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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT TENANCY AND AGRICULTURAL LANDS LAWS (AMENDMENT) BILL, 2015

GUJARAT BILL NO. 30 OF 2015.

A BILL

further to amend the Gujarat Tenancy and Agricultural Lands Act, 1948, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 and the Gujarat Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958.

It is hereby enacted in the Sixty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Act, 2015.

Short title and commencement.

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

Amendment of 2.
section 63AA of
Bom. LXVII of
1948. 63AA,-

In the Gujarat Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "the Gujarat Tenancy and Agricultural Lands Act"), in section

Bom.
LXVII of
1948.

(1) in sub-section (1), after the existing proviso, the following proviso shall be inserted, namely:-

"Provided further that where the land is sold to a purchaser which is a company as defined by clause (20) of section 2 of the Companies Act, 2013, it may offer the equity shares of the company, to the person by whom such land is being sold, in *lieu* of the sale price of such land and if such person is in agreement for accepting such equity shares, either in full, or partly, then it shall be incumbent upon such company to allot such equity shares of equivalent amount, either in full or partly, to such person.";

18 of
2013.

(2) in sub-section (4), for clause (b) and proviso thereto, the following clause shall be substituted, namely:-

"(b) the purchaser to whom a certificate is issued under sub-clause (i) of clause (c) of sub-section (3) shall commence production of goods or providing of services within five years from the date of certificate:

Provided that the period of five years may on an application made by the purchaser in that behalf be extended by two years by the Collector as he may by an order in writing in such circumstances as may be prescribed:

Provided further that the Collector shall not extend such period for more than a period of one year at a time:

Provided also that such aggregate period of seven years may, on an application made by the purchaser in that behalf, and on the payment of fifty per cent. of the prevailing Jantri value, be extended by another three years by the State Government.";

(3) after sub-section (4), the following sub-sections shall be inserted, namely:-

"(4A) In case where the purchaser fails to commence the production of goods or providing of services within three years from the date of certificate issued under sub-section (3) or thereafter, the Collector may, after an application is made to him in that behalf, grant permission by an order for sale or transfer of such land:

Provided that such permission shall be granted by the Collector only upon the payment of -

- (i) 40 per cent. of the prevailing Jantri value, if the application is made before the completion of a period of five years from the date of certificate;
- (ii) 60 per cent. of the prevailing Jantri value, if the application is made after a period of five years but before the completion of a period of seven years from the date of certificate;
- (iii) 100 per cent. of the prevailing Jantri value, if the application is made thereafter.

(4B) Notwithstanding anything contained in sub-section (4) or sub-section (4A),-

- (i) where the land is sold to a person in pursuance of sub-section (1) for the purpose of establishing an industrial park in consonance with the policy and conditions of the State Government in that behalf, the purchaser shall fulfill all the conditions in such manner and within such period as may be prescribed;
- (ii) the purchaser shall be required to obtain certificate/certificates from the Industries Commissioner, Gujarat State, in the manner as may be prescribed of having fulfilled the conditions as referred to in clause (i);

- (iii) in case where the purchaser fails to obtain the certificate/certificates as referred to in clause (ii), the provisions of sub-section (5), in so far as vesting of such land or part of such land in case where the purchaser has already transferred any portion or portions of such land, in the State Government and disposal of such land are concerned, shall *mutatis mutandis* apply;
- (iv) the purchaser shall be entitled to transfer or sell portion of such land to any person for establishing an industry thereon subject to the provisions of the policy of the State Government with regard to the industrial park;
- (v) the transferee under clause (iv) or any person to whom such land may be transferred in any subsequent transaction or transactions shall be entitled to sell or transfer such portion of land to any person for the purpose as provided in clause (iv);
- (vi) in case where the purchaser is of the view, after a period of three years from the date of purchase of such land, that it is not possible for him to fulfill the conditions and obtain the certificate/certificates as referred to in this section, he may make an application to the Collector for grant of permission to sale or transfer of such land and the Collector shall thereupon grant such permission only upon the payment of,-
 - (a) 40 per cent. of the prevailing Jantri value, if the application is made before the completion of a period of five years from the date of certificate;
 - (b) 60 per cent. of the prevailing Jantri value, if the application is made after a period of five years but before the completion of a period of seven years from the date of certificate;
 - (c) 100 per cent. of the prevailing Jantri value, if the application is made thereafter:

Provided that such permission for sale of such land shall be granted only for the purpose of use of such land for the *bonafide* industrial purpose.

Explanation.- For the purposes of this section, the expression "*bonafide* industrial purpose" includes and shall always be deemed to have included the establishment of the industrial park.";

(4) for sub-section (5), the following sub-section shall be substituted, namely:-

"(5) Where the Collector after making such inquiry as he deems fit and giving the purchaser an opportunity of being heard comes to the conclusion that the purchaser has failed to commence production of goods or providing of services within the period as specified in clause (b) of sub-section (4), or the period extended under the provisos to that clause, the land shall vest in the State Government free from all encumbrances on payment to the purchaser of such compensation as the State Government may determine and such land shall be disposed of by the State Government in the manner as may be prescribed."

3. In the Gujarat Tenancy and Agricultural Lands Act, after section 63AA, the following sections shall be inserted, namely:-

Last transaction if made to an agriculturist to be valid even if earlier transaction or transactions may be invalid.

"63AB. (1) Notwithstanding anything contained in section 63, where the Mamalatdar *suo moto* or on the application of any person interested in the land, has reason to believe that, in the breach of the provisions of clause (a), (b) or (c) of sub-section (1) of section 63, transfer of the land had taken place in favour of a person who was not an agriculturist, and that certain transaction or transactions have taken place thereafter and the person in whose favour the last transaction was made on or before the 30th June, 2015, is an

Insertion of new sections 63AB, 63AC, 63AD in Bom. LXVII of 1948.

agriculturist, he shall issue a notice to such person and shall give him an opportunity of being heard and also make an inquiry as he deems fit.

(2) If the Mamalatdar comes to the conclusion that as a result of the last transaction in respect of such land, the person to whom such land was transferred is indeed an agriculturist, he shall call upon such person to pay to the State Government, for the use of such land only for the agricultural purpose, the amount of ten per cent. of the prevailing Jantri and after such payment he shall declare, by an order, such last transaction to be valid irrespective of the fact that any one or more of such transactions was or were invalid and upon such order, no proceedings under section 84C shall be initiated and if already initiated shall be discontinued forthwith.

Conversion of land
into non-
agricultural
purpose if the land
is purchased
before the
commencement of
Amending Act,
2015.

63AC. (1) Notwithstanding anything contained in section 63 or 63AD but subject to the provisions of any other law for the time being in force, any institution registered as a public trust for charitable purpose under the Gujarat Public Trusts Act, 1950, or any company registered under the Companies Act, 2013 which has in its objects the promotion of charity and to which provisions of section 8 of the said Act are applicable, has purchased the land in contravention of the provisions of sub-section (1) of section 63 on or before the 30th June, 2015, such institution shall be entitled to make an application within six months from the commencement of the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Act, 2015, to the Collector for conversion of such land into non -agricultural purpose.

Bom. 29 of
1950.

18 of 2013.

Guj. of
2015.

(2) On an application made under sub-section (1), the Collector shall make a detailed inquiry and comes to the conclusion that such institution has, in contravention of the provisions as referred to in sub-section (1) purchased the land, he shall call upon such public trust

or the company as referred to in sub-section (1) to pay such amount in such manner as may be prescribed by the State Government and if such public trust or company pays such sum as directed by the Collector, the Collector shall allow the conversion of such land into the non-agricultural purpose and pass the order accordingly.

Penalty to transferee for transfer of land in breach of provisions of sub-section (1) of section 63.

63AD. (1) Notwithstanding anything contained in section 84C, where the Mamalatdar *suo moto* or on the application of any person, has reason to believe that, in the breach of the provisions of clause (a), (b) or (c) of sub-section (1) of section 63, transfer of the land has taken place in favour of a person who is not an agriculturist or in favour of any institution, the Mamalatdar shall issue a notice to such person or institution and, after affording an opportunity of being heard, decide whether the transfer of the land is valid or not.

(2) If the Mamalatdar comes to a decision that the transfer of such land is not valid then he shall pass an order thereby,-

- (i) imposing the penalty of three times the amount of the prevailing Jantri of such land on such person or institution in whose favour such land is not validly transferred; and
- (ii) directing the person or institution in whose favour such land is not validly transferred to restore the land along with the rights and interest therein to the position in which it was immediately before such transfer within a period of one month of such order.

Explanation.- For the purposes of this Act, the expression "Jantri" means the index of base market values as may be determined by the State Government from time to time."

Amendment of
section 82 in
Bom. LXVII of
1948.

4. In the Gujarat Tenancy and Agricultural Lands Act, in section 82, in sub-section (2), after clause (kaa), the following clauses shall be inserted, namely:-

- “ (kab) the manner and period to fulfill the conditions by purchaser of the industrial park under sub-section(4B) of section 63AA;
(kac) the manner for disposal of land vested in the State Government under sub-section (5) of section 63AA;”.

Insertion of
new sections
54A, 54B and
54C in Sau. Ord.
XLI of 1949.

5 In the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 (hereinafter referred to as “the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance”), after section 54, the following sections shall be inserted, namely:-

Sau. Ord.
XLI of
1949.

Last transaction
if made to an
agriculturist to
be valid even if
earlier
transaction or
transactions
may be invalid.

“54A. (1) Notwithstanding anything contained in section 54, where the Mamalatdar *suo moto* or on the application of any person interested in the land, has reason to believe that, in the breach of the provisions of clauses (a), (b) or (c) of sub-section (1) of section 54, transfer of the land had taken place in favour of a person who was not an agriculturist, and that certain transaction or transactions have taken place thereafter and the person in whose favour the last transaction was made on or before the 30th June, 2015, is an agriculturist, he shall issue a notice to such person and shall give him an opportunity of being heard and also make an inquiry as he deems fit.

(2) If the Mamalatdar comes to the conclusion that as a result of the last transaction in respect of such land, the person to whom such land was transferred is indeed an agriculturist, he shall call upon such person to pay to the State Government, for the use of such land only for the agricultural purpose, the amount of ten per cent. of the prevailing Jantri and after such payment he shall declare, by an order, such last transaction to be valid irrespective of the fact that any one or more of such transactions was or were invalid and upon such order,

no proceedings under section 75 shall be initiated and if already initiated shall be discontinued forthwith.

Conversion of land into non-agricultural purpose if the land is purchased before the commencement of Amending Act, 2015.

Bom. 29 of 1950.

18 of 2013.

Guj. of 2015.

54B. (1) Notwithstanding anything contained in section 54 or 75A but subject to the provisions of any other law for the time being in force, any institution registered as a public trust for charitable purpose under the Gujarat Public Trusts Act, 1950, or any company registered under the Companies Act, 2013 which has in its objects the promotion of charity and to which provisions of section 8 of the said Act are applicable, has purchased the land in contravention of the provisions of sub-section (1) of section 54 on or before the 30th June, 2015, such institution shall be entitled to make an application within six months from the commencement of the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Act, 2015, to the Collector for conversion of such land into non-agricultural purpose.

(2) On an application made under sub-section (1), the Collector shall make a detailed inquiry and comes to the conclusion that such institution has, in contravention of the provisions as referred to in sub-section (1) purchased the land, he shall call upon such public trust or the company as referred to in sub-section (1) to pay such amount in such manner as may be prescribed by the State Government and if such public trust or company pays such sum as directed by the Collector, the Collector shall allow the conversion of such land into the non-agricultural purpose and pass the order accordingly.”.

6. In the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Land Ordinance, in section 55,-

Amendment of section 55 of Sau. Ord. XLI of 1949.

- (1) in sub-section (3), after the existing proviso, the following proviso shall be inserted, namely:-

“ Provided further that where the land is sold to a purchaser which is a company as defined by clause (20) of section 2 of the Companies Act, 2013, it may offer the equity shares of the company, to the person by whom such land is being sold, in *lieu* of the sale price of such land and if such person is in agreement for accepting such equity shares, either in full or partly, then it shall be incumbent upon such company to allot such equity shares of equivalent amount, either in full or partly, to such person.”;

18 of
2013.

(2) in sub-section (3), for clause (b) and proviso thereto, the following clause shall be substituted, namely:-

“ (b) the purchaser to whom a certificate is issued under sub-clause (i) of clause (c) of sub-section (3) shall commence production of goods or providing of services within five years from such date of certificate:

Provided that the period of five years may, on an application made by the purchaser in that behalf be extended by two years by the Collector as it may by an order in writing in such circumstances as may be prescribed:

Provided further that the Collector shall not extend such period for more than a period of one year at a time:

Provided also that such aggregate period of seven years may, on an application made by the purchaser in that behalf, and on the payment of fifty per cent. of the prevailing Jantri value, be extended by another three years by the State Government.”;

(3) after sub-section (3), the following sub-sections shall be inserted, namely:-

“(3A) In case where the purchaser fails to commence the production of goods or providing of services within three years from the date of certificate issued under sub-clause(ii) of clause (c) of sub-section (2)

or thereafter, the Collector may, after an application is made to him in that behalf grant permission by an order for sale or transfer of such land:

Provided that such permission shall be granted by the Collector only upon the payment of -

- (i) 40 per cent. of the prevailing Jantri value, if the application is made before the completion of a period of five years from the date of certificate;
- (ii) 60 per cent. of the prevailing Jantri value, if the application is made after a period of five years but before the completion of a period of seven years from the date of certificate;
- (iii) 100 per cent. of the prevailing Jantri value, if the application is made thereafter.

(3B) Notwithstanding anything contained in sub-section (3) or sub-section (3A),-

- (i) where the land is sold to a person in pursuance of sub-section (1) for the purpose of establishing an industrial park in consonance with the policy and conditions of the State Government in that behalf, the purchaser shall fulfill all the conditions in such manner and within such period as may be prescribed;
- (ii) the purchaser shall be required to obtain certificate/certificates from the Industries Commissioner, Gujarat State, in the manner as may be prescribed of having fulfilled the conditions as referred to in clause (i);
- (iii) in case where the purchaser fails to obtain the certificate/certificates as referred to in clause (ii), the provisions of sub-section (4), in so far as vesting of such land or part of such land in case where the purchaser has already transferred any portion or portions of such land, in the State

Government and disposal of such land are concerned, shall *mutatis mutandis* apply;

- (iv) the purchaser shall be entitled to transfer or sell portion of such land to any person for establishing an industry thereon subject to the provisions of the policy of the State Government with regard to the industrial park;
- (v) the transferee under clause (iv) or any person to whom such land may be transferred in any subsequent transaction or transactions shall be entitled to sell or transfer such portion of land to any person for the purpose as provided in clause (iv);
- (vi) in case where the purchaser is of the view, after a period of three years from the date of purchase of such land, that it is not possible for him to fulfill the conditions and obtain the certificate/certificates as referred to in this section, he may make an application to the Collector for grant of permission to sale or transfer of such land and the Collector shall thereupon grant such permission only upon the payment of,-
 - (a) 40 per cent. of the prevailing Jantri value, if the application is made before the completion of a period of five years from the date of certificate;
 - (b) 60 per cent. of the prevailing Jantri value, if the application is made after a period of five years but before the completion of a period of seven years from the date of certificate;
 - (c) 100 per cent. of the prevailing Jantri value, if the application is made thereafter:

Provided that such permission for sale of such land shall be granted only for the purpose of use of such land for the *bonafide* industrial purpose.

Explanation.- For the purposes of this section, the expression “*bonafide* industrial purpose” includes and shall always be deemed to have included the establishment of the industrial park.”;

(4) for sub-section (4), the following sub-section shall be substituted, namely:-

“(4) Where the Collector after making such inquiry as he deems fit and giving the purchaser an opportunity of being heard comes to the conclusion that the purchaser has failed to commence production of goods or providing of services within the period specified in clause (b) of sub-section (3), or the period extended under the provisos to that clause, the land shall vest in the State Government free from all encumbrances on payment to the purchaser of such compensation as the State Government may determine and such land shall be disposed of by the State Government in the manner as may be prescribed.”.

7. In the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, after section 75, the following section shall be inserted, namely:-

Insertion of
new section
75A in Sau. Ord.
XLI of 1949.

Penalty to
transferee for
transfer of land in
breach of
provisions of sub-
section (1) of
section 54.

“ 75A. (1) Notwithstanding anything contained in section 75, where the Collector *suo moto* or on the application of any person, has reason to believe that, in the breach of the provisions of clause (a), (b) or (c) of sub-section (1) of section 54, transfer of the land has taken place in favour of a person who is not an agriculturist or in favour of any institution, the Mamalatdar shall issue a notice to such person or institution and, after affording an opportunity of being heard, decide whether the transfer of the land is valid or not.

(2) If the Collector comes to a decision that the transfer of such land is not valid then he shall pass an order thereby imposing the penalty of three times the amount of the prevailing Jantri of such land on the

person or the institution in whose favour such land is not validly transferred.

Explanation.- For the purposes of this Ordinance, the expression “Jantri” means the index of base market values as may be determined by the State Government from time to time.”.

Amendment of section 73 of Sau. Ord. XII of 1949.

8. In the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, in section 73, in sub-section (2), after clause (d), the following clauses shall be inserted, namely:-

“ (d-a) the manner and the period to fulfill the conditions by purchaser of the industrial park under sub-section (3B) of section 55;

(d-b) the manner for disposal of land vested in the State Government under sub-section (4) of section 55;”.

Amendment of section 89A of Bom. XCIX of 1958.

9. In the Gujarat Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 (hereinafter referred to as “the Gujarat Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act”), in section 89A-

Bom. XCIX of 1958.

- (1) in sub-section (1), after the existing proviso, the following proviso shall be inserted, namely:-

“ Provided further that where the land is sold to a purchaser which is a company as defined by clause (20) of section 2 of the Companies Act, 2013, it may offer the equity shares of the company, to the person by whom such land is being sold, in lieu of the sale price of such land and if such person is in agreement for accepting such equity shares, either in full or partly, then it shall be incumbent upon such company to allot such equity shares of equivalent amount, either in full or partly, to such person.”;

18 of 2013.

(2) in sub-section (4), for clause (b) and proviso thereto, the following clause shall be substituted, namely:-

“ (b) the purchaser to whom a certificate is issued under sub-clause (i) of clause (c) of sub-section (3) shall commence production of goods or providing of services within five years from the date of certificate:

Provided that the period of five years on an application made by the purchaser in that behalf be extended by two years by the Collector as it may by an order in writing in such circumstances as may be prescribed:

Provided further that the Collector shall not extend such period for more than a period of one year at a time:

Provided also that such aggregate period of seven years may, on an application made by the purchaser in that behalf, and on payment of fifty per cent. of the prevailing Jantri value, be extended by another three years by the State Government.”;

(3) after sub-section (4), the following sub-sections shall be inserted, namely:-

"(4A) In case where the purchaser fails to commence the production of goods or providing of services within three years from the date of certificate issued under sub-section (3) or thereafter, the Collector may, after an application is made to him in that behalf grant permission by an order for sale or transfer of such land:

Provided that such permission shall be granted by the Collector only upon the payment of -

- (i) 40 per cent. of the prevailing Jantri value, if the application is made before the completion of a period of five years from the date of certificate;
- (ii) 60 per cent. of the prevailing Jantri value, if the application is made after a period of five years but before the completion of a period of seven years from the date of certificate;

(iii) 100 per cent. of the prevailing Jantri value, if the application is made thereafter.

(4B) Notwithstanding anything contained in sub-section (4) or sub-section (4A),-

- (i) where the land is sold to a person in pursuance of sub-section (1) for the purpose of establishing an industrial park in consonance with the policy and conditions of the State Government in that behalf, the purchaser shall fulfill all the conditions in such manner and within such period as may be prescribed;
- (ii) the purchaser shall be required to obtain certificate/certificates from the Industries Commissioner, Gujarat State, in the manner as may be prescribed of having fulfilled the conditions as referred to in clause (i);
- (iii) in case where the purchaser fails to obtain the certificate/certificates as referred to in clause (ii), the provisions of sub-section (5), in so far as vesting of such land or part of such land in case where the purchaser has already transferred any portion or portions of such land, in the State Government and disposal of such land are concerned, shall *mutatis mutandis* apply;
- (iv) the purchaser shall be entitled to transfer or sell portion of such land to any person for establishing an industry thereon subject to the provisions of the policy of the State Government with regard to the industrial park;
- (v) the transferee under clause(iv) or any person to whom such land may be transferred in any subsequent transaction or transactions shall be entitled to sell or transfer such portion of land to any person for the purpose as provided in clause (iv);

- (vi) in case where the purchaser is of the view, after a period of three years from the date of purchase of such land, that it is not possible for him to fulfill the conditions and obtain the certificate/certificates as referred to in this section, he may make an application to the Collector for grant of permission to sale or transfer of such land and the Collector shall thereupon grant such permission only upon the payment of,-
- (a) 40 per cent. of the prevailing Jantri value, if the application is made before the completion of a period of five years from the date of certificate;
- (b) 60 per cent. of the prevailing Jantri value, if the application is made after a period of five years but before the completion of a period of seven years from the date of certificate;
- (c) 100 per cent. of the prevailing Jantri value, if the application is made thereafter:

Provided that such permission for sale of such land shall be granted only for the purpose of use of such land for the *bonafide* industrial purpose.

Explanation.- For the purposes of this section, the expression "*bonafide* industrial purpose" includes and shall always be deemed to have included the establishment of the industrial park.";

- (4) for sub-section (5), the following sub-section shall be substituted, namely:-

"(5) Where the Collector after making such inquiry as he deems fit and giving the purchaser an opportunity of being heard comes to the conclusion that the purchaser has failed to commence production of goods or providing of services within the period specified in clause (b) of sub-section (4), or the period extended

under the provisos to that clause, the land shall vest in the State Government free from all encumbrances on payment to the purchaser of such compensation as the State Government may determine and such land shall be disposed of by the State Government in the manner as may be prescribed.”.

10. In the Gujarat Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, after section 89A, the following sections shall be inserted, namely:-

“89B. (1) Notwithstanding anything contained in section 63, where the Mamalatdar *suo moto* or on the application of any person interested in the land, has reason to believe that, in the breach of the provisions of clause (a) or (b) of sub-section (1) of section 89, transfer of the land had taken place in favour of a person who was not an agriculturist, and that certain transaction or transactions have taken place thereafter and the person in whose favour the last transaction was made on or before the 30th June, 2015, is an agriculturist, he shall issue a notice to such person and shall give him an opportunity of being heard and also make an inquiry as he deems fit .

(2) If the Mamalatdar comes to the conclusion that as a result of the last transaction in respect of such land, the person to whom such land was transferred is indeed an agriculturist, he shall call upon such person to pay to the State Government, for the use of such land only for the agricultural purpose, the amount of ten per cent. of the prevailing Jantri and after such payment he shall declare, by an order, such last transaction to be valid irrespective of the fact that any one or more of such transactions was or were invalid and upon such order, no proceedings under section 122 shall be initiated and if already initiated shall be discontinued forthwith.

Insertion of new sections 89B, 89C and 89D in Bom. XCIX of 1958.

Last transaction if made to an agriculturist to be valid even if earlier transaction or transactions may be invalid.

Conversion of land into non-agricultural purpose if the land is purchased before the commencement of Amending Act, 2015.

Bom. 29 of 1950.

18 of 2013.

Guj. of 2015.

89C. (1) Notwithstanding anything contained in section 89 or 89D but subject to the provisions of any other law for the time being in force, any institution registered as a public trust for charitable purpose under the Gujarat Public Trusts Act, 1950, or any company registered under the Companies Act, 2013 which has in its objects the promotion of charity and to which provisions of section 8 of the said Act are applicable, has purchased the land in contravention of the provisions of sub-section (1) of section 89 on or before the 30th June, 2015, such institution shall be entitled to make an application within six months from the commencement of the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Act, 2015, to the Collector for conversion of such land into non-agricultural purpose.

(2) On an application made under sub-section (1), the Collector shall make a detailed inquiry and comes to the conclusion that such institution has, in contravention of the provisions as referred to in sub-section (1) purchased the land, he shall call upon such public trust or the company as referred to in sub-section (1) to pay such amount in such manner as may be prescribed by the State Government and if such public trust or company pays such sum as directed by the Collector, the Collector shall allow the conversion of such land into the non-agricultural purpose and pass the order accordingly.

Penalty to transferee for transfer of Land in breach of provisions of sub-section (1) of Section 89.

89D. (1) Notwithstanding anything contained in sub-section (1) of section 122, where the Mamalatdar *suo moto* or on the application of any person, has reason to believe that, in the breach of the provisions of clause (a) or (b) of sub-section (1) of section 89, transfer of the land has taken place in favour of a person who is not an agriculturist or in favour of any institution, the Mamalatdar shall issue a notice to such person or institution and, after affording an opportunity of being heard, decide whether the transfer of the land is valid or not.

(2) If the Mamalatdar comes to a decision that the transfer of such land is not valid then he shall pass an order thereby,-

- (i) imposing the penalty of three times the amount of the prevailing Jantri of such land on the person or institution in whose favour such land is not validly transferred; and
- (ii) take further actions as provided in the provisions of sub-section (3) to (5) of section 122.

Explanation.- For the purposes of this Act, the expression "Jantri" means the index of base market values as may be determined by the State Government from time to time."

11. In the Gujarat Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, in section 118, in sub-section (2), after clause (xix-a), the following clauses shall be inserted, namely:-

- "(xix-b) the manner and period to fulfill the conditions by purchaser of the industrial park under sub-section (4B) of section 89A;
- (xix-c) the manner for disposal of land vested in the State Government under sub-section (5) of section 89A;"

STATEMENT OF OBJECTS AND REASONS

At present there are three different tenancy laws in operation in the State. In the Bombay area of the State of Gujarat, the Bombay Tenancy and Agricultural Lands Act, 1948, is in force, in the Kutch area of the State of Gujarat, the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958, is in force, whereas in the Saurashtra area of the State of Gujarat, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 is in force.

The said Acts have been enacted about more than sixty years ago and with the rapid industrialisation and urbanisation, it is considered necessary to amend and insert certain provisions in the said Acts in order to make the procedural parts of the Acts more simple and to mitigate the undue hardships the people have to suffer.

A provision in all the aforesaid Acts is proposed to be inserted to the effect that where the land is sold for *bonafide* industrial purpose, the purchaser of such land, if it is a company may offer the equity shares of such company in *lieu* of sale price of such land to the person by whom such land is being sold and if such person agrees to accept such equity shares either in full or partly then it shall be obligatory on the part of such company to allot such shares. Sub-clause (1) of clause 2, sub-clause (1) of clause 6 and sub-clause (1) of clause 9 of the Bill provides for the same.

It is proposed to raise the time limit for commencing the production from five years to seven years and such period of seven years can be extended by another three years on payment of fifty per cent. of prevailing Jantri value. A new provision is also proposed to be inserted in all the Acts for allowing the purchaser of the land for industrial purpose after a period of three years on payment of different rates of the prevailing Jantri value at the different intervals of time. Sub-clause (2) of clause 2, sub-clause (2) of clause 6 and sub-clause (2) of section 9 of the Bill provide for the same.

Special provisions with regard to the establishment of industrial park are also proposed to be incorporated particularly with regard to the conditions to be fulfilled by the purchaser, transfer or sale of such land or portion of such land. Sub-clause (3) of clause 2, sub-clause (3) of clause 6 and sub-clause (3) of clause 9 of the Bill provides for the same.

It is also considered necessary to insert a provision to protect the interests of an agriculturist who is at present as such despite the fact that earlier transaction or transactions in respect of the concerned land was or were invalid. It is also proposed to make provision for conversion of land for non-agricultural purpose if the land in question is purchased on or before the 30th June, 2015, by any institution registered for charitable purpose under the Gujarat Public Trusts Act, 1950 or by a company registered under the Companies Act, 2013 which has in its objects, the promotion of charity on payment of such amount as may be prescribed. A stringent provision is also proposed to be made to the effect that where the transfer of the land has taken place to a non-agriculturist, the person in whose favour such land has been invalidly transferred shall be liable to pay three times the amount of the prevailing jantri of such land and that such person shall be required to restore such land in the same position in which it was immediately before such transfer. Clauses 3, 7 and 10 of the Bill provide for the same.

This Bill seeks to amend the said three Tenancy Acts to achieve the aforesaid objects.

NITIN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 1- Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which this Act shall come into force.

Clause 2- (i) Proviso to clause (b) of sub-section (4) of section 63AA of the Gujarat Tenancy and Agricultural Land Act, 1948, proposed to be inserted by sub-clause (2) of this clause empowers the State Government to prescribe by rules the circumstances under which the State Government shall extend the period by two years for commencement of production of goods and providing services;

(ii) sub-section (4B) in section 63AA of the Gujarat Tenancy and Agricultural Land Act, 1948, proposed to be inserted by sub-clause (3) of this clause empowers the State Government to prescribe by rules, the manner and the period within which the purchaser of the industrial park shall fulfill the conditions;

(iii) sub-section (5) of section 63AA of the Gujarat Tenancy and Agricultural Land Act, 1948, proposed to be substituted by sub-clause (4) of this clause empowers the State Government to prescribe by rules, the manner in which the land vested in the State Government shall be disposed of.

Clause 6- (i) Proviso to clause (b) of sub-section (3) of section 55 of the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 proposed to be inserted by sub-clause (2) of this clause empowers the State Government to prescribe by rules the circumstances under which the State Government shall extend the period by two years for commencement of production of goods and providing services.

(ii) sub-section (3B) in section 55 of the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949, proposed to be inserted by sub-clause (3) of this clause empowers the State Government to prescribe by rules, the manner and the period within which the purchaser of the industrial park shall fulfill the conditions;

(iii) sub-section (4) of section 55 of the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949, proposed to be substituted by sub-clause (4) of this clause empowers the State Government to prescribe by rules, the manner in which the land vested in the State Government shall be disposed of.

Clause 9- (i) Proviso to clause (b) of sub-section (4) of section 89A of the Gujarat Tenancy and Agricultural Lands (Vidarbh Region and Kutch Area) Act, 1948 proposed to be inserted by sub-clause (2) of this clause empowers the State Government to prescribe by rules the circumstances under which the State Government shall extend the period by two years for commencement of production of goods and providing services;

(ii) sub-section (4B) in section 89A of the Gujarat Tenancy and Agricultural Lands (Vidarbh Region and Kutch Area) Act, 1948, proposed to be inserted by sub-clause (3) of this clause empowers the State Government to prescribe by rules, the manner and the period within which the purchaser of the industrial park shall fulfill the conditions;

(iii) sub-section (5) of section 89A of the Gujarat Tenancy and Agricultural Lands (Vidarbh Region and Kutch Area) Act, 1948, proposed to be substituted by sub-clause (4) of this clause empowers the State Government to prescribe by rules, the manner in which the land vested in the State Government shall be disposed of.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 21st August, 2015.

NITIN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 21st August, 2015.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.