

[63-1A. Transfer to non-agriculturist for bona fide industrial use

(1) Notwithstanding anything contained in section 63, it shall be lawful for a person to sell land, without permission of the Collector, to any person who is or is not an agriculturist and who intends to convert the same to a *bona fide* industrial use, ²[or for special township project, as the case may be,] where such land is located within, —

(i) the industrial zone of a draft or final regional plan or draft interim or final development plan or draft or final town planning scheme, as the case may be, prepared under the Maharashtra Regional and Town Planning Act, 1966 or any other law for the time being in force, or the agricultural zone of any of such plans or schemes and the development control regulations or rules framed under such Act or any of such laws permit industrial use of land; or

(ii) the area where no such plan or scheme as aforesaid exists; ³[or]

⁴[(iii) the area taken over by a private developer for development of a special township project :]

Provided that, where the total extent of such land proposed to be purchased by a person exceeds ten hectares, he shall obtain prior permission of the Development Commissioner (Industries) or any other officer authorised by the State Government in this behalf, who, while granting such permission shall consider the justification or reasonableness of the requirement of the land proposed to be purchased with reference to the nature of the proposed *bona fide* industrial use of such land:

⁵[Provided further that, such purchase of land shall be subject to the condition that it shall be put to industrial use within the specified total period of ⁶[fifteen] years from the date of purchase, failing which the person from whom the land was purchased shall have the right to repurchase such land at the price for which it was originally sold by him:

Provided also that, the purchaser who fails to put the land to *bona fide* industrial use within five years from the date of the purchase, and is on the date of coming into force of the Maharashtra Tenancy and Agricultural Lands Laws (Amendment) Act, 2004, holding such land without having been put to the *bona-fide* industrial use, shall be permitted to put such land to the *bona*

1. This section was inserted by Mah. 28 of 1994, s. 2.

2. These words were inserted by Mah. 43 of 2005, s. 2, (w.e.f. 17-5-2004).

3. This word added by Mah. 43 of 2005, s. 2, w.e.f. 17-5-2004.

4. Clause (iii) added by Mah. 43 of 2005, s. 2, w.e.f. 17-5-2004.

5. Provisos substituted by Mah. 43 of 2005, s. 2(iv), w.e.f. 17-5-2004.

6. This word was substituted for the word 'five' by Mah. 43 of 2005 (w.e.f. 17-5-2004).

fide industrial use within the remaining period from the total period of fifteen years, subject to the condition that,—

(a) if the land purchased under sub-section (1) was held by the seller as the Occupant Class-II, such purchaser land holder shall pay an additional amount equal to 48 per cent of the price for which it was originally purchased and three times of an annual assessment of non-agricultural tax payable under the Maharashtra Land Revenue Code, 1966 as a non-utilisation tax per year;

(b) if the land purchased under sub-section (1) was held by the seller as the Occupant Class-I, such purchaser land holder shall pay an amount equal to three times of an annual assessment of the non-agricultural tax payable under the Maharashtra Land Revenue Code, 1966 as a non-utilisation tax per year:

Provided also that, the provisions of this sub-section shall not apply to the areas notified as the Eco-sensitive Zone by the Government of India;]

Provided also that, where the land being sold is owned by a person belonging to the Scheduled Tribe, such sale of land shall be subject to the provisions of section 36 and 36A of the Maharashtra Land Revenue Code, 1966 and of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974.

(2) If, the land being purchased under sub-section (1) is held by Occupant — Class II, the purchaser shall pay to the Collector, an amount equal to ¹“two per cent of the purchase price, in case the purchase of land is for bona-fide industrial use and fifty per cent. of the purchase price. If the purchase of land is for special township project”] within one month of the execution of the sale deed irrespective of the tenure of such land. This payment shall be in lieu of any *nazarana* or such other charges which may otherwise be payable by such Occupant — Class II by or under the provisions of the Maharashtra Land Revenue Code, 1966. In addition, the purchaser of such land shall pay the non-agricultural assessment as may be levied by the Collector under sections 67 and 115 of the Maharashtra Land Revenue Code, 1966.

(3) The person purchasing the land under sub-section (1) for conversion thereof for a *bona fide* industrial use ²[or for special township project as the case may be,] give intimation of the date, on which the change of user of the land commenced, within thirty days from such date, to the Collector.

(4) If the person fails to inform the Collector within the period specified in sub-section (3), he shall be liable to pay in addition to the non-agricultural

1. These words were substituted for the words “two per cent of the purchase price” by Mah. 25 of 2005, s. 2(6), w.e.f. 17-5-2004.

2. These words were inserted by Mah. 25 of 2005, s. 2(c), w.e.f. 17-5-2004.

assessment which may be leviable by or under the provisions of the Maharashtra Land Revenue Code, 1966 such penalty not exceeding twenty times the amount of non-agricultural assessment as the Collector may, subject to the rules, if any, made by the State Government in this behalf, direct.

Explanation.—For the purposes of this section, —

(a) the expression “*bona fide industrial use*” means the activity of manufacture, preservation or processing of goods, or any handicraft, or industrial business or enterprise, carried on by any person, ¹[or the activity of tourism within the areas notified by the State Government as the tourist place or hill station,] and shall include construction of industrial buildings used for the manufacturing process or purpose, or power projects and ancillary industrial usage like research and development, godown, canteen office building of the industry concerned, or providing housing accommodation to the workers of the industry concerned, or establishment of an industrial estate including a co-operative industrial estate, service industry, cottage industry, *gramodyog* units or *gramodyog vasahats*.

²[(aa) “special township project” means the special township project or projects under the Regulations framed for Development of Special Township by the Government under the provisions of the Maharashtra Regional and Town Planning Act, 1966.]

(b) “Scheduled Tribes” means such tribes or tribal communities or parts of or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Maharashtra under Article 342 of the Constitution of India and person, who belong to the tribes or tribal communities, or parts of, or groups within, tribes or tribal communities specified in Part IX of the Schedule to the Order made under the said Article 342, but who are not resident in the localities specified in that order who nevertheless need the protection of this section (and it is hereby declared that they do need such protection) shall for the purposes of this section, be treated in the same manner as members of the Scheduled Tribes.]

NOTES

Lease of Land : Termination of tenancy : Sec.106 of the TP Act, 1882 : Sec.6, Sec.5-A, Sec.15-A of the LA Act, 1894.

The lease period extended time to time. The Petitioner sent Notice u/s 106 of the TP Act, 1882 r/w Sec.80 of CPC to Respondent No. 1-Union of India and the Respondent 3-HPCL. Further refused to extend lease. The Petitioner contends Respondent No. 3 and its Officers illegally helping Respondent No. 5-Dealer. The Petitioner filed Regular Civil Suit terminating tenancy, which dismissed. On Appeal, the District Judge allowed Appeal. The Respondent No. 3 preferred Second Appeal. The Stay was refused in proceedings of Second Appeal but in LPA, stay was granted. The Respondent

1. These words were inserted by Mah. 25 of 2005, s. 2(d)(i), w.e.f. 1-7-2000.

2. Clause (aa) was inserted by Mah. 25 of 2005, s. 2(d)(ii), w.e.f. 17-5-2004.

No. 3 issued Notification u/s 6 of the LA Act, 1894. The Division Bench held that the Court not found that the Respondent HPCL had no authority in law to initiate Proposal for acquisition of land on behalf of UOI. In view of rival contentions, the Court not found that move to initiate land acquisition proceedings was to favour Respondent Dealer. The Second Appeal filed by the Respondent No. 3 HPCL is still pending. The mandatory requirements u/s 5-A were complied with Petitioner cannot raise issue of jurisdiction of the Commissioner in entertaining Revision filed u/s 15-A of LA Act, 1894. The land required by Respondent No. 3 HPCL could be acquired by the Divisional Commissioner under delegated powers by Central Government.

Fakhruddin Hyderali (died) through his legal representative Mustafa Fakhruddin Ambawala v. Union Of India & Ors, 2011 (2) AIR BOM R 165 (AB) : 2011 (1) All MR 648 (AB) : 2011 (1) Bom.C.R. 259 (AB) : 2011 MCR 514 (AB) : 2011 ((2) Mh.L.J. 858 (AB).

¹[63A. Reasonable price of land for the purpose of its sale and purchase

(1) Except as otherwise expressly provided in this Act, the price of any land sold or purchased under the provisions of this Act shall consist of the following amounts, namely :—

(a) an amount not being less than 20 times the assessment levied or leviable in respect of the land and not being more than 200 times such assessment, excluding, however, for the purpose of calculation, the amount of water rate if any, levied under section 55 of the Bombay Land Revenue Code, 1879 and included in such assessment;

(b) the value of any structures, wells and embankments constructed, permanent fixtures made and trees planted on the land.

(2) Where under the provisions of this Act any land is sold or purchased by mutual agreement, such agreement shall be registered before the *Mamlatdar*, and the price of the land shall, subject to the limits specified in sub-section (1), be such as may be mutually agreed upon by the parties. In the case of disagreement between the parties, the price shall be determined by the Tribunal having regard to the factors mentioned in this section.

(3) Where in the case of a sale or purchase of any land under this Act, the Tribunal or the *Mamlatdar* has to fix the price of such land under this Act, the Tribunal or the *Mamlatdar*, as the case may be, shall, subject to the quantum specified in sub-section (1), fix the price having regard to the following factors, namely :—

(a) the rental values of lands used for similar purposes in the locality;

(b) the structures and wells constructed and permanent fixtures made and trees planted, on the land by the landlord or tenant;

(c) the profits of agriculture of similar lands in the locality;

1. This section was inserted by Bom. 13 of 1956, s. 33.

- (d) the prices of crops and commodities in the locality;
- (e) the improvements made in the land by the landlord or the tenant;
- (f) the assessment payable in respect of the land; and
- (g) such other factors as may be prescribed.]

¹[*Explanation.*—For the purposes of this section, the expression “assessment” shall have the meaning assigned to it in section 8.]

NOTES

Other factors to be considered for determination of reasonable price of land
See - Rule 37 of the BTAL Rules, 1956.

²[64. Sale of agricultural land to particular person

(1) Where a landlord intends to sell any land, he shall apply to the Tribunal for determining the reasonable price thereof. The Tribunal shall thereupon determine the reasonable price of the land in accordance with the provisions of section 63A. The Tribunal shall also direct that the price shall be payable either in lump sum or in annual instalments not exceeding six carrying simple interest at 4½ per cent per annum:

Provided that in the case of sale of the land in favour of a permanent tenant when he is in possession thereof, the price shall be at six times the annual rent.

(2) After the Tribunal has determined the reasonable price, the landlord shall simultaneously in the prescribed manner make an offer —

(a) in the case of agricultural land —

(i) to the tenant in actual possession thereof, notwithstanding the fact that such land is a fragment, and

(ii) to all persons and bodies mentioned in the priority list;

(b) in the case of a dwelling house, or a site of a dwelling house or land appurtenant to such house when such dwelling house, site or land is not used or is not necessary to carry on agricultural operations in the adjoining lands —

(i) to the tenant thereof;

(ii) to the person residing in the village who is not in possession of any dwelling house:

1. This Explanation was added by Bom. 15 of 1957, s. 12.

2. This section was substituted for the original by Bom. 13 of 1956, s. 34.