

# **The Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Rules, 1959**

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### **Rule**

### **THE-ORISSA-SCHEDULED-AREAS-TRANSFER-OF-IMMOVABLE-PROPERTY RULES, 1959**

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The Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Rules, 1959 Published vide Notification No. 34538-AG-60/59-R/dated 17.8.1959 Notification No. 34538-AG.-60/59-R., dated 17.8.1959. - In exercise, of the powers conferred by Section 8 of Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 (Orissa Regulation No. 2 of 1956), the State Government do hereby make the following rules, namely :

#### **1. Short title and commencement.**

(1) These rules may be called the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Rules, 1959. (2) They shall come into force at once.

#### **2. Definition.**

- In these rules unless there is anything repugnant in the subject or context-(a)"Regulation" means the Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulations, 1956;[(a-i) Sub-Collector" means the Sub-Collector in charge of a subdivision or any other officer appointed by the Government to discharge the function of Sub-Collector under these rules.] [Inserted vide Orissa Gazette Extraordinary No. 151 9 dated 30.9.2003.](b)all words and expressions used in these rules and not defined herein shall have the same meaning as are respectively assigned to them in the Regulation,

### **3. Procedure for transfer to no-Scheduled Tribes.**

(1) A member of a Scheduled Tribe who intends to transfer any of his immovable property situated within a Scheduled Area to a member of any non-Scheduled Tribe, shall submit an application for the purpose and obtain the prior consent in writing of the competent authority under Section 3 (1) of the Regulation. (2) On receipt of such application, the competent authority may, cause necessary enquiries of a summary nature to be made by an officer duly authorised by him for the purpose before passing orders. The enquiring officer shall submit his report in Form I appended to that rules.

### **4. Attachment of the immovable property.**

(1) There shall be no attachment or sale of immovable property in execution of money decrees against a member of Scheduled Tribes within any Scheduled Area without the written permission of the competent authority. The property at such sale shall be sold only to members of Scheduled Tribes unless otherwise specifically directed in writing by the competent authority. (2) Subject to the provisions contained in Sub-rule (1) the procedure laid down in the Code of Civil Procedure, 1908, relating to execution of decrees shall apply to the said money decrees.

### **5. General control of Collector.**

- All orders except those against which an appeal lies, passed under these rules by any other competent authority, shall be subject to general control of the respective Collector having jurisdiction.

### **6. [ Form and Manner of filling information under Section 3B(1). [Added vide Orissa Gazette Extraordinary No. 1519 dated 30.9.2003.]**

(1) The information under Section 3B (1) of the Regulation shall be filed in Form No.2 accompanied by supporting documents mentioned therein. (2) The Form No. 2 having been duly filled in shall be presented to the Sub-Collector personally by the person in possession of the agricultural land of the Scheduled Tribe or by his authorised representative which shall be accompanied by a sworn affidavit to the effect that all the information furnished in Form No.2 are true to the best of the knowledge of the person submitting the information.

### **7. Manner of conducting Enquiry by the Sub-Collector.**

(1) On receipt of information under Section 3B (1) of the Regulation in the manner prescribed in Rule 6, the Sub-Collector shall cause the material particulars to be entered in a register, number the form, start a case record and fix a date of hearing not later than 30 days from the date of registration. (2) The Sub-Collector then shall issue a notice to the person who submitted the information to appear on the date fixed for hearing with all his documents and material witness if any, in support of his claim. (3) The Sub-Collector may also issue notice to any other person, whom

he considers qualified to depose before him to arrive at a correct finding.(4)The Sub-Collector may also serve a public notice on the village in which the land is situated, inviting their comments and views, if any, on the information within a period of 15 days from the date of service of notice. The notice shall be served in the manner prescribed in the Code of Civil Procedure.(5)The Sub-Collector may, if considered necessary, call for any information from the Registration and other offices of the State for a proper appreciation of evidence before him.(6)The enquiry shall be summary in nature.(7)The Sub-Collector may make such other enquiry as may be necessary , about the transactions of transfer.]Form IReport of Officer conducting enquiry on application for permission to transfer lands Scheduled Tribes to non-Scheduled Tribes under Section 3 (1) of Orissa Regulation No. 2 of 1956[See Rule 3]

**1. Name of the applicant....**

**2. Tribe of the applicant.....**

**3. Village, description of land, wet or dry areas, the rent payable of the land to be transferred (boundaries also to be furnished, the total area of land hold by the applicant on the date of application, the number of his family member dependent on him and his income from lands and other sources, if any)**

**4. Name and caste of the person to whom the land is to be alienated**

**5. Kind of transfer proposed by the applicant (mortgage, sale, etc.) and his objection in asking for the transfer (the enquiring officer should satisfy himself that the object of transfer stated by the applicant is the true object. He should also mention whether the form of transfer which the applicant wants to make is in his best interest. If not, the officer should recommend some other form of transfer which may be better, giving reasons)...**

**6. If the permission now applied for is only to satisfy any alienation already made, has the officer explained to the applicant that he can obtain possession of the land for mere asking of it ?...**

**7. What is the present market value of the land proposed to be alienated (state reasons) for the valuation and what is the price at which the applicant proposed to make the transfer ?**

**8. Has the officer advised the applicant to apply for a loan from Government? If the object of alienation is for purposes enumerated under the L.I. Loans Act or A.L. Act ?...**

**9. The Officer should report whether the applicant agrees to take a loan from Government and if so, whether transfer would still be necessary ? If he disagrees to take such loan reasons should be mentioned...**

**10. If the applicant is induced by any body to sell the land ?....**

**11. Whether there is no other Scheduled Tribes man prepared to have the land alienated in his favour for the market value of the land ?....**

**12. Whether the officer has made full and careful enquiries in the transaction and is personally, satisfied that it is genuine ? (Give reasons for holding that the transaction is genuine)...**

**13. Is the Officer satisfied that the permission if granted would be in the best interest of the applicant ? (Reasons should be given for the opinion of the officer)...**

**14. On how many former occasions has the applicant applied for and permission under Section 3 (1) of the Regulation granted ?...**

Station.....Date.....Signature.....Designation of the Enquiring, Officer  
Order of the Competent Authority, Signature.....Designation of the Competen Authority [Form No. 2]  
[Inserted vide Orissa Gazette Extraordinary No. 1519 dated 30.9.2003.]

**1. Name of the person presenting the information :**

**2. His father's name and address :**

**3. Name and address of the Scheduled Tribe, whose land, he is presently in occupation :**

**4. Name of the village in which the land is situated, Khata, Plot number and area of the land, to be mentioned :**

**5. Source of occupation of the Scheduled Tribe land :**

(a)by purchase(b)through mortgage(c)through gift(d)through inheritance(e)by order of a competent Court(f)through trespass(g)through Exchange(h)Any other - Specify(Tick the item applicable in your case)

**6. If in occupation of land through sale, gift or mortgage enclose a copy of the registration deed, if it was registered in any Registration Office.**

**7. Was permission of the competent authority obtained before registration of the document ? If so, enclose a copy.**

**8. If the possession was obtained through Court's Order enclose a copy of the Court's Order.**

**9. If you are occupying the land through trespass, indicate whether with the knowledge of the Scheduled Tribe owner or any one of his legal heirs or without any one's knowledge.**

**10. Indicate the amount of consideration money :**

(a)Paid by you towards the cost of the land at the time of purchase.(b)Did you pay the entire consideration money at the time of registration of the document or paid in full or a part of it before registration?

**11. if you are in occupation through mortgage deed executed by the Scheduled Tribe, indicate the terms of mortgage and the amount, if any, paid by you to the Scheduled Tribe. If the mortgage is not registered, indicate the number of years you are in occupation and terms of mortgage.**

**12. If you are in possession through exchange of your land with the Scheduled Tribes' indicate the Khata No., Plot No. and area of your land exchanged, with the name of the village in which the land is situated.**