

Conversion of Agricultural land for non-agricultural purposes under 8-A of OLR Act, 1960- A boon or Bane? The up to date instructions issued by the Government in the matter so far.

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I: Introduction to the subject:

The 1960 Land Reforms Act is a progressive legislation relating to agrarian reforms in as much as its object is introduction of uniformity in the land rights for raiyats, provision of better rights in favor of the temporary leases, share croppers and tenants, conferment of occupancy right in homestead lands, settlement of dispute without the lengthy procedure of civil code by revenue courts, regulation of rent and protection of Scheduled caste and Scheduled Tribe from illegal alienation of their land as well as to limit the scope of resumption of lands by landlords for personal cultivation etc. This Act has undergone a number of amendments over time including a major one in 1965 and still it remains the fundamental motive force behind land reforms in Orissa. The Orissa Land Reforms Act, 1960 can also be seen as a gateway to industrial and infrastructural development. While Section 8A of the OLR Act, 1960 read with the Rule-12 of the Orissa Land Reforms Rules, 1965 provides for a comprehensive process for conversion of Agricultural land for Non-Agricultural purposes, it is also seen as a restrictive legislation regulating and refraining the illegal conversions. In a developing economy the benefits infrastructural and industrial development need to be heralded but never at the cost of depleting agricultural resources, Section-8A of OLR is an exemplary law balancing both the aspects at equilibrium.

II: The provisions of law as enumerated in Section-8A of Orissa Land Reforms Act, 1960

Section-8-A Conversion of agricultural land for purposes other than agriculture.

(1) Notwithstanding anything contained in Section-8-

a) The authorized officer may, where an application is made to him by a raiyat in the prescribed form for the conversion of the use of any agricultural land belonging to him for purposes other than agriculture, allow such conversion, if he is satisfied that such conversion shall not violate –

(i) Any master plan, improvement scheme, development plan or town planning scheme, made or published under the Orissa Town Planning

Improvement Trust Act,1956 or Orissa Development Authorities Act 14 of 1982 or under any law for the time being in force and applicable to such land ; and

(ii) Any other condition or conditions as may be prescribed for the purpose of dealing with bonafide cases of such conversions.

b) In every case where the authorised officer allows conversion of the use of the any agricultural land under clause the raiyat is required to pay conversion fees for such land, calculated at the rate specified in subsection (2) and the kissam of the land so converted shall be corrected accordingly.

c) Where the conversion of the use of any agricultural land by a raiyat for the purposes other than agriculture has been made prior to the commencement of the Orissa land reforms (amendment) Act,1993 or, where the land has been transferred by the raiyat to any other person prior to such commencement, and the transferee uses the land for the purpose other than agriculture, without paying the premium fixed therefore as per the provisions existing prior to the commencement of the Orissa Land Reforms (Amendment) Act,2006, such raiyat or such transferee, as the case may be, is required to pay conversion fees within the prescribed period and in the prescribed manner in respect of that land as calculated at the rate equivalent to 50 per cent of the rate of conversion fees specified against that category of the land in Sub-section(2) and the kissam of the land so converted shall, after the payment, be corrected accordingly ; Provided that if the conversion fees so payable is not paid within the prescribed period it shall be recoverable as an arrear of land revenue.

d) The lands which were deemed to have been surrendered to

Government and settled on lease basis under the provisions of the Orissa Government Land Settlement Act, 1962, prior to the date of commencement of the Orissa Land Reforms (Amendment) Act, 2006, shall cease to be so surrendered and settled on lease basis and be held freely by the raiyat or the transferee as the case may be.

(2) The rate at which the conversion fees shall be payable per acre of agricultural land situated at different places of the State, for conversion of its use to any purpose other than agriculture on and after the commencement of the Orissa Land Reforms (Amendment) Act,1993 shall be as follows :

1	Land situated within any Municipal area or in areas within one-half kilometre on either side of such National Highways as the State Government may , by notification , specify from time to time	Rs.3,00,000/
2	Land situated in any area with in one-fourth kilometre on either side of such State Highways as the State Government may, by notification, specify from time to time	Rs.1,00,000/
3	Land situated in municipal area or a notified area , or in any area notified as urban area under the Orissa Government Land Settlement Rules,1983 made under the Orissa Government Land Settlement Act 1962, other than any land mentioned in Clauses (i) and (ii) .	Rs.75,000/
4	Land situated in such developing area as the State Government may , by notification, specify from time to time, other than any area covered by Clauses (i) (ii) and (iii).	Rs.30,000/

5	Land situated in any area not covered by Clauses (i),(ii) and (iii)	Five percentum of the market value of such land or rupees 1000/- which over is more.
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Explanation–For the purpose of this sub-section,

(a) “Municipal Act” means the Orissa Municipal Act, 1950 ;

(b) “Municipal area “means an area included in a Municipality constituted under the Municipal Act ; and

(c) “Notified Area” means a notified area within the meaning of section 417-A of the Municipal Act.

III: A gist on the procedural aspect

An important component of this Act is the Conversion of agricultural land for non-agricultural purposes wherein a raiyat can file application before the Authorised Officer-cum-Tahasildar for conversion of agricultural land for purpose other than agriculture u/s 8(A) of the OLR Act. It is obligatory on the part of the Tahasildar to verify that the proposed conversion shall not obstruct natural water course there by causing water logging of agricultural land in the neighbourhood and shall not obstruct water courses laid out for carrying water for irrigating agricultural holdings in the neighbourhood. In a case u/s 8(A) of OLR Act. The Tahasildar is required to verify a number of aspects before allowing conversion. The enquiry

report of the R.I. dealing with various aspects of law forms the vital source of information. And accordingly the conversion may or may not be allowed.

IV: A flowchart depicting the procedure of conversion u/s 8 A of OLR. 1960 and Required forms

Raiyat to make an application in duplicate to the Authorized officer in Form No-25 for conversion of his agricultural land for non-agricultural purposes.



The Authorized officer registers a case.



If the land is situated in any area on which the Orissa Town Planning and Improvement Trust Act, 1956 or ODA, 1962 is in force. The Authorized officer shall refer the application in Form No-25 to the concerned Development authority requesting him to furnish its opinion within 30 days, failing which it will be deemed that the said authority has no objection for the said conversion.



The Authorized Officer, to make an enquiry through any sub-ordinate officer after giving the applicant reasonable opportunity of being



The authorized officer should be satisfied that the proposed conversion will not obstruct natural water courses thereby causing water logging of agricultural lands in neighborhood , or, obstruct water courses laid out for carrying water for irrigating holdings in the neighborhood



The said proposal for conversion is rejected if found objectionable and is allowed if found satisfactory according to the provisions of law.



Before settling the land the Authorized officer shall assess the quantum of premium to be paid in accordance to the rate prescribed u/s 8-A (3) of OLR Act, 1960.



The authorized officer shall execute lease-deed in form no-28 within a period of 15 days from the date the premium and land revenue are paid in full.

FORM NO-25

APPLICATION OF A RAIYAT CONVERSION OF AGRICULTURAL LAND FOR NON AGRICULTURAL PURPOSE

See Rule 13-A (1) (a)

To,

The Authorized Officer

1. Name of Raiyat
2. Father's/Husband's Name.....
3. Address.....
.....

4 Specific purpose for which the land will be utilized after conversion

5 Particulars of land.....

- a. Holding No.
- b. Plot No.
- c. Area
- d. Classification and status as per current ROR
- e. Village with Thana No.
- f. Others if any

6. Whether land is situated in any area within one-half k.m. on either side of a national high way/ or one fourth k.m. on either side of state high ways. If so, the details thereof.

7. Whether the land is situated in a Municipal/ NAC/Developing area/Rural area. If so the details thereof.

8. Date of from which the land is intended to be used /already used for non- agricultural purpose

9. Source of Ownership

10. Approximate market value of the land

Signature of the Applicant

FORM NO-28

Notice to Raiyat for Payment of Premium for using his/her Agricultural land for non Agricultural Purposes

See Sub-Rule (3) of Rule of 12-A)

O.L.R.8 (A) Case No.....

From

Revenue Officer, Narla

To,

.....

.....

Whereas the land described in the scheduled below has been used for Industrial/ Commercial/ Other non Agricultural Purposes (Specify the purpose) since

In violation of the provisions of clause (C) of Sub Section 1 of Section 8 of the Orissa Land Reforms Act 1960 and whereas as per provisions of Section 8 (A) of the said Act, you are liable to premium and land revenue in respect of the land as in the schedule

You are here by directed to Rs. (Rupees.....) representation Rs..... as premium and Rs. to arear of land revenue within a period of one month or in four quarterly installments on and failing which steps shall be taken to recover the amount as arear land revenue under Orissa Public Demand Recovery Act. 1962

Schedule of land

Village

Khata No.

Plot No

Area

Signature of Authorized Officer

V: Case study and Order sheet

INDEX-LIIFORMNO.-320.....

O.L.RCaseNo.-162/2018U/s-8(A)

[ORISSACONSTITUTIONBOOK1964ARTICLENO.-207(1)

Tahasil:- Narla, P.S:- Narla, SubDivision:- Bhawanipatana, District:- Kalahandi

Order sheet No and date	Order and Signature of Authority	Description of Order details with date												
1	2	3												
1/ 11.04. 2018	<p>Received an application filed one Jitendra Narayan Nag S/o- Kirtan Nagl, Vill-Tulagaon, P.O Sargiguda, P.S Narla, Tahasil Narla, District-Kalahandi in Form No-25 required under rule-12-A of OLR Rule for conversion of schedule below land for the purpose other than Agriculture u/s 8-A of OLR Act-1960.</p> <p><u>Schedule of land</u></p> <table border="1"> <thead> <tr> <th>Mauza</th> <th>Khata</th> <th>Status</th> <th>Chaka</th> <th>Plot</th> <th>Kissam</th> </tr> </thead> <tbody> <tr> <td>Tulagaon</td> <td>129/158</td> <td>Sthitiban</td> <td>----</td> <td>331/1010</td> <td>Ata</td> </tr> </tbody> </table> <p>Register a case. Ask the Record keeper to report the up to date ROR position within two days. Bench Clerk to put up the case record after verification.</p> <p>Case posted to 14.04.2018</p> <p>Dictated & Corrected</p> <p>Addl Tahasildar Authorized Officer</p>	Mauza	Khata	Status	Chaka	Plot	Kissam	Tulagaon	129/158	Sthitiban	----	331/1010	Ata	<p>Application fee and process fee deposited and necessary documents attached. (Bench clerk)</p>
Mauza	Khata	Status	Chaka	Plot	Kissam									
Tulagaon	129/158	Sthitiban	----	331/1010	Ata									
2/ 14.04. 2018	<p>Case record is put up to me today. Perused the reports as called for. The application is in order. Revenue Inspector, Narla is directed to make an enquiry</p> <p>in presence of applicant or his representative and furnish his report with his opinion by 25.04.2018 with a copy of the trace map.</p> <p>Issue General notice proclamation for publication in the locality inviting objections if any and issue notice to the applicant to appear on 30.04.2018 for hearing.</p> <p>Put up the case record with all compliances on 30.04.2018</p>	<p>R.I report and trace map enclosed. Notice served and SR back (Bench Clerk)</p>												

	<p>Case posted to 30.04.2018</p> <p>Dictated & Corrected</p> <p>Addl Tahasildar Authorized Officer</p> <p>3/30.04.2018 The case record is put upto me today. Applicant is present. Perused the Office report and served notices. The notices have been served and SR back. No Objection from any quarter received.</p> <p>The report of Revenue Inspector, Narla reveals that suit land is Shitiban status and the applicant is using the land for agriculture purpose at present, conversion will not obstruct any water course and also water passage to neighborhood. There is no in conveyance to neighborhood and passage to said land is available. The concerned R.I has also submitted a trace map along with report.</p> <p>In view of the above said facts, I am satisfied that the proposed conversion is genuine and information furnished by the applicant is correct. Hence, the conversion of the above suit land is allowed subject to deposit of the following fees in this tahasil Office/R.I Narla within a period of 30 days. Intimate him in Form no-28.</p> <p>Amount to be deposited:</p> <p>Conversion fee: Rent: Cess: Measurement fee:</p> <p>Dictated & Corrected</p> <p>Addl Tahasildar Authorized Officer</p>	
<p>4/25.05.2018</p>	<p>The applicant has deposited the Govt dues fully i.e Rs..... vide M.R No.....datedas revealed from note and authenticated copy of the receipt attached. Record keeper is</p> <p>Directed to effect necessary correction of ROR within 03 days.</p> <p>Case posted to 28.05.2018</p> <p>Dictated & Corrected</p> <p>Addl Tahasildar Authorized Officer</p>	

5/28.05.2018	Perused the case record. Record correction made. No action pending. The case is closed.	
	Addl Tahasildar Officer	Authorized

VI: Conversion of Agricultural land for non-agricultural purposes under 8-A of OLR Act, 1960- A boon or Bane?

- It will not be wrong to say that conversion of agricultural land for non-agricultural purposes can be seen as a bane likely for the following reasons. In an agrarian economy like Odisha, Conversion can be considered to be hazardous because of the depleting availability of land resources for agriculture.
- It is also pertinent to mention here that the Conversions are more so for commercial purposes wherein the large patches of agricultural lands are sold to real estate stake holders or builders for plotting and selling the land or construction of apartments.
- Many cases have come to light where the real estate managers go on to construct and sell apartments or houses without conversion and later on the buyer bears the wrath of the illegality done without his/her knowledge.
- Land being a limited resource and population being on an burgeoning trend, the issues of food security are likely to arise if rampant conversions of agricultural land for non-agricultural purposes are allowed.
- Land, water and minerals being finite and scarce resources, its need-based allotment to different promoters of industries is required to be made keeping in mind the requirement in future,. The natural resources are not factors of production (only) for industrial growth but also for agriculture production on which

the food security of the country rests, and these also had impact on sustainability of environment and sustenance of livelihood of citizen.

- However, this legislation is a blessing in disguise as it promotes growth which is the key factor for the development to our nations.
- Every conversion is accompanied by the payment of a premium money along with the land revenue generated. While Revenue plays a vital role in boosting the economy of the region it can be considered as a motivator for conversion by the Government. Hence said, the premium generated on the conversion earns Revenue for the Government. The laws of remedial so ensures that cost of conversion in terms of revenue generated is more in case of companies and corporate while setting up Industries and Infrastructure and other commercial purposes than just for homestead purposes.
- The conversion facilitates the usage of agricultural land for certain development purposes which enhances employment and self sufficiency skills.
- Land has an emotive value and a lawful occupancy right bestows the owner with the pride of legally enjoying the benefits of having the Right, Title and interest. Therefore it lawfully bestows occupancy rights on a raiyat.
- The industrial and infrastructure development in turn leads to town planning and development in a certain area. Further educational institutions, (schools, medical colleges , engineering colleges, Universities etc) Roads, industries etc are all the harbinger of development, without which there can be no growth. It is through Conversion only that these parameters of growth can be undertaken and achieved. However, it is extremely important that our growth is Sustainable and Inclusive. Development should not beat the cost of defeating the interests of the marginal section of the society.
- The agricultural laborers or farmers who earn their livelihood should be protected from the hands of the corporate honchos. And the fruits of development should Trickle Down to the last person in the society to ensure equality in growth and development; else the paradox of the rich getting richer and the poor getting

poorer shall prevail. But the OLR Act through its different clauses ensures that agriculture is not affected and enumerates restrictions which will ensure that no conversion is made if those conditions prevail.

VII: The up to date instructions issued by the Government in the matter so far;

The Government of Odisha in the Revenue and Disaster Management Department has actively taken steps to regulate the process of conversion by issuing circulars and notifications from time to time in a bid to make the process stringent and legal.

1. The Government of Odisha in the Revenue and Disaster Management Department **vide Letter No.38971 dtd.11.10.2006** enumerated the following discretions to be followed diligently while disposing the conversion cases: It specified that the Authorized officer should make or cause inquiry as per the provisions u/r 12-A OLR(General) Amendment Rules, 1997 and ensure the following aspects before granting permission.

- ✓ The proposed conversion does not obstruct natural water courses like stream, nala, Nayanjories, or any drainage channel and irrigation channel.
- ✓ It does not cause any inconvenience or difficulty to the neighbouring land owners.
- ✓ It shall be ascertained for what purpose the land will be used after conversion and whether the conversion will not affect the normal agricultural operation in the neighborhood.
- ✓ It should be seen that whether the present conversion along with the conversion already allowed will obstruct the passage of men, animals and agricultural implements.
- ✓ It should also be seen that small scale industries set up on the converted

land do not affect in any way the agricultural operation in the neighboring plots.

- ✓ All concerned to follow the procedure laid down in Rule 12-A of the Act meticulously and ensure that no agricultural land particularly lying in ayacut areas of irrigation projects are allowed for conversion for nonagricultural purpose without sufficient reasons.
 - ✓ It is also equally important that the revenue machinery is watchful as to whether cases of conversion may be happening without valid orders under Section 8-A of OLR Act.
 - ✓ All steps need to be taken to see that the conversion fees due under the Act is realized without fail.
 - ✓ The authorized officer, while conducting enquiry in the field shall also verify the physical status of neighboring lands. He shall initiate cases U/S 8(1)(C) of OLR Act against such neighboring raiyats, if they have unauthorized conversion of agricultural land for nonagricultural purposes. He should appropriately dispose of such cases of neighboring lands, so that agricultural land conversion to non-agriculture purposes shall necessarily happen only after realization of conversion fees and the valid orders U/S 8 of OLR Act, but not otherwise.
2. Subsequently the Government of Odisha in the Revenue and Disaster Management Department vide Letter No.24350 dtd.03.06.2011 cautioned the authorized officers to look into the matters regarding sale of agricultural land through plotted housing schemes for non-agricultural purpose without conversion u/s-8A of OLR Act. Apart from invoking the provisions of Sec-8(1) and 8(2) of OLR act in case of erring raiyats liable for eviction for having used agricultural lands in a manner which renders it unfit for the purpose of agriculture, the Government also directed that wherever instances of builders selling agriculture lands to customers in plotted housing schemes are noticed steps should be taken to initiate proceedings for eviction u/s-8 of the OLR Act. In any other case of violation of section-8 also similar action should betaken.

3. The letter no-18125 dtd.10.06.2016 directed the applicability of sec-8A of OLR act 1960 in urban areas after coming in to force of the Odisha development authorities' amendmentact2015. The Govt. after careful consideration enumerated the following points for evolving a smooth practice and procedure in implementation of the afore-said Acts:

i) In view of the provision under sec-119(3) of Odisha development authorities' act 1982, the conversion fees at the rate provided in sec-8A of the OLR Act. 1960 shall be collected

ii. The development authorities shall intimate the layout plan, the final town planning scheme duly sanctioned by government and notified under sec-48 of ODA Act, development scheme or land pooling scheme, duly approved by the competent authority to the concerned Tahasildar for effecting correction of kism from agriculture to non-agriculture

iii. The concerned development authorities shall also intimate if the conversion of fees at the rate specified U/S 8A has been collected or not U/S 119(3) of ODA Act the copies of the fee collection receipts may be furnished to the concerned Tahasildar.

iv. On receipt of such intimation the Tahasildar shall initiate the OLR cases and after ensuring collection of conversion fees, if not collected, shall effect correction of ROR.

v. The kissam of land in case of private holdings shall be recorded as Gharabari after conversion in the ROR. If the lands are proposed to be used for any other infrastructure development as per the scheme the same may be recorded as such in the ROR like road, park etc and kept in the Govt. khata.

4. The notification dtd.9781 dtd.23.03.17 ,in pursuance to Clause 3-a of Sec-2 of OLR Act,1960 appointed all Sub-Collectors as Authorized Officers u/s-8A of the said Act in their respective Sub-division Headquarter tahasils for conversion of land

measuring one-fourth of an acre or more than that. In these cases, the Tahasildar concerned shall initiate the OLR case for the purpose and allow conversion with due approval of the Sub-collector. For the area measuring less than one-fourth of an acre in the Sub-division Head quarter of Tahasil, the respective Tahasildar will continue as the Authorized Officer for conversion under the OLR Act except where the local Development Authority has given permission for conversion with reference to Section-119 (3) of ODA Act as amended in the year2015.

5. The Government of Odisha in the Revenue and Disaster Management Department vide Letter No.44549 dtd.22.12.2017 constituted a committee under the Chairmanship of the RDC (of the concerned division) in pursuance to the judgement of the Hon'ble High Court in W.P © no-8797 of 2004 and O.J.C No 6721 of 1999 for the protection, preservation and conservation of water bodies (jalasayakisam) in urban areas of the State.

VIII: Conclusion:

Land being a limited resource should be preserved and used in a view to achieve sustainable development. Generally when such lands are acquired and used for industrial purposes, a proper balance between land use for agricultural and industrial purposes has to be worked out. The optimization of the conversion of agricultural land to industrial land in rural areas forms the bases for the sustainable development of rural areas. Moreover, the importance of the restructuring of rural areas also plays a significant role in agriculture and development of the nation.