



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ३, अंक ३]

गुरुवार, जानेवारी ५, २०१७/पौष १५, शके १९३८

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असाधारण क्रमांक ३

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 Land Revenue Code (Amendment) Ordinance, 2017 (Mah. Ord. II of 2017), is hereby published under the authority of the Governor.

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

P. H. MALI,

Principal Secretary to Government,
Law and Judiciary Department.

[Translation in English of the Maharashtra Land Revenue Code (Amendment) Ordinance, 2017 (Mah. Ord. II of 2017), published under the authority of the Governor].

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Madam Cama Marg, Hutatma Rajguru Chowk,
Mumbai 400 032, dated the 5th January 2017.

MAHARASHTRA ORDINANCE No. II OF 2017.

AN ORDINANCE

further to amend the Maharashtra Land Revenue Code, 1966.

WHEREAS both Houses of the State Legislature are not in session;

AND WHEREAS the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Land Revenue Code, 1966, for the purposes hereinafter appearing;

Mah. XLI of 1966.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the Maharashtra Land Revenue Code (Amendment) Ordinance, 2017. Short title and commencement.

(2) It shall come into force at once.

(१)

Insertion of sections 42B and 42C in Mah. XLI of 1966.

Provision for conversion of land use for lands included in final Development plan area.

2. After section 42A of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as "the said Code"), the following sections shall be inserted, namely :—

Mah. XLI of 1966.

"42B. (1) Notwithstanding anything contained in sections 42, 42A, 44 and 44A, upon publication of the final Development plan in any area as per the provisions of the Maharashtra Regional and Town Planning Act, 1966, the use of any land comprised in such area shall, if conversion tax, non-agricultural assessment and, wherever applicable, *nazarana* or premium and other Government dues as provided for in sub-section (2) are paid, be deemed to have been converted to the use shown by way of allocation, reservation or designation in such Development plan and no separate permission under section 42 or section 44 shall be required for the use of such land for the use permissible under such Development plan :

Mah. XXXVII of 1966.

Provided that, where a final Development plan is already published on or before the date of commencement of the Maharashtra Land Revenue Code (Amendment) Ordinance, 2017 (hereinafter in this section referred to as "the commencement date"), any land comprised in the area under such Development Plan shall, if the conversion tax, non-agricultural assessment and wherever applicable, *nazarana* or premium and other Government dues as provided for in sub-section (2) are paid, be deemed to have been converted to the use shown by way of allocation, reservation or designation in respect of such land in such final Development plan.

Mah. Ord. II of 2017.

(2) Upon publication of the final Development plan in any area and, where there is a final Development plan already published, after the commencement date, the Collector shall, on an application made in this regard or *suo motu*, determine or cause to be determined the conversion tax at the rate mentioned in section 47A and the non-agricultural assessment for such land on the basis of the use shown in the Development plan and give a notice thereof to the concerned occupant for making payment thereof :

Provided that, where such land is held as Occupant Class-II, the Collector shall also examine the documents by which such land is granted as such and the relevant laws, rules and the Government orders by which such land is governed and if the conversion to the use shown in the final Development plan is permissible thereunder, the Collector shall, wherever necessary, after obtaining prior approval of the authority competent to allow such conversion, determine *nazarana* or premium and other Government dues payable for such conversion, as per special or general orders of the Government, alongwith the amount of conversion tax and non-agricultural assessment, as aforesaid, and communicate the same to the occupant for making payment and if the payment of the same is done by the occupant, the Collector shall grant him *sanad* in the form prescribed under the rules within a period of sixty days from payment thereof. On issuance of *sanad*, necessary entry in the record of rights shall be made showing such land as having been converted to non-agricultural use, with effect from the date of payment as aforesaid :

Provided further that, where the action under this sub-section is undertaken on an application made in this regard, the notice, after determination of conversion tax and non-agricultural assessment and,

wherever applicable, the amount payable to the Government towards *nazarana* or premium and other Government dues as per the prevailing orders of the Government, shall be issued to the concerned occupant,—

(a) in respect of land held as Occupant Class-I, within 30 days from the date of application ;

(b) in respect of land held as Occupant Class-II,—

(i) within 30 days from the date of application, where the Collector is competent to grant permission for change of use of such land at his level ;

(ii) within 30 days from the date on which the permission of the authority, competent to allow such conversion or change of use, is received by the Collector :

Provided also that, the non-agricultural assessment done under this section shall, wherever necessary, be revised for a land in accordance with the development permission accorded by the Planning Authority and for this purpose, it shall be mandatory for the Planning Authority to furnish a copy of such development permission to the Collector, in each case within 30 days of grant of such permission or its revision, if any :

Provided also that, the non-agricultural assessment of a land, done on the basis of the use shown in the Development plan, shall be revised in case the Development plan is revised or modified by the Government and as a result thereof, the use of the land shown in the Development plan changes, with effect from the date of such revision or modification :

Provided also that, the *challan* or receipt of payment of conversion tax, non-agricultural assessment and *nazarana* or premium and other Government dues under this sub-section shall be regarded as the proof of the land having been converted to the non-agricultural use shown in the final Development plan and no further proof shall be necessary.

(3) Nothing in sub-sections (1) and (2) shall be applicable to any land granted by the Government under section 31 or 38, for specific purpose or to any land acquired by the Government under the relevant laws and handed over to any individual, institution or company for use, or to any land which is under any reservation in the Development plan but has not been acquired by the Planning Authority or the Appropriate Authority.

42C. (1) Where a land is situated in an area, for which draft Regional plan has been prepared and necessary notice regarding such draft Regional plan has been duly published in the *Official Gazette* or such Regional plan has been approved and published in the *Official Gazette*, the use of such land for the purposes of section 42 or section 44, shall be deemed to have been converted to corresponding non-agricultural use, once development permission on such land under section 18 of the Maharashtra Regional and Town Planning Act, 1966 is granted, if the conversion tax and non-agricultural assessment, as per the provisions of this Act, and, in respect of a land held as Occupant Class-II, *nazarana* or premium and other Government dues levied for such conversion, as per the prevailing orders of the Government and the relevant provisions of the law, are paid.

Provision for conversion of land use for lands included in the draft Regional plan.

Mah.
XXXVII
of 1966.

(2) Where a land is situated in an area for which draft Regional plan or draft Development plan has been prepared and necessary notice regarding such draft Regional plan or draft Development plan has been duly published in the *Official Gazette* or such Regional plan or, as the case may be, the Development plan has been approved and published in the *Official Gazette*, the permission to build a farm building, given by the Collector under section 18 of the Maharashtra Regional and Town Planning Act, 1966 or by the Planning Authority under the provisions of the aforesaid Act, shall be deemed to be the permission envisaged under section 41 for such farm building.”

Mah.
XXXVII
of 1966.

Amendment
of section 48
of Mah. XLI of
1966.

3. In section 48 of the said Code, in sub-section (7), for the words “equal to five times” the words “upto five times” shall be substituted.

Power to
remove
difficulty.

4. (1) If any difficulty arises in giving effect to the provisions of the Maharashtra Land Revenue Code, 1966 as amended by this Ordinance, the State Government may, as occasion arises, by order published in the *Official Gazette*, do anything not inconsistent with the provisions of the said Code, as amended by this Ordinance which appears to it to be necessary or expedient for the purpose of removing the difficulty.

Mah.
XLI of
1966.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each house of the State Legislature.

STATEMENT.

Section 42 of the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), deals with conversion of land use and permission for non-agricultural use of land.

Once Development plan is finally notified by the Government under the Maharashtra Regional and Town Planning Act, 1966 (Mah. XXXVII of 1966), for any area, it becomes permissible for the land holders in such area to use their lands as per the provisions of the Development plan and the corresponding Development Control Regulations. Therefore, there is no need for the Revenue Officers to separately examine and decide whether or not to grant permission for conversion of use of such lands under the provisions of section 42 and section 44 of the Maharashtra Land Revenue Code, 1966. Hence, it is proposed that, where the Development plan is finally published, the land should be deemed to have been converted to the use as admissible under the Development plan, if the conversion tax, non-agricultural assessment and *nazarana* or premium and other Government dues, as may be applicable in case of lands held on Occupant Class-II, are paid and accordingly it is proposed that, the Collector, on an application made by a land holder or *suo motu*, shall fix conversion tax and non-agricultural assessment for such lands, alongwith *nazarana* or premium and other Government dues as may be applicable, in case of Occupant Class-II lands, after obtaining prior permission of the competent authority, as may be necessary, and intimate such land holder to pay these dues. Where this process is initiated on the basis of an application made by a land holder, notice to pay this conversion tax, non-agricultural assessment, alongwith *nazarana* or premium and other Government dues, if required, should be issued within 30 days on receipt of application by the land holder in case of Occupant Class-I lands and within 30 days from receipt of permission of the Competent Authority, in case of Occupant Class-II lands. If the conversion tax, non-agricultural assessment and *nazarana* or premium and other Government dues are paid, the *challan* or receipt of such payment shall be regarded as the proof of the land having been converted to non-agricultural use. It is also proposed to revise the non-agricultural assessment of such land as per the revision of Development plan.

Where a land is situated in an area for which draft Regional plan has been prepared and necessary notice regarding such draft plan has been duly published or such Regional Plan has been approved and published in the *Official Gazette*, it is proposed that the use of such land should be deemed to have been converted to the corresponding non-agricultural use, once development permission on such land under section 18 of the Maharashtra Regional and Town Planning Act, 1966, is granted, if the conversion tax and non-agricultural assessment and in respect of a land held as Occupant Class-II, *nazarana* or premium and other Government dues levied for such conversion are paid. In such case, no separate permission under sections 42 and 44 of the Maharashtra Land Revenue Code, 1966 shall be required.

Likewise, it is also proposed that where a land is situated in an area for which draft Regional plan or draft Development plan has been prepared and necessary notice has been published or such Regional plan has been approved and published in the *Official Gazette*, the permission to build a farm building given by the Collector under section 18 of the Maharashtra Regional and Town

Planning Act, 1966, or by the Planning Authority should be deemed to be the permission envisaged under section 41 of the Maharashtra Land Revenue Code, 1966, for such farm building.

Accordingly, it is proposed to insert new sections 42B and 42C in the Maharashtra Land Revenue Code, 1966. Upon insertion of the aforesaid proposed provisions in the said Code, no separate non-agricultural permission will be required in the afore-mentioned situations, resulting in saving in time and energy of the land holder and the administration, which will facilitate the Ease of Doing Business.

2. Section 48 of the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), provides for Government title to mines and minerals.

With a view to curbing menace of illegal extraction or transportation of minerals, the penalty for illegal extraction or transportation of minerals has been increased from upto three times of market value of such illegally extracted or transported mineral to five times its market value, by amending section 48 of the said Code.

However, it has been brought to the notice of the Government that even for relatively minor irregularities, for want of any discretion in this regard, penalty equal to five times of the market value of the mineral involved in such irregularity, is being levied. The Government, therefore, considers it expedient to amend, said section 48, by providing for levy of penalty upto five times of the market value of the mineral, regarding extraction or transportation of which any irregularity or illegality is observed.

3. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstance exist which render it necessary for him to take immediate action further to amend the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966), for the purposes aforesaid, this Ordinance is promulgated.

Mumbai,
Dated the 1st January 2017.

CH. VIDYASAGAR RAO,
Governor of Maharashtra.

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

MANU KUMAR SRIVASTAVA,
Principal Secretary to Government.