

The Orissa Public Premises (Eviction of Unauthorised Occupants) Rules, 1988

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Rule

THE-ORISSA-PUBLIC-PREMISES-EVICTION-OF-UNAUTHORISED-OCCUPANTS-RULES-1988

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The Orissa Public Premises (Eviction of Unauthorised Occupants) Rules, 1988Published vide Notification No. 1249/CA, dated 30th January, 1988, Orissa Gazette Extraordinary No. 264 dated 8.2.1988No. 1249/CA. - In exercise of the powers conferred by Section 17 of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972 (Orissa Act 7 of 1972).The State Government do hereby make the following rules, namely:

1. Short title and commencement.

(1)These rules may be called the Orissa Public Premises (Eviction of Unauthorised Occupants) Rules, 1988.(2)They shall come into force on the date of their publication in the Official Gazette.

2. Definition.

- In these rules unless, the context otherwise requires-(a)"Act" means the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972;(b)"Form" means a form appointed to these rules.(2)Words and expressions used but not defined in these rules shall have the respective meaning as are assigned to them in the Act.

3. Manner of service of the notices.

- Where a person on whom a notice under Sub-section (1) of Section 4 or Sub-section (1) of Section 6 of the Act, is to be served cannot be found -(a)a copy of such notice in Form "A" or in Form "C" as

the case may be shall be affixed in a conspicuous part of the last known place of residence or business of such person, or be delivered to any adult member of his family;(b)the Estate Officer may; also proclaim the contents of such notice in the locality by beat of drum.

4.

The order passed under Section 4-A of the Act, shall be in Form 'G'.

5.

The order of eviction passed under Sub-section (1) of Section 5 of the Act shall be issued in Form 'B'.

6.

The order passed under Sub-section (1) of Section 7 of the Act, shall be issued in Form "D".

7. Holding of inquiries.

(1)Where any person on whom a notice or order under the Act has been served, desires to be heard through his representative shall authorise such representative in writing.(2)The Estate Officer shall record the summary of the statements and evidence tendered before him. The summary of such evidence and any relevant documents filed before him shall form a part of the record of the proceedings.(3)After hearing the party, who appear before the Estate Officer either personally or through a duly authorised representative and after recording the evidence adduced by him and making such further inquiry as necessary. The Estate Officer may pass such orders as he deems fit.

8. Manner of taking possession of public premises.

(1)If any obstruction is offered or in the opinion of the Estate Officer is likely to be offered to the taking possession of any public premises under the Act the Estate Officer or any other officer duly authorised by him in this behalf may obtain necessary police assistance; and(2)Where any public premises of which possession is to be taken under the Act is found locked, the Estate Officer or any other officer duly authorised by him in this behalf may in the presence of two witnesses either seal the locks or break open the locks or open or cause to be opened any door, gate or other barrier and enter into the premises -Provided that-(a)no entry shall be made into or possession taken of a public premises before sunrise or after sunset;(b)where possession is taken forcibly an inventory of the articles found in the premises shall be taken in the presence of two witnesses.

9. Assessment of damages.

(1)In assessing damages caused on account of unauthorised use and occupation of any public premises, the Estate Officer shall take into consideration the following matters, namely-(a)The purpose and the period for which the public premises were in unauthorised occupation;(b)The

nature, size and standard of the accommodation available in such premises;(c)Any damage done to the premises during the period of unauthorised occupation;(d)Any other matter relevant for the purposes of assessing damages;Provided that damages assessed under Clauses (a), (b) and (d) at the rate not exceeding five times of the standard rent fixed for the quarter if the premises is a Government quarter, shall be charged for the period of unauthorised occupation.Provided further that damages equal to the loss or damage done to the premises during the period of unauthorised occupation shall also be charged under Clause (c).(2)The notice in Form "E" shall be served on the person in unauthorised occupation of any public premises calling upon him to pay for the damages assessed under Sub-section (2) of Section 7 of the Act.(3)Assessment of damages and order for the payment of the same under Sub-section (2) of Section 7 of the Act on account of unauthorised use and occupation of any public premises shall be, by an order in Form "F".

10. Procedure in appeal.

(1)The memorandum of appeal filed under Section 9 of the Act shall precisely state the grounds of objection to the order appealed against and shall be accompanied by a copy of such order.(2)On receipt of the appeal the appellate authority shall call for the records of the proceedings before, the Estate Officer and such other particulars as may be required and shall appoint a date and time for the hearing of the appeal by sending notice thereof to the Estate Officer against whose orders the appeal is preferred and to the appellant as well as the authority concerned under whose administrative control the premises situates.(3)The appellant shall along with the memorandum of appeal supply copies thereof to be served on the respondents.

11. Repeal and savings.

(1)The Orissa Public Premises (Eviction of unauthorised occupants) Rules, 1962 are hereby repealed.(2)Notwithstanding such repeal anything done, any action taken and any order passed under the rule as repealed shall be deemed to have been due, taken or passed under the provisions of this rule.Form-A[See Rule 3-(a)]Form of notice under Sub-section (1) of Section 4 of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972ToShri/Shrimati/Kumari.....Whereas I, the undersigned, am of opinion that you are in unauthorised occupation of the public premises mentioned in the Schedule below and that you should be evicted from the said premises on the following grounds-GroundsNow, therefore, in pursuance of Sub-section (1) of Section 4 of the Act I hereby call upon you and all persons concerned that is to say, the public premises to show cause on or before the..... all persons who are, or may be, in occupation of, or claim interest in, *why such an order of eviction should not be made.

Schedule

Date.....Signature and seal of the Estate Officer*. The date should be a date not earlier than fifteen days from the date of service of the notice.Form-B[See Rule 5]Form of order under Sub-section (1) of Section 5 of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972Whereas I, the undersigned, satisfied for the reasons recorded below that

Shri/Shrimati/Kumari is/are in unauthorised occupation of the public premises specified in the Schedule below -ReasonsNow, therefore, in exercise of the powers conferred on me under Subsection (1) of Section 95 of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972 hereby order the said Shri/Shrimati/Kumari and all persons who may be in occupation of the said premises or any part thereof to vacate the said premises within forty-five days of the date of publication of this order. In the event of refusal or failure to comply with this order within the period specified above, the said Shri/Shrimati/ Kumari..... and all other persons concerned are liable to be evicted from the said premises, if need be by use of such forces as may be necessary.

Schedule 2

Date.....Signature and seal of the Estate OfficerForm-C[See Rule 3 (a)]Form of notice under Sub-section (1) of Section 9 of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972Shri/Shrimati/Kumari.....ToShri/Shrimati/Kumari.....Whereas on the you were evicted from the public premises described in the Schedule below which was unauthorisedly occupied by you.Now, therefore, in exercise of the powers conferred on me by Subsection (1) of Section 6 of the Act, I hereby give you notice that if you do not take possession of your properties remaining in the said public premises, and remove the same within seven days from the date of service of this notice on you, the said properties will be liable to be removed or disposed of by way of public auction. In case you desire to take possession of your properties and to remove the same from the said premises, you will be permitted to do on written authority from the undersigned provided any arrear of rent and or damages due from you are paid in full.

Schedule 3

Date.....Signature and seal of the Estate OfficerForm-D[See Rule 6]Form of order under Sub-section (1) of Section 7 of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972ToShri/Shrimati/Kumari.....Whereas you are, were in occupation of the public premises, described in the Schedule below-And whereas a sum of Rs..... being the arrears of rent from the..... day of..... to the..... of.....in respect of the said premises is due and payable by you to the Government.Now, therefore, in exercise of the powers conferred on me by Subsection (1) of Section 7 of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972, I do hereby require you to pay the said arrear within a period of months in equal instalments of Rs.....per month commencing from the date of service of this order. In case the said arrear is not paid within the said period or in the said manner it will be recovered as an arrear of Land Revenue.

Schedule 4

Date.....Signature and seal of the Estate OfficerForm-E[See Rule 9 (2)]Form of notice under the provision to Sub-section (2) of Section 7 of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972ToShri/Shrimati/Kumari.....Whereas I, the undersigned, am satisfied that you are/were in unauthorised occupation of the public premises mentioned in Schedule-I below for the period from to.....And whereas, in exercise of the powers conferred on me by Subsection (2) of Section 7 of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972, assess the damages amounting to Rs..... are due for the period(s) and at the rate(s) shown

in Schedule-II below account of your unauthorised use and occupation of the said premises. Now, therefore, under the proviso to Sub-section (2) of Section 7 of the Act, I hereby call upon you to show cause on or before the..... as to why an order requiring you to pay for the said damages should not be made.

I

II

Date..... Signature and seal of the Estate Officer Form-F [See Rule 9 (3)] Form of order under Sub-section (2) of Section 7 of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972 To Shri/Shrimati/Kumari..... Whereas I, the undersigned, am satisfied that you are/were in unauthorised occupation of the public premises mentioned in the Schedule below - And whereas by a written notice dated..... upon to show cause on or before the..... as to why an order requiring you to pay for the damages of Rs..... for unauthorised use and occupation of the said premises should not be made.* And whereas, I have considered your objections and/or the evidence produced by you, you have not made any objections or produced any evidence before the said date. Now, therefore, in exercise of the powers conferred on me by Subsection (2) of Section 7 of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972. I hereby order you to pay a sum of Rs..... assessed by me as damages on account of your unauthorised occupation of the said premises within..... months in equal instalments of Rs..... In the event of your refusal or failure to pay the damages, or any instalment thereof within the said period or in the manner aforesaid the amount will be recovered as an arrear of the Land Revenue.

Schedule 7

Date..... Signature and seal of the Estate Officer* Strike off portion not required. Form-G [See Rule 4] Form of order under Section 4-A of the Orissa Public Premises (Eviction of Unauthorised Occupants) Act, 1972 To Shri/Shrimati/Kumari..... Whereas the undersigned has reasons to believe that you are constructing..... a building or other structure on the public premises about to construct unauthorisedly occupied by you as specified in the schedule below from proceeding with It is ordered that you are hereby prohibited..... the construction of such..... building or other structure failing which steps to construct any shall be taken against you as per law.

Schedule 8

Date..... Signature and seal of the Estate Officer Notification No. 1054/CA. Bhubaneswar, dated 30.1.1987 In exercise of the power conferred by Section 3 of the Orissa Public Premises (Eviction of unauthorised occupants) Act, 1972 (Orissa Act 7 of 1972) the state Government do hereby appoint the Executive Officer and the Addl. Executive Officer of each of the following Municipality and the Notified Areas namely :

- 1. Cuttack Municipality.**
- 2. Puri Municipality.**
- 3. Bhubaneswar Municipality.**
- 4. Berhampur Municipality.**
- 5. Sambalpur Municipality.**
- 6. Rourkela (Civil Township) N.A.C.**

to be Estate Officer for the purpose of said Act and to exercise the powers conferred and perform the duties imposed on the Estate Officer by or under the said Act within limits of the above Municipalities and the N.A.Cs. in respect of the Public Premises belonging to the respective Municipal Council and N.A.C.