

The Bhopal Gas Trasadi (Jangam Sampatti Ke Vikrayon Ka Shoonya Ghoshit Kiya Jana) Adhiniyam, 1985

MADHYA PRADESH

India

The Bhopal Gas Trasadi (Jangam Sampatti Ke Vikrayon Ka Shoonya Ghoshit Kiya Jana) Adhiniyam, 1985

Act 8 of 1985

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The Bhopal Gas Trasadi (Jangam Sampatti Ke Vikrayon Ka Shoonya Ghoshit Kiya Jana) Adhiniyam, 1985(No. 8 of 1985)[Dated 1st May, 1985]Received the assent of the President on the 1st May, 1985; assent first published in the "Madhya Pradesh Gazette" (Extraordinary) dated the 3rd May, 1985.An Act to declare certain transactions of sale of movable property entered into by certain persons under panic caused by leakage of injurious gas from Union Carbide Factory, Bhopal to be void.Be it enacted by the Madhya Pradesh Legislature in the Thirty-sixth Year of the Republic of India as follows :

1. Short title and commencement.

(1)This Act may be called The Bhopal Gas Trasadi (Jangaim Sampatti Ke Vikrayon Ka Shoonya Ghoshit Kiya Jana) Adhiniyam, 1985.(2)It shall be deemed to have come into force on the 24th day of January, 1985.

2. Definition.

- In this Act unless the context otherwise requires,-"Affected area" means the area comprised within the limits of Municipal Corporation, Bhopal.

3. Application to declare transaction of sale to be void.

(1)Any person residing in the affected area who has under panic caused by leakage of injurious gas from Union Carbide Factory, Bhopal sold any of his movable property during the period 3rd

December, 1984 to 24th December, 1984 to any person may apply to the competent authority to be appointed by the State Government which should not be below the rank of Collector for declaring the transaction of sale to be void.(2)Every application under sub-section (1) shall contain the following particulars, namely-(i)name of the seller with address;(ii)name of the purchaser with address;(iii)details of movable property sold;(iv)consideration received;(v)date and place of sale; and(vi)such other particulars as may be required.(3)The statements in the application shall be verified by the applicant in the manner required by law for the verification of complaints.

4. Enquiry by competent authority.

(1)The competent authority may on receipt of an application under Section 3 make such preliminary enquiry as it may in the circumstances of the case deem fit to ascertain whether the transaction of sale is of the nature specified in Section 3 and on being satisfied that Section 3 applies to such transaction, it shall after recording its opinion therefor, proceed to conduct an enquiry into such transaction in the manner hereinafter provided.(2)The competent authority shall by a notice served on the parties to the transaction of sale call upon them to place all relevant facts and documents before it at such place, on such date and at such time as may be specified in the notice.(3)The Competent Authority shall at the place and at the date and time specified in the notice afford an opportunity to the parties of being heard in person and may, if necessary, examine all of the parties interested in the sale to elucidate information relevant to the sale.

5. Setting aside sale and return of movable property or affording other relief.

(1)If after the enquiry the competent authority is satisfied that-(i)the transaction of sale is of the nature specified in Section 3; and(ii)the consideration paid in such transaction of sale was not adequate according to the market value of such property prevalent on the date of sale,it shall declare such transaction to be void notwithstanding anything contained in any other law for the time being in force and shall,-(a)pass an order to return the property sold on repayment of the amount of consideration by the seller;(b)if the purchaser fails to return the property within fifteen days of the order passed under clause (a) or where in the opinion of the competent authority it is not feasible to return the property, pass order directing the purchaser to pay the difference of price under sub-section (2);(c)pass such other consequential orders as may be necessary.(2)Where the purchaser fails to return the property or for any reason to be recorded in writing it is not possible to return the property to the seller, the competent authority shall fix the price of such property according to the market value of such property prevalent on the date of sale and order the purchaser to pay the difference, if any, between the price so fixed and the amount of consideration actually paid to the seller within a period of fifteen days.(3)If the purchaser fails to pay the difference of price ordered to be paid under sub-section (2) within the period specified therein the same shall be recoverable as an arrear of land revenue and the amount so recovered shall be paid to the seller.

6. Penalty.

- Whoever contravenes the provisions of Section 5 shall, without prejudice to any action that may be taken by the competent authority under sub-section (3) of Section 5, be punishable with

imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

7. Appeal.

- Any person aggrieved by an order of the competent authority under Section 5, may within a period of thirty days of passing of such order, appeal to such authority as may be appointed by the State Government in this behalf, in such form and manner and accompanied by such fee as may be prescribed :Provided that in computing the period aforesaid, time requisite for obtaining the copy of the order appealed against shall be excluded.

8. Finality,of order.

- Every order made by the Appellate Authority in appeal or any order of the competent authority shall, if no appeal is filed, be final and shall not be called in question in any Court, tribunal or authority by way of appeal or revision or in any original suit application or execution proceeding.

9. Bar of jurisdiction of Civil Court.

- No Civil Court shall have any jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the competent authority or the Appellate Authority.

10. Enquiries and proceedings to be judicial proceedings.

- All enquiries and proceedings before the competent authority or the appellate authority shall be deemed to be judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code, 1860 (No. 45 of 1860) and for the purposes of Section 196 thereof.

11. Repeal.

- The Bhopal Gas Tragedy (Jangam Sampatti Ke Vikrayon Ka Shoonya Ghoshit Kiya Jana) Adhyadesh, 1985 (No. 4 of 1985) is hereby repealed. Notifications (i) Notification No. F. 35-10-85-C-I, dated 23rd March, 1985, published in Madhya Pradesh Rajpatra (Asadharan), dated 23-3-1985, p. 689. - In exercise of the powers conferred by sub-section (1) of Section 3 of the Bhopal Gas Tragedy (Jangam Sampatti Ke Vikrayon Ka Shoonya Ghoshit Kiya Jana) Adhyadesh, 1985 (No. 4 of 1985), the State Government hereby appoints the Collector, Bhopal Revenue District, Bhopal as the Competent Authority for the purposes of the said Ordinance. (ii) Notification No. F. 35-10-85-C-I, dated 23rd March, 1985, published in Madhya Pradesh Rajpatra (Asadharan), dated 23-3-1985. - In exercise of the powers conferred by sub-section (1) of Section 3 of the Bhopal Gas Tragedy (Jangam Sampatti Ke Vikrayon Ka Shoonya Ghoshit Kiya Jana) Adhyadesh, 1985 (No. 4 of 1985), the State Government hereby appoints the Additional Commissioner, Bhopal Revenue Division, Bhopal as the Appellate Authority for the purposes of the Ordinance.