



Deemed Regularisation Of Unauthorised Transfers Of Fragment / Tukda Lands

Introduction:

In its latest attempt to improve the state of its land revenue records, the Government of Maharashtra promulgated the Maharashtra Prevention of Fragmentation and Consolidation of Holdings (Amendment) Ordinance, 2025 ("Ordinance") on November 3, 2025, thereby amending the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 ("Act"). This is the state government's third major attempt to regularise transfers and partitions spanning the last 59 years, which were made contrary to the Act.

Background:

While the Act was originally enacted to prevent fragmentation by repeated partitions and promote consolidation of agricultural holdings in the State, in 2015 the Government recognised a scarcity of urban and urban-periphery lands permitted for non-agricultural ("NA") usage, which are needed to accelerate growth and development in the state. To that end, by the Maharashtra Prevention of Fragmentation and Consolidation of Holdings (Amendment) Act, 2015 ("2015 Amendment"), Section 8B was inserted in the Act which carved out lands from the purview of restrictions in Sections 7, 8 and 8AA if they were falling within (i) the limits of a Municipal Corporation or Council; or (ii) jurisdiction of Special Planning Authority or New Town Development Authority; or (iii) a draft / final Regional Plan and allocated to any non-residential use therein. However, by virtue of the proviso to Section 8B, application of Section 8B has been limited and made applicable only to: (a) transfers of fragments / *tukda* lands and (b) where such fragment / *tukda* came into existence by a partition or sub-division effected or approved by the Collector or planning authority. Thus, the section was only prospective and failed to regularise historical transfers or partitions made contrary to the provisions of the Act.

In light thereof, the State Government introduced the Maharashtra Prevention of Fragmentation and Consolidation of Holdings (Amendment) Act, 2017 ("2017 Amendment") which inserted 2 (two) provisos and an explanation under Section 9(3), whereby the Collector was empowered to consider applications for regularising past unauthorised transactions which took place during the 59 years period (1965-2024) as specified therein, by charging a premium not exceeding 25% of the market value of the said land. The 2017 Amendment also contemplated the resumption of *tukda* lands permitted to be transferred or partitioned under the first proviso, on failure to put such land to *bona fide* NA use within 5 years from acquisition. On such resumption, the subject land would be offered to an adjoining contiguous landowner or sold by public auction. By a 2024 amendment, the maximum premium which could be levied was also reduced from 25% to 5%.

Key provisions of the Ordinance:

In these circumstances, the present Ordinance proceeds to delete most of the amendments introduced by the 2015 Amendment and the 2017 Amendment. Firstly, the proviso to Section 8B has been deleted. Secondly, Section 9(3)



has been amended such that the 2 (two) provisos and explanation thereunder stand deleted and a new Section 9(4) has been inserted which lays down that illegal transfers or partitions executed between November 15, 1965 and October 15, 2025 (both dates included) are **deemed regularized without payment of any premium**, if the same pertain to:

1. lands within the limits of a municipal corporation or municipal council; or
2. lands designated for any non-residential use within the jurisdiction of: (a) Mumbai Metropolitan Region Development Authority under the Mumbai Metropolitan Region Development Authority Act 1974; (b) any Metropolitan Region Development Authorities under the Maharashtra Metropolitan Region Development Authority Act 2016; or (c) any special planning authorities under Maharashtra Regional and Town Planning Act 1966; or
3. areas designated for any non-agricultural use, areas specified as 'Growth Centres' in a draft / final Regional Plan under Maharashtra Regional and Town Planning Act, 1966; or
4. areas which have been constituted as a cantonment;
5. 'Peripheral Area' from boundaries of any village, city, or town, designated for any NA use in the draft or final Regional Plan where the Unified Development Control and Promotion Regulations apply.

The move is slated to benefit the authorities as well as the public since it validates old transfers or NA usage, which were surreptitious till now. Landowners will be able to update land records in their names and legalise existing NA usage which in turn will enable the revenue authorities to track the transfers, owners and usage as well as levy non-agricultural assessment and/or property taxes appropriately which in turn reduces the authorities' burden of tracking and prosecuting illegal transfers or partitions. It is pertinent to note that the Collector's power to forfeit and resume land on non-utilisation for *bona fide* NA use in 5 years stands deleted and hence, the Government may not see substantial increases in business activity being commenced from regularized *tukda* lands.

Disclaimer: *This is for information purpose only and is not intended to be an advertisement or solicitation. It is not a substitute for professional advice. Kochhar & Co. disclaims all responsibility and accepts no liability for consequences of any person acting or refraining from acting on the basis on the above information.*

For further information please contact:

Mohit Kundu – Partner (mohit@mumbai.kochhar.com)

Shivani Vora – Senior Associate
(shivani@mumbai.kochhar.com)