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The Orissa Communal Forest and Private Lands (Prohibition of Alienation) Act, 1948

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**THE ORISSA COMMUNAL FOREST AND PRIVATE LANDS
(PROHIBITION OF ALIENATION) ACT, 1948
(ACT NO. 1 OF 1948)¹**

(14th February, 1948)

*An Act to prohibit the Alienation of Communal Forest and Private
Lands in the [State]² of Orissa*

Whereas it is *expedient to prohibit the alienation of all communal forest and private lands in the [State]³ of Orissa in the manner hereinafter appearing:*

It is hereby enacted as follows—

1. Short title, extent and commencement.—(1) This Act may be called, the Orissa Communal Forest and Private Lands (Prohibition of Alienation) Act, 1948.

(2) It extends to the whole of the [State]⁴ of Orissa except the district of Sambalpur.⁵

(3) It shall be deemed to have come into force on the 1st day of April, 1946.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Communal land" means—

(i) in relation to estates governed by the Madras Estates Land Act, 1908 (Mad. Act I of 1908), land of the description mentioned in sub-clause (a) or sub-clause (b) of Cl. (16) of Sec. 3 of that Act; and

(ii) in relation to cases governed by the Orissa Tenancy Act, 1913 (B. & O. Act 11 of 1913), lands recorded as gochar, rakshit or sarbasadharan in the record-of-rights or waste lands which are either expressly or impliedly set apart for the common use of the villagers, whether recorded as such in the record-of-rights.

(b) "estate" and "private land" shall have the same meanings respectively assigned to those expressions either in the Madras Estates Land Act, 1908 (Mad. Act I of 1908), or in the Orissa Tenancy Act, 1913 (B. & O. Act II of 1913);

(c) "forest land" includes any waste land containing shrubs and trees and any other class of land declared to be forest land by a notification of the [State]⁶ Government;

(d) "landlord" means—

(i) in relation to estates governed by the Madras Estates Land Act, 1908 (Mad. Act I of 1908), "land-holder" as defined in that Act; and

1 *Legislative Papers.*—For *Statement of Objects and Reasons*, see *Orissa Gazette, Extraordinary*, dated the 20th December, 1947 at p. 70 and for *Proceedings in the Assembly*, see *Proceedings of the Orissa Legislative Assembly*, 1948, Vol VI. at pp. 201-204.

2 *Subs. by the Adaptation of Laws Order, 1950, for "Province".*

3 *Subs. by the Adaptation of Laws Order, 1950, for "Province".*

4 *Subs. by the Adaptation of Laws Order, 1950, for "Province".*

5 *It extends to the partially-excluded areas of Ganjam Agency, district of Koraput, Angul and Khondmals by Notification No. 2910-R, dated the 13th March, 1948, published in the Orissa Gazette, 1948. Pt. III. at p. 142. see also Orissa L.S.R. & O., Vol.I, Pt. X.*

6 *Subs. by the Adaptation of Laws Order, 1950, for "Provincial".*

(ii) in relation to cases governed by the Orissa Tenancy Act, 1913 (B. & O. Act II of 1913), "landlord" as defined in that Act.

3. Prohibition of the alienation of communal forest and private lands. – (1) Notwithstanding anything contained in any other law for the time being in force or any express or implied agreement, but subject to the provisions of sub-section (2), no landlord shall, without the previous sanction of the Collector, sell, mortgage, lease or otherwise assign or alienate or convert into raiyati land any communal forest or private land or create occupancy rights therein:

Provided that nothing in this sub-section shall be deemed to prohibit a landlord from leasing out his private land for a period not exceeding two years without the previous sanction of the Collector.

(3) When a piece of land comes within the definition of "forest" as given in the Orissa Preservation of Private Forests Act, 1947 (Orissa Act VII of 1947), and also within the definition of "communal land" or "forest land" as given in this Act the previous sanction given by the appropriate authority under Cl. (a) of sub-section (1) of Sec. 3 of that Act shall be deemed to be the previous sanction as required by sub-section (1).

(3) Any landlord who contravenes provisions of sub-section (1) and any agent of the landlord who abets such contravention shall be punishable with fine which may extend to one thousand rupees.

Provided that no landlord shall be liable to the penalty provided in this sub-section for any contravention that took place prior to the date of the passing of this Act.

4. Transactions of the nature specified in Sec. 3 to be void.—(1) Any Transaction of the nature prohibited by Sec. 3 which took place on or after the 1st day of April, 1946, shall be void and inoperative and shall not confer or take away or be deemed to have conferred or taken away any right whatever on or from any party to the transaction.

Provided that nothing contained in this sub-section shall be deemed to invalidate—

(i) any such transaction in respect of private land or forest land entered into prior to the 30th day of November, 1947, in favour of any religious, charitable or educational institution or of any hospital or of any local authority or co-operative society registered either under the Madras Co-operative Societies Act, 1932 (Mad. Act VI of 1932), or the Bihar and Orissa Co-operative Societies Act, 1935, (B & O Act VI of 1935), as the case may be, or of any other public body or institution;

(ii) any such transaction in respect of private land or forest land entered into prior to the 30th day of November, 1947, in favour of any person in good faith and for valuable consideration.

(2) If any dispute arises as to the validity of the claim of any person to any land under Cls. (i) and (ii) of the proviso to sub-section (1), it shall be open to such person to apply to the District Judge of the district in which the land is situated for a decision as to the validity of such claim.

(3) The District Judge to whom an application is made under sub-section (2) shall, after giving notice to all the persons concerned in the transaction or interested in the

land, where the application is not made by the ⁷[State] Government, decide whether the claim to the land is valid or not; and his decision shall be final and not subject to appeal or revision in any superior Court.

(4) The ⁸[State] Government may, by notification, make rules,⁹ for the purpose of carrying into effect the provisions of this section and in particular as to the paid in respect of the applications referred to in sub-section (3) and the procedure to be followed by the District Judge.

Explanation.—In sub-sections (2),(3) and (4) the expression "District Judge" shall include an "Additional District Judge" in respect of those cases that may be transferred to him for disposal.

5. Collector to sanction prosecutions.—No prosecution shall be instituted under this Act against any person without the previous sanction of the Collector.

6. Bar of jurisdiction.—No notification or order of the ¹⁰[State] Government or of the Collector under this Act shall be liable to be questioned in any Court of Law.

7. Modification of Mad. Act I of 1908 and B. & O. Act III of 1913.—The provisions of this Act shall, as far as may be, be read and construed as forming part of the Madras Estates Land Act, 1908, Mad. Act I of 1908), or as the case may be, of the Orissa Tenancy Act, 1913 (B. & O. Act II of 1913):

Provided that where any of the provisions of this Act is inconsistent with or repugnant to the provisions of the aforesaid Acts, it shall prevail and the said provisions of the aforesaid Acts shall be deemed to be modified to that extent.

8. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the ¹¹[State] Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.

7 Subs. by Adaptation of Laws Order, 1950, for "Provincial".

8 Subs. by Adaptation of Laws Order, 1950, for "Provincial".

9 For rules made under this sub-section, see Orissa L.S.R. & O., Vol. I. Pt. X.

10 Subs. by Adaptation of Laws Order, 1950, for "Provincial".

11 Subs. by Adaptation of Laws Order, 1950, for "Provincial".