

THE ODISHA MUNICIPAL CORPORATION (AMENDMENT) BILL, 2022

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BILL

FURTHER TO AMEND THE ODISHA MUNICIPAL CORPORATION ACT, 2003.

BE it enacted by the Legislature of the State of Odisha in the Seventy-third year of the Republic of India, as follows :-

Short title and commencement.

1. (1) This Act may be called the Odisha Municipal Corporation (Amendment) Act, 2022.

(2) It shall be deemed to have come into force on the 6th January, 2022.

Amendment of Section 482.

2. In the Odisha Municipal Corporation Act, 2003 (hereinafter referred to as the principal Act), in Chapter XXI,—

Odisha Act
11 of 2003.

(a) for the heading "PROPERTY RIGHT TO SLUM DWELLERS", the heading "PROPERTY RIGHT AND LAND RIGHT TO SLUM DWELLERS" shall be substituted;

(b) in section 482,—

(i) for clause (b), the following clause shall be substituted, namely:-

"(b)"Authorised officer" means the head of the Slum

Development and Rehabilitation Committee or any officer authorised by the Government, to exercise such powers, as may be specified, by notification” ;

(ii) in clause (d), for the word “Redevelopment”, the word “Development” shall be substituted;

(iii) in clause (f), for the words “as provided in the Scheme”, the words “as notified by the Government, from time to time” shall be substituted;

(iv) in clause (k), for the words “property rights”, the words “property right or land right, as the case may be” shall be substituted;

(v) after clause (k), the following clause shall be inserted, namely:—

“(k-1) “Land right” means right to land assigned to slum dwellers, under section 483”;

(vi) clause (p) shall be omitted;

(vii) in clause (q), the words “a scheme for” shall be omitted;

(viii) clause (r) shall be omitted; and

(ix) after clause (u), the following clause shall be inserted, namely :—

“(v) “in-situ development” means the process of development of existing slum areas by providing basic civic and infrastructural services to the slum dwellers, on the land on which the slum is based.”.

Amendment of
section 483.

3. In section 483 of the principal Act,—

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Land Right or Property Right to slum dweller”;

(b) for sub-section (1) including the proviso thereto, the following sub-sections shall be substituted, namely: —

“(1) Notwithstanding anything contained in this Act, or in any other State law for the time being in force, and subject to provisions of sub-sections(1A) and (1B) and also technical and

operational feasibility, every landless person in occupation of land in a slum in any Corporation area, by such date as may be notified by the Government, shall be entitled for settlement of land or to allotment of a dwelling space, as the case may be, in such manner and on such terms and conditions as notified by the Government, from time to time.

(1A) The land if settled in favour of a slum dweller, shall be to the extent specified hereinafter, namely:—

(a) A slum dweller shall be entitled to a land, as nearly as may be, not exceeding forty-five square meter:

Provided that where a slum dweller is not getting in-situ settlement, in such event, land in a relocation site shall be settled to the extent of thirty square meters:

Provided further that where the slum dweller is in occupation of land less than the area mentioned in clause (a), the land in actual occupation of such slum dweller or to the extent of thirty square meter, whichever is higher, shall be settled, subject to availability of land adjacent to the dwelling unit of such slum dweller.

(b) Where the slum dweller belongs to EWS category,—

(i) the land if settled, shall be settled at free of cost; and

(ii) where settlement of land is made in excess of thirty square meter subject to maximum limit fixed in clause

(a), the cost of such excess land shall be calculated at such percentum of the benchmark value of land as

may be determined by the Government, from time to time;

(c) Where the slum dweller belongs to any category other than EWS category, but eligible otherwise, the land if settled, shall be settled at such cost which shall be calculated at such percentum of the benchmark value of the land, as may be determined by the Government, from time to time;

(d) Where a slum dweller occupies land beyond the maximum permissible limit provided under clause (a); he shall voluntarily vacate such excess land and the Authorised Officer shall take over the possession of such excess land before the issue of the certificate of land right.

(1B) The dwelling space, if allotted to a slum dweller belonging to EWS category shall be of such size, at such affordable cost, in such manner and on such terms and conditions as notified by the Government, from time to time.”;

(c) in sub-section (2), after the words “certificate of property right”, and before the words “by the authorised officer”, the words “or a certificate of land right, as the case may be” shall be inserted;

(d) for sub-section (3) including the provisos thereto, the following sub-section shall be substituted, namely: —

“(3) The land so settled or the dwelling space, so allotted, as the case may be, under sub-section (1), shall be heritable but not transferable by sub-lease, sale, gift or any other manner whatsoever:

Provided that if the dwelling space so allotted is a dwelling unit then the same may be transferred to another eligible beneficiary after ten years from the date of its handover on such terms and conditions as notified by the Government, from time to time.”;

(e) in sub-section (4), after the words “certificate of property right” and before the words “shall be issued”, the words and comma “or the certificate of land right, as the case may be” shall be inserted;

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

“(5) If the slum dweller, with whom the land has been settled or right has been accrued for allotment of any land under this Act or to whom the dwelling space has been allotted, as the case may be, transfers such land or dwelling space

except by way of mortgage in contravention of sub-section (3) or uses the said land or dwelling space for any purpose other than residential purpose, the following consequences shall follow, namely:-

- (a) the certificate of land right or the certificate of property right, as the case may be, issued under sub-section (2) shall stand automatically cancelled;
- (b) such transfer shall be null and void;
- (c) no rights shall accrue to the transferee in respect of such land or dwelling space, as the case may be;
- (d) the Authorised Officer shall dispossess the person who is in actual possession of such land or dwelling space, as the case may be;
- (e) such slum dweller shall be debarred from getting any land or dwelling space under this Act; and
- (f) such slum dweller shall be guilty of an offence under this Chapter.” ;

(g) for sub-section (6), the following sub-section shall be substituted, namely: —

“(6) The slum dweller with whom the land has been settled, or to whom the dwelling space has been allotted, as the case may be, under this Chapter, shall not hold any certificate of land right or certificate of property right in any other urban area of the State and if he holds any such certificate, he shall surrender all such certificates to the Authorised Officer in such manner as may be notified by the Government, from time to time.

Explanation.— For the purposes of this section, the expression “urban area” includes the area comprised within the limits of municipal council and notified area council constituted under the Odisha Municipal Act, 1950.”;

(h) for sub-section (7), the following sub-section shall be substituted, namely: —

“(7) If any slum dweller is found to have obtained more than one certificate of property rights or land rights, by way of misrepresentation of facts, the Authorised Officer shall, after giving reasonable opportunity of being heard to the slum dweller, cancel all the certificate of the property right or land right and without prejudice to the penalty that may be imposed under this Chapter, dispossess the person from such dwelling space or land, as the case may be.”;

- (i) in sub-section (8), in the opening line, after the words “certificate of property right” and before the words, figure and bracket “under sub-section (2)”, the words “or certificate of land right” shall be inserted; and
- (j) in sub-section (9), after the words “certificate of property right” and before the word “granted”, the words “or the certificate of land right” shall be inserted.

Amendment of
section 484.

4. In section 484 of the principal Act,—

- (a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Development and Rehabilitation of slums.”;

- (b) for sub-section (1) including the provisos thereto, the following sub-section shall be substituted, namely: —

“(1) Subject to the provisions of this Chapter, the land right or the property right, as the case may be, conferred under sub-section (2) of section 483 shall, as far as practicable, be provided in-situ and on as-is where-is basis in accordance with the provisions of this Chapter:

Provided that where the Government decides that the site has untenable settlements or a separate layout has been identified or developed, as the case may be, then in such circumstances, the slum dwellers shall be rehabilitated elsewhere in accordance with the provisions of this Chapter:

Provided further that, —

- (i) where, it is decided that the slum dweller shall be rehabilitated

elsewhere, the said site shall be utilized for any other purpose as the Government may decide;

(ii) where, after providing land or the dwelling space, as the case may be, in the existing slum to a slum dweller, any land remains surplus, the Government may utilize such land for any purpose as it may decide.” ;

(c) for sub-section (2), the following sub-section shall be substituted, namely: —

“(2) In the event of in-situ development or rehabilitation, as the case may be, the applicable planning and building regulations shall be applied, and wherever any relaxation in planning norms are required, the same may be deemed to have been granted under permissible deviation under the said regulations.” ;

(d) for sub-section (3), the following sub-section shall be substituted, namely: —

“(3) During in-situ development of slum area, adequate transit arrangements shall be made for the slum dwellers as notified by the Government, from time to time.”.

Amendment of
section 485.

5. For section 485 of the principal Act, the following section shall be substituted, namely:-

“485. All proceedings relating to eviction of slum dwellers pending on the ground of unauthorised occupation before any authority or Court under any State law shall abate on issue of certificate of land right or certificate of property right, as the case may be, under this Act.”

Amendment of
section 486.

6. In section 486 of the principal Act,—

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Slum Development and Rehabilitation Committee”;

(b) for sub-section (1), the following sub-section shall be substituted, namely: —

“(1) For the purpose of this Chapter, the Government

shall, by notification, constitute a Committee called "Slum Development and Rehabilitation Committee" for each Corporation area with the name of such Corporation area, as it deems necessary and such Committee shall have the authority to approve the list of persons to whom the land shall be settled or the dwelling space shall be allotted, as the case may be, under this Chapter and shall exercise jurisdiction over the areas and exercise such powers and functions as may be notified by the Government, from time to time." ; and

(c) in sub-section (3), for clause (a), the following clause shall be substituted, namely: —

"(a) undertake necessary surveys, undertake spatial mapping, fix the physical boundary of the slums, identify eligible slum dwellers with community participation, prepare and publish the list of slum dwellers to whom certificate of land right or certificate of property right, as the case may be, shall be issued, in such manner as may be notified by the Government, from time to time."

Repeal and
saving.

7. (1) The Odisha Municipal Corporation (Amendment) Ordinance, 2022 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

Odisha
Ordinance No.
1 of 2022.

STATEMENT OF OBJECTS AND REASONS

The Odisha Land Rights to Slum Dwellers Act, 2017 was enacted with a view to assign land rights to identified & eligible Slum Dwellers with a twin objective of providing security of tenure and to transform the slums into liveable habitats in all Municipalities and NACs.

Similar provisions were also incorporated in the municipal Corporation Act, 2003 through an amendment in the year 2017. However, after about 4 years of implementation, it is seen that the amended provisions have remained by and large inconsequential owing to various reasons.

Realising the difficulties, it has been proposed to confer land rights on the slum households of Municipal Corporations in the line of Municipalities and NACs by effecting necessary amendments in the Odisha Municipal Corporation Act, 2003. Wherever it is possible to provide property rights, Municipal Corporations will grant property rights, but if it is not possible to grant such property rights, the corporations will have the flexibility of granting the land rights to the slum households in-situ over a land up to an extent of 45 Sq.mt. If the slum households belong to EWS category, land rights are proposed to be granted free of cost over an area extending up to 30 Sq.mt. If the slum household is in occupation of a patch of land, which is less than 30 square meter and vacant Government land is available adjacent to the dwelling unit, it is also proposed that land right shall be granted over a patch land as nearly as 30 Sq.mt. by amalgamating the land available for the purpose.

Promulgation of the proposed Bill will benefit approximately 2,40,000 no. of households covering about 9,70,000 population in 5 Municipal Corporation areas.

Therefore, it is considered expedient and accordingly proposed to amend suitably Odisha Municipal Corporation Act, 2003.

The Bill seeks to achieve the above objectives.

[PRATAP JENA]
Member-in Charge

**STATEMENT EXPLAINING THE CIRCUMSTANCES
WHICH NECESSITATED FOR PROMULGATION OF AN ORDINANCE**

The Odisha Land Rights to Slum Dwellers Act, 2017 was enacted to assign land rights to identified & eligible Slum Dwellers to provide security of tenure and to transform the slums into liveable habitats in Municipalities and NACs. Similar provisions were also incorporated in the municipal Corporation Act, 2003 through an amendment in the year. However, after about 4 years of implementation, it is seen that the amended provisions have remained by and large inconsequential and due to this, more than 2 Lakh households are deprived of availing housing assistance under PMAY.

Realising the difficulties in the implementation of the Property Rights to Slum Dwellers in the Corporation areas and to ensure land tenure security and to avail housing assistance under PMAY, it has been proposed to confer land rights on the slum households of Municipal Corporations in the line of the land rights conferred upon the households of the Municipalities and NACs by effecting necessary amendments in the Odisha Municipal Corporation Act, 2003.

Promulgation of the Ordinance was not only expected to ensure security of tenure but was also expected to make the slum households eligible for availing benefits under housing schemes, benefitting approximately 2,40,000 no. of households covering about 9,70,000 population in 5 Municipal Corporation areas. Since the PMAY(Urban) program was expiring in the month of March 2022, it was necessary to bring necessary amendments immediately to make the slum households of the Municipal Corporations eligible under the programme.

Besides, the ordinance was a measure to reassure the slum dwellers on their "Right to the City" and to reiterate that "the Government values its people more than it values its land".

Since the matter was urgent and the Odisha Legislative assembly was not in session then, an Ordinance was promulgated amending the Odisha Municipal Corporation Act, 2003.

[PRATAP JENA]
Member-in Charge

ANNEXURE

Extract taken from the Odisha Municipal Corporation Act, 2003

(Odisha Act, II of 2003)

CHAPTER XXI

PROPERTY RIGHT TO SLUM DWELLERS

(b) "Authorized Officer" means the head of the Slum Redevelopment and Rehabilitation Committee or any officer authorized by the Government, by order, to exercise the powers as may be prescribed;

(d) "Committee" means the Slum Redevelopment and Rehabilitation Committee constituted under section 486;

(f) "dwelling unit" means an all-weather unit in a multi-storied super structure or otherwise as provided in the Scheme;

(k) "landless person" means a person who is a citizen of India and does not own either in his own name or in the name of any member of his family any land or dwelling unit or property rights granted or inherited under this Act, in the Corporation area;

(p) "redevelopment" means improvement of a slum at the same site by taking up a housing project as per the Scheme;

(q) "rehabilitation" means a scheme for relocation of slum dwellers to other location for providing dwelling units or sites for construction of dwelling units, as the case may be;

(r) "Scheme" means any special arrangement or plan prepared under this Chapter for Slum dwellers, to be notified by the Government, from time to time and includes scheme for redevelopment and rehabilitation;

(u) "Untenable settlements" means such areas where existence of human habitation entails undue risk to the safety or health or life of the inhabitants themselves or where habitation on such area is considered by the committee not to be in public interest.

483. (1) Notwithstanding anything contained In this Act, or In any other

State law for the time being in force, every landless person in occupation of land in a slum in any Corporation area, by such date as may be notified by the Government, shall be entitled to allotment of a dwelling space of such size, at such affordable cost, in such manner and on such terms and conditions as provided under the Scheme to be notified by the Government, from time to time, provided he belongs to EWS category: Provided that any slum dweller belonging to any category other than EWS category :

Provided that any slum dweller belonging to any other than EWS category but but eligible otherwise, shall be entitled to a dwelling space of such size, at such cost, in such manner and on such terms and conditions as provided under the Scheme.

(2) Every slum dweller eligible as per sub-section (1), shall be issued a 'certificate of property right' by the Authorized Officer In accordance with the Scheme.

(3) The dwelling space so allotted under sub-section (1), shall be heritable but not transferable by sub-lease, sale, gift, or any other manner whatsoever:

Provided that if the dwelling space so allotted is a dwelling unit then the same may be transferred to another eligible beneficiary after ten years from the date of its handover on such terms and conditions as provided in the Scheme:

Provided further that the dwelling space so allotted may be mortgaged for the purpose of raising finance in the form of housing loan from any financial institution.

(4) The certificate of property right shall be issued jointly in the name of both the spouses in case of married persons and in the name of the head of the household, if headed by a single person.

(5) If the slum dweller, to whom the dwelling space has been allotted, transfers such dwelling space except by way of mortgage in contravention of sub-section

(3) or uses the said dwelling space for any purpose other than residential purpose, the following consequences shall follow, namely:—

- (a) the certificate of property right issued under sub-section (2) shall stand automatically cancelled;
- (b) such transfer shall be null and void;
- (c) no rights shall accrue to the transferee in respect of such dwelling space;
- (d) the Authorised Officer shall dispossess the person who is in actual possession of such dwelling space; (e) such slum dweller shall be debarred from getting any dwelling space under this Act; and
- (f) such slum dweller shall be guilty of an offence under this Chapter.
- (6) The slum dweller to whom the dwelling space has been allotted under this Chapter; shall not hold any certificate of property right in any other Corporation area of the State and if he holds any such certificate, he shall surrender all such certificates to the Authorized Officer in such manner as may be provided in the, Scheme.
- (7) If any slum dweller is found to have obtained more than one certificate of property rights , by way of misrepresentation of facts, the Authorized Officer shall, after riving reasonable opportunity of being heard to the slum dweller, cancel all the Cerhill0t Cf tile property right and without prejudice to the penalty that may under this Chapter, dispossess the person from such dwelling space.
- (8) The evidence for grant of certificate of property right under sub-section (2) in favour of slum dweller shall include -
- (9) The certificate of property right granted under sub-section (2) shall be acceptable as evidence for address proof of residence.
484. (1) Subject to the provisions of this Chapter, the property right under redevelopment and rehabilitation sub- section (2) of section 483 shall, as far as practicable, be provided in the of slums- existing slum in accordance with the Scheme:
- Provided that where the Government decides that the site has untenable settlements or a separate layout has been identified or developed, as the case may be, then in such circumstances, the slum

dwellers shall be rehabilitated elsewhere in accordance with the Scheme:

Provided further that, -

(a) where, it is decided that the slum dweller shall be rehabilitated elsewhere, the said site shall be utilized for any other purpose as the Government may decide;

(b) where, after providing dwelling space in the existing slum to a slum dweller, any land remains surplus, the Government may utilize such land for any purpose as it may decide.

(2) In the event of redevelopment or rehabilitation, as the case may be, the applicable planning and building regulations shall be applied, and wherever any relaxation in planning norms are required, the same may be provided in the Scheme and such relaxations shall have an overriding effect on the existing planning and building regulations.

(3) During implementation of redevelopment Scheme, adequate transit arrangements shall be made for the slum dwellers as per the provisions of the Scheme.

485. All proceedings relating to eviction of slum dwellers pending on the ground of unauthorized occupation before any authority or Court under any State law shall abate on issue of certificate of property right under this Act.

486. (1) For the purpose of this Chapter, the Government shall, by notification, constitute a Committee called "Slum Redevelopment and Rehabilitation Committee" for each Corporation area with the name of such Corporation area, as it deems necessary and such Committee shall have the authority to approve the list of persons to whom the dwelling space shall be allotted under this Chapter and shall exercise jurisdiction over the areas and exercise such powers and functions as may be prescribed.

(3) Without prejudice to the generality of the powers and functions under sub-section (1), the Committee shall, -

(a) undertake necessary surveys, undertake spatial mapping, fix the

physical boundary of the slums, identify eligible slum dwellers with community participation, prepare and publish the list of slum dwellers to whom certificate of property right shall be issued, in such manner as may be provided in the Scheme; and