



The Orissa Prevention of Land Encroachment Act, 1972

Act 6 of 1972

Keyword(s):

Tahasildar, Encroachment, Land Encroachment

Amendment appended: 25 of 1979

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ORISSA ACT 6 OF 1972

[THE ORISSA PREVENTION OF LAND
ENCROACHMENT ACT, 1972]

[Received the assent of the President on the 12th
February 1972, first published in an extraordinary
issue of the Orissa Gazette, dated the 16th
February 1972]

AN ACT TO PROVIDE FOR PREVENTION OF UNAUTHORISED
OCCUPATION OF LANDS WHICH ARE THE PROPERTY
OF GOVERNMENT

BE it enacted by the Legislature of the State of
Orissa in the Twenty-second Year of the Republic of
India, as follows :—

1. (1) This Act may be called the Orissa Preven- Short title,
tion of Land Encroachment Act, 1972. extent and
commence-
ment.

(2) It shall extend to the whole of the State of
Orissa.

(3) It shall be deemed to have come into force
with effect from the 29th day of October 1954.

2. Subject to the provision of any law for the Property of
time being in force, the following classes of lands are Government.
hereby declared to be the property of Government for
the purposes of this Act, namely :—

(a) all public roads, streets, lanes and paths,
the bridges, ditches, dikes and fences, on or
beside the same, the bed of the sea and
of harbours and creeks below high water
mark and of rivers, streams, nalas, lakes
and tanks and all canals and water courses
and all standing and flowing water and all
lands including temple sites, house sites or
backyards wherever situated, save in so far
as the same are the property—

(i) of any Ruler of an Indian State merged
with the State of Orissa, Zamindar,
Proprietor, Sub-Proprietor, Landlord,
²[* *] Jagirdar, ³[* *] Inamdar,
⁴[* *] Khorposhdar or

1. For statement of Objects and Reasons see *Orissa Gazette*, Extra
ordinary, dated the 4th January 1972 (No. 35).

2. The words and commas "Malguzar, Poligar, Mittadar," omitted by
the Orissa Prevention of Land Encroachment (Amendment) Act, 1974 (Or.
Act 4 of 1975), s. 2 (i) (a).

3. The word and comma "Shrotriemadar," omitted by *ibid.*

4. The word and comma "Ilaquedar," omitted by *ibid.*

(Sec. 2 contd.)

any other tenure holder or any person claiming through or holding under any of them; or

- (ii) of any person paying shist, kattubadi, jodi poruppu or quit-rent to any of the aforesaid persons; or
- (iii) of any person holding under raiyatwari tenure or in any way subject to the payment of cess or any other dues direct to Government; or
- (iv) of any other registered holder of land having proprietary right; or
- (v) of any other person holding land under grant from Government otherwise than by way of licence. [*]

* * * * *

(b) land belonging to or vesting in any Local Authority which is used or intended to be used for any public purpose such as a road, canal, embankment, tank or ghat or for the repair or maintenance of such road, canal, embankment, tank or ghat;

(c) land acquired under the provisions of the Land Acquisition Act, 1894, or under similar Acts for the purposes of any Local Authority, [*] Company owned or controlled by the State, Government, Statutory Body or Corporation, while such land remains as the property of the Local Authority [*] Company owned or controlled by the State, Government, Statutory Body or Corporation;

(d) immovable property claimed by the Rulers of the merged territories but not conceded in their favour; and

1. The word " or " omitted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1974 (Or. Act 4 of 1975), s. 2 (i) (b).

2. Omitted by *ibid.*, s. 2 (i) (c)

3. The words and Comma "Railway Company, omitted by *ibid.*, s. 2 (ii)

(e) lands belonging to an establishment, or undertaking, owned, controlled, or managed by—

(i) any State Government or a Department of such Government;

(ii) any company, in which not less than fifty-one per cent of the share capital is held by one or more State Governments; or

(iii) a corporation established by law which is owned, controlled or managed by any State Government;

Explanation—In this section “high water mark” means the highest point reached by ordinary spring-tides at any season of the year.

[3. In this Act, unless the context otherwise requires:—

(a) “Collector” means the Chief Officer in charge of the revenue administration of a district and shall include an Additional District Magistrate;

[(a-1) “landless person” means a person who has no profitable means of livelihood other than agriculture, provided that—

(i) he owns no land excluding his homestead, or

[(ii) the total extent of the land (excluding his homestead) owned by him along with the lands owned by all the members of his family who are living with him in common mess, is less than one standard acre;]]

(b) “Prescribed” means prescribed by rules made by the State Government under this Act; and

1. Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1974 (Or. Act 4 of 1975), 1 s. 3.

2. Inserted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1976 (Or. Act 25 of 1976), s. 2.

3. Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1979 (Or. Act 25 of 1979) s. 2, (a).

[(b-1) "standard acre" means a standard acre as defined in the Orissa Land Reforms Act, 1960;]

(c) "Tahasildar" means the Chief Officer in charge of the revenue administration of a tahasil and shall include an Additional Tahasildar.]

Levy of assessment on land unauthorised by occupied.

4. Any person unauthorisedly occupying any land which is the property to Government shall be liable to pay by way of assessment—

(i) if the land so occupied was at any time assessed to rent, the full assessment for the whole period of occupation or a part thereof proportionate to the area occupied, as the case may be, provided that for special reasons [the Tahasildar] may impose the full assessment of rent or any lesser sum irrespective of the area occupied; or

(ii) if the land so occupied was not at any time assessed to rent, an assessment on the area occupied calculated for the same period at the rate imposed on lands of a similar description and with similar advantages in the vicinity or when no such prevailing rate exists, in such manner as may be prescribed [* * *]:

[Provided that where the person unauthorisedly occupying such land is a landless person, the amount payable by him by ways of assessment shall in no case exceed an amount equal to five times the annual assessment:

Provided further that notwithstanding anything in the Tenancy Law for the time being in force, payment of assessment under this section shall not confer any right to occupancy.]

Explanation—For the purpose of this section occupation for an incomplete portion of an agricultural year may be deemed to be occupation for the whole of such year.

1. Inserted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1979 (Or. Act 25 of 1979), s. 2 (b).

2. Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1974 (Or Act 4 of 1975), s. 4 (a).

3. Omitted by idid., s. 4 (b).

4. Substituted by the Orissa Prevention of Land Encroachment Amendment Act, 1976 (Or. Act 25 of 1976), s. 3.

(Secs. 5—7)

5. The decision as to the rate or amount of rent assessed under section 4 shall be recorded in writing and shall not be called in question in any Civil Court.

Decision as to the amount of assessment shall not be challenged in any Civil Court.

6. Subject to the provisions of section 9, any person liable to pay assessment under section 4 shall, at the discretion of the [the Tahasildar], be liable to pay in addition to the assessment by way of penalty a sum calculated at a rate [not exceeding one hundred rupees] per acre of land for each year of unauthorised occupation.

Liability of person unauthorisedly occupying lands to penalty.

³[Provided that where the person liable to pay assessment is a landless person, he shall not be liable to pay any penalty under this section].

⁴[* * * * *]

7. (1) Any person unauthorisedly occupying land for which he is liable to pay assessment under section 4 shall be summarily evicted by the [Tahasildar] and any crop or other product raised on the land, any encroachments such as a building, other construction or anything deposited thereon shall be liable to forfeiture:

Summary eviction, forfeiture and fine.

Provided that in the case of said encroachments, the [Tahasildar] shall give reasonable notice to remove the same.

⁶ [(2) Notwithstanding anything contained in sub-section (1), where any land is in the unauthorised occupation of a landless person, the Tahasildar may, instead of evicting such person from the land in his unauthorised occupation, settle the same with him, so, however, that the land so settled with him together with the land (excluding homestead), if any,

1. Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1974 (Or. Act 4 of 1975), s. 5.

2. Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1976 (Or. Act 25 of 1976), s. 4 (a).

3. Added by *ibid.*, s. 4 (b).

4. Omitted by *ibid.*, s. 5.

5. Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1974 (Or. Act 4 of 1975), s. 7 (a).

6. Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1974 (Or. Act 4 of 1975), s. 7 (b).

7. Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1976 (Or. Act 25 of 1976), s. 6 (a).

(Sec. 7—contd.)

owned by him and the lands owned by all the members of his family who are living with him in common mess, shall on no account exceed [one standard acre]:

Provided that no such settlement shall be made if the land belongs to any of the following categories namely:-

(a) lands recorded as Gochar, Rakhshit or Sarbasadharan in any record-of-rights prepared under any law;

(b) lands which are—

(i) set apart for the common use of villages;

(ii) used as house-site, back-yard or temple-site whether or not recorded as such in the record-of-rights;

(iii) likely to be required for any development scheme and are declared as such by the State Government by a notification; and

(c) lands belonging to an establishment or undertaking owned, controlled or managed by—

(i) any State Government or a Department of such Government;

(ii) any company in which not less than fifty-one percent of the share capital is held by one or more State Governments; or

(iii) a corporation established by law which is owned, controlled or managed by any State Government.

Provided further that where the land in the unauthorised occupation of a person is situate within a Municipality or a Notified area constituted under the Orissa Municipal Act, 1950, not more than

Orissa Act
XXIII of
1950.

(4) Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1979 (Or. Act 25 of 1979); s 3(a)(f).

(Sec. 7-*contd.*)

one twentieth of an acre shall be settled with such person and that such settlement shall be made only where :—

- (a) neither the person nor any member of his family living with him in common mess owns a house or house-site in that Municipality or Notified Area; or
- (b) the land, being adjacent to the holding owned by the person, is necessary for the beneficial enjoyment of such holding or for the residential purposes of the person and is not reserved for the purposes of any Government or for any developmental purpose.]

[* * *]

(3) If such person fails to remove the encroachment within the time specified in the notice, the ²[Tahasildar] may, in his discretion, in addition to the order of forfeiture, impose a fine which may extend to fifty rupees and a daily fine of rupees ten until the encroachment has been removed :

³ [Provided that the aggregate of the fines payable under this sub-section shall in no event exceed an amount equal to twice the market value of the encroached land :

Provided further that subject to such conditions as may be prescribed, the Collector may, in suitable cases, either reduce or remit the amount payable by way of fine under this sub-section.]

(4) Forfeitures under this section shall be adjudged by the ²[Tahasildar] and any property so forfeited shall be disposed of as the ²[Tahasildar] may direct.

(5) An eviction under this section shall be made by serving a notice in the manner provided in section 9 on the person reported to be in occupation or his agent requiring him within such time as the

1. Deleted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1979 (Or. Act 25 of 1979), s.3 (a) (ii).

2. Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1974 (Or. Act 4 of 1975), s.7 (a).

3. Inserted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1979 (Or. Act 25 of 1979), s.3 (b).

(Secs. 8-10)

['Tahasildar] may deem reasonable after receipt of the said notice, to vacate the land and if such notice is not obeyed, by removing or deputing a subordinate officer to remove any person who may refuse to vacate the same.

(6) If the officer removing any such person shall be resisted or obstructed by any person, the ¹['Tahasildar] shall hold a summary inquiry into the facts of the case and if satisfied that the resistance or obstruction was without any just cause and that such resistance or obstruction still continues, may issue a warrant for the arrest of the said person and on his appearance may send him with a warrant in the form appended to Schedule I for imprisonment in the Civil Jail of the District for a period not exceeding thirty days as may be necessary to prevent the continuance of such resistance or obstruction.

Stay of
construction.

8. The ²['Tahasildar] may, if he has reasons to believe that any person unauthorisedly occupying any land is constructing or is about to construct any building or other structure thereon, by order, prohibit such person from proceeding with the construction or, as the case may be, from constructing such building or structure during the pendency of any proceeding under this Act and if such person fails to comply with the said order, the ²['Tahasildar] may impose a fine which may extend to fifty rupees and a daily fine of rupees ten for every day during which such non-compliance continues.

Prior notice
to person in
unauthori-
sed occupa-
tion.

9. Before taking proceedings under section 6 or section 7, ³[the 'Tahasildar] shall cause to be served on the person reported to be in unauthorised occupation of the property of Government, a notice specifying the land so occupied and calling upon him to show cause before a certain date as to why he should not be proceeded against under section 6 or section 7. Such notice shall be served in such manner as the State Government may, by rules or orders under section 10, direct.

Power to
make rules.

10. (1) The State Government may, subject to the condition of previous publication, make rules

1. Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1974 (Or. Act 4 of 1975), s. 7 (a).

2. Substituted by *ibid.*, s.8.

3. Substituted by *ibid.*, s.9.

(Secs. 11-12)

or orders either generally or in any particular instance—

- (a) regulating the rates of assessment leviable under section 4;
- (b) regulating the imposition of penalties under section 6 ; and
- (c) regulating the service of notice under this Act.

(2) All rules made under this section shall, as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one session or two or more successive sessions and if during the said period the State Legislature makes modifications, if any, therein, the rules shall thereafter have effect only in such modified form ; so, however, that such modifications shall be without prejudice to the validity of anything previously done under the rules.

11. The amount of fine, assessment or penalty, imposed under this Act on any person unauthorisedly occupying any land shall be recoverable from him as arrears of public demand. Recovery of assessment and penalty as a public demand.

[12. (1) An appeal from any decision or order made under this Act by the Tahsildar shall lie to the Subdivisional Officer. Appeal and revision.

(2) The Collector may revise a decision or order made by a Subdivisional Officer under sub-section (1).

(3) The Board of Revenue may call for and examine the records of any proceedings under this Act before any officer in which no appeal or revision lies and if such officer appears—

- (a) to have exercised a jurisdiction not vested in him by law; or
- (b) to have failed to exercise a jurisdiction so vested ; or
- (c) while acting in the exercise of his jurisdiction, to have contravened some express provision of law affecting the decision on the merits, where such contravention has resulted in serious miscarriage of

1. Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1974 (Or. Act 4 of 1975), s. 10.

(Secs. 13-17)

justice, it may, after giving the parties concerned a reasonable opportunity of being heard, pass such order as it deems fit.

(4) Pending the disposal of any appeal or revision, the Subdivisional Officer, the Collector or the Board of Revenue, as the case may be, may stay the execution of the decision or order appealed against or sought to be revised.]

Limitation

13. (1) No proceeding under sections 4, 6, 7 or 8 shall be instituted against any person after expiry of thirty years from the date of commencement of the unauthorised occupation to which the proceeding relates.

(2) No appeal shall be brought after the expiry of thirty days from the date of the decision or order complained of and in computing the said period of thirty days, the time required to obtain a copy of the decision or order appealed against shall be excluded :

Provided that an appeal may be admitted after the aforesaid period if the appelliant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

Document accompanying memorandum of appeal.

14. Every memorandum of appeal shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

Delegation of power and duties of Collector, Subdivisional officer, Deputy Collector and Sub-Deputy Collector.

15. The State Government may, by order, direct that any power, duties or functions conferred or imposed on a [Collector or Subdivisional Officer] shall in such circumstances and under such conditions, if any, as may be specified in that order, be exercised or discharged by such other officer or authority as may be specified in that order.

Bar of suits and proceedings.

16. No suit or other legal proceeding in respect of the matters or disputes for determining or deciding which provision is made in this Act shall be instituted in any Court of law except under and in conformity with the provisions of this Act.

Protection of action to be taken under this Act.

17. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

1. Substituted by the Orissa Prevention of Land Encroachment (Amendment) Act, 1974 (Or. Act 4 of 1975), s. 11.

(Secs. 18-19)

18. (1) The enactments mentioned in Schedule II ^{Repeal and savings.} are repealed to the extent specified in column 4 thereof.

(2) All things done, liabilities incurred, amounts assessed or penalty or fine imposed, enquiries held, notices served, warrants issued, eviction ordered, forfeiture adjudged under any of the enactments hereby repealed shall, so far as may be, be deemed to have been respectively done, incurred, assessed, imposed, held, served, issued, ordered, adjudged and made under this Act.

Orissa
Act 15 of
1954.

(3) All rules made under the Orissa Prevention of Land Encroachment Act, 1954 shall be deemed to have been made under this Act.

Orissa Act
15 of 1954.

(4) Notwithstanding any judgment or order of any Court, all proceedings, whether original, appellate or by way of revision, started under the Orissa Prevention of Land Encroachment Act, 1954 which have been dismissed on or after the 12th November 1969 merely on the ground that provisions contained in that Act were void, shall be restored to the file of the respective authorities who had dismissed the proceedings and shall be proceeded with and disposed of in accordance with the provisions contained in this Act as if they had never been so dismissed.

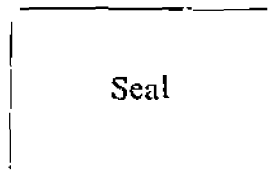
19. (1) The Orissa Prevention of Land Encroach- ^{Repeal of} ment Ordinance, 1971, is hereby repealed. <sub>Orissa
Ordinance
No. 7 of
1971.</sub>

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

SCHEDULE I

Section 7 (6)

Form of warrant to be issued by the [Tahsildar] under section 7.



To

The Officer-in-charge of the Civil Jail at

Whereas A, B of has resisted or obstructed C, D in removing E, F (or himself, that is, the said A, B,) from certain land in the village of in the mouza and whereas it is necessary in order to prevent the continuance of such resistance or obstruction to commit the said A, B to close custody ; you are hereby required under the provisions of section 7 of the Orissa Prevention of Land Encroachment Act, 1972 to receive the said A, B into the Jail under your charge and there to keep him in safe custody for days.

Dated this.....day of (Signature of [Tahsildar])

SCHEDULE II

Section 18

Year (1)	Number (2)	Short-title (3)	Extent of repeal (4)
1905 (Madras) ..	III	The Madras Land Encroachment Act.	Whole
1907 (C. P.) ..	II	The Central Provinces Land Revenue Act.	Sections 217 and 219
1936 ..	V	The Angul Laws Regulation.	The entry "1947 XXXIII The Orissa Land Encroachment Act, 1947" in Part VI of the Schedule.
1947 ..	XXXIII	The Orissa Land Encroachment Act.	Whole
1950 ..	IV	The Orissa Merged States (Laws) Act.	The entry "1947 XXXIII The Orissa Land Encroachment Act, 1947" in the Schedule.
1954 ..	XV	The Orissa Prevention of Land Encroachment Act.	Whole

1. Substituted by the Orissa Prevention of Land Encroachment (Amendment), Act, 1974 (Or. Act 4 of 1975), s. 12.

ANNEXURE

[PROVISION OF THE ORISSA PREVENTION OF LAND
ENCROACHMENT (AMENDMENT) ACT, 1976
(OR. ACT 25 OF 1976) NOT INCORPORATED
IN THE ORIGINAL ACT.]

* * *

7. The omission of section 6-A of the principal ^{Savings} Act by this Act shall in no way affect any reduction or remission of any assessment or penalty made under the said section prior to the date of commencement of this Act nor shall it in any way affect the proceedings pending under that section on the said date.

ORISSA ACT 25 OF 1979

***THE ORISSA PREVENTION OF LAND ENCROACHMENT (AMENDMENT) ACT, 1979**

[Received the assent of the Governor on the 13th October 1979, first published in an extraordinary issue of the Orissa Gazette, dated the 17th October 1979]

AN ACT TO AMEND THE ORISSA PREVENTION OF LAND ENCROACHMENT ACT, 1972

BE it enacted by the Legislature of the State of Orissa in the Thirtieth Year of the Republic of India, a follows:-

Short title

1. This Act may be called the Orissa Prevention of Land Encroachment (Amendment) Act, 1979.

Amendment of section 3.

2. In section 3 of the Orissa Prevention of Land Encroachment Act, 1972 (hereinafter referred to as the principal Act),-

Orissa Act of 1972

(a) in clause (a-1), for sub-clause (ii), the following sub-clause shall be substituted, namely:-

“(ii) the total extent of the land (excluding his homestead) owned by him along with the lands owned by all the members of his family who are living with him in common mess, is less than one standard ace,”;

(b) after clause (b), the following new clause shall be inserted, namely:-

“(b-1) “standard acre” means a standard ace as defined in the Orissa Land Reforms Act, 1966”.

Amendment of section 7.

3. In section 7 of the principal Act,-

(a) in sub-section 2,-

(i) for the words “two aces”, the words “one standard acre” shall be substituted;

(ii) the Explanation shall be deleted;

(b) after sub-section (3), the following provisos shall be inserted, namely:-

* For the Bill See Orissa Gazette, Extraordinary, dated the 12th September 1979 (No. 1733)

** Came into force, with effect from the 17th October 1979

“Provided that the aggregate of the fines payable under the sub-section shall in no event exceed an amount equal to twice the market value of the encroached land:

Provided further that subject to such conditions as may be prescribed, the Collector may, in suitable cases, either reduce or remit the amount payable by way of fine under the sub-section.”.

**The Orissa Prevention of Land
Encroachment Rules, 1985**

Notification No. 59406-GE-(GL)-E-31/85-R. E., dated 9th October, 1985-Whereas the draft of the Orissa Prevention of Land Encroachment Rules, 1983 was published as required by Sub-section (1) of Section 10 of the Orissa Prevention of Land Encroachment Act, 1972 (Orissa Act 6 of 1972), in the Extraordinary issue No. 1590 of the Orissa Gazette, dated the 2nd December, 1983 as SRO No. 515/83 under the Notification of the Government of Orissa in the Revenue Department No. 54986-GE-(GL)-R-2-83 R., dated the 24th August, 1983 inviting objections and suggestions from all persons likely to be affected thereby till the expiry of a period of thirty days from the date of publication of the said Notification in the Official Gazette;

And whereas the objections and suggestions received in respect of the said draft before the expiry of the said period have been considered by the State Government;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 10 of the said Act, the State Government do hereby make the following rules, namely:

1. Short title and commencement-

- (1) These rules may be called the Orissa Prevention of the Land Encroachment Rules, 1985.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions-

In these rules unless the context otherwise requires-

(a) **"Act"** means the Orissa Prevention of Land Encroachment Act, 1972;

(b) **"encroacher"** means a person who unauthorisedly-

- (i) occupies any land as defined under Clause (d) ; or
- (ii) obstructs by dumping earth or any other materials, rubbish or filth on it ; or
- (iii) puts any fence around it ; or
- (iv) takes up any construction or cultivation on it ;

(c) **"Form"** means a Form appended to these rules;

(d) **"land"** means any land declared to be the property of Government under Section 2 :

(e) **"Revenue Inspector"** means the Officer-in-charge of a Revenue Circle under a Tahasil ;

(f) **"section"** means a section of the Act ;

(g) **"Urban Area"** means the area constituted into a Municipality or Notified Area under the Orissa Municipal Act,1950 ;

(h) words and expressions used in these rules and not specifically defined therein shall have the same meaning as are respectively assigned to them in the Act.

3. Detection of encroachments and initiation of proceeding -

(1) The Revenue Inspector shall report the cases of unauthorized occupation of land to the Tahasildar and the details of such occupation shall be reduced to writing in Form 'G'. Within fifteen days of the close of each financial year the Revenue Inspector shall send a certificate to the Tahasildar that except the encroachment already reported there is no further encroachment in his area :

Provided that nothing herein shall prohibit the Tahasildar to start a proceeding on his own motion or on an information received from any other source.

(2) On receipt of such report from the Revenue Inspector or on information received otherwise the Tahasildar shall cause to enter the details chronologically in the register in Form 'H' and initiate proceeding under the provisions of the Act.

4. Assessment under Section 4-

When land unauthorisedly occupied by any person is required to be assessed to rent under the provisions of Clause (ii) of Section 4 and if no such prevailing rate exists as referred to in the said clause, it shall be assessed as nearly, as possible in accordance with the provisions of Section 4 of Orissa Survey and Settlement Act, 1958 (Orissa Act 3 of 1959) for fixation of fair and equitable rent.

5. Conditions for reduction or remission of the amount of assessment, penalty or fine-

Passing an order of remission or reduction of the amount payable by way of assessment or penalty, under Section 6-A, or of fine under Sub-section (3) of Section 7, by the Collector shall be subject to the following conditions, namely:

(i) the Tahasildar shall enquire in detail regarding the movable and immovable properties of the encroacher and submit details thereof to the Sub-Divisional Officer along with the case records. If the encroacher is a landless person no penalty shall be levied on him. If the extent of land owned by any landless person does not exceed 0.25 standard acre, the Collector may either reduce or remit the amount of assessment payable under Section 4, or fine under Sub-section (3) of Section 7 to such an extent as he considers necessary:

Provided that in other cases if the encroacher is a member of the Scheduled Caste or Scheduled Tribe, the Collector may in suitable cases reduce or remit the penalty or fine such extent as he considers necessary;

(ii) if encroachment has been made by the same person in more than one place, the encroacher may be allowed remission or reduction of assessment, penalty or fine only in respect of such land as would be legitimately settled in his favour under Section 7 ;

(iii) in the order sheet of the case record in which assessment, penalty or fine, as the case may be, has been proposed to be reduced or remitted, the Tahasildar shall record a clear report as to whether the encroacher is-landless. The extent of land, if any, possessed by him, if he belongs to Scheduled Caste /Scheduled Tribe and whether he has means to pay

... if he belongs to scheduled caste / scheduled tribe and whether he has means to pay the assessment, penalty or fine, any certificate in the case was filed and why the same is not recoverable. The said case record shall be submitted through the Sub-divisional Officer to the Collector who shall pass appropriate order to remit or reduce the assessment, penalty or fine, as the case may be, in the said case record;

(iv) if the encroacher has re-encroached after eviction, no such reduction or remission shall be allowed.

6. Forms and manner of service of notice/order under Sections 4, 6, 7 and 8-

(1) Notice shall be issued in Form 'A' before taking any action under Sections 4 and 6 and in Form 'B' before taking any action under the proviso to Sub-section (1) of Section 7. They shall be served in the same manner as revenue processes are served and a copy shall be delivered to the occupier of the land or to any adult male member or his family at his usual place of residence or to his authorised agent or by affixing a copy thereof to some conspicuous part of his last known residence and of the land in unauthorised occupation, in the presence of two persons when the notice could not be served on the encroacher, his agent or any adult member of his family.

(2) An order under Section 8 shall be in Form 'C' and shall be served in the same manner as laid down in Sub-rule (1) and shall also be proclaimed by beat of drum in the locality in which the land is situated in the presence of not less than two persons. If the village is uninhabited, the notice shall be published in the aforesaid manner in the nearest inhabited village. A copy of the order shall be published by affixing it in the notice board of the Tahasil office and another copy sent to the Grama Panchayat, Notified Area Council, Municipality, Special Planning Authority or Development Authority, as the case may be, under which the land situates.

7. Objections as to liability for proceedings under the Act and the manner of their disposal -

If on receipt of notice in Form 'A' any person pleads that he is not liable for being proceeded under the Act, the officer conducting the proceeding shall make a summary enquiry and determine the liability of the person for the whole or any part of the land unauthorisedly occupied for which notice was issued to him and may confirm, modify or drop the proceedings, as may be necessary:

Provided that he shall not modify or drop any proceeding in case where he is required to refer the case to the Sub-divisional Officer under the second proviso to Sub-section (2) of Section 7 or Section 8- A.

8. When eviction to be effected -

No eviction shall be effected after sunset and before sunrise. The officer to be deputed under Sub-section (5) of Section 7 to effect eviction shall not be a person below the rank of a Revenue Inspector.

9. Warrant for the arrest -

A warrant for the arrest of a person under Sub-section (6) of Section 7 or Section 8 shall be issued by the Tahasildar in Form 'D'

issued by the Tahasildar in Form D .

10. Manner of execution of warrants of arrest-

A warrant of arrest under Sub-section (6) of Section 7 or Section 8 shall be executed by the Officer-in-charge of the police-station within whose jurisdiction the person to be arrested ordinarily resides.

11. Order of forfeiture and its execution-

(1) When an order of forfeiture is passed by the Tahasildar under Sub-section (1) of Section 7, he shall -

(a) if the property is movable, make arrangement for taking immediate possession thereof ;
or

(b) if the property is immovable, issue an order of attachment; or

(c) if the property is perishable in nature order immediate sale thereof and order the sale proceeds to be credited into the treasury.

(2) The order of attachment shall be served on the encroacher in the same manner as the notice under Sub-rule (1) of Rule 6 and copies of the order shall be affixed at a conspicuous place in the village or ward of the urban area, as the case may be, and on the land which is the subject-matter of the proceeding.

12. Third party claims to properties seized or attached -

If any person other than the encroacher puts forward claims to the property within one month from the date of its seizure or attachment, the Tahasildar shall make a summary enquiry and may confirm, modify or cancel his order, if necessary.

13. Final disposal of property forfeited-

When an order of forfeiture is confirmed after making enquiry under Rule 12, the Tahasildar shall sell the property in public auction and credit the sale proceeds into the treasury:

Provided that no order for final disposal of the property or its sale proceeds shall be passed until the period of appeal or revision as provided under Section 12 expires or if an appeal or revision is preferred within the said period until the appeal or revision is disposed of.

14. Declaration of land likely to be required for any development scheme under Section 7 -

(1) Whenever it appears to the State Government that any land is likely to be required for any development scheme they may publish a notification in the Official Gazette declaring the area as required for such purpose.

(2) Such publication shall be conclusive evidence of the fact that the land is likely to be required for a development scheme for the purpose of Sub-clause (iii) of Clause (b) of the first proviso to Sub-section (2) of Section 7.

(3) On issue of such a notification, the Tahasildar shall record the lands mentioned in the said notification in a register prescribed in Form 'I' and also in the remarks column of the copy of the record-of- rights of the concerned village against the plot so required.

15. Manner of settlement of encroached land under Section 7-

(1) Before the Tahasildar proceeds with the settlement of unauthorisedly occupied land under Sub-section (2) of Section 7 for agricultural or for home-stead purposes, he shall publish a proclamation in Form 'J' inviting objections, if any, fixing a date for hearing of objections.

(2) Such proclamation shall be published by beat of drum and by affixing a copy of the same at a conspicuous place in the village in which the land is situated in the presence of not less than two persons. If the village is uninhabited, the notice shall be published in the aforesaid manner in the nearest inhabited village. A copy of the proclamation shall be published by affixing in the Notice Board Tahasil office and a copy thereof shall also be sent to the Grama Panchayat, Notified Area Council/Municipality/Special Planning Authority, or the Development Authority, as the case may be, under which the land is situated.

(3) On expiry of a period of fifteen days from the date of publication of the proclamation in the village and after hearing the objection, if any, and after conducting such enquiry as he may consider necessary the Tahasildar shall record a finding stating whether the land can be settled in favour of the encroacher under the Act. If the Tahasildar comes to a finding that the land cannot be settled or the encroacher is not entitled to settlement he shall proceed to evict the encroacher as prescribed under the Act.

(4) If the Tahasildar comes to a finding that the land can be settled or the encroacher is entitled to settlement under the Act, he shall make an order granting such settlement and issue an intimation slip in Form 'F' in the name of the person concerned and shall cause correction of the record- of-rights in his office and in the office of the Revenue Inspector as well.

(5) If the encroached land is situated within an urban area the Tahasildar shall record his finding in the case record and on being satisfied that there is no prima facie objection, he shall direct the encroacher to file an affidavit in Form 'E' if not already filed, to the effect that neither he nor any member of his/her family living with him in common mess owns a house or house-site anywhere in the State except in respect of the land required for beneficial enjoyment of a holding as mentioned under Sub-clause (ii) of Clause (b) of the second proviso to Sub-section (2) of Section 7. Thereafter he shall send the case record to the concerned Sub-divisional Officer, who shall on receipt of the same, order the encroacher to pay the assessment/penalty and fine, if any, already levied or imposed by the Tahasildar and shall determine the market value which shall be the same as has been fixed for the urban area under Rule 8 of the Orissa Government Land Settlement Rules, 1983 :

Provided that Government may direct a lower market value to be paid by a specified class of persons.

(6) Thereafter, the Sub-divisional Officer shall order settlement of the land and send the case record to the Collector of the district for confirmation.

(7) If the Collector is satisfied on scrutiny of the case record that the procedure prescribed

under the Act and these rules has been observed he shall confirm the order of the settlement passed by the Sub-divisional Officer in the same case record. If he is not satisfied about the procedure followed or he considers that the land cannot be settled or the encroacher is not entitled to settlement under the Act, he shall send back the case record to the Tahasildar through the Sub- divisional officer, for effecting eviction of the encroacher.

(8) In all cases where settlement is granted, the Sub-divisional Officer shall direct the encroacher to pay the market value so determined by a date not later than ninety days from the date of order in one or more installments to be fixed by him. If the market value is not paid within the period fixed by the Sub-divisional Officer he shall send back the case record to the record to the Tahasildar for effecting eviction of the encroachment. After the market value is paid an intimation slip in Form 'F' shall be issued by the Tahasildar in the name of the person with whom the land is settled and ensure demarcation of land and correction of the record-of-rights in his office and in the office of Revenue Inspector as well. The land ordered for settlement under Sub-rules (4) and (7) shall be recorded in such status as are applicable to the tenure of similar land in the vicinity for similar purposes under the same terms and conditions which are applicable to such tenures.

If use of the land is non-agricultural and it is to be recorded under pattadari or similar other status, the encroacher shall be required to execute an agreement containing such terms and conditions as are fixed by the Government for similar lands in the locality to which the land belongs.

16. Manner of settlement of land encroached for more than thirty years-

For settlement of land under Section 8-A the onus of proof that the encroacher has been in actual, continuous and undisputed occupation of the land for more than thirty years by the date of institution of the proceeding shall be on the encroacher. If the Sub- divisional Officer orders settlement of the land under Sub-section (3) of Section 8-A, he shall fix rent of the land in the manner prescribed under Rule 4 and shall direct the person to pay rent for the entire period of occupation subject to the provisions of limitation prescribed under the Orissa limitation (Recovery of Revenue) Act, 1964 (Orissa Act 14 of 1964). In case no payment is made within the time fixed by the Sub- divisional Officer, the order of settlement shall not be effected.

17. Powers of Board of Revenue to regulate the administrative procedure -

The Board of Revenue may issue such further instructions which are not inconsistent with the provisions of the Act and these rules as it may consider necessary for-

- (a) effective implementation of the Act and these rules;
- (b) maintenance of all registers and returns essential to carry out the purposes of the Act, their preservation and final disposal;and
- (c) the budget heads to which the receipts and charges under

the Act shall be credited and debited.

18. Repeal and savings -

The Orissa Prevention of Land Encroachment Rules, 1977 is hereby repealed:

Provided that anything done or any action taken under the rules so repealed shall be deemed

to have been done or taken under the provisions of these rules, and those pending on the date of commencement of rules, shall be done or taken under the provisions of these rules.

FORM 'A'

Notice under Section 9 of the O. P. L. E. Act, 1972

[(See Rule 6 (1))]

To

Shri s/o

Address:

Whereas it appears that you are in unauthorised occupation of land as specified in the Schedule below which is the property of Government, you are hereby given notice to appear before the undersigned personally or through authorised agent onatand show cause why you should not be proceeded against under Sections 4 and 6 of the Orissa Prevention of Land Encroachment Act, 1972 (Orissa Act 6 of 1972).

SCHEDULE

Name of the village, Police Station or Thana and District	Plot No.	Description	Entire extent of the plot as recorded in record-of-rights	Extent unauthorisedly occupied	Nature of occupation
1	2	3	4	5	6

Date:	Tahasildar
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FORM 'B'

Notice under Section 9/7 (1) of the O. P.L E. Act, 1972

[See Rule 6 (1)']

To

Shri...son of.....

Address:

Whereas after due enquiry the undersigned is satisfied that you are in unauthorised occupation of the land specified in the Schedule below, which is the property of Government, you are hereby given notice to remove the encroachment within thirty days from the date of

receipt of this notice failing which you will be summarily evicted from the land and any crop or other product raised on the land or any encroachment such as a building erected or a thing deposited thereon shall be liable to forfeiture.

SCHEDULE

Name of the village, Police Station or Thana and District	Plot No.	Entire extent of the plot as recorded in record- of-rights	Extent unauthorisedly occupied	Nature of occupation
1	2	3	4	5
Date:			Tahasildar	

FORM 'C'

Order under Section 8 of the O. P. L. E. Act, 1972

[See Rule 6 (2)]

**Prohibitory order against construction or continuance of any building or
structure on any unauthorisedly occupied land**

To

Shri..... S/o.....

Address:

Whereas the undersigned has reason to believe that you are unauthorisedly
constructing/about to construct a building or other structure on the land which is the
property of Government as defined under Section 2 of the O. P. L. E. Act, 1972, it is hereby
ordered that you be and you are hereby prohibited from continuing the said construc-
tion/
structure further:

SCHEDULE

Name of the					
-------------	--	--	--	--	--

village, Police Station or Thana and District	Plot No.	Description	Entire extent of the plot as recorded in record-of-rights	Extent unauthorisedly occupied	Nature of occupation
1	2	3	4	5	6

Date:	Tahasildar
--------------------	-------------------

FORM 'D'

[See Rule 9)

Form of warrant of arrest to be issued by the Tahasildar**To****The Officer-in-Charge,
Police Station***Seal*

**Whereas Shris/o ofvillage/police-station
.....has resisted/obstructed the officer deputed to remove him from unauthorized
occupation of Government land in plot..... of holding No..... has
failed to comply with my order prohibiting him from
constructing the buildings/structure on the said land and it is necessary to send him for
imprisonment in the Civil Jail under Sections 7 (6) and 8 of the O. P. L. E. Act, 1972 you are
hereby directed to arrest the saidand produce him before me.**

Dated thisday of 20..... (Strike out which is not applicable)

Seal:**Signature of Tahasildar****FORM 'E'****(See Rule 15 (5)]****In the Court of Shri..... Magistrate**

**I, Shriagedyears, son/daughter/wife ofresident of
Ward No..... Municipality/Notified Area,**

**P. OP.S..... in the district of..... at
present..... by profession..... do hereby....., solemnly
affirm as follows:**

**1. That I or any of my family members living with me in common mess do not own or possess
any residential house/building or housesite anywhere in the State of Orissa.**

2. That the land measuring acres pertaining to Plot NoKhata Noin the Municipality/Notified Area/Urban Area now under my unauthorised occupation is adjacent to my holding.

3. That the encroached land shown under item 2 above is necessary for beneficial enjoyment of my holding/for my residential, purpose.

4. That I have not been considered for any home-stead/plot in .any Municipality/Notified Area/Urban Area.

5. That I solemnly swear and affirm that the above statement are true to my knowledge and belief and I also swear that I have not concealed anything regarding existing house or house site owned either by me or by any of my family members. I swear the affidavit this the day of.....

Identified by me Signature of the Deponent Advocate

Shri..... aged..... years, son/ daughter /wife
of..... resident of village/town/ Municipality/Notified Area/Urban
Area..... P. O. /P.S, in the district of..... at present by
professionwho is identified by ShriAdvocate, appears before me and
states on oath that contents of this affidavit are true to the best of his knowledge and belief.
(Strike out which is unnecessary)

Deponent

Magistrate (Seal)

FORM 'F'

[See Sub-rules (4) and (8) of Rule 15]

Intimation slip for settlement of land

Office of the Tahasildar.....

District.....

Case No of.....

Name of the village/Municipality/Notified Area/Urban Area..... (If
Municipality or Notified Area mention Ward No.)

Thana No. of the village.....

Name of the person in whose labour land is ordered for settlement

Father's name

Caste Address.....

Holding No.....

Plot No.....

Khata No

Area leased out.....

Classification of the land.....

Amount of assessment/ penalty/ fine.....

Purpose of settlement of land

Status Remarks.....

Certified that the above particulars have been incorporated In the relevant record-of-rights.

Tahasildar

Certified that the above particulars have been incorporated in the circle records.

Revenue Inspector

FORM 'G'
[See Rule 3 (1)]

Statement of unauthorised occupation of Government land in village _____ of _____ in _____ the circle.....Tahasil.....Subdivision.....District... during the month..... of 19

- 1. Serial No**
- 2. Name, father's name and address of the person in unauthorised occupation**
- 3. Whether the person belongs to Scheduled Caste or Scheduled Tribe**
- 4. Description of the land unauthorisedly occupied-**
 - (a) Village, Thana and Tahasil**
 - (b) Holding No**
 - (c) Plot No**
 - (d) Full extent of the plot**
 - (e) Extent occupied with boundary**
- 5. Class of lands encroached, i. e., whether-
Gochar, Canal, Embankment, Rakhit, Sarbasadharana, set apart for common use of villagers used for house site, temple site, likely to be required for any development scheme, belongs to an establishment of Government/company/corporation**
- 6. Whether the land is In Rural Area/Municipality/Notified Area/ Urban area**
- 7. If the land is in Municipality or Notified area whether**
 - (i) the person or any member of his family living with him in common mess owns a house or house site in that Municipality or Notified Area,**
 - (ii) the land, being adjacent to the holding owned by the person, is necessary for the beneficial enjoyment of such holding or for the residential purpose of the person, or**
 - (iii) the land Is reserved for the purposes of any Government or for any development purpose.**
- 8. Whether the person is landless and, if not-**
 - (a) the total extent of land owned by him (excluding his home stead),**
 - (b) extent of lands owned by all the members of his family who are living with him in common mess, and**
 - (c) extent of home-stead land owned by him.**
- 9. Income of the encroacher and other members of the family living jointly with him in one mess from sources other than agriculture..-**
- 10. Mode of occupation by-**
 - (i) cultivation**
 - (ii) erection of house**

- (ii) erection or nouse
- (iii) any other manner

11. Date of inspection of the Revenue Inspector
12. Whether encroachment was blocked previously, if so, the case No
13. Rate of assessment (Taram assessment of the village)
14. If not assessed, rate of assessment of lands of similar description and advantage in the vicinity
15. Assessment of the extent occupied
16. Remarks of the Revenue Inspector

Signature in full of the Reporting Officer
(Revenue Inspector)

FORM 'H'
(Register on Encroachment)
[See Rule 3 (2)]

1. Serial No
2. Date..
3. Name of village .
4. Name of the Encroacher, Caste, his father's name and address
5. Khata No
6. Classification and status
7. Plot No
8. Area encroached
9. Mode of encroachment
10. Date of receipt of report from Revenue Inspector
11. Assessment
12. Penalty
13. Fine ,
14. Market value
15. Date of disposal and by whom disposed of
16. Purport of the order
17. Date of settlement, if any, and purpose ;
18. Date of vacation/eviction
19. Remarks of the Tahasi1dar which may include-
 - (a) The amount of sale proceeds of crop or other materials forfeited, if any
 - (b) Report of Revenue Inspector incorporating the amount in the village demand
 - (c) If appeal filed, the date of appeal and the decision of appellate Court

FORM 'I'
Register showing Government land likely to be required
for any Development Scheme
[See Rule 14 (3)]

1. Name of the village
2. Classification of land

3. Khata No

4. Plot No

5. Area

6. Purpose for which reserved

7. No. and date of the Notification declaring the area likely to. be required for any development scheme

8. Remarks

FORM 'J'

[See Rule 15 (1)]

**It is proposed to settle the land mentioned In the Schedule below in favour of s/o...
.....Caste... ..**

Villagewho has encroached the said land being the property of Government. Any person intending to raise objection to the proposed settlement may file his objection before the undersigned within fifteen days of the publication of this notice at..... Tahasil office. If no objection is filed till the expiry of the said period, the undersigned will proceed to settle the land in favour of the encroacher:

SCHEDULE

Name of the village, Police Station or Thana and District	Plot No.	Description	Entire extent of the plot as recorded in record-of-rights	Extent unauthorisedly occupied	Nature of occupation
1	2	3	4	5	6

Tahasildar