

Registered No. HSE/49.

Price: 1-20 Paise



He Hyd.
G-503

ఆంధ్ర ప్రదేశ్ రాజ పత్రము

THE ANDHRA PRADESH GAZETTE

PART IV-A-EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 23.] HYDERABAD, MONDAY, SEPTEMBER 11, 1989.

ANDHRA PRADESH BILLS

ANDHRA PRADESH LEGISLATIVE ASSEMBLY

The following Bill was introduced in the Andhra Pradesh Legislative Assembly on the 11th September of 1989.

L. A. BILL No. 23 OF 1989.

A Bill 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 Industrial Area, Azamabad, Hyderabad, had been selected and established by the erstwhile Nizam's Government with the sole object of establishing industries and the said industrial area was developed into different sizes of plots with infrastructure facilities for leasing them out to persons intending to set up industries;

G-503

[1]

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 also 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 the 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 unauthorised 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 Fortieth year of the Republic of India as follows:—

1. (1) This Act may be called the Azamabad Industrial Area (Termination and Regulation of Leases) Act, 1989.

Short title and commencement.

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

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

D. fir. tions

(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 notification, to perform the functions of the Competent Authority under this Act;

(d) "demised plot" means any plot of land or part thereof 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 person;

(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" 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, verandahs, platforms, door steps and the like;

(c) a tent or other portable or temporary shelter.

3. (1) Notwithstanding any thing contained in the Indian Contract Act, 1872, the Transfer of Property Act, 1882, or any other law for the time being in force, and the terms and conditions of any lease entered into or other arrangement made with any person in respect of any demised plot either by the erstwhile Nizam's Government 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 of 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 revenue.

4. (1) On the termination of the lease or other arrangement under sub-section (1) of section 3, the lease 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 entitled to a fresh lease, refuse to grant a fresh lease.

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 of any conditions of lease, his application for fresh lease shall not be rejected and he shall be granted 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 arrangement 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.

Central Act
9 of 1932.

Eviction

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 order 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 there 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

(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 in 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 shall vacate 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 refuses 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 Competent Authority is resisted in the exercise of 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) no entry shall be made into or possession taken of a structure before sunrise or after sunset;

(b) where any structure is forced open, an inventory of the articles found in the premises shall be taken in the presence of two or more witnesses;

(c) 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.

(d) where any property is sold under clause (c), the sale proceeds thereof shall, after 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.

Provided that where the Competent Authority is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he may refer such dispute to the civil court of competent jurisdiction and the decision of the court shall be final.

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 ^{uo-motu} or on application, call for Revision 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 by operation of the provisions 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

G-503-2

(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 solatium 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 shall be excluded.

(2) The amount payable under sub-section (1) shall be paid to the lessee in such manner and within of the affairs of the society or other association, as the amounts due to the Government, if any.

12. Where an 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 in charge 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 is 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 any body corporate 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 alternations or additions to any existing structures on the demised plot without obtaining the prior written approval of the Competent Authority.

Penalty for
Construction
or use of
land and
Structure
Contrary to
terms of
lease.

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.

Power to
stop erection
of structures

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 or 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 no injunction shall be granted by any court in respect of any proceeding taken, or about to be taken by such Officer 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 circumstances 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 licensee 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 in 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, in the 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 in 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.

Valuation

23. Notwithstanding anything in any judgement, decree, or order of any court or other authority,—

(a) no suit or other proceeding shall be maintained or continued in any court or before any authority for the continuance of the lease, sub-lease or other arrangement or for the lessee, sub-lessee or person in occupation staying on the demised plot and all such proceedings shall abate; and

(b) no court shall enforce any decree or order directing the continuance of the lease, sub-lease or other arrangement to be in occupation of the demised plot.

STATEMENT OF OBJECTS AND REASONS

The erstwhile Nizam's Government selected and established an industrial area at Mushirabad, known as Industrial Area, Azamabad, Hyderabad, and this area was developed into plots of different sizes with infrastructure facilities and leased out to various persons intended to set up industries on long leases upto 99 years.

(1) The Industrial Area, Azamabad, Hyderabad, is the most valuable urban industrial area and real estate property belonging to Government situated in the heart of Hyderabad City.

(3) The highly appreciated land value due to large scale development of industrial and commercial activity in the Industrial Area, Azamabad, Hyderabad, over the last three to four decades resulted in trading in prime industrial land belonging to Government by some lessees/occupants.

(4) It has come to the notice of the Government that in some cases there was no activity and even where there was little activity it was carried on only in the interest of retaining possession of plots or portions of plots. In some cases, the lessees/occupants resorted to sub-letting the Government land at high rents and making money over it. In certain cases, portions of plots are left unutilised because there was no burden on the lessees/occupants as the rent being paid to the Government is very low. Certain lessees have constructed residential quarters and some others are carrying on warehousing activity in the plots leased to them for specified industrial use. Certain others are adopting dubious methods of transfer of lease hold property by admitting partners under disguised partnerships. Some lessees/occupants are resorting to legal course, resulting in long drawn litigation when corrective measures are taken

the Government

G-503-3

(5) Thus, the very objective with which the Industrial Area, Azamabad, Hyderabad, was developed and leased to different industrialists at low rents for long periods upto 99 years for industrial purpose is being defeated and an unlawful real estate activity has set in.

(6) The Government is not in a position to resume the land in the hands of erring lessees/occupants even in cases of gross misuse and violation of terms of lease or other arrangement due to lacunae in the executed lease deeds as also adoption of different formats of lease deeds over a period of time with varying terms and conditions and also due to long drawn civil litigation that is resulting in during the course of curbing misuse and violations including irregularities.

(7) The Government has been sustaining considerable 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.

(8) In the circumstances, it is felt necessary, in public interest, to make a law for the termination of all existing leases or other arrangements made or entered into in respect of the demised plots in the Industrial Area, Azamabad, Hyderabad, and

(a) to curb misuse, unauthorised use of Government land, other irregularities, violations and to prevent/stop non-industrial use including unauthorised constructions etc.

(b) 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.

(c) to ensure optimum utilisation of existing infrastructure facilities and securing proper management of the valuable real estate urban property of the Government.

(9) In order to mitigate inconvenience or hardship caused to the lessees due to premature termination of lease, it has also been decided to pay a suitable solatium.

(10) This Bill seeks to give effect to the above decisions.

N. T. RAMA RAO,
Chief Minister.

FINANCIAL MEMORANDUM

Clause 11 of the Bill contemplates payment of solatium when the lease or other arrangement is terminated under clause 3 (1) of the Bill.

The financial commitment in this regard is estimated at about Rs. 32 lakhs. The expenditure is non-recurring.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clauses 1, 2, 4, 6, 11, 12 and 21 of the Bill authorise the Government to issue Notification or to make rules in respect of matters specified therein and generally to carry out the purposes of the Act. All such rules so made which are intended to cover matters mostly of procedural in nature are to be laid on the Table of the Legislative Assembly of the State and will be subject to any modification made by that Legislative Assembly.

The above provisions of the Bill regarding Delegated Legislation are thus of a normal type and are mainly intended to cover matters of procedure.

MEMORANDUM UNDER RULE 95 OF THE RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE ANDHRA PRADESH LEGISLATIVE ASSEMBLY.

The Azamabad Industrial Area (Termination and Regulation of Leases) Bill, 1989, after it is passed by the Legislative Assembly of the State, may be reserved by the Governor for the consideration and assent of the President under article 254 (2) of the Constitution.

N. T. RAMA RAO,
Chief Minister.

C. VENKATESAN,
Secretary to Legislature.