



ABSTRACT

Land Reforms – Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58 of 1961), as amended – Issue of Mortgage of lands (fully or Partly) - Applied for grant of permission under section 37-A of the Act by Industrial or Commercial Undertakings – Views of Industrial Exemption Committee – Orders Issued.

REVENUE & DISASTER MANAGEMENT DEPARTMENT, LAND REFORMS WING, LR.2(1) SECTION

G.O.(Ms)No.425

Dated: 18.08.2020

சார்வரி வருடம்,
ஆவணி 2,
திருவள்ளூர் ஆண்டு, 2051

Read:

1. G.O. (Ms) No.416, Revenue, dated 10.03.1984.
2. From the Additional Chief Secretary / Commissioner of Land Reforms, Letter No.C1/5771/2011(L.Ref.), dated 21.08.2019 and 11.11.2019.
3. From the Advocate General of Tamil Nadu, High Court of Madras, Chennai 104, OPN.No.162/AGVN/2019, dated 31.10.2019.

ORDER:

In the reference second read above, the Additional Chief Secretary / Commissioner of Land Reforms has reported that, the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58 of 1961) came into force on 06.04.1960. Section 5 read with Section 7 of the said Act imposes a land ceiling to the extent prescribed. An industrial or commercial organisation is permitted to hold 15.000 standard acres of land for Industrial or Commercial purposes. At the same time, according to section 37-A (1) if any Industrial or Commercial undertaking desires to hold or acquire any land in excess of the ceiling area, it shall make an application to the Government for permission to hold or acquire such land.

2. In the reference first read above, orders have been issued for constituting Industrial Exemption Committee to process the applications under section 37-A of the said Act to hold or acquire the lands in excess of ceiling limit for Industrial or Commercial undertakings.

3. In the mean time, it has been brought to the notice, that number of proposal remain undecided for the reason that the Industrial or Commercial undertakings have mortgaged the lands (fully or partly) applied for permission or already permitted for advancement, on it legitimate business activities. In few cases, the applications have not been recommended by the Industrial Exemption Committee on the ground the lands applied for, have been mortgaged for obtaining loan.

4. Further on perusal of Section 7, 20, 37A of the said Act and 55-A, 56, of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Rules, 1962, it is apparent that no limit has been prescribed for refusal of permission under section 37-A of the said Act on the sole ground that the lands applied for, have been mortgaged before or after submission of application. At the same time there is no provisions in the Act / Rules permitting mortgage of the lands which were covered under section 37-A of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961.

5. In view of this, the matter was placed before the Industrial Exemption Committee (IEC) on 16.08.2019 to decide:

- (i) Whether the exception carved out in section 7 excludes Industrial or Commercial undertakings that have applied for permission under section 37-A of the Act from the purview of Section 20 of the Act.
- (ii) Since there is no mention in the Act and Rules about mortgage of lands by Industrial or Commercial undertakings applied for permission, whether the term 'sale' mentioned in section 20 of the Act includes mortgage.

6. The Industrial Exemption Committee was of the view that mortgage of land for raising finance for the business, is a standard industrial practice and any restraint on it, can impede industrialization in the state. After due deliberations, the Industrial Exemption Committee has resolved as follows:

"The committee has considered the predicament of the department of Land Reforms over the ambiguity in dealing with applications under section 37-A in which lands have been mortgaged after submission of the application and recommends that the Government may take a policy decision on this aspect in consultation with departments of Law, Finance, Industries and other stake holders and experts as considered appropriate".

7. The Government have examined the case carefully with relevant records and decided to obtain the opinion of Advocate General of Tamil Nadu. The Advocate General in his opinion has stated among other things that, Government cannot reject, or recommend an application under section 37-A be rejected on the sole ground that during the pendency of the application, lands have been mortgaged for the legitimate business activity.

8. The Additional Chief Secretary / Commissioner of Land Reforms has also mentioned that mortgage of land for raising Finance for the business is a standard practice and any restraint on it can impede industrialisation in the State and recommended the Government to take a Policy Decision based on the Opinion of the Advocate General of Tamil Nadu and such a Policy Decision will further foster ease of doing business and give fillip to industrial and commercial activity in the State without compromising the spirit of the Land Reforms Act.

9. In the above circumstances the Government have examined the case carefully with relevant provisions of the Act and Rules in consultation with Industries, Law and Finance Departments and the opinion of Advocate General.

10. Accordingly, the Government direct that applications from Industrial or Commercial undertaking may be considered under section 37-A of Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 to hold or to acquire the lands in excess of ceiling area of the Company or Industrial Undertaking, even though the lands are mortgaged, during the pendency of application for legitimate business activity, after obtaining an undertaking from the company or No Objection Certificate from the concerned Bank, in order to foster ease of doing business and give fillip to industrial and commercial activity in the State without compromising the spirit of Land Reforms Act.

(BY ORDER OF THE GOVERNOR)

ATULYA MISRA
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT

To

✓ The Additional Chief Secretary / Commissioner of Land Reforms,
Chepauk, Chennai-5.

Copy to:

The Hon'ble Chief Minister's Office, Chennai-9

The Special Personal Assistant to the Hon'ble Minister for
Revenue & Disaster Management & I.T.,

Secretariat, Chennai-9.

The Principal Private Secretary to the Additional Chief Secretary to Government,
Revenue & Disaster Management Department, Chennai-9.

The Industries / Law / Finance Departments, Chennai-9.
SF/SC.

//FORWARDED BY ORDER //

SECTION OFFICER

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19/8/2020