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THE AZAMABAD INDUSTRIAL AREA (TERMINATION AND REGULATION OF LEASES) ACT 1992 - AS AMENDED IN 2002.

The Amended Act of the Andhra Pradesh Legislative Assembly which was reserved by the Governor on the 19th May, 2000 for the consideration and assent of the President received the assent of the President on the 4th February, 2000 and the said assent is hereby first published on the 17th February, 2000 in the Andhra Pradesh Gazette for general information:

ACT No. 15 OF 1992 (AS AMENDED IN 2000)

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 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 missing 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 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 curbing such misuse and violations.

And whereas the plots were leased out to different persons on long lease period 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 necessary to give effect to the Directive Principles of State Policy as contained in clauses (b) and (c) of article 39 of the Constitution of India;

And whereas it is considered expedient, in public interest, to terminate by law such of the existing leases or other arrangements made or entered into in respect of demised plots or portions thereof in Industrial Area, Azamabad, Hyderabad, which attract any of the grounds stated in clause (b) of sub-section (1) of section 3, to curb misuse or violations and to prevent the non-industrial use, including unauthorised constructions 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:

Short title and commencement:

1. (1) This Act may be called the Azamabad Industrial Area (Termination and Regulation of Leases) (Amendment) Act, 1992.

(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:

- 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 Plots", 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 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 of the erstwhile 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 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;
 - all walls, verandas, platforms, door steps and the like;
 - A tent or other portable or temporary shelter.

13. (1) (a) Notwithstanding anything 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 erstwhile Government of Hyderabad or by the government of Andhra Pradesh Prior to the appointed date, all those leases, sub-leases or other arrangements made or entered into through a registered deed or otherwise in respect of all demised plots in Azamabad Industrial Area which after due enquiry attract one or more of the ground for cancellation of lease as specified in clause (b) shall stand terminated on the appointed date and thereupon all such leases, sub-leases or any other arrangement whatsoever made by the person in occupation of the demised plot shall stand annulled and every such demised plot shall vest in the government free from all encumbrances.

- (b) Notwithstanding anything contained in any other law for the time being in force, the leases of plots or portions shall be cancelled on either all or any of the following grounds namely:-

- misusing of land for a purpose other than the purpose for which land was allotted including non-user; or
- sub-letting or transferring the plots or portions of plots by entering into disguised partnerships and other unauthorised transfer of interest in the plot; or
- Violation of any terms, conditions or covenant specified in the Lease Deed.

Explanation: For the purpose of this Act, where a lessee enters into a partnership Agreement or other 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 a violation of the conditions of the lease.

- (2) Lessees of plots whose leases shall not be cancelled under clause (b) of sub-section (1) shall be entitled to a grant of fresh lease with effect from the appointed date and renewal thereof from time to time on such terms and conditions as may be prescribed by the Government.

- (3) The Lessees specified in sub-section (2) may, in lieu of renewal of lease, opt for free-hold rights in respect of the demised plots of land by paying a price equivalent to 75% of the market value as specified for the area in market value Guidelines under section 47(a) of the Indian Stamps Act, 1899.

- (4) Upon the termination of the lease or other arrangement in respect of the plot under sub-section (1) the rights and liabilities as between the parties to the lease or other arrangement in respect of plot 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 termination of lease or other arrangements made under clause (a) of sub-section (1) of section 3, a person in occupation and running an industry the appointed date may 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 has actually been using the demised plot for industrial purpose, and he deserves grant of lease, shall grant a lease on such terms and conditions as may be prescribed.]*

- (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 clauses (a) and (b) of sub-section (1) of section 3, and where no fresh lease has been granted to the occupant if any under sub-section (2) of section 4, the lessee or the occupant as the case may be 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 lessee or the occupant as the case may be of such 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 lessee or the occupant as the case may be of such demised 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.

- (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 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 and 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 if 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 plots 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 atleast 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) Whereas 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 1 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. [deleted]*

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 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 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 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 [Deleted]*

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) revision of rent, premium, quit rent from time to time and the collection thereof or any other amount due from any 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 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 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.

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.