

REGISTERED No. P-390.



The Orissa Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY.

CUTTACK, MONDAY, SEPTEMBER 13, 1937.

LAW AND COMMERCE DEPARTMENT.

NOTIFICATION.

The 11th September 1937.

No. 6839-L.—The following Bill which it is proposed to introduce in the Orissa Legislative Assembly is hereby published under rule 77 of the Orissa Legislative Assembly Rules, 1937, for general information.

**THE MADRAS ESTATES LAND
(ORISSA AMENDMENT) BILL,
1937.**

AN ACT TO AMEND THE MADRAS ESTATES
LAND ACT, 1908, AND TO AMEND THE
MADRAS ESTATES LAND (AMENDMENT)
ACT, 1934, IN THEIR APPLICATION
TO THE PROVINCE OF ORISSA.

Preamble.

WHEREAS it is expedient further ^{Madras Act I} to amend the Madras Estates ^{of 1908.} Land Act, 1908, in its application to the province of Orissa in the manner hereinafter appearing;

It is hereby enacted as follows—

Short title and commencement.

1. (1) This Act may be called the Madras Estates Land (Orissa Amendment) Act, 1937.

(2) It shall come into force at once.

Amendment of section 25, Madras Act I of 1908.

2. In the first paragraph of section 25 of the Madras Estates Land Act, 1908 (hereinafter referred to as the said Act), for the word "neighbourhood" the words "the nearest ryotwari area in the district as determined by the Collector" shall be substituted.

Amendment of section 28, Madras Act I of 1908.

3. In section 28 of the said Act between the words "this Act" and "the rent or rate of rent" the words "unless otherwise provided" shall be inserted.

Amendment of sub section (3) of section 40, Madras Act I of 1908.

4. In sub-section (3) of section 40 of the said Act the following amendments shall be made, namely:—

(i) for clause (a) the following shall be substituted, namely:—

"the average value of the rent actually received by the landlord during the ten years preceding

the date of application or during any shorter period for which evidence may be available”;

- (ii) in clause (b) for the words “in the same village or neighbouring villages or where there are none such, in the village of a neighbouring taluq” the words “in the nearest ryotwari area in the district as determined by the Collector” shall be substituted.

Amendment of sub-section (2) of section 168, Madras Act I of 1908.

5. After sub-section (2) of section 168 of the said Act, the following shall be added, namely:—

“Provided that no rent or rate of rent shall be deemed to be fair and equitable which exceeds by more than two annas per rupee the rent or rate of rent for similar lands with similar advantages in the nearest ryotwari area in the district as determined by the Collector”.

6. After section 180 of the said Act, the following sections shall be inserted, namely:—

Insertion of sections 180-A and 180-B, Madras Act I of 1908.

“180-A. (1) Notwithstanding anything contained in this Act where the rent of any land has been commuted under section 40 or settled under Chapter XI prior to the date of commencement of the Madras Estates Land (Orissa Amendment) Act, 1937, the ryot may, by application made within three years of the said date, and, on payment of the fees prescribed in this behalf, apply for a revision of the settled rent on the ground that the rent or rate of rent payable by him is not fair and equitable and exceeds by more than two annas per rupee the rent or rate of rent payable by ryots for land of a similar description and with similar advantages in the nearest ryotwari area as determined by the Collector.

“(2) On the making of an application under sub-section (1), the Collector shall, after enquiry in accordance with prescribed rules, determine the rent or rate of rent payable by the ryot which is fair and equitable and in doing so shall have regard to the rent or rate of rent payable by ryots for land of a similar description and with similar advantages in the nearest ryotwari area as determined by the Collector:

“Provided that no rent or rate of rent shall be deemed to be unfair which does not exceed by more than two annas per rupee the rent or rate of rent prevailing in the said ryotwari area for such land:

“(3) An appeal shall lie to the Collector of the district from any order passed under sub-section (2) by an officer subordinate to him within 30 days of the order, and an appeal preferred within 2 months shall lie to the Revenue Commissioner from any order passed by the Collector of the district under this sub-section or sub-section (2) and the order of the Revenue Commissioner on appeal shall be final and shall not be questioned in any civil court.

“180-B. After the commencement of the Madras Estates Land (Orissa Amendment) Act, 1937, the provisions of section 39-A of the said Act shall not apply to any rent commuted, settled or revised under sections 40, 168 and 180-A.”

7. In sub-clause (d) of clause (1) and clause (1-A) of the second paragraph of section 215 of the said Act, after the words and figures “section 39-A” the words and figures “and section 180-A” shall be inserted.

Amendment of
section 215,
Madras Act I of
1908.

STATEMENT OF OBJECTS AND REASONS.

It is generally known that the rates of rent in the proprietary estates in South Orissa are extraordinarily high as compared with the rates prevailing in the ryotwari area. In the ryotwari area, half the net profits of the cultivator is aimed as a standard in fixing the rents whereas in the proprietary estates ordinarily half the gross produce is considered as the landholder's due and the rent in the proprietary area, as a matter of fact, is based on that theory. What happens often is that the landholder leases out the ryoti lands in entire villages either to the collective body of villagers or to mustajirs, and the rent recovered is but the cash equivalent of half of the estimated gross produce. In course of the settlement proceedings under chapter XI of the Madras Estates Land Act, 1908, the Revenue Officer is required to have regard to the provisions of the Act in determining the rates of rent payable by a ryot. Under section 40 of the Act, the officer settling or commuting rents into money rents has to consider two factors, namely, the rents prevailing in the neighbourhood and the average value of the rent which actually accrued due to the landholder during the preceding period of ten years other than the declared year of famine. The great majority of ryots in the proprietary estates are liable to pay half the gross produce or its cash equivalent, and therefore there are practically few representative cash rents or rates of rent which are worth the consideration in fixing a fair rent in the proprietary estates. Furthermore, the small profits of the landholder on the low yield during famine years is left out of account, and the rents which accrued due in previous years, *i. e.*, the high rents stipulated (and not the value of rents actually paid eventually) is taken into consideration. Such a procedure has resulted in pitching up the rents of ryots in proprietary estates unfairly high. The interpretation of the "neighbourhood" in the application of prevailing rents has been rather too rigid and inelastic and in practice has not been allowed to apply to the rent prevailing in the ryotwari area in the vicinity or the neighbouring taluk. In the absence of representative cash rents or rates of cash rents within the proprietary area, the procedure of the Settlement Officer has been merely mechanical; he takes the theoretical rents stipulated during the 10 previous non-famine years and distributes the average value of the rents on the ryoti area in accordance with the taram or class of soil and fixes a rent which is said to be fair and equitable. The ordinary pitch of rents in the Government ryotwari area for similar lands with similar advantages is far less than what obtains in the proprietary area. The Bill therefore proposes to make it imperative on the revenue officers settling rent in the proprietary area to have regard to the rents or rates of rent prevailing in the ryotwari area, and this is calculated to give the ryots of the proprietary area a much desired relief.

N. KANUNGO,
Member in charge.

C. G. NAIR,
Secretary, Law and Commerce Department.

Published by order of His Excellency the Governor.

C. G. NAIR,
Secretary, Law and Commerce Department.



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HOME DEPARTMENT.

NOTIFICATION.

The 10th September 1937.

No. 10934-A.—In modification of the orders contained in notification no. 7909-A., dated the 20th July 1937, His Excellency the Governor is pleased to direct that up to and including the 30th September 1937, the charge of business arising in the Home Department shall be assigned to the Hon'ble Mr. Kanungo and the charge of business arising in the Education Department shall be assigned to the Hon'ble Mr. Dube; save that if the Hon'ble Minister or the Secretary concerned consider any case of special importance he shall submit it to the Hon'ble the Chief Minister before orders of Government are passed on it.

By order of the Governor,

P. T. MANSFIELD,

Chief Secretary to Government.