

THE ANDHRA PRADESH GAZETTE
PART IV-B-EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 191

HYDERABAD

WEDNESDAY, JUNE 3, 1992

ANDHRA PRADESH ACTS, ORDINANCES AND REGULATIONS ETC

The following Act of the Andhra Pradesh Legislative Assembly which was reserved by the Governor on the 16th November, 1989 for the consideration and assent of the President received the assent of the President on the 27th May, 1992 and the said assent is hereby first published on the 3rd June, 1992 in the Andhra Pradesh Gazette for general information:

ACT No. 15 CF 1992

An Act to provide for Termination and Regulation of Leases in respect of Plots in Azamabad Industrial Area, Hyderabad and to provide for matters connected therewith or incidental thereto.

Whereas an industrial area known as the land Area, Azamabad, Hyderabad had been established by the erstwhile Nizam's Corporation, the sole object of establishing industrial purpose and known as industrial area was developed into different sizes of plots with infrastructure facilities for leasing them out to persons intending to set up industries.

And whereas the developed plots in the Industrial Area, Azamabad, Hyderabad, were leased out to various persons under varying terms and conditions including payment of rents by adopting different formats of lease deeds.

And whereas it has come to the notice of the Government that certain lessees or occupants are putting the plots or portions of plots to unauthorised uses and certain other lessees or occupants are misusing valuable industrial urban land for residential purposes as also for warehousing activity.

And whereas it has come to the notice of the Government that some lessees are sub-letting or transferring the plots or portions of plots by entering into disguised partnerships and transfer of shares of companies to secure lease hold transfers.

And whereas such erring lessees or occupants are collecting huge amounts through such unauthorised use of plots or portions of plots.

And whereas the Government is unable to resume possession of the plots or portions thereof held by persons or occupants even in cases of gross misuse and violation of the terms of lease or other arrangement due to adoption of different formats of lease deeds with varying terms and conditions, lacunae in the lease deeds executed or other arrangements made with such lessees or occupants regulating the relationship between the Government and such persons and also due to long drawn civil litigation that is resulting in during the course of curbing such misuse and violations.

And whereas the plots were leased out to different persons on long lease periods upto 99 years at incredibly low rents;

And whereas the Government has been sustaining substantial recurring loss in the absence of necessary provisions in certain lease deeds for revision of rates of premium and quit rent that is reasonably due to the Government for the plots leased out;

And whereas it is considered expedient in public interest to terminate by law all existing leases or other arrangements made or entered into in respect of all demised plots or portions thereon in Industrial Area, Azamabad, Hyderabad to curb misuse or unauthorised use of Government land other irregularities, violations and to prevent the non-industrial use, including un-authorised constructions etc., and to regulate the leases afresh, as may be decided by the Government, with such uniform terms and conditions including reduced lease period and revised rates of premium and quit rent and adoption of standard format of lease deed, thereby ensuring maximum use of existing infrastructure facilities and proper management of valuable urban property of the Government.

Be it enacted by the Legislative Assembly of the state of Andhra Pradesh in the Forty third Year of the Republic of India as follows:

Short title and commencement:

1.(1) This Act may be called the Azamabad Industrial Area (Termination and Regulation of Leases) (Amendment) Act, 1998.

(2) It shall come into force on such date as the Government may, by notification in the Andhra Pradesh Gazette, appoint.

2. In this Act, unless the context otherwise requires:

a) "appointed date", means a date appointed under sub-section (2) of section 1;

b) "Azamabad Industrial Area", means the land owned by Government and situated at Mushirabad within the limits of Hyderabad Municipal Corporation divided into plots of different sizes for industrial purpose by the erstwhile Nizam's Government and known as "Azamabad Industrial Area;

c) "Competent Authority", means any authority officer or person authorised by the Government, by notifications to perform the functions of the Competent Authority under this Act;

d) "Demised Plots", means any plot of land or part therefore in the Azamabad Industrial Area, which has been leased out to any person for industrial use either by erstwhile Nizam's Government or by the Government of Hyderabad or by the Government of Andhra Pradesh or in respect of which there is other arrangement with any persons;

e) "Government", means the State Government of Andhra Pradesh;

f) "Notification", means a notification published in the Andhra Pradesh Gazette and the word 'notified' shall be construed accordingly.

g) "Person", means an individual and includes a firm or a branch thereof, a body corporate or a branch thereof or any association or a joint Hindu Family or a Company;

h) "Person in Occupation", includes lessee sub-lessee or any person who is in occupation of the demised plot under an arrangement with the erstwhile Nizam's Government or the erstwhile Government of Hyderabad or the Government of Andhra Pradesh or any other person who has been inducted into the demised plot;

i) "Prescribed", means prescribed by rules made by the Government under this Act;

j) "Structure", includes -

a) a building, a house, shop, hut, shed or other structure or enclosure whether roofed or not of whatsoever material constructed and includes every part of it;

b) all walls, verandas, platforms, door steps and the like;

c) A tent or other portable or temporary shelter.

3(1) Notwithstanding anything contained in the Indian Contract Act, 1872 the Transfer of Property Act, 1982, or any other law for the time being in force and the terms and conditions of any lease entered into or other arrangements made with any person in respect of any demised plot either by the erstwhile Nizam's Government or by the erstwhile Government of Hyderabad or by the Government of Andhra Pradesh prior to the appointed date, all leases or other arrangements made or entered into through a registered deed or otherwise in respect of all demised plots in the Azamabad Industrial Area shall stand terminated on the appointed date and thereupon all sub-leases or any other arrangements whatever made by the person in occupation to hold possession of the demised plot shall stand annulled and every such demised plot shall vest in the Government free from all encumbrances and shall be used subsequently for industrial purpose only.

(2) Upon the termination on the lease or other arrangement under sub-section (1), the rights and liabilities as between the parties to the lease or other arrangement shall cease and determine, but any amount due to the Government from the aforesaid person under the lease or other arrangement so terminated shall be recovered as an arrear of land revenues.

4(1) On the termination of the lease or other arrangement under sub-section (1) of section 3, the person in occupation may at his option apply for a fresh lease in the manner prescribed.

(2) On receipt of an application under sub-section (1), the Competent Authority may, where he is satisfied that the applicant is not guilty of violation of any conditions of the lease, grant fresh lease in accordance with such terms and conditions as may be prescribed or refuse to grant a fresh lease for reasons to be recorded in writing.

Provided that where the person in occupation of the demised plot, the lease of which if stands terminated under this Act, was actually using the demised plot for industrial purpose and was not otherwise guilty of violation or any conditions of lease, his application for a fresh lease on such terms and conditions as may be prescribed.

Explanation: For the purpose of this Act where a lessee enters into a partnership agreement or other cognate agreement for carrying on any activity whatsoever on the demised plot then notwithstanding anything in the Indian Partnership Act, 1932 it shall also be deemed to be violation of the conditions of the lease.

5(1) Where a lease or other arrangement with regard to a demised plot stands terminated under sub-section (1) of section 3 and where no fresh lease has been granted under section 4, the person in occupation of such demised plot shall vacate the same and deliver possession thereof to the Competent Authority within thirty days from the date of receipt of orders refusing to grant a fresh lease.

Provided that the period of thirty days aforesaid may, on the application by the person in occupation of the demised plot, be extended by the Competent Authority for a further period not exceeding thirty days;

Provided further that where is a structure on the demised plot, the person in occupation of such plot shall demolish such structure and deliver vacant possession of the demised plot to the Competent Authority within a period of thirty days after the expiry of the original period of thirty days or the extended period, if any, granted under this sub-section.

(2) Where the person in occupation of the demised plot fails to demolish the structure, within the stipulated time the demised plot along with such structure shall vest in the Government and no compensation shall be payable on respect of such structure.

6(1) Where any person fails or refuses to vacate and deliver vacant possession of the demised plot under section 5, the Competent Authority shall serve an order of eviction in the manner prescribed on the person in occupation of the demised plot or on his agent requiring him to vacate and deliver possession thereof within such time as may be specified in such order and after receipt of such order the person in occupation of the demised plot indicate the same and deliver possession thereof to the Competent Authority within such time as may be specified in such order.

(2) Where the person in occupation of the demised plot or portion thereof fails or refuse to vacate the demised plot or portion thereof within the time specified in the order under sub-section (1), the Competent Authority may take possession of the demised plot from the person in occupation thereof and where any such power or discharge of such duty, he may direct any Police Officer not below the rank of a Sub-Inspector to render such assistance as may be necessary, to enable the Competent Authority to exercise such power or discharge such duty.

(3) Where a structure has been constructed on the demised plot, possession of which is to be taken under this Act and the same is found locked, the Competent Authority may either cause the premises sealed or in the presence of two or more witnesses break or cause it to be broken open by its door, gate or other barriers and enter the premises:

Provided that -

a) Where any structure is forced open and inventory of the articles found in the premises shall be taken in the presence of two or more witnesses;

b) Where any person has been evicted from the demised plot under sub-section (2) of section 6, the Competent Authority may, after giving thirty days notice to the person from whom possession of the demised plot has been taken after publishing the notice in at least one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public auction any property remaining on such demised plot;

c) Where any property is sold under clause(b), the sale proceeds thereof shall deducting the expenses of the sale and the amount, if any due to the State Government or any other authority on account of arrears of rent or damages or costs, be paid to such person or persons as may appear to the Competent Authority to be entitled to the same.

7 Any person continuing in occupation beyond the period specified in the order of eviction issued under sub-section(1) of section 6, shall be punishable with imprisonment of either description which may extend to one year or with fine which may extend to five thousand rupees or with both.

8 Where a person fails to deliver possession of the demised plot within the time specified in the order referred to in sub-section(1) of section 6, he shall in addition to any penalty to which he is liable under this Act, be also liable for payment of damages or mesne profits for each day of such unauthorised occupation from the date of expiry of the period specified in the said order till the date of delivering possession of the demised plot.

9 Any person aggrieved by an order passed by the Competent Authority under the provisions of the Act, may appeal against such order to the Government within thirty days from the date of receipt of such order and the Government may, after giving an opportunity to the parties pass such orders as they deem fit and the decision of the Government thereon shall be final.

10 The Government may, in their discretion at any time, either suo-moto or on application, call for and examine the record of any order passed or proceedings recorded by the Competent Authority under the provisions of this Act, for the purpose of satisfying themselves as to the legality or propriety of such order, or as to the regularity of such proceedings and pass such order in reference thereto as they think fit.

Provided that the Government shall not pass any order prejudicial to any party unless such party has had an opportunity of making a representation.

11(1) Where the operation of the provision of sub-section(1) of section 3 the lease or other arrangement is terminated, the Government shall pay to the lessee an amount of solatium,-

a) equivalent to four months rent for every year of unexpired period of lease where such unexpired period is nineteen years or less; or

b) equivalent to three months rent for every year of unexpired period of lease where such unexpired period is more than nineteen years but does not exceed thirty nine years, subject to a minimum of seventy six months rent or

c) equivalent to two months rent for every year of unexpired period of lease where such unexpired period is more than thirty nine years but does not exceed fifty nine years, subject to a minimum of hundred and seventeen months rent or

d) equivalent to one month rent for every year of unexpired period of lease where such unexpired period is more than fifty nine years subject to a minimum of hundred and eighteen months rent:

Provided that the premium payable under this sub-section shall in no case exceed an amount of rupees three lakhs.

Explanation: For the purpose of computation of the years of unexpired period of lease under this sub-section.

(i) any period not exceeding six months shall be ignored and any period exceeding six months shall be computed as one year and

(ii) any period during which a person is allowed to stay on the demised plot under section 19 shall be excluded.

(2) The amount payable under sub-section(1) shall be paid to the lessee in such manner and within such time as may be prescribed after deducting the amounts due to the Government, if any.

12 Where any offence against any of the provisions of this Act or any rule made thereunder has been committed by a company, every person, who at the time the offence was committed was incharge of and was responsible to the company for the conduct shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything in sub-section(1) where any such offence has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of or it attributable to any neglect on the part of any Director Manager, Secretary or other Officer of the Company shall be liable to be proceeded against and punished accordingly:-

Explanation: For the purpose of this section-

a) "Company" means a company as defined in the Companies Act, 1956 and includes a firm, a society or other association of individuals; and

b) "Director" in relation to -

(i) a firm, means a partner in the firm.

(ii) a society or other association of individuals means the person who is entrusted under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

13 No person shall take up construction of any structure or carry on any alterations or additions to existing structures on the demised plot without obtaining the prior written approval of the Competent Authority.

14(1) Whoever undertakes or carries out construction of or alterations to any structures on the demised plot contrary to the terms of the lease deed shall on conviction, be punished with fine which may extend to ten thousand rupees and in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees

for every day during which such contravention continues after conviction for the first such contravention.

(2) Any person who uses the demised plot and structures thereon contrary to the terms of the lease deed or in contravention of the provisions of any rules made in this behalf shall, on conviction, be punished with fine which may extend to five thousand rupees.

15(1) Where the erection of any structure on the demised plot has been commenced or is being carried on, in contravention of the terms of the lease deed in relation to the demised plot, any officer of the Government empowered in this behalf may in addition to any prosecution that may be instituted under this act make an order requiring the said operations in relation to such erection to be discontinued on and from the date of the service of the order.

(2) Where such erection operations are not discontinued in pursuance of the order under sub-section(1), the Competent Authority may require any police officer not below the rank of a Sub-Inspector to remove the person by whom such operations are being carried on and all his assistants and workmen from such place within such time as may be specified in the requisition and such police officer shall comply with the requisition and shall watch the place so as to ensure that the erection of structures shall not be continued.

(3) Any person failing to comply with an order made under sub-section(1) shall on conviction, be punished with fine which may extend to five hundred rupees for every day during which non-compliance continues after the service of the order.

(4) No compensation shall be payable for any damage or loss which a person may sustain in consequence of an order made under sub-section(1).

16(1) Where the erection of any structure in the demised plot has been completed, or any existing building is altered, in contravention of the terms of the lease deed in relation to the demised plot the Competent Authority may, in addition to any prosecution that may be instituted under this Act, make an order directing that such erection shall be demolished by the owner thereof within such period not exceeding fifteen days as may be specified in the order and on the failure of the owner to comply with the order the Competent Authority may himself cause the structure to be demolished and the expenses of such demolition shall be recoverable from the owner.

Provided that no such order shall be made unless the owner has been given a reasonable opportunity to show cause why the order should not be made.

(2) Any person aggrieved by an order under sub-section(1) may appeal against that order within fifteen days from the date thereof to the Government. The Government may after giving an opportunity to the parties to the appeal make such orders as they deem fit and the decision of the Government thereon shall be final.

17 No suit, prosecution or other legal proceedings shall lie against the Government of the Competent Authority for any damage caused or is likely to be caused or any injury suffered or is likely to be suffered by virtue of the provisions of this Act or by anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

18 No decision made or order passed or proceeding taken by any Officer or Competent Authority or the Government under this Act, shall be called in question before a civil court in any suit application or other proceeding and injunction shall be granted by any court in respect of any proceedings taken or about to be taken by such officers or Competent Authority or Government in pursuance of any power conferred by or under this Act.

19 Where the Government are satisfied on an application made by a person whose lease is terminated under this Act that in the circumstance of the case the termination of lease has resulted in undue hardship they may without prejudice to the public interest allow such person to continue in the demised plot or any part thereof as a licence for such period on payment of such rent and subject to such conditions as they may specify.

20 The provisions of this Act and the rules made thereunder shall have effect, notwithstanding anything inconsistent therewith in any other law for the time being in force or any custom usage or agreement or decree or order of a court, tribunal or other authority.

21(1) The Government may by notification make rules for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for -

a) guidelines and procedure to be followed where a lessee intends to surrender his lease-hold rights;

b) guidelines to the Competent Authority for allotment of resumed plots or portions thereof.

c) specifying the Authority Competent to enter into fresh lease and the procedure thereof.

d) manner of demolition of unauthorised constructions on the demised plot and specifying authorities and procedure therefor,

e) the collection of rents, premium and quit rent and any other amount due from the person on respect of the demised plot.

(3) Every rule made under this Act shall immediately after it is made be laid before the Legislative Assembly of the State if it is in Session and if it is not in Session immediately following for a total period of fourteen days which may be comprised in one session or in two successive Sessions and if before the expiration of the Session in which it is so laid or the Session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified have effect only on such modified form or shall stand annulled as the case may be so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22 If any difficulty arises in giving effect to the provisions of this Act, the Government may by order in the Andhra Pradesh Gazette, make such provisions, not inconsistent with the purposes or provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty.