

## ORISSA REGULATION 1 OF 2002

**THE ORISSA SCHEDULED AREAS TRANSFER OF IMMOVABLE PROPERTY  
(BY SCHEDULED TRIBES) AMENDMENT REGULATION, 2000**

[Received the assent of the President on the 20th August 2002, published in an extraordinary issue of the *Orissa Gazette*, dated the 4th September, 2002 (No. 1429)]

## A

## REGULATION

**FURTHER TO AMEND THE ORISSA SCHEDULED AREAS TRANSFER OF  
IMMOVABLE PROPERTY (BY SCHEDULED TRIBES) REGULATION, 1956.**

Whereas it is expedient to amend the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 ;

Now, therefore, in exercise of the powers conferred by sub-paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitution of India, the Governor of Orissa is pleased to promulgate the following Regulation made by him in the Fifty-first Year of the Republic of India:—

Short title.

1. This Regulation may be called the Orissa Scheduled Areas Transfer of Immovable Property, (By Scheduled Tribes) Amendment Regulation, 2000.

Amendment  
of section 2.

2. In section 2 of the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 (hereinafter referred to as the principal Regulation),—

Orissa  
Regulation 2  
of 1956.

(i) clause (aa) shall be omitted ;

(ii) for clause (b), the following clause shall be substituted, namely:—

“(b) “Grama Panchayat” and “Grama Sasan” shall respectively mean the Grama Panchayat and Grama Sasan as defined in the Orissa Grama Panchayats Act, 1964 ;” ; and

Orissa Act  
of 1965.

(iii) clause (e-1) shall be omitted.

Amendment  
of Section 3.

3. In Section 3 of the principal Regulation,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Notwithstanding anything contained in any law for the time being in force any transfer of immovable property by a member of a Scheduled Tribe, except by way of mortgage executed in favour of any public financial institution for securing a loan granted by such institution for any agricultural purpose, shall be absolutely null and void and of no force or effect whatsoever, unless such transfer is made in favour of another member of a Scheduled Tribe :

Provided that—

(i) nothing in this sub-section shall be construed as to permit any member of a Scheduled Tribe or his successor-in-interest to transfer any immovable property which was settled with such member of Scheduled Tribe by or under any authority of the State or the Central Government or under any law for the time being in force ;

(ii) in execution of any decree for realisation of the mortgage money, no property mortgaged as aforesaid shall be sold in favour of any person not being a member of a Scheduled Tribe ; and



- (iii) a member of a Scheduled Tribe shall not transfer any land if the total extent of his land remaining after the transfer will be reduced to less than two acres in case of irrigated land or five acres in case of unirrigated land.

*Explanation I*—For the purposes of this sub-section, a transfer of immovable property—

- (a) in favour of a female member of a Scheduled Tribe, who is married to a person not belonging to any Scheduled Tribe, shall be deemed to be a transfer made in favour of a person not belonging to a Scheduled Tribe; and

- (b) shall include a transfer of immovable property to a person belonging to a Scheduled Tribe for consideration paid or provided by another person not belonging to any such Tribe.

*Explanation II*—For the purposes of clause (iii) of the proviso, the expression “irrigated land” shall mean such land which is irrigated at least for one crop in a year, and the expression “unirrigated land” shall be construed accordingly; and

- (b) in sub-section (2),—

- (i) after the words “any one interested therein”, the words “or on information received from the Grama Panchayat” shall be inserted; and

- (ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that where it is decided by the competent authority to settle the said property with any person other than a person belonging to a Scheduled Tribe in accordance with the Orissa Government Land Settlement Act, 1962, he shall obtain prior approval of the concerned Grama Panchayat, accorded with the concurrence of the Grama Sasan.”;

Orissa Act  
33 of 1962.

Amendment  
of section  
3-A.

#### 4. In section 3-A of the principal Regulation,—

- (a) in sub-section (1), after the words “any person interested therein” the words “or on information received from the Grama Panchayat” shall be inserted; and

- (b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) In every case after finalisation of the proceedings under sub-section (1), the competent authority shall make a report to the concerned Grama Panchayat about the order of ejection passed in respect of any person in unauthorised occupation of any immovable property of a member of a Scheduled Tribe and the restoration of possession of the property to such member on his heirs and in case of failure of such restoration, the reasons for such failure.”.

Insertion of  
new section  
3-B.

Reversion of  
land of  
members of  
Scheduled  
Tribes which  
was trans-  
ferred by  
fraud.

#### 5. After section 3-A of the Principal Regulation, the following section shall be inserted, namely:—

“3-B. (1) Every person who, on the date of commencement of the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Amendment Regulation, 2000 (hereinafter referred to in this section as the Amendment Regulation of 2000), is in possession of agricultural land which belonged to a member of a Scheduled Tribe at anytime during the period commencing on the 4th October, 1956 and ending on the date of commencement of the Amendment Regulation of 2000 shall, within two years of such commencement, notify to the Sub-Collector in such form and in such manner as may be prescribed, all the information as to how he has come in possession of such land.

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(2) If any person fails to notify the information as required by sub-section (1) within the period specified therein it shall be presumed that such person has been in possession of the agricultural land without any lawful authority and the agricultural land shall on the expiration of the period aforesaid, revert to the person to whom it originally belonged and if that person be dead, to his heirs.

(3) On receipt of the information under sub-section (1), the Sub-Collector shall make such enquiry as may be necessary about all such transactions of transfer and if he finds that the member of Scheduled Tribe has been defrauded of his legitimate right he shall declare the transaction null and void and,—

(a) where no building or structure has been erected on the agricultural land prior to such finding, pass an order revesting the agricultural land in the transferor and if he be dead, in his heirs;

(b) where any building or structure has been erected on the agricultural land prior to such finding, he shall fix the price of such land in accordance with the principles laid down for fixation of price of land in the Land Acquisition Act, 1894 and order the person referred to in sub-section (1) to pay to the transferor the difference, if any, between the price so fixed and the price actually paid to the transferor: 1 of 1894.

Provided that where the building or structure has been erected after the commencement of the Amendment Regulation of 2000, the provisions of clause (b) shall not apply:

Provided further that fixation of price under clause (b) shall be with reference to the price on the date of registration of the case before the Sub-Collector.”.

6. For sections 7 and 7-A of the principal Regulation, the following sections shall be substituted, namely:—

“7. (1) If any person is found to be in possession of any immovable property in contravention of the provisions of this Regulation, then, without prejudice to his liability to ejectment under this Regulation, or where any person, having been evicted under any provision of this Regulation from any immovable property belonging to a member of Scheduled Tribe, continues to be in possession of the same, he shall be punishable with rigorous imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

(2) Where any person, having been evicted under any provision of this Regulation from any immovable property belonging to a member of a Scheduled Tribe, reoccupies the same shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both.

(3) When a Court imposes sentence of fine or a sentence of which fine forms a part, the Court may, when passing judgement, order the whole or any part of the fine to be paid to the member of Schedule Tribe to whom the immovable property belongs, or to his heirs.

7-A. (1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of the offences under this Regulations, and on such conferment of powers the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973, to be a Judicial Magistrate of the first class or of the second class, as the case may be. 2 of 1974.

(2) An offence under this Regulation may be tried summarily by a Magistrate.

(3) Every offence under this Regulation shall be cognizable.”.

Amendment  
of sections 7  
and 7-A.

Punishment  
of offences.

Offences to  
be tried by  
Executive  
Magistrate  
and to be  
cognizable.



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