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SINDH ORDINANCE NO. XIII OF 2005

THE COLONIZATION OF GOVERNMENT LANDS (SINDH AMENDMENT) ORDINANCE, 2005.

[8TH November 2005]

An Ordinance to amend the Colonization of Government Lands Act, 1912, in its application to the Province of Sindh.

Preamble.

WHEREAS, it is expedient to amend the Colonization of Government Lands Act, 1912, in its application to the Province of Sindh, in the manner hereinafter appearing;

AND WHEREAS the Provincial Assembly is not in session and the Governor of Sindh is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of Sindh is pleased to make and promulgate the following Ordinance:-

Short title and commencement.

1. (1) This Ordinance may be called the Colonization of Government Lands (Sind Amendment) Ordinance, 2005.

(2) It shall come into force at once.

Amendment of Lang title and Preamble in Punjab Act V of 1912.

2. In the Colonization of Government Lands Act, 1912 in its application to the Province of Sindh, hereafter referred to as the said Act, in the Long Title and Preamble after the word "Colonization", the comma and the words "and disposal" shall be added.

Amendment of section 1 of Punjab Act V of 1912.

3. In the said Act, in section 1, in sub-section (1) after the word "Colonization", the words, "and disposal" shall be added.

Substitution of section 3 of Punjab Act V of 1912.

4. In the said Act, for section 3, the following shall be substituted:-

"3. In this Act, unless there is something repugnant in the subject or context-

(a). "agriculture land" means land used or to be used for agriculture and ancillary purpose and includes animal husbandry, forestry, cattle, poultry and fish farming;

(b). "amenity land" means a plot of land used or to be used for park, garden, playground, graveyard, educational institution, health institution, reading room, library, community centre and places for religious worshop;

(c). "authority" means a development authority established by Government under any law for the time being in force;

(d). "autonomous body" means an autonomous body under the control of Government established under a law and includes an authority but does not include a council;

(e). "Colony" means any area to which this Act shall be applied by order of the Government;

(f). "commercial land" means a plot of land used or to be used for the Government;

(g). "company" means a company registered under Companies Ordinance 1984;

(h). council means a council constituted under the Sindh Local Government Ordinance, 2001;

(i). "District Officer Revenue" means the District Officer (Revenue) as described in the Sindh Land Revenue Act, 1967 and includes —

(i) any officer appointed by the Board of Revenue to perform all or any of the functions and exercise all or any of the powers of the District Officer (revenue) under this Act; and

(ii) any Colonization Officer or Assistant Colonization Officer appointed as such before the commencement of this Act, whether or not such officer was by notification appointed to perform all or any of the functions of a Deputy Commissioner under the Act hereby repealed;

(j). Executive District Officer (Revenue) includes any officer appointed by the Board of Revenue to perform all or any of the functions and exercise all or any of the powers of a Executive District Officer (Revenue) under this Act;

(k). "Family" means and includes husband, wife(s) unmarried children and dependent parents;

(l). "flat site" means any plot of land used or to be used for constructing residential flats;

(m). "Government" means the Government of Sindh;

(n). "improvement" means with reference to a tenancy, any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution, made directly beneficial to it:

Explanation 1. It includes among other thing-

(a) the construction of wells and other works for the storage or supply of water for agricultural purposes;

(b) the construction of works for drainage and for protection against floods;

(c) the panting of trees, the reclaiming, enclosing, leveling and terracing of land for agricultural purposes and other works of a like nature;

(d) the erection of building required for more convenient or profitable cultivation of a tenancy; and

(e) the renewal or reconstruction of any of the foregoing works, or such alterations therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value;

But it does not includes such clearances, embankments, levellings, enclosures, temporary well and water-channels as are made by tenants in the ordinary course of cultivation and without any special expenditure or any other benefit accruing to land from the ordinary operations of husbandry.

Explanation II. A work which benefits several tenancies may be deemed to be with respect to each of them, an improvement.

Explanation III. A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landlord's property.

(o). "incremental housing" means a housing scheme sponsored by the Government, or an authority, or an autonomous body or a company for providing residential land to a family not exceeding 120 square yards;

(p) "industrial land" means a plot of land used or to be used for-

a) a cottage, small, medium and large industry or

b) an Industrial Estate or

c) an Information Technology Park or

d) tourism including hotels that offer lodgings;

(q) "land" means lands vesting in Government, authority or autonomous body and includes lands is used and may be used for agricultural, commercial, residential, residential cum commercial, industrial and amenity purposes;

(r) "market price" means market price and includes occupancy value of the land prevailing at the time of disposal of the land by the Government under this Act;

(s) "non-utilization of land" means non-completion of the building or the project with in the prescribed time limit for the purpose for which the land was granted;

(t). "occupancy" value means the price paid by the occuplant of unattenated land granted for agriculture purpose on permanent basis and land granted for non-agricultural purpose or a period not exceeding ninety nine years;

(u) "project" means agricultural, commercial, residential-cum commercial industrial and amenity projects for which land is granted;

(v) "prescribed means prescribed by rules or statement of conditions issued under this Act;

(w) "residential cum commercial land" means land used or to be used for construction of multi-storey flats, commercial shops and or private or public offices;

(x) "residential land" means a plot of land used or to be used for constructing residential houses and multi-storey flats;

(y) "rules means rules made under this Act; and

(z) "Tenant" means any person holding land in a colony as a tenant of Government; and includes the predecessors and successors in interest of a tenant and the original tenant means any male, to whom a tenancy is first allotted by the District Officer (Revenue) and includes the male transferee of such a tenant and any male nominated by the District Officer (Revenue) in accordance with the provisions of Section 21 to succeed a female, to whom a tenancy was first allocated.".

5. In the said Act, after Section 10, the following shall be added:- **Amendment of section 10 of Punjab Act V of 1912.**

"10-A (1) No land shall be disposed of except by Government in accordance with the provisions of this Act, to an autonomous body, authority, company, a person or a group of persons.

(2) Save as otherwise provided under this Act or rules-

(a) no land for agricultural purposes shall be disposed of except under the statement of conditions issued under sub-section (2) of Section 10, of this Act;

(b) no land for commercial purpose shall be disposed of except by open auction at a price not less than market price;

(c) no land exceeding one hundred and twenty square yards under incremental housing shall be disposed of at a price not less than twenty five percent of the market price;

(d) residential land exceeding one hundred and twenty square yards shall be disposed of at a price not less than fifty per cent of the market price;

(e) no land for industrial purpose shall be disposed of at a price not less than twenty five percent of the market price;

(f) no residential-cum commercial land shall be disposed of at a price not less than seventy five percent of the market price;

(g) no amenity plot shall be disposed of at a price not less than fifty percent of the market price.

(3) All grantees of land shall pay ground rent as determined by Government in addition to the occupancy value.

10-B (1) Government shall determine the market price for different areas for different land use from time to time to be notified in official gazette.

(2) No land shall be alienated by gift, sale, or mortgage with possession, even through special or general power of attorney until the completion of the project.

(3) Government may in its discretion recover the occupancy value or the price of the land granted in equal annual installments along with mark up on unpaid installments, on such terms and conditions as it may determine;

10-C Notwithstanding anything to the contrary contained in this Act an existing lease granted under statement of conditions under Section 10(2) of the said Act for agricultural, poultry, fish farming, animal husbandry purposes shall continue on the same terms and conditions until its expiry:

Provided such leases may be extended for ninety nine years even before the expiry of the lease on payment of occupancy value at the market rate.

10-D In case of non-utilization of the land or non-completion of the project within two years, from the date of grant, it shall be forfeited to Government without notice and without payment of any compensation for any structure raised, provided the completion period of the project may be extended for another one year by Government, on payment of non-utilization fee of ten per cent of the occupancy value.

10-E Land granted for amenity purpose shall not be utilized for any purpose other than the purpose or which it was granted.

10-F. Except the land granted for amenity purpose, Government may change the land use for the land granted for agriculture, residential, residential-cum commercial and industrial purpose after completion of three years from the date of grant on payment of differential price and on such terms and conditions as it may determine.

In the said Act, after section 38, following shall be added:- **Insertion of section 39 of Punjab Act of 1912.**

"39. Government may by notification in the official gazette, make rules for carrying out the purpose of this Act;