



ABSTRACT

Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 - Grant of permission to hold the lands held by Industries or Commercial undertakings - Seller Attracted Issue - Orders issued.

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

G.O.(Ms.)No.596

Dated:24.10.2020

சார்வரி வருடம்,
ஐப்பசி 8,
திருவள்ளூர் ஆண்டு, 2051

Read:

1. From the Director of Land Reforms (I/c) & Director of Social Security Schemes, Lr.No.E1/10805/2017 (L.Ref), dated: 05.03.2020 and 16.03.2020.
2. Advocate General of Tamil Nadu opinion dated:08.05.2020.
3. From the Director of Survey and Settlement / Commissioner of Land Reforms (I/c) letter No.10805/2017 (L.Ref), dated: 19.08.2020.
4. G.O. (Ms) No.337, Revenue & Disaster Management, dated 06.07.2020.

ORDER:

In the reference first read above, the Director of Land Reforms (I/c) & Director of Social Security Schemes, while sending proposals to Government for grant of exemption under section 37-A of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961, after placing the case in the Industrial Exemption Committee has reported that, "So far, Industrial Exemption Committee has not been recommending grant of permission in case of "Seller Attracted" lands. Representatives of the Industries Department were of the view that Section 20 of the Land Reforms Act should not be enforced on the industrial units, when its seller from whom the industrial unit brought the land held excess land beyond ceiling limit but no declaration as contemplated under section 20 of the Act has been made by the authorized officer for the said land. Since the contention of Industries Department entailed major break from the past procedural and interpretation of the Act, it was decided that the IEC may forward all such cases to the Government for taking a policy decision".

2. In the meantime, a meeting was held on 19.03.2020 under the Chairmanship of Chief Secretary regarding streamlining of the process for grant of permission under section 37-A of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 and to sort out the issues like Seller Attracted cases, among other things.

3. In the above meeting, the Industries Department has informed that, opinion of the Advocate General has been called for on the following issues:-

- (i) Whether an industrial unit can make an application under Section 37-A for permission to hold excess land beyond the ceiling limit, when its vendor held excess land beyond ceiling limit, but no declaration as contemplated under Section 20 of the Act has been made by the authorized officer for the said land.
- (ii) Whether an industrial unit (say Unit A) who has already filed an application under Section 37-A to hold excess land beyond ceiling limit for Industrial purpose, subsequently sold full or a part of the land to another industrial unit (say Unit B) to use it for industrial purpose while the main application under section 37-A (of Unit A) is already pending in Government, and the current industrial Unit (Unit B) who bought full or part of the lands also makes an application under Section 37-A to hold excess land arising out of the above transfer. In both the cases the authorized officer has not initiated any action u/s 20 of the Act.

4. In the reference second read above, the Advocate General has offered his considered opinion among other things as below:-

In respect of issue No.1, Section 20 of the Tamil Nadu Land Reforms Act, 1961, clearly provides that if there is any future acquisition of land after the coming into force of the Act, and such acquisition results in the transferee holding land in excess of the ceiling limit, then such excess land shall, as a measure of penalty, stand transferred to the Government, on a declaration being made by the authorised officer within whose jurisdiction the land is situated. A plain reading of the language indicates that if the land is to stand transferred to the Government, there has to be a declaration to that effect by the authorised officer.

Hence, in the absence of such declaration the transfer to the Government does not take place and in the meanwhile, if the buyer of the land applies for permission to hold the land under Section 37-A, the authorised officer will have to necessarily defer further proceedings and wait for the disposal of that application for permission, since that application is to be considered by a higher authority, namely, the State Government. If the Government does not grant such permission, then it is open to the authorised officer to proceed to pass orders, as contemplated by Section 20 of the Act.

In respect of issue No.2 the only difference being that the original owner has made an application for permission under Section 37-A, and though no orders were passed, the land was sold to a subsequent purchaser, who also makes an application for permission under Section 37-A. And no declaration was made by the authorised officer, as contemplated under Section 20, the state Government will have to first consider the application for permission to hold the land for industrial purposes under Section 37-A. It is only if such permission is refused that the authorised officer can proceed to pass orders for transfer of the land to the Government.

5. In the reference third read above, the Director of Survey and Settlement / Commissioner of Land Reforms (FAC) has reported among other things that, the object of the Land Reforms Act is to fix ceiling on agricultural lands held as on the date of commencement of the Act, i.e., 15.02.1970 and notified date on 02.10.1970 and declare the excess lands as surplus lands for eventual assignment of the surplus lands to the poor agriculturist under the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965.

6. Further in the cases, where the seller of the lands to the company i.e. industrial or commercial undertaking attracted under the Land Reforms Act, but, the buyer-company applied to Government in proper manner requesting to grant permission under section 37-A for industrial purpose, the Authorised Officer shall not pass any order under section 20 of the Act till the disposal of the application by Government. If such application is rejected by the Government, then the Authorised Officer shall take action on the above said sections.

7. In such cases, the grant of permission under section 37-A of the Act may be considered by Government, on case to case basis, after taking into consideration of the following facts:-

- (i) Bonafide and genuineness of the buyer-company and the circumstances under which the sale was effected.
- (ii) Scope of Industrial / Commercial activities.
- (iii) Utilization of lands or to be utilized the lands for the purpose for which they applied to Government.
- (iv) Since the transferred lands are excess lands and as such, those lands may be shown as excess lands of the buyer company and in such cases the buyer company's own lands shall be shown in the retainable area (within the ceiling area) of the company. Thus the quantum of the excess lands covered under section 37-A of the Act would not change and hence there is no loss to Government.

8. In the cases where a company has applied to Government for grant of permission under section 37-A of the Act for industrial purpose and subsequently for some bonafide reasons the company is transferred those land partly or fully, in such

cases, the grant of permission under section 37-A of the Act may be considered by Government in case to case basis on taking into account the following facts:-

- i. Bonafide and genuine reason in which the transfer effected by the company.
- ii. The scope prevailing in the industrial / commercial activities
- iii. Utilization of lands or lands to be utilized for the purpose for which they applied to Government.

Since, the transferred lands are excess lands and as such those lands may be shown as excess lands of the buyer covered under section 37-A of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961. Therefore the total quantum of surplus lands of both the company do not change.

9. He has also reported that there is no specific provision in the Tamil Nadu Land Reforms (Fixation of ceiling on Land) Act, 1961 as amended, to deal with the cases where seller was attracted, while submitting application under section 37-A the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961, and the cases where the lands covered under section 37-A of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961, were transferred to another company while application under section 37-A of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961, is pending with Government and the buyer company also applied to Government under section 37-A of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961. As such, cases may be dealt with by Government, on case to case basis, at the time of grant of permission under section 37-A of the Act as stated above, as there is no loss to Government in this issue.

10. It is experienced that such transfer cases are more in number covered under section 37-A of the Act and in some cases the lands have been acquired by Government under Land Acquisition Act for public purpose. As such those lands are also to be regularized. In such transfer cases, if the Government rejected the application of the company, they may resort to file cases before the Hon'ble High Court and in case, the order of the Government is set aside by the High Court or Supreme Court, then such transfer of lands has to be regularized by Government. Therefore, in the seller attracted or land transferred cases, the regularization of transfer of land may be considered by government, on case to case basis.

11. Further, the present economic scenario and global change of business such regularization of transfer of lands covered under section 37-A of the Act without any loss to Government is imperative.

12. In the above circumstances, the Government examined the issue of Seller Attracted cases carefully based on the opinion of Advocate General and the deliberations with Director of Survey and Settlement / Commissioner of Land Reforms (FAC) along with the remarks obtained from Industries / Law / Finance Departments, the Government direct that,

- i) In cases where the Industrial / Commercial undertaking has applied for permission under section 37-A of the Tamil Nadu Land Reforms (Fixation of

Ceiling on Land) Act 1961, to hold surplus lands, (irrespective of whether the original owner of the land or consequent purchaser has made an application) and no declaration was made by the authorized officer, as contemplated under section 20 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961, the State Government will have to first consider the application for permission to hold the land for industrial purpose under section 37-A of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961, on merits and thus seller attracted issue will not be a bar to consider an application under section 37-A of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961. It is only, if such permission is refused, the authorized officer can proceed to pass orders for transfer of the land to the Government.

- ii) Moreover, while declaring the surplus land, the existing provision in the Act and Rules of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 will prevail.

13. The Additional Chief Secretary / Commissioner of Land Reforms is requested to send proposal in accordance with the above order to Government for grant of permission under section 37-A of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961.

(BY ORDER OF THE GOVERNOR)

ATULYA MISRA

ADDITIONAL CHIEF SECRETARY TO GOVERNMENT

To

✓ The Additional Chief Secretary / Commissioner of Land Reforms,
Chepauk, Chennai- 600 005.

The Director of Land Reforms, Chepauk, Chennai-5.

All District Collectors.

Copy to:

The Industries Department, Secretariat, Chennai-9.

The Law Department, Secretariat, Chennai-9.

The Finance Department, Secretariat, Chennai-9.

The Secretary-II to Hon'ble Chief Minister, Secretariat, Chennai-9.

The Chief Minister Office, Secretariat, 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, Chennai-9.

Sf/Sc.

//FORWARDED BY ORDER //

SECTION OFFICER