THE AZAMABAD INDUSTRIAL AREA (TERMINATION AND REGULATION OF LEASES) ACT, 1992.

(ACT NO. 15 OF 1992) ARRANGEMENT OF SECTIONS Sections

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THE AZAMABAD INDUSTRIAL AREA (TERMINATION AND REGULATION OF LEASES) ACT, 1992.[1]

ACT No.15 OF 1992.

1. (1) This Act may be called the Azamabad Industrial (Termination and Regulation of Leases) Act, 1992. Short title and Area commencement.

(2) It shall come into force on such date as the Government may, by notification, appoint.

2. In this Act, unless the context otherwise requires,- Definitions.

(a) “appointed date” means a date appointed under sub-section (2) of section 1;

(b) "Azamabad Industrial Area" means the land owned by Government and situated at Mushirabad within the limits of Hyderabad Municipal Corporation, divided into plots of different sizes for industrial purpose by the erstwhile Nizam"s Government and known as „Azamabad Industrial Area";

(c) "Competent Authority" means any authority, officer or person authorised by the Government, by notification, to perform the functions of the Competent Authority under this Act;

(d) "demised plot" means any plot of land or part thereof in the Azamabad Industrial Area, which has been

1. The Azamabad Industrial Area (Termination and Regulation of Leases) Act, 1992 received the assent of the President on the 27th May, 1992. The said Act in force in the combined State, as on 02.06.2014, has been adapted to the State of Telangana, under section 101 of the Andhra Pradesh Reorganisation Act, 2014 (Central Act 6 of 2014) vide. the Telangana Adaptation of Laws Order, 2016, issued in G.O.Ms.No.45, Law (F) Department, dated 01.06.2016.

leased out to any person for industrial use either by erstwhile Nizam"s Government or by the Government of Hyderabad or by the Government of Andhra Pradesh or in respect of which there is other arrangement with any person;

(e) "Government" means the State Government of [2]Telangana;

(f) "notification" means a notification published in the [2]Telangana Gazette and the word „notified" shall be construed accordingly;

(g) "person" means an individual and includes a firm or a branch thereof, a body corporate or a branch thereof or any association or a joint Hindu Family or a Company;

(h) "person in occupation" includes lessee, sub-lessee or any person who is in occupation of the demised plot under an arrangement with the erstwhile Nizam"s Government or the erstwhile Government of Hyderabad or the Government of Andhra Pradesh or any other person who has been inducted into the demised plot;

(i) "prescribed" means prescribed by rules made by the Government under this Act;

(j) "structure" includes,-

(a) a building, a house, shop, hut, shed or other structure or enclosure, whether roofed or not of whatsoever material constructed and includes every part of it;

(b) all walls, verandahs, platforms, door steps and the like;

2. Substituted by G.O.Ms.No.45, Law (F) Department, dated 01.06.2016.

(c) a tent or other portable or temporary shelter.

Termination of Indian Leases.

[3][3. (1) (a) Notwithstanding anything contained in the Contract Act, 1872, the Transfer of Property Act, 1882, or any other law for the time being in force, and the terms and conditions of any lease entered into or other arrangement made with any person in respect of any demised plot either by the erstwhile Nizam"s Government or by the erstwhile Government of Hyderabad or by the Government of Andhra Pradesh prior to the appointed date, all those leases, sub leases or other arrangements made or entered into through a registered deed or otherwise in respect of all demised plots in the Azamabad Industrial Area, which after due enquiry attract one or more of the ground for cancellation of lease as specified in clause (b) shall stand terminated on the

Central Act 9 of 1872.

Central Act 4 of 1882.

appointed date and thereupon all such leases, sub-leases or any other arrangement whatsoever made by the person in occupation of the demised plot shall stand annulled and every such demised plot shall vest in the Government free from all encumbrances;

(b) Notwithstanding anything contained in any other law for the time being in force, the leases of plots or portions shall be cancelled on either all or any of the following grounds, namely:-

(i) misusing of land for a purpose other than the purpose for which land was allotted including non-user; or

(ii) sub-letting or transferring the plots or portions of plots by entering into disguised partnerships and other unauthorised transfer of interest in the plot; or

3. Sections 3 & 4 with marginal headings substituted by Act No.1 of 2000.

(iii) violation of any terms, conditions or covenant specified in the Lease Deed.

Explanation: For the purpose of this Act, where a lessee enters into a partnership, agreement or other arrangement for carrying on any activity whatsoever on the demised plot, then notwithstanding anything in the Indian Partnership Act, 1932, it shall also be deemed to be a violation of the conditions of the lease.

Central Act 9 of 1932.

(2) Lessees of plots whose leases shall not be cancelled under clause (b) of sub-section (1) shall be entitled to a grant of fresh lease with effect from the appointed date and renewal thereof from time to time on such terms and conditions as may be prescribed by the Government.

(3) The Lessees specified in sub-section (2) may, in lieu of renewal of lease, opt for free-hold rights in respect of the demised plots of land by paying a price equivalent to 75% of the market value as specified for the area in market value guidelines under section 47 (a) of the Indian Stamp Act, 1899.

Central Act 2 of 1899.

(4) Upon the termination of the leases or other arrangement in respect of the plot under sub-section (1) the rights and liabilities as between the parties to the lease or other arrangement in respect of plot shall cease and determine, but any amount due to the Government from the aforesaid person under the lease or other arrangement so terminated shall be recovered as an arrear of land revenue.

Application for fresh lease.

4. (1) On termination of lease or other arrangements made under clause (a) of sub-section (1) of section 3, a person in occupation and running an industry on the appointed date may apply for a fresh lease in the manner prescribed.

(2) On receipt of an application under sub-section (1), the Competent Authority, may where he is satisfied that the applicant has actually been using the demised plot for industrial purpose, and he deserves grant of lease, shall grant a lease on such terms and conditions as may be prescribed.]

Eviction.

5. (1) Where a lease or other arrangement with regard to a demised plot stands terminated 4[under clauses (a) and (b) of sub-section (1) of section 3, and where no fresh lease

has been granted to the occupant, if any, under sub-section (2) of section 4, the lessee or the occupant as the case may be of such demised plot] shall vacate the same and deliver possession thereof to the Competent Authority within thirty days from the date of receipt of orders refusing to grant a fresh lease:

Provided that the period of thirty days aforesaid may, on the application by [4][the lessee or the occupant as the case may be of such demised plot] be extended by the Competent Authority for a further period not exceeding thirty days:

Provided further that where there is a structure on the demised plot, [4][the lessee or the occupant as the case may be of such demised plot] shall demolish such structure and deliver vacant possession of the demised plot to the Competent Authority within a period of thirty days after the expiry of the original period of thirty days or the extended period, if any, granted under this sub-section.

(2) [4][Where the lessee or the occupant as the case may be of the demised plot] fails to demolish the structure, within the stipulated time, the demised plot along with such

4. Substituted by Act No.1 of 2000.

structure shall vest in the Government and no compensation shall be payable in respect of such structure.

Manner of eviction.

6. (1) Where any person fails or refuses to vacate and deliver vacant possession of the demised plot under section 5, the Competent Authority shall serve an order of eviction in the manner prescribed on the person in occupation of the demised plot or on his agent requiring him to vacate and deliver possession thereof within such time as may be specified in such order and after receipt of such order the person in occupation of the demised plot shall vacate the same and deliver possession thereof to the Competent Authority within such time as may be specified in such order.

(2) Where the person in occupation of the demised plot or portion thereof fails or refuses to vacate the demised plot or portion thereof within the time specified in the order under sub-section (1), the Competent Authority may take possession of the demised plot from the person in occupation thereof and where any such Competent Authority is resisted in the exercise of such power or discharge of such duty, he may direct any Police Officer not below the rank of a Sub-Inspector to render such assistance as may be necessary, to enable the Competent Authority to exercise such power or discharge such duty.

(3) Where a structure has been constructed on the demised plot, possession of which is to be taken under this Act and the same is found locked, the Competent Authority may either cause the premises sealed or in the presence of two or more witnesses break or cause it to be broken open by its door, gate or other barriers and enter the premises:

Provided that,-

(a) where any structure is forced open, an inventory of the articles found in the premises shall be taken in the presence of two or more witnesses;

(b) where any person has been evicted from the demised plot under sub-section (2) of section 6, the Competent Authority may, after giving thirty days notice to the person from whom possession of the demised plot has been taken after publishing the notice in atleast one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public auction any property remaining on such demised plot;

(c) where any property is sold under clause (b), the sale proceeds thereof shall, after deducting the expenses of the sale and the amount, if any, due to the State Government or any other authority on account of arrears of rent or damages or costs, be paid to such person or persons as may appear to the Competent Authority to be entitled to the same.

Punishment for disobedience of eviction order.

7. Any person continuing in occupation beyond the period specified in the order of eviction issued under sub-section (1) of section 6, shall be punishable with imprisonment of either description which may extend to one year or with fine which may extend to five thousand rupees or with both.

Liabilities for damages etc.

8. Where a person fails to deliver possession of the demised plot within the time specified in the order referred to in sub-section (1) of section 6, he shall in addition to any penalty to which he is liable under this Act, be also liable for payment of damages or mesne profits for each day of such unauthorised occupation from the date of expiry of the period specified in the said order till the date of delivering possession of the demised plot.

Appeals.

9. Any person aggrieved by an order passed by the Competent Authority under the provisions of the Act may appeal against such order to the Government within thirty days from the date of receipt of such order and the Government may, after giving an opportunity to the parties pass such orders as they deem fit and the decision of the Government thereon shall be final.

Revision.

10. The Government may, in their discretion at any time, either suo-motu or on application, call for and examine the record of any order passed or proceedings recorded by the Competent Authority under the provisions of this Act for the purpose of satisfying themselves as to the legality or propriety of such order or as to the regularity of such proceedings and pass such order in reference thereto as they think fit:

Provided that the Government shall not pass any order prejudicial to any party unless such party has had an opportunity of making a representation.

[5][11. [xxx]]

Offences by Companies.

12. Where an offence against any of the provisions of this Act or any rule made thereunder has been committed by a company, every person, who at the time the offence was committed was in charge of, and was responsible to the company for the conduct shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his

5. Section 11 omitted by Act No.1 of 2000.

knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything in sub-section (1) where any such offence has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of, or is attributable, to any neglect on the part of, any Director, Manager, Secretary or other officer of the Company, shall be liable to be proceeded against and punished accordingly.

Explanation: For the purpose of this section,-

(a) "Company" means a company as defined in the Companies Act, 1956 and includes a firm, a society or other association of individuals; and

(b) "Director" in relation to,-

(i) a firm, means a partner in the firm;

(ii) a society or other association of individuals means the person who is entrusted, under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

Approval of Plans.

13. No person shall take up construction of any structure or carry on any alternations or additions to existing structures on the demised plot without obtaining the prior written approval of the Competent Authority.

Penalty for construction or use of land and structure contrary to terms of lease.

14. (1) Whoever undertakes or carries out construction of or alterations to any structures on the demised plot contrary to the terms of the lease deed shall, on conviction, be punished with fine which may extend to ten thousand rupees, and in the case of a continuing contravention, with

an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) Any person who uses the demised plot and structures thereon contrary to the terms of the lease deed or in contravention of the provisions of any rules made in this behalf shall, on conviction, be punished with fine which may extend to five thousand rupees.

Power to stop erection of structure.

15. (1) Where the erection of any structure on the demised plot has been commenced or is being carried on, in contravention of the terms of the lease deed in relation to the demised plot, any officer of the Government empowered in this behalf may, in addition to any prosecution that may be instituted under this act make an order requiring the said operations in relation to such erection to be discontinued on and from the date of the service of the order.

(2) Where such erection operations are not discontinued in pursuance of the order under sub-section (1), the Competent Authority may require any Police Officer not below the rank of a Sub-

Inspector to remove the person by whom such operations are being carried on and all his assistants and workmen from such place within such time as may be specified in the requisition and such police officer shall comply with the requisition and shall watch the place so as to ensure that the erection of structures shall not be continued.

(3) Any person failing to comply with an order made under sub-section (1) shall, on conviction, be punished with fine which may extend to five hundred rupees for every day during which non-compliance continues after the service of the order.

(4) No compensation shall be payable for any damage or loss which a person may sustain in consequence of an order made under sub-section (1).

Orders of demolition of structures.

16. (1) Where the erection of any structure in the demised plot has been completed, or any existing building is altered, in contravention of the terms of the lease deed in relation to the demised plot the Competent Authority may, in addition to any prosecution that may be instituted under this Act, make an order directing that such erection shall be demolished by the owner thereof within such period not exceeding fifteen days as may be specified in the order, and on the failure of the owner to comply with the order, the Competent Authority may himself cause the structure to be demolished and the expenses of such demolition shall be recoverable from the owner:

Provided that no such order shall be made unless the owner has been given a reasonable opportunity to show cause why the order should not be made.

(2) Any person aggrieved by an order under sub-section (1) may appeal against that order within fifteen days from the date thereof to the Government. The Government may after giving an opportunity to the parties to the appeal make such orders as they deem fit and the decision of the Government thereon shall be final.

Savings.

17. No suit, prosecution or other legal proceedings shall be against the Government or the Competent Authority for any damage caused or is likely to be caused or any injury suffered or is likely to be suggested by virtue of the provisions of this Act or by anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

Bar of jurisdiction.

18. No decision made or order passed or proceeding taken by any Officer or Competent Authority or the Government under this Act, shall be called in question before a civil court in any suit, application or other proceeding and no injunction shall be granted by any court in respect of any proceeding, taken, or about to be taken by such Officer or Competent Authority or Government in pursuance of any power conferred by or under this Act.

[6][19. [xxx]]

Act to over ride other laws.

20. The provisions of this Act and the rules made thereunder shall have effect, notwithstanding anything inconsistent therewith in any other law for the time

being in force, or any custom, usage or agreement, or decree or order of a court, tribunal or other authority.

Power to make Rules.

21. (1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,-

(a) guidelines and procedure to be followed where a lessee intends to surrender his lease-hold rights;

(b) guidelines to the Competent Authority for allotment of resumed plots or portions thereof;

(c) specifying the Authority Competent to enter into fresh lease and the procedure thereof;

(d) manner of demolition of unauthorised constructions on the demised plot and specifying authorities and procedure therefor;

6. Section 19 omitted by Act No.1 of 2000.

7[(e) revision of rent, premium, quit rent from time to time and the collection thereof or any other amount due from any person in respect of the demised plot.]

(3) Every rule made under this Act shall immediately after it is made, be laid before the Legislature of the State if it is in Session and if it is not in Session in the Session immediately following for a total period of fourteen days which may be comprised in one Session or in two successive Sessions, and if before the expiration of the Session in which it is so laid or the Session immediately following, the Legislature agrees in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified have effect only in such modified form or shall stand annulled, as the case may be; so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulty.

22. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order in the 8Telangana Gazette, make such provisions not inconsistent with the purposes or provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty.

Validation.

23. Notwithstanding anything in any judgement, decree, or order of any court or other authority,-

(a) no suit or other proceeding shall be maintained or continued in any court or before any authority for the continuance of the lease, sub-lease or other arrangement or for the lessee, sub-lessee or person in occupation staying on the demised plot and all such proceedings shall abate; and

7. Substituted by Act No.1 of 2000.

8. Substituted by G.O.Ms.No.45, Law (F) Department, dated 01.06.2016.

(b) no court shall enforce any decree or order directing the continuance of the lease, sub-lease or other arrangement to be in occupation of the demised plot.