



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक ११३

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings (Amendment) Bill, 2017 (L. A. Bill No. XLIII of 2017), introduced in the Maharashtra Legislative Assembly on the 27th July 2017, is hereby published under the authority of the Governor.

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

N. J. JAMADAR,

Principal Secretary and R.L.A. to Government,
Law and Judiciary Department.

L. A. BILL No. XLIII OF 2017.

A BILL

further to amend the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act.

LXII of
1947.

WHEREAS it is expedient further to amend the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-eighth Year of the Republic of India as follows:-

1. This Act may be called the Maharashtra Prevention of Fragmentation and Consolidation of Holdings (Amendment) Act, 2017. Short title.

Amendment
of section 9 of
LXII of 1947.

2. In section 9 of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, after sub-section (3), the following provisos and *Explanation* shall be added, namely :—

LXII of
1947.

"Provided that, save as otherwise provided in section 31, the Collector may, upon an application made in this regard, regularise a transfer or partition of a land contrary to the provisions of this Act made on or after 15th day of November 1965 and before the date of commencement of Maharashtra Prevention of Fragmentation and Consolidation of Holdings (Amendment) Act, 2017, if such land is allocated to residential, commercial, industrial, public or semi-public or any non-agricultural use, in the prevailing draft or final Regional Plan; or is intended to be used for any *bona fide* non- agricultural user, subject to payment of regularisation premium at such per centum not exceeding 25 per cent. of the market value of such land as per the Annual Statement of Rates, as the Government may notify, from time to time, in the *Official Gazette*:

Mah. of
2017.

Provided further that, save as otherwise provided in section 31, if a transaction of transfer or partition of land contrary to the provisions of this Act is regularised on the ground that the land would be used for any *bona fide* non- agricultural use, then failure to start such *bona fide* non- agricultural use within 5 years from the date of regularisation shall result in forfeiture of such land by the Collector. Such land thereafter shall be first offered to the holder or occupant of a neighbouring contiguous survey number or recognised sub-division of a survey number on payment of 50 per cent. of the market value of such land as per the prevailing Annual Statement of Rates and three-fourth of the amount so collected shall be paid to the defaulting person from whom such land was forfeited to the Government and the remaining one-fourth of the amount so collected shall be credited into the Government account. Where occupant of such neighbouring contiguous survey number or recognised sub-division refuses to purchase the fragment, the fragment shall be auctioned by the State Government and the proceeds thereof shall be divided between the defaulting person and the Government in the ratio of 3:1.

Explanation.— For the purpose of this sub-section, the term "Annual Statement of Rates" shall mean the Annual Statement of Rates published under the provisions of the Bombay Stamp (Determination of True Market Value of Property) Rules, 1995 or any other Rules for the time being in force in this regard, prevalent in respect of the year in which the order of regularisation is issued by the Collector or the year in which such premium is paid, whichever is later."

STATEMENT OF OBJECTS AND REASONS

The Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act (LXII of 1947), has been enacted for the purposes of improving growth of agriculture production from agricultural lands in the State. The said Act provides for determination of minimum standard areas of agricultural lands as per the class of lands, prohibition for creation of fragments less than the minimum standard area and the procedure for consolidation of agricultural holdings. Section 7 of the said Act contains provisions regarding for transfer and lease of fragments of agricultural lands. Section 8 prohibits the transfer or partition of lands in any local area so as to create fragments and accordingly, prohibits fragmentation of lands. Further section 8AA restricts partition of lands. Also as per the provisions of section 8A of the said Act, the provisions of sections 7, 8 and 8AA are not applicable when there is transfer of any land for such public purposes as may be specified in this behalf by the State Government by notification in the *Official Gazette*. As per the provisions of section 31AA, the transfers or partitions or sub-divisions of any land made before the 15th November 1965, in contravention of the provisions of the Act, are allowed to be regularised subject to payment of penalty equal to 1 per cent. of the consideration of the land transferred, partitioned or sub-divided, or rupees one hundred, whichever is less. Also as per the provisions of section 8B, the provisions of sections 7, 8 and 8AA are not applicable to a parcel of land falling in residential, commercial or industrial zone specified in any draft or final Regional Plan or included in municipal limits, provided such parcel of land is created as a result of sub-division or layout approved by the Planning Authority or the Collector, as the case may be, under the provisions of the Maharashtra Regional and Town Planning Act, 1966 or any other law for the time being in force.

However, the provisions of said section 31AA and section 8B do not address the problem of fragments that have come into existence after the 15th November 1965 till 2017. During this period, several transactions contrary to the provisions of this Act have already been made by the occupants but due to the said provisions they do not get reflected in the record of rights. As a result of this, not only does the Government lose its revenue, which could have been earned by way of stamp duty, registration fees and also non-agricultural assessment, but the holders of such fragments are also unable to start intended non-agricultural use of such land, as they can't get requisite permissions from the concerned authorities, for want of clear title. In the draft or final Regional Plan, Government's intention about proposed user of land is made clear. Taking into account the intention in the enactment of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, it does not seem appropriate to apply the restrictions of the Act to the lands which are allocated for residential, commercial, industrial or any non-agricultural user in the prevailing draft or final Regional Plan or to the lands which are intended to be used for *bonafide* non-agricultural user as per prevailing Development Control Regulations.

Therefore, it is proposed to provide that, save as otherwise provided in section 31, such fragments made, during the period starting from 15th November 1965 till the date of commencement of the proposed Amendment Act, can be regularised as a one-time measure. As a result, the

occupants of such fragments can start their permissible use and a number of land parcels which are in disuse can be brought back into productive use, thereby contributing to the growth of economy. For this purpose, it is expedient to incorporate a new provision by amending sub-section (3) of section 9, so as to empower the Collector to regularise a transfer or partition of a land contrary to the provisions of the said Act. It is also considered expedient to provide for the procedure therefor.

2. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 25th July 2017.

CHANDRAKANT (DADA) PATIL,
Minister for Revenue.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposal for delegation of legislative power, namely :—

Clause 2 - Under this clause, which seeks to add the provisos and Explanation to section 9 of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act (LXII of 1947), power is taken to the State Government to notify, from time to time, in the *Official Gazette*, the amount of regularisation premium at such per centum not exceeding 25 per cent. of the market value of such land as per the Annual Statement of Rates, subject to payment of which the transaction would be regularized under the proposed provisions.

2. The above-mentioned proposal for delegation of legislative power is of a normal character.