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Dated Lucknow, February 16, 1976

IN pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of the Uttar Pradesh Adhikatan Jot-Seema Aropan (Sanshodhan) Adhyadesh, 1976 (Uttar Pradesh Adhyadesh Sankhya 11, 1976), promulgated by the Governor :

THE UTTAR PRADESH IMPOSITION OF CEILING ON LAND HOLDINGS (AMENDMENT) ORDINANCE, 1976

(U. P. ORDINANCE NO. 11 OF 1976)

[Promulgated by the Governor in the Twenty-seventh Year
of the Republic of India]

AN

ORDINANCE

further to amend the Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960

WHEREAS, the State Legislature is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution, the Governor is pleased to promulgate the following Ordinance :—

1. (1) This Ordinance may be called the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Ordinance, 1976.

Short title and commencement.

(2) It shall be deemed to have come into force on October 10, 1975.

2. It is hereby declared that this Ordinance is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution.

Declaration.

3. In the Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960, hereinafter referred to as the principal Act,—

(a) for the words "Compensation Officer" wherever occurring, the words "Prescribed Authority" shall be substituted ; and

(b) for the words "Compensation Assessment Roll", wherever occurring, the words "Assessment Roll" shall be substituted.

Substitution of the words "Prescribed Authority" for the words "Compensation Officer", and the words "Assessment Roll" for the words "Compensation Assessment Roll" in U. P. Act 1 of 1961.

Amendment of
section 2 of U.P.
Act 1 of 1961.

4. In section 2 of the principal Act, in clause (ii), for the words "Uttarakhand Division and Kumaon Division", the words "Kumaon and Garo Divisions" shall be substituted, and be deemed to have been substituted from December 20, 1968.

Amendment of
section 3.

5. In section 3 of the principal Act—

(a) for clause (5), the following clause shall be substituted and be deemed always to have been substituted, namely:—

"(5) 'Corporation' means a statutory corporation, that is to say, a corporation established by or under an Uttar Pradesh Act or a Central Act";

(b) in clause (8), for the words "papaya, banana or vine plants", the words "guava, papaya, banana or vine plants" shall be substituted and be deemed to have been substituted from June 8, 1973;

(c) for clause (11), the following clause shall be substituted and be deemed to have been substituted from June 8, 1973, namely:—

"(11) 'irrigated land' means land determined as such in the manner laid down in section 4-A."

Amendment of
section 5.

6. In section 5 of the principal Act—

(a) in sub-section (1), in Explanation II thereof, for the words "If a land was originally held by a person who continues to be in its actual cultivatory possession, and the name of any other person is subsequently entered in the annual registers," the words "If on or before January 24, 1971, any land was held by a person who continues to be in its actual cultivatory possession and the name of any other person is entered in the annual register after the said date," shall be substituted and be deemed to have been substituted from January 17, 1975;

(b) in sub-section (6), in Explanation I thereof, for the existing clause (a), the following clause shall be substituted, namely:—

"(a) a declaration of a person as a co-tenure-holder made after the twenty-fourth day of January, 1971 in a suit or proceeding irrespective of whether such suit or proceeding was pending on or was instituted after the twenty-fourth day of January, 1971."

(c) in sub-section (7), in the proviso thereto, clause (a) shall be omitted;

(d) after sub-section (7), the following sub-section shall be inserted, namely:—

"(8) Notwithstanding anything contained in sub-sections (6) and (7), no tenure-holder shall transfer any land held by him during the continuance of proceedings for determination of surplus land in relation to such tenure-holder and every transfer made in contravention of this sub-section shall be void.

Explanation—For the purposes of this sub-section, proceedings for determination of surplus land shall be deemed to have commenced on the date of publication of notice under sub-section (2) of section 9 and shall be deemed to have concluded on the date when an order in relation to such tenure-holder is passed under sub-section (1) of section 11 or under sub-section (1) of section 12, or as the case may be, under section 13."

Amendment of
section 6.

7. Section 6 of the principal Act shall be re-numbered and be deemed always to have been re-numbered, as sub-section (1) thereof; and—

(a) in sub-section (1) as so re-numbered, the following Explanation thereto shall be inserted and be deemed always to have been inserted, namely:—

"*Explanation*—Nothing in clause (f) of sub-section (1) shall apply in relation to a Goshala referred to in clause (g) of that sub-section."

(b) after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, and be deemed always to have been inserted, namely:—

"(2) No person shall transfer any land referred to in clause (d) or clause (e) or clause (f) or clause (g) of sub-section (1) without prior permission of the State Government, and every transfer made

without such permission shall, notwithstanding anything contained in any other law for the time being in force, be void :

Provided that nothing in this sub-section shall apply to any transfer by or in favour of any person specified in sub-section (2) of section 5.

(3) Any land which is the subject of any transfer which by virtue of sub-section (2) is void, shall be deemed to be surplus land, and shall, with effect from October 10, 1975 or the date of such purported transfer, whichever is later, stand transferred to and vest in the State Government free from all encumbrances, and all rights, title and interests of all persons in such land shall stand extinguished :

Provided that the encumbrances, if any, shall be attached to the amount payable under section 17 in substitution for the surplus land.

(4) Where any land deemed to be surplus land under sub-section (3) —

(i) the provisions of sub-section (8) of section 14 shall apply as if it were a land notified under sub-section (1) of that section ;

(ii) the amount payable therefor under section 17 shall be paid to the person in whose favour such transfer was purported to be made."

Amendment of section 9.

8. In section 9 of the principal Act,—

(a) in sub-section (2), the following proviso thereto shall be inserted namely :—

"Provided that at any time after October 10, 1975, the Prescribed Authority may, by notice, call upon any tenure-holder holding land in excess of the ceiling area applicable to him on the said date, to submit to him within thirty days from the date of service of such notice a statement referred to in sub-section (1) or any information pertaining thereto."

(b) after sub-section (2), the following sub-section shall be inserted, namely :—

"(2-A) Every tenure-holder holding land in excess of the ceiling area on January 24, 1971, or at any time thereafter who has not submitted the statement referred to in sub-section (2) and in respect of whom no proceeding under this Act is pending on October 10, 1975 shall, within thirty days from the said date furnish to the Prescribed Authority a statement containing particulars of all land—

(a) held by him and the members of his family on January 24, 1971 ;

(b) acquired or disposed of by him or by members of his family between January 24, 1971 and October 10, 1975."

Amendment of section 12-A.

9. In section 12-A of the principal Act, in the proviso thereto—

(i) in clause (c) for the words "banking company", the words, figures, letters and brackets "bank as defined in clause (c) of section 2 of the Uttar Pradesh Agricultural Credit Act, 1973" shall be substituted and be deemed to have been substituted from March 31, 1975 ;

(ii) in clause (d), in sub-section (i) for the word "compensation" the word "amount" shall be substituted and be deemed always to have been substituted.

Amendment of section 13-A.

10. In section 13-A of the principal Act, in sub-section (2), for the word and figures "and 15," the word and figures "15 and 16" shall be substituted.

Amendment of section 14.

11. In section 14 of the principal Act—

(a) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) As from the beginning of the date of the notification under sub-section (1), all such surplus land shall stand transferred to and vest in the State Government free from all encumbrances and all rights, title and interests of all persons in such land shall, with effect from such date, stand extinguished :

Provided that the encumbrances, if any, shall be attached to the amount payable under section 17 in substitution for the surplus land."

- (b) sub-sections (3), (4), (5), (6) and (7) shall be omitted;
 (c) for sub-section (8), the following sub-section shall be substituted, namely:—

"(8) The Collector may at any time after the publication of the notification under sub-section (1) take possession of the surplus land and also of any ungathered crop or fruits of trees not being crops or fruits to which sub-section (1) of section 15 applies, after evicting the tenure-holder or any other person found in occupation of such land, and may, for that purpose, use or cause to be used such force as may be necessary:

Provided that a tenure-holder may at any time voluntarily deliver possession to the Collector over the whole or any part of the land held by him which has been or is likely to be declared surplus under and in accordance with the provisions of this Act, and thereupon the provisions of sub-section (2) shall apply to such land as they apply to any surplus land specified in a notification under sub-section (1)."

Amendment of section 15.

12. In section 15 of the principal Act, in sub-section (1), the following Explanation shall be inserted, namely:—

"Explanation—For the purposes of this section, the expression 'ungathered crops or fruits of trees' means any crop or fruits which existed on the date of the notification under sub-section (1) of section 14 and does not include any subsequent crop or fruits of trees."

Insertion of new section 16.

13. In Chapter 11, of the principal Act, after section 15, the following section shall be inserted, namely:—

"16. Where any tenure-holder holds any land on or after the commencement of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1972, in excess of the Ceiling area applicable to him, he shall be liable to pay to the State Government for the period commencing from the first day of July, 1973, until the date on which the Collector takes possession of such surplus land under sub-section (8) of section 14, or the date on which the tenure-holder voluntarily delivers possession to the Collector under the proviso to the said sub-section which ever is earlier, such compensation for use and occupation as may be prescribed."

Amendment of section 17.

14. In section 17 of the principal Act—

(a) in the marginal heading including heading of the Chapter III, for the word "compensation" the word "amount" shall be substituted and be deemed always to have been substituted;

(b) in sub-section (1), for the word "compensation", the word "amount" shall be substituted and be deemed always to have been substituted;

(c) for sub-section (2), the following sub-section shall be substituted and be deemed always to have been substituted, namely:—

"(2) The sub-tenant or asami of the tenure-holder, not being an asami mentioned in section 11 of the U. P. Zamindari Abolition and Land Reforms Act, 1950, shall be entitled to receive and be paid a portion out of the amount payable to the tenure-holder. The proportion of amount payable to the sub-tenant or the asami shall be the aggregate of the land revenue for the unexpired period of his subordinate interest computed at hereditary rates, so however, that the sub-tenant or the asami shall not in any case, be entitled to more than one-fourth of the amount payable to the tenure-holder. The amount shall be apportioned between the tenure-holder and the sub-tenant or the asami by the Prescribed Authority."

(d) in sub-section (3), for the word "compensation" wherever occurring, the word "amount" shall be substituted and be deemed always to have been substituted.

Amendment of section 17-A.

15. In section 17-A of the principal Act—

(a) in the marginal heading and in clause (i) and clause (ii) for the word "compensation", wherever occurring, the word "amount" shall be substituted and be deemed always to have been substituted;

(b) in clause (iii), for the words "the compensation shall be payable in accordance with section 17" the words "the amount shall be payable in accordance with section 17" shall be *substituted* and be deemed always to have been *substituted*.

16. In section 17-B of the principal Act—

Amendment of
section 17-B.

(a) in the marginal heading, for the words "refund of compensation of certain cases", the words "refund of amount in certain cases" shall be *substituted* and be deemed always to have been *substituted*;

(b) in sub-section (1), for the words "the proportionate amount of the compensation" the words "the proportionate part of the amount" shall be *substituted* and be deemed always to have been *substituted*.

17. In section 18 of the principal Act, for the words and figures "compensation payable under section 17", the words and figures "amount payable under section 17" shall be *substituted* and be deemed always to have been *substituted*.

Amendment of
section 18.

18. In section 19 of the principal Act, in sub-section (1) for the words and figures "compensation under section 17", the words and figures "the amount payable under section 17" shall be *substituted* and be deemed always to have been *substituted*.

Amendment of
section 19.

19. In section 22 of the principal Act—

Amendment of
section 22.

(a) in the marginal heading, for the word "compensation" the word "amount" shall be *substituted* and be deemed always to have been *substituted*;

(b) in sub-section (1), for the words "the amount of compensation", the words "the amount" shall be *substituted* and be deemed always to have been *substituted*;

(c) for sub-section (2), the following sub-section shall be *substituted* and be deemed always to have been *substituted*, namely:—

"(2) The amount shall be due as from the date on which possession of the land is taken under sub-section (8) of section 14, and, when possession of different lands of the persons entitled to the amount is taken on different dates, from the last of such dates, and the same shall be payable from the date of determination thereof."

(d) in sub-section (3)—

(i) for the words "the amount of compensation determined under this Act", the words and figures "the amount determined under section 17" shall be *substituted* and be deemed always to have been *substituted*;

(ii) for the words "the date on which compensation becomes due", the words "the date on which such amount becomes due" shall be *substituted* and be deemed always to have been *substituted*;

(e) for sub-section (4), the following sub-section shall be *substituted*, and be deemed always to have been *substituted*, namely:—

"(4) The payment of the said amount in accordance with the provisions of this Act shall be full discharge of all liability of the State Government in respect of the surplus land, but shall not prejudice the rights of any other person against the person to whom such payment is so made in respect of the said amount."

Amendment of
section 23.

20. In section 23 of the principal Act—

(a) in the marginal heading for the words "compensation money" the word "amount" shall be *substituted* and be deemed always to have been *substituted*;

(b) the words "of compensation", shall be *omitted* and be deemed always to have been *omitted*.

Amendment of
section 27.

21. In section 27 of the principal Act—

(i) in sub-section (3), for the words, figures and brackets "sub-sections (1) and (2)", the words, figures and brackets "sub-sections (1) and (3)" shall be *substituted*;

(ii) in sub-section (6)—

(a) for the words "within one year from the date of such commencement", the words, brackets and figures "within five years from the commencement of the Uttar Pradesh Land Laws (Amendment) Act, 1975" shall be *substituted*;

(b) for the words "two years", the words "five years" shall be *substituted*.

(iii) in sub-section (7), for the words "by notification in the Gazette", the words "by a general or special order to be published in the manner prescribed" shall be *substituted*.

Amendment of
section 29.

22. In section 29, of the principal Act, for the words "and accordingly land held by him in excess of the ceiling area so determined shall be liable to be treated as surplus land", the following words and figures shall be substituted, namely :

"and accordingly the provisions of this Act, except section 16, shall *mutatis mutandis* apply".

Amendment of
section 35.

23. For section 35 of the principal Act, the following section shall be substituted, namely :—

"35. (1) Whoever—

(a) fails to submit a statement as required under sub-section (2) or sub-section (2-A) of section 9, or sub-section (1) of section 30, or to furnish an affidavit under sub-section (1) of section 38-A ; or

(b) makes or submits a statement or furnishes any information in a document referred to in clause (a) which is false and which he has reason to believe to be false ; or

(c) otherwise contravenes any order passed under this Act ; or

(d) obstructs any person from taking possession of any land in accordance with the provisions of this Act ;

(e) transfers any land in contravention of sub-section (8) of section 5, or sub-section (2) of section 6 ;

shall be punishable with imprisonment which may extend to two years or with fine or with both.

(2) Where the Collector has taken possession of any surplus land under sub-section (8) of section 14 and any person thereafter occupies such land or any part thereof without any lawful authority, such person shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(3) Any court convicting a person under sub-section (2) may make an order for evicting the person summarily from such land, and such person shall be liable to such eviction without prejudice to any other action that may be taken against him under any law for the time being in force.

(4) Without prejudice to the provisions of sub-sections (2) and (3), the Collector may re-take possession of such land and may for that purpose use or cause to be used such force as may be necessary for evicting any person found in occupation thereof."

Insertion of new
section 35-A.

24. After section 35 of the principal Act, the following section shall be inserted, namely—

"35-A. No court shall take cognizance of any offence punishable under this Act except with the previous sanction of the State Government, or an officer authorised by the State Government."

Amendment of
section 38.

25. In section 38 of the principal Act, in sub-section (2), for the words "any Civil Judge" the words "any Additional District Judge, Civil Judge or Additional Civil Judge" shall be substituted and be deemed always to have been substituted.

Insertion of
new sections 38-A
and 38-B.

26. After section 38 of the principal Act, the following sections shall be inserted, namely :—

"38-A. (1) Where the prescribed authority or the appellate court considers it necessary for the enforcement of the provisions of this Act, it may, at any stage of the proceedings under this Act, require any tenure-holder to furnish such particulars by affidavit in respect of the land held by him and members of his family as may be prescribed.

(2) The particulars of land filed under sub-section (1) may be taken into consideration in determining the surplus land of such tenure-holder.

38-B. No finding or decision given before the commencement of this section in any proceeding or on any issue (including any order, decree or judgment) by any court, tribunal or authority in respect of any matter governed by this Act, shall bar the retrial of such proceeding or issue under this Act, in accordance with the provisions of this Act as amended from time to time."

For section 40 of the principal Act, the following section shall be substituted, namely:— Amendment of section 40.

"40. Where any sum is payable by any person to the State Government, under the provisions of this Act, the same may, without prejudice to any other mode of recovery, be realised by deduction from the amount if any, payable to such person under Chapter III, or as an arrear of land revenue."

28. In section 44 of the principal Act—

Amendment of section 44.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The State Government may, by notification make rules for carrying out the purposes of this Act.;"

(b) in sub-section (2), after clause (b) the following clause shall be inserted, namely—

"(bb) Conditions pertaining to the grant of permission to transfer land under sub-section (2) of section 6,;"

(c) sub-section (3) shall be omitted.

Amendment of the Schedule.

29. In the Schedule to the principal Act—

(a) in Part I, in the second column—

(i) against item (a), the words "or eighty times of the land revenue payable, whichever, is greater" shall be omitted and be deemed always to have been omitted;

(ii) against item (b), for the words "amount of compensation", wherever occurring, the word "amount" shall be substituted and be deemed always to have been substituted;

(iii) in item (d) for the words "Gaon Samaj", the words "Gaon Sabha" shall be substituted and be deemed always to have been substituted;

(iv) against item (e) for the words, "amount of compensation" wherever occurring, the word "amount" shall be substituted and be deemed always to have been substituted;

(b) in Part III—

(i) in item (a), for the word "compensation" wherever occurring the word "amount" shall be substituted and be deemed always to have been substituted;

(ii) for item (b) the following item shall be substituted and be deemed always to have been substituted, namely:—

"(b) The amount payable to a sub-lessee of a Government lessee mentioned in clause (9) of section 3 shall be seven-eighth of the amount calculated as in the case of item (a) above, and the balance shall be paid to the Government lessee concerned.;"

(c) in part IV—

(i) for the Note below item (a), the following note shall be substituted and be deemed always to have been substituted, namely:—

"NOTE—The amount for building shall include the amount for land on which the building stands.;"

(ii) in item (c) —

(1) the Note below sub-item (1) shall be omitted and be deemed always to have been omitted;

(2) for the entry in the second column against sub-item (3), the following entry shall be substituted and be deemed always to have been substituted, namely:—

"Eight times the annual fair average value of such trees.;"

(3) after sub-item (3), the following Explanation shall be inserted and be deemed always to have been inserted namely:—

"Explanation—For the purposes of item (c) of expression 'average value', in relation to a tree, means the arithmetic mean of twenty years' profits accruing from such tree."

Transitory provisions.

30. (1) All proceedings under sub-sections (3) to (7) of section 14 of the principal Act, as it stood immediately before the commencement of this Ordinance pending before any court or authority immediately before the date of such commencement shall abate.

(2) Where an order determining the surplus land in relation to a tenure-holder has been made under the principal Act before January 17, 1975 and the Prescribed Authority is required to redetermine the surplus land under section 9 of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1974, then notwithstanding anything contained in sub-section (2) of section 19 of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1972, every appeal under section 13 of the principal Act or other proceedings in relation to such appeal, preferred against the said order, and pending immediately before the date of commencement of this Ordinance shall abate.

(3) Where an order determining surplus land in relation to a tenure-holder has been made under the principal Act before the commencement of this Ordinance, the Prescribed Authority (as defined in the principal Act) may, at any time within a period of two years from the commencement of this Ordinance, redetermine the surplus land in accordance with the principal Act as amended by this Ordinance, notwithstanding any appeal (whether pending or decided) against the original order of determination of surplus land.

(4) The provisions of section 13 of the principal Act shall *mutatis mutandis* apply to every order redetermining surplus land under sub-section (3) of this section or section 9 of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1974:

Provided that the period of thirty days shall, in the case of an appeal against the order referred to in section 9 of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1974, be computed from the date of such order on October 10, 1975, whichever is later.

(5) The provisions of section 13-A of the principal Act shall *mutatis mutandis* apply to every redetermination of surplus land under this section or under section 9 of the Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Act, 1974.

(6) Where any Assessment Roll has become final under sub-section (4) of section 21 before the commencement of this Ordinance, the same shall not be reopened, notwithstanding any amendment made in Chapter III of the principal Act read with the Schedule thereof by this Ordinance.

Repeal and Savings.

31. (1) The Uttar Pradesh Imposition of Ceiling on Land Holdings (Amendment) Ordinance, 1975, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Ordinance as if this Ordinance were in force at all material times.

M. CHENNA REDDY,
Governor,
Uttar Pradesh.

आज्ञा से,
कैलाश नाथ गोयल,
सचिव ।