

**The Odisha Land Reforms Act, 1960**

***Odisha Act 16 of 1960***

**&**

**The Odisha Land Reforms (General) Rules, 1965**

# *Partition among co-sharer raiyats*

*(Section 19)*

1) Partition of a holding among co-sharers shall be valid if made by -

(a) registered instrument;

(b) decree of a Court;

(c) order of the Revenue Officer on mutual agreement;

6) A copy of the order along with the detailed list of lands allotted to each share shall be sent by the Revenue Officer to the Sub-Registrar for registration

*No charges for registration (both stamp duty and registration fee vide circular no. 9359 dated 15.02.1999) shall be paid*

## *Manner of Partition among co-sharer raiyats* *(Rule 19)*

- The application shall cite other co-sharer raiyats and the landlord as opposite-party
- One application for partition of holdings, if situated in the same village and if they belong to the same co-sharer raiyats under the same landlord
- The application can be allowed only when **all the co-sharer raiyats give their consent** to the partition applied for
- If there is any difference of opinion among the co-sharer raiyats, the application for partition shall be rejected

## ***Restriction on alienation of land by STs and SCs***

***(Section 22)***

- (1) Transfer of a holding or part thereof by a Scheduled Tribe shall be void except where it is in favour of -
  - (a) a Scheduled Tribe
  - (b) non-Scheduled Tribe with the previous permission of the Revenue Officer
- (3) ST land shall not be sold in execution of a decree to any non-ST

- (4) No registering officer shall register any document of transfer of a ST land unless it is accompanied by the permission of the Revenue Officer
- (5) The provisions contained in sub-sections (1) to (4) shall apply, *mutatis mutandis*, to the transfer of a holding or part thereof of a raiyat belonging to the Scheduled Caste

(6) Nothing in this section shall apply -

(a) to any sale in execution of a money decree passed, or to any transfer by way of mortgage executed, in favour of any scheduled bank or any bank to which the Odisha Co-operative Societies Act, 1962 applies; and

(b) to any transfer by Scheduled Tribe within a Scheduled Area

## *Effect of transfer in contravention of Section 22*

*(Section 23)*

- (1) Revenue Officer on his own information or on application of any person interested in the land, issue notice to the transferor and transferee to show cause why the transfer should not be declared invalid. RO may order such portion of the penalty as he deems fit, to be paid to the transferor or his heir.
- (2) After inquiry and hearing, Revenue Officer may declare such transfer to be invalid and impose on the **transferee** a penalty not exceeding two hundred rupees per acre of the land for each year.

## *Effect of transfer in contravention of Section 22 cont... (Section 23)*

(3) Restoration of the property to the transferor or his heirs  
*Explanation - Restoration of the property means **actual delivery of possession** of the property to the transferor or his heir.*

If restoration of the property is not reasonably practicable, subject to the control of the Government, same can be settled with another ST person or in absence of ST person, with any other person in accordance with the OGLS Act

(4) Where any transfer is declared invalid and the transferee has been evicted from the property, the transferee shall not be entitled to the refund of any consideration money

## *Eviction of person in unauthorized occupation of property* *(Section 23-A)*

Any person in unauthorised occupation of a holding of SC or ST raiyat within any part of the State **other than a Scheduled Area**, by way of trespass or otherwise, the Revenue Officer order eviction of the person and shall cause restoration of the property to the said raiyat or to his heir

# *Burden of proof*

*(Section 23-B)*

(1) If in any proceedings under section 23, the validity of the transfer of any holding or any part thereof is called in question, the burden of proving that the transfer was valid shall, lie on the **transferee**

# CEILING AND DISPOSAL OF SURPLUS LAND

## *Definitions*

## Section 37

(a) **Person:** company, family, association or other body of individuals, any institution capable of owning or holding property;

(b) **Family:** the individual, the husband or wife, their children, whether major or minor, but does not include a major married son who had separated before the 26th day of September, 1970

## *Ceiling Area*

(Section 37-A)

- 10 standard acres per person
- Family consisting of more than five members, the ceiling shall be ten standard acres increased by 2 standard acres for each member in excess of 5, the total ceiling area shall not exceed 18 standard acres

## ***Persons not entitled to hold land in excess of ceiling area***

### **Section 37-B**

No person shall be entitled to hold any land in excess of the ceiling area.

## ***Exemption from ceiling***

### **Section 38**

Save as otherwise provided in this section, the provisions of this Chapter shall not apply to-

- (a) lands held by a privileged raiyat
- (b) lands held by industrial or commercial undertakings or mills, factories or workshops
- (c) plantations (cultivation of coffee, cocoa or tea)
- (d) lands held by any agricultural university, agricultural school or college, or any institution conducting research in agriculture

## ***Principles for determining the ceiling area*** (Section 39)

In determining the ceiling area in respect of a person, the following principles shall be followed, namely :-

- (a) homestead lands, or tanks with their embankments, or both, to the extent of 3 acres shall not be taken into account ;
- (b) transfer of any land by sale, gift or partition by a person during the period beginning with the 26.09.1970 and ending with the commencement of the OLR (Amendment) Act, 1973, if such person was holding land on the said day in excess of the ceiling area, be deemed to be void;
- (bb) the lands so transferred or partitioned shall be taken into account as if the transfer or partition had not taken effect;
- (c) the person is a member of a co-operative farming society, the extent of land which he would get as his share shall be taken into account;
- (d) lands in the possession of a tenant or a mortgage shall be deemed to be lands held by the person.

*Prohibition of transfer and partition of land and restriction of suits for specific performance of contracts*  
*(Section 40)*

(1) No person holding land in excess of the ceiling area shall, after the commencement of the OLR (Amendment) Act, 1973, transfer by sale, gift or effect any partition of such land until the surplus land is determined and taken possession of by the Government and all transfers made and partitions effected in contravention of this sub-section shall be void :

(a) Shall not apply to any transfer by way of mortgage executed in favour of -

- (i) Central Government or any State Government;
- (ii) any public financial institution;
- (iii) any bank;
- (iv) any corporation;
- (v) any company in which not less than fifty-one per cent share is held by the Central Government State Governments;

(b) any sale of land in execution of a decree or for the realisation of money due under any such mortgage.

## *Submission of returns* (Section 40-A)

(1) Every person holding in excess of the ceiling area shall submit a return to the Revenue Officer within 90 days commencement of OLR (Amendment) Act, 1973 in form return indicating the parcels of land which he wishes to retain and the “surplus lands”.

A person who has made any transfer in contravention of section 40, shall not indicate the parcels of land which he wishes to retain.

## ***Responsibility for submitting returns*** (Section 41)

The return shall be submitted –

- (1) by the individual or guardian in case of minor;
- (2) by the head of the family or any member thereof or by all the members jointly :

## ***Preparation and publication of draft statement showing ceiling and surplus lands (Section 43)***

(1) The Revenue Officer shall prepare a draft statement showing -

- (a) the total area of land held by the person;
- (b) the surplus area ;
- (c) the specific parcels of land to be retained by the person and the total area;
- (d) the specific parcels comprising the surplus lands;
- (e) lands if any exempted under section 39;
- (f) such other particulars as may be prescribed ;

(2) the draft statement shall be published inviting objections within thirty days. After hereby the objection and making enquires and after consulting the local committee, the Revenue Officer may alter or amend the draft statement :

## *Final statement of ceiling and surplus lands (Section 44)*

- The Revenue Officer shall by order confirms the draft statement
- Publication of draft statement after confirmation
- The copy of final statement shall then be furnished to the person concerned free of cost

## *Surplus lands to vest in Government*

*(Section 45)*

Surplus land shall vest absolutely in the Government free from all encumbrances with effect from the date on which the statement becomes final

## *Delivery of possession of surplus lands (Section 45-A)*

(1) Person in possession of the surplus lands shall deliver possession to the Revenue Officer within fifteen days from the date of vesting of the lands in the Government or, within fifteen days from the harvesting of crop, whichever is later

(2) If possession is not delivered by the person, the Revenue Officer directs the person to deliver possession within seven days from the date of service of the order

(3) If the person refuses or fails without sufficient cause to comply with the order, the Revenue Officer may take possession of the land using force

*Lands escaping ceiling proceedings to vest along with surplus lands already vested*

*(Section 45-B)*

(1) If within six years from the date of finalisation of the statement under section 44 (3) it is found that some more lands held by such person have escaped inclusion in the above statement, the Revenue Officer may, after giving the person an opportunity of being heard declare the whole or any part of such lands to be surplus land.

## ***Principles to determine 'amount'***

***(Section 47)***

The amount shall be the aggregate of the :

- (a) fifty per centum of the market value of tanks, wells and permanent structures
- (b) fifty per centum of the market value of trees
- (c) value of land

### **Extent of surplus land**

### **Rate of amount**

- |  |                              |
|--|------------------------------|
| (i) For the first ten standard acres.  | Rs. 800/- per standard acre. |
| (ii) For the next ten standard acres.  | Rs. 600/- per standard acre. |
| (iii) For the next ten standard acres. | Rs. 400/- per standard acre. |
| (iv) For the rest                      | Rs. 200/- per standard acre. |

## ***Preparation and publication of Draft Assessment Roll***

***(Section 48)***

Revenue Officer shall prepare and publish draft Assessment Roll inviting claims and objections from persons interested within sixty days

## ***Final Assessment Roll***

***(Section 49)***

Revenue Officer shall after making alterations in the draft Assessment Roll shall finally publish the Roll

## *Payment of amount*

## *(Section 50)*

- The amount shall be paid on and from the date of delivery of or taking over possession of the surplus land
- Interest shall accrue on the unpaid the amount at the rate of two and half per centum per annum

## *Settlement of surplus lands* (Section 51)

- 70% of the surplus lands shall be settled with Scheduled Tribe or Scheduled Caste persons in proportion to their respective populations in the villages
- 30% with other persons
- The percentage of lands to be reserved shall be equal to the percentage of their population
- If sufficient number of ST & SC persons are not available surplus land may be settled with other persons
- Collector with the prior approval of the Government, set apart any surplus lands for public purpose

## Order of priority in settlement of land

- (a) co-operative farming societies formed by landless agricultural labourers
- (b) any landless agricultural labourers of the village
- (c) ex-servicemen or members of the Armed Forces of the Union
- (d) raiyats who personally cultivate not more than one standard acre of contiguous land;
- (e) any other persons

## ***Ceiling on future acquisitions***

***(Section 52)***

*Where lands acquired* subsequent to OLR (Amendment) Act, 1973 by any person through inheritance, bequest, gift, family settlement, purchase, lease or otherwise, together with the lands held by him at the time of such acquisition exceed the ceiling area, shall submit the return required under section 40-A to the Revenue Officer within ninety days from the date of such acquisition

***Explanation I*** - If, as a result of irrigation facilities provided by the Central Government, the State Government, any local authority, if the class of land is upgraded, then it shall be deemed to have been acquired

***Explanation II*** - Homestead lands which have been kept out of account in determining the ceiling area shall, on ceasing to be used as homestead land be deemed to have been acquired

## ***Act not to apply to certain lands***      ***(Section 73)***

Nothing contained in this Act, shall apply -

(a) to the Government in respect of lands held by them and which is used or set apart for any public purpose;

(b) to lands held by

- (i) the Government of India;
- (ii) any local authority;
- (iii) any University established by law in the State;
- (iv) the Bhoodan Yagna Samiti established under the Odisha Bhoodan and Gramdan Act, 1970.
- (v) any Government company as defined in the Companies Act, 1956;
- (vi) any Corporation established under any law in force;

- (c) to any area which the Government may, from time to time by notification in the official Gazette specify as being reserved for urban, non-agricultural or industrial development or for any other specific purpose; and
- (d) to any land which was under the management of any Civil, Revenue or Criminal Court immediately prior to the 26th day of September 1970, for so long as such management continues

**THANK YOU**