other funding source as may be notified by the State Government.

(2) The constitution and administration of the fund shall be in such manner as may be prescribed.

Explanation. — For the purpose of this section, the expression ‘urban local body’ means the Municipal Council and Notified Area Council constituted under the Odisha Municipal Act, 1950.

Odisha
Act 23
of 1950.

Protection
of action
taken
against
good faith.

11. No suit, prosecution or other legal proceedings shall lie against the State Government or any officer or other employee of the State Government or the Committee or any sub-committee constituted under this Ordinance, which is, in good faith, done or intended to be done under this Ordinance.

Nodal
Agency.

12. The State Government or any officer or any Authority authorized by the State Government in this behalf shall be the Nodal Agency for the implementation of the provisions of this Ordinance.

Power to
remove
difficulties.

13. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the State Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary or expedient for the removal of the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Odisha Legislative Assembly.

Bar of
jurisdiction
of Civil
Court.

14. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the State Government or Committee constituted under this Ordinance is empowered by or under this Ordinance to determine 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 Ordinance.

Cognizance
of offence.

15. (1) No court inferior to that of a Judicial Magistrate of First Class shall try any offence punishable under this Ordinance.

(2) No court shall take cognizance of any offence punishable under this Ordinance, except upon a complaint in writing made by the Authorised Officer or any officer of the State Government or Committee, authorized by the State Government.

Power to
make rules.

16. The State Government may, by notification in the Official Gazette, make rules to carry out all or any of the provisions of this Ordinance.

Effect of
other laws.

17. The provisions of this Ordinance or rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other State laws.

(**DR. S. C. JAMIR**)
GOVERNOR OF ODISHA

Dated the 10th August, 2017

B.P.ROUTRAY

Principal Secretary to Government