

**PROJECT REPORT**

**ON**

**“Settlement of Land for Homesteadless family and  
Landless family under Revenue Laws in Odisha”**

**Submitted by**

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## **1.Introduction:**

Land is very essential need of every person from the point of social, cultural and also economic aspect of a person in the society. For unfair distribution of land in the past some citizens have no right over land. So to solve this problem the State Government has provisions to settle Govt. land for Homesteadless and Landless persons as land comes under the State affairs. At present, Settlement of Govt. waste land is being made according to the executive instructions issued from time to time and also according to provisions in various Acts, Rules, Orders, Customary practices and usages in force in various parts of the State.

Here we shall discuss two major acts OGLS Act 1962 and OPLE Act 1972, Provisions to Settle Govt. waste land for Homesteadless person and Landless person.

## **2.Settlement of Govt.land in favour of Homesteadless person under OGLS Act,1962 and Rules 1983:**

### **(a)Meaning of Homesteadless Person:**

As per the Rule. 2 (V-dd) of The Orissa Government Land Settlement Rules, 1983 Homesteadless Person means,a person who together with all the members of his family living in common mess-

- I. Does not have an annual income together with the annual income of all the members of his family from all sources exceeding 60,000;
- II. does not have any homestead land anywhere in the state; and
- III. owns less than one standard acre of agriculture land.

**(b) Settlement of Govt. land for homestead purposes in rural areas. –**

(1) In each village the land for homestead purposes shall be demarcated separately and for such purposes no settlement shall be made outside the demarcated areas.

(2) The extent of land to be settled in favour of each person having no homestead land shall be 1/10th of an acre. Where the land is not sufficient to accommodate all such persons, settlement shall be made subject to the limit of availability.

**(c) Settlement of Govt. Land in favour of Homesteadless person in urban area.—**

(1) In respect of each plot of land reserved for house-sites which falls under the categories mentioned in Clauses (ii) and (iii) of Sub-rule (1) of Rule 3 the Collector shall, with the approval of the Revenue Divisional Commissioner, fix a minimum premium; equal or approximate to the market value of the land prevailing in the urban area for similar lands in the vicinity, for payment by persons for whom such reservation is meant. The premium so fixed shall be received every three years and revised with the approval of the Revenue Divisional Commissioner. For areas where the prices of house-sites rapidly fluctuate, the Collector may get the rate revised at shorter intervals.

**(d) Leasability criteria for Land to be Settled**

1. The land applied for lease shall be free from encroachment.

2. There shall not be any sairat source over the land.

3. The suit land shall be connected with road.

4. The suit land shall not be a forest land. Before submission of the proposal, the DLC report shall be verified. Forest land can not be leased out without the prior approval of Ministry of Environment and Forest in view of the provisions

of Forest (Conservation) Act, 1980 read with the order dated 12.12.1996 passed by the Hon'ble Supreme Court of India in W.P. ( C ) No. 202/95.

5. The suit land shall not be leased out to any individuals/ organization earlier. Lease register shall also be verified regarding pendency of any application pertaining to the suit plot.

6. There shall not be any communal right of the public over the suit land.

7. The guidelines contained in R & DM Department letter No. 25616 dt. 27.08.2014 shall be followed regarding change of classification of land classified as communal in the Record of rights. The earlier instruction issued by the erstwhile revenue and Excise Department letter No. 44485/R DT. 05.10.1991 was withdrawn.

#### **(e) Stages of Lease Case:**

1. Filing of application in Form-I( application by individuals) / Form II ( application by other than individuals).

2. On receipt of applications, they shall be forthwith entered chronologically in the lease register maintained in Form No. II.

3. There shall be two registers one for the urban area and another for the rural area.

4. Verification of records by the R.K.

5. Field verification report from the R.I.

6. The Tahasildar shall issue proclamation in Form No. III inviting public objection. If he is satisfied that the suit land is leasable and the applicant is eligible.

7. General proclamation shall be published in the locality in the manner as prescribed in Rule 5(5).

8. On expiry of thirty days from the days of publication of the proclamation, the Tahasildar shall hear and disposed of objection petition received during the proclamation period.

9 There after the case record will be submitted to the Sub-Collector.

10. While submitting the case record, the Tahasildar shall pass orders carefully. The order of the Tahasildar shall contain

- a) The provisions of law on which the case is initiated.
- b) Name and detail address of the applicant. c) Detail land schedule.
- d) Eligibility of the applicant.
- e) Leasability of the suit land.
- f) Regarding de-reservation (for Gochar land) and change of classification u/r 34.

### **3.SETTLEMENT OF LAND FOR LANDLESS AND HOMESTEAD LESS FAMILIES UNDER OPLE ACT 1972 & RULE 1985**

#### **(a)Meaning of Landless and Homesteadless Person**

As per the Sec. 3 (a-1) of the OPLE Act,1972 *Landless less* person means a person whose total extent of lands along with the members of his family living in a common mess , is less than one standardacre and whose total annual income along with all the members of his family who are living with him in common mess does not exceed rupees 60000.

As per the Sec. 3 (a-2) of the OPLE Act,1972 a *homestead less* person means-

- a person who, together with all the members of his family who are living with him in common mess, does not have any homestead land anywhere in the state,
- Owns less than one standard acre of land other than homestead.

- Whose total annual income, together with the annual income of all the members of his family living with him in common mess, does not exceed rupees 60,000.

**(b) Settlement of Govt.land for Landless and homesteadless persons in rural areas. –**

The OPLE Act and Rules deals with the Government lands that are encroached or in possession of a person,

As per Section. 7 of the Act, Where the land is occupied by a homestead less person and utilized for homestead purposes, Tahasildar shall settle the same maximum 1/10th of an acre.

No land will be settled if the land is

- gochar, rakhit or sarbasadharan
- If set apart for the common use of the village Used as house site, backyard of temple site Likely to be required for any development purpose
- Land belonging to any undertaking owned and controlled by Govt.
- Land of other Department.

**(c) Settlement of Govt.land for Landless and homesteadless persons in urban areas. –**

If the land is in urban area;

- The settlement will be done by Sub-collector on reference of Tahasildar.
- Not more than 1/10th of an acre be settled.
- The land so occupied is adjacent to his holding and beneficial for use.
- The settlement shall not take effect until;
- The order of settlement made by sub-collector is confirmed by Collector.

- The person pays the market value of the land assessed by sub-collector.
- Provided that on failure of payment of the market value within the timeline, the person shall be summarily evicted.

#### **(d) Manner of settlement of encroached Govt. land under Section 7**

(1) Before the Tahasildar proceeds with the settlement of unauthorisedly occupied land under Sub-section (2) of Section 7 for homestead purpose, he shall publish a proclamation in Form "J" inviting objections, if any, fixing a date for hearing of objections.

(2) Such proclamation shall be published by beat of drums and by affixing a copy of the same at a conspicuous place in the village in which the land is situated in the presence of not less than two persons. If the village is uninhabited, the notice shall be published in the aforesaid manner in the nearest inhabited village. A copy of the proclamation shall be published by affixing in the Notice Board of the Tahasil Office and a copy thereof shall also be sent to the Grama Panchayat, Notified Area Council/Municipality/ Special Planning Authority, or the Development Authority as the case may be, under which the land is situated.

(3) On expiry of a period of fifteen days from the date of publication of the proclamation in the village and after hearing the objection, if any and after conducting such enquiry as he may consider necessary, the Tahasildar shall record a finding stating whether the land can be settled in favour of the encroacher under the Act. If the Tahasildar comes to a finding in favour of the encroacher under the Act. If the Tahasildar comes to a finding that the land cannot be settled for the encroacher is not entitled to settlement, he shall proceed to evict the encroacher as prescribed under the Act.

(4) If the Tahasildar comes to a finding that the land can be settled if the encroacher is entitled to settlement under the Act, he shall make an order granting such settlement and issue an intimation slip in Form "F" in the name of the person concerned and shall cause correction of the record-of-rights in his office and in the office of the Revenue Inspector as well.



(5) If the encroached land is situated within an urban area the Tahasildar shall record his finding in the case record and on being satisfied that there is no prima facie objection, he shall direct the encroacher to file an affidavit in Form "E" if not already filed, to the effect that neither he nor any member of his/her family living with him in common mess owns a house or house-site anywhere in the State except in respect of the land required for beneficial enjoyment of a holding as mentioned under Subclause (ii) of Clause (b) of the second provision to Sub-section (2) of Section 7. Thereafter he shall send the case record to the concerned Subdivisional Officer, who shall, on receipt of the same, order the encroacher to pay the assessment/penalty and fine, if any, already levied or imposed by the Tahasildar and shall determine the market value which shall be the same as has been fixed for the urban- area under

Rule 8 of the Orissa Government Land Settlement Rules, 1983: Provided that Government may direct a lower market value to be paid by a specified class of persons.

(6) Thereafter, the Sub-Divisional Officer shall order settlement of the land and send the case record to the Collector of the district for confirmation.

(7) If the Collector is satisfied on scrutiny of the case record that the procedure prescribed under the Act and these rules have been observed he shall confirm the order of the settlement passed by the Sub-Divisional Officer in the same case record. If he is not satisfied about the procedure followed or he considers that the land cannot be settled or the encroacher is not entitled to settlement under the Act, he shall send back the case record to the Tahasildar through the Sub-Divisional Officer, for effecting eviction of the encroacher.

(8) In all cases where settlement is granted, the Sub-Divisional Officer shall direct the encroacher to pay the market value so determined by a date not later than ninety days from the date of order in one or more instalments to be fixed by him. If the market value is not paid within the period fixed by the Sub-Divisional Office, he shall send back the case record to the Tahasildar for effecting eviction of the encroachment. After the market value is paid an intimation slip in Form "F" shall be issued by the Tahasildar in the name of person with whom the land is settled and ensure demarcation of land and correction of the record-of-rights in his office and in the office of Revenue

Inspector as well. The land ordered for settlement under Sub-rule (4) and (7) shall be recorded in such status as are applicable-to the tenure of similar land in the vicinity for similar purposes under the same terms and conditions which are applicable to such tenures.

#### **4.Conclusion**

It is a very positive sign of the Government of Odisha in giving justice to the Homesteadless families by settling Homstead Land in their favour. It becomes very urgent need of every family to have a house of them in their own land. Though the Govt. has been able to fulfil the idea of equal distribution of land, it has atleast taken a positive stay to ensure Homestead Land to every Homestead less person.

#### **5.Reference**

1. Orissa Government Land Settlement Act, 1962
2. Orissa Government Land Settlement Rules, 1983
3. Orissa Prevention of Land Enchroachment Act, 1972
4. Orissa Prevention of Land Enchroachment Rules, 1985