

## **MAHARASHTRA ACT No. XXVII OF 2001.**

(First published after having received the assent of the Government in the  
.,Maharashtra Government Gazette on 13th August 2001).

An Act to provide for the regularization and upgradation of certain  
Gunthewari developments and for the control of Gunthewari  
developments and for matters connected therewith and  
incidental thereto.

WHEREAS both Houses of the Legislature were not in session; AND WHEREAS the  
Governor of Maharashtra was satisfied that circumstances existed which rendered it  
necessary for him to take immediate action to promulgate an Ordinance to provide for  
the regularization. and upgradation of certain Gullthewari developments and for the  
control of Gunthewari developments and for matters connected therewith and  
incidental thereto; and, therefore, promulgated the Maharashtra Gullthewari  
Developments (Regularization, Up gradation and Control) Ordinance. 2001,  
on the 30th April: 2001 ;

AND. WHEREAS. it is expedient to replace the said Ordinance by an Act of the State  
Legislature It is hereby enacted in the Fifty second year of the Republic of India as  
follows: -

1. (1) This Act may be called the Maharashtra Gullthewari Development  
(Regularization, Up gradation and Control) Act, 2001,
- (2) It extends to the whole of the State of Maharashtra.
- (3) It shall be deemed to have come into force on the 30th April 2001.

2. (1) In this Act. unless the context otherwise requires.-

(a) "Gullthewari development " means plots formed by unauthorized sub-dividing  
privately owned land. with buildings. if any. on such plots including excess vacant land  
under the Urban Land (Ceiling and Regulation) Act, 1976. not vested in the State  
Government. but excluding land under encroachment;

(b) layout "means a piece of land or contiguous land under common ownership sub-  
divided into plots;

(c) "Planning Authority" means-

(1) for the areas within their respective jurisdiction.-

(i) the Nagpur Municipal Corporation, constituted under the City  
of Nagpur Corporation Act. 1948; or

(ii) the concerned Municipal Corporation. constituted under the city Bombay Provincial  
Municipal Corporations Act. 1949; or

(iii) the concerned Municipal Council. constituted under the Maharashtra Municipal  
Councils, Nagar Panchayats and Industrial Townships Act. 1965; or

(iv) the Nagpur Improvement Trust, constituted under the Nagpur Improvement Trust Act, 1936; or

(v) the concerned Special Planning Authority, constituted or appointed or deemed to have been appointed under section 40 of the Maharashtra Regional and Town Planning Act, 1966; and

(II) in respect of areas other than those covered by sub-clause (I), the Collector or an officer authorized by him in this behalf; (d) prescribed means prescribed by rules made under the Act

(2) Words and expressions used but not defined herein, shall have their respective meanings as assigned to them in the Maharashtra Regional and Town Planning Act, 1966,

3. (1) All Gunthewari developments existing as on the 1st January 2001, shall, on an application being made in this behalf by the plot holder to the Planning Authority, as provided in section 4, be eligible for being considered by the Planning Authority for regularization :

Provided that, Gunthewari developments existing in the following areas shall not be eligible for regularization, namely: -

(a) Mumbai Metropolitan Region as established under sub-section (1) of section 3 of the Maharashtra Region, and Town planning Act, 1966 :

(b) Scheduled Areas, declared as such by the President of India by an order under paragraph 6 of schedule V of the Constitution of India

(c) forces to which the Forests (Conservation) Act 1980 applies;

(d) Coastal Regulation Zone as declared under clause (v) of sub-section (2) of section 3 of Environment (protection) Act 1980 applies

(e) Eco-Sensitive zone or Ecologically fragile area as declared under section (1) and clause (v) of sub-section (2) section 3 of the Environment (protection) Act

(f) Hill Station as notified by the state government;

(g) Special Tourism Areas, declared as such, by the Central or State Government :  
Provided further that the Gunthewari development in respect of the following categories of plots and buildings shall also not be eligible for regularization namely

(a) plots formed and transferred after, 1st January 2001;

(b) plots existing on lands under acquisition for a public purpose;

(c) plots existing on lands where the provision, or to which the extension of civic

services is not technically feasible or financially' viable:

(d) plots or buildings (or part thereof). posing hindrance in the provision of infrastructure facilities and change in the plans for such facially to enable the said plots t or buildings parts hereof. to contentious to exist is not feasible;

(e) plots or buildings (or parts thereof) which. in the opinion of thc State Government or the Planning Authority, ought not to be ~ regularized.-

(i) in the public interest; or

(ii) because of the matter being sub-Judie.. or

(iii) as the same is barred by court decisions or order

(2) The regularization of any Gunthewari development shall be subject to' the following general condition. namely: -

(a) In the layout, ten per cant.. of the plot shall vest in the . Planning Authority. free of cost:

Provided that. such plots arc unsold and unbuilt;

(b) Wherever necessary. open marginal spaces shall be surrendered. to achieve a road-width of nine meters or required Development Plan road width in the areas of a Municipal Corporation. a Special Planning Authority), and a New Town Development Authority. and four and half ,meters or required Developed Plan road.width in other areas

(c) It shall not be the responsibility of the planning authority to provide alternate plots or otherwise compensate plot- holders displaced or affected by any development or rectification carried out in the process. Or for purpose. Of regularization and upgradation of Gunthewari developments;

(d) The regularization of any Gunthewari development shall not confer any title or claim in respect of the land or building not already enjoyed by its holder prior regularization.

(3) The regularization of Gunthewari development shall also be subject to the prior payment of compounding fee and development charge as may be determined by the state government from time to time

Provided that the state Government may Authorised the planning Authority to determine the compounding fee or development charge or both in the area of jurisdiction.

4.(1) The concerned plot-holder shall apply for regularization of Gunthewari development within a period of six months from the date of coming in to force of this Act or such extended time as the Planning Authority may permit

(2) The application shall be accompanied *inter alia* by-

- (a) documentary proof of ownership or lawful possession of the plot;
- (b) existing layout plan;
- (c) Plan of existing construction on such plot;
- (c) rectification plan;
- (e) an undertaking by the applicant to rectify uncompoundable infringements;
- (f) demand draft drawn on any scheduled bank to cover the amount due as compounding fee and development charge.

(3) the planning Authority shall scrutinize the case for fulfillment of the stipulate requirements laid down under sub-section (2) including proof of actual rectification of uncompoundable infragments and thereafter issue a certificate of regularisation. If satisfied on all these counts.

5. (1) Notwithstanding anything contained in any other law for the time being in force. On being regularized .the Gunthewari development shall be deemed to have been exempted under section 20 of the urban Land (Ceiling and Regulation) Act 1976 from the provision of the chapter III of the said act converted to non-agricultural use for all purposes of the Maharashtra Land Revenue Code 1966. Subject to the payment of non-agricultural assessment and the other term and condition of such conversion and the provision of the Development plan or the regional plan as the case may be shall so far as such development is concerned. Stand modified or relaxed as may be required

(2) On such regularization of Gunthewari development under section 3 by the concerned planning Authority. All court cases or other proceeding filed by such planning Authority and pending in any court in so far as they relate to such unauthorized development. shall abate.

6. (1) The amount accruing to the planning Authority on account of compounding fee shall be kept by the planning Authority in a separate head of account layout-wise and utilised for providing on-site infrastructure (other than electricity supply)

Provided that fifteen per cent of such amount shall be retained by the planning Authority towards administrative charges

(2) The on-side development of the layout shall be undertaken in proportion to the amount of compensation Received by the planning Authority.

(3) Common and Indivisible Infrastructure or service or amenities or facilities shall be provided by planning Authority only after such minimum proportion of number of plot

in the lay out as may be determine by the state Government from time to time have been regularized.

(4) Individual or divisible infrastructure or services or amenities or facilities may be provided as per terms and conditions prescribed under the relative law after the plot has been regularized.

7. (1) If plot holder has not applied for regularization within the specified period in sub-section (01) of section 4 the planning authority shall before initiating any action under sub-section (2) against the holder of such plot for demolition of such unauthorized development.

(2) on the plot holder's failure to apply for such regularization as provided in sub-section (1) and (2) of section 4 within the time limit specified in the notice or his application for regularization is rejected by the planning Authority ,The planning Authority shall demolish the unauthorized construction.

(3) The police shall provide adequate protection and support to the planning Authority the planning Authority shall demolish the unauthorized construction.

(4) (a) The chief executive officer of the planning authority or the Collector .as the case may be .Who fails to remove any Gunthewari development undertaken after the date of coming into force of this act within a period of six months from tedate of its occurrence or the Commissioner of Police or the Superintendent of Police. As the case may be who fails to provideadequate police protection and support for carrying out the demolition as aforesaid; or

(b) a person who in any way prevents or obstructs the planning Authority or collector or Commissioner of Police or Superintendent of Police in the discharged of their duties as aforesaid; or

(c) a person who after the date of coming into force of this Ordinance carries out any Gunthewari development ;or

(d) a person who aids or abets such unauthorized development or prevention or obstruction of such demolition.

Shall be deemed to have committed an offence under this Act and shall on conviction be punishable with fine upto rupees ten thousand;

Provided that the incumbent chief executive officer of the planning Authority or collector or a Commissioner of police or a superintending of Police for any offence under the sub-section shall be institute except with the prevision sanction of the state Government

8. (1) The planning Authority or any officer authority by it may enter into or upon any land or building with or without assistants or workmen for the purpose of—

(a) Ascertaining whether any land or is being or has been developed in contravention of any provision of this Act or any other law

(b) Making any measurement or survey or taking levels of such land or building;

(c) Setting out and marking boundaries and intended line of development

(d) Marking such levels boundaries and lines by placing marks and cutting trenches

(e) Examining works under the construction and ascertaining the course of sewers and drain

Provided that –

(i) in the case of any building used as a dwelling-house ,or upon any enclosed part of garden attached to such building no such entry shall be made except between the hours of sunrise and sunset and without giving occupier at least twenty four hours notice in writing of the intention to entry

(ii) sufficient opportunity shall in every instance be given to enable women (if any)to withdraw from such land building

(iii) due regard shall always be had so far may be compatible with the exigencies of the of the purpose for which the entry is made to the social and religious usages of the occupant of the land or building entered.

(2) The power of the planning authority or any person authorized by the planning authority in the behalf shall extend only to the area under its jurisdiction.

9. (i) All documents including notices and orders required by the act or any rule or regulation made thereunder to be served upon any person shall be deemed to be duly served-

(a) where document is to be served on a Government Department railway local authority statutorily authority company corporation society or other body if the document is addressed to the head of the Government department General Manager of the railway secretary or Principal Officer of the local authority statutory authority company corporation. Society or any other body at its principal branch local or registered office as the case may be and is either-

(i) sent by registered post to such office; or

(ii) delivered at the said place of business

(c) in any other case if the document is addressed to the person to be served and –

(i) Is given or tendered to him; or

(ii) if such person can not be found is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on the some conspicuous part of the land or building to which it relates; or

(iii) is sent by the registered post to that person.

(2) Any document which is required or authorized to be served on the owner or occupier of any land or building may be addressed the owner or the occupier as the case may be of that land or building (naming or describing that land or building) without further name or description and shall be deemed to be duly served –

(a) if the document so addressed is sent or delivered in accordance with clause(c) of Sub-section (1) ;or

(b) if the document so addressed or a copy thereof so addressed is delivered to some person on the land or building.

(3) Where a document is served on a partnership firm in accordance with this section the document shall be deemed to have been served on each partner of such firm

(4) For the purpose of enabling any documents to be served on the owner of any property the planning Authority may by notice in writing. Require the occupier (if any) of the property to state the name and address of the owner thereof

(5) Where the person on whom a document is to be served is minor the service upon his guarding or any adult member of his family shall be deemed to be service upon the minor

*Explanation-* A domestic servant is not member of family within the meaning of section

**10.** Every public notice given under this Act or Rule or regulation made thereunder shall be in writing over the signature of such a officer who may be authorized in this behalf by the planning Authority and shall be widely made known in the locality to be affected thereby affixing copy there of in conspicuous public place within the said locality and by publishing the same by beat of drum or by advertisement in one or more local newspapers and by such other means which the officer think fit

**11.** When any notice order or other document issued or made under this act or any rule or regulation made thereunder requires any thing to be done for doing of which no time is fixed in this act or rule or regulations made there under the notice order or other document shall specify a responsible time for doing the same.

**12.** All permissions orders decisions notices and all documents of a planning authority shall be authenticated by the signature of such officer as may be authorized by such Authority in this behalf.

**13.** (1) Where an offence under this act or the rule made thereunder is committed by a company every person who at the time when the offence was committed . was in-Charge of and was responsible to the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub section shall render any person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this act or the rule made thereunder has been committed by a company with the consent or connivance of or is attributable to or on the part of any director Manager secretary or the other officer or servant of the company such director manager secretary or other officers or servant concerned shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation- For the purposes of this section –

(a) company means a body corporate and includes a trust a firm a society an institution or other association of individual ; and

(b) "Director" in relation to –

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

(ii) a society a trust an institution or other association of person or body individuals means the person who is interested under the rule or by law of society trust institution or other association or body with the management of the affairs of the society trust institution or other association or body as the case may be

**14.** (1) No court case initiated for any offence punishable under this act or rule made thereunder shall be withdrawn except with previous sanction of planning Authority or any officer authorized by such Authority in this behalf;

(2) Except with regard to offences the prosecution for which requires previous sanction of the state Government the planning authority or any person authorized in the behalf by the planning authority. by general or special order may either before or after the institution of proceeding compound any offence made punishable by or under this Act or rule made thereunder.

(3) when an offence has been compounded the offender if in custody shall be discharged and no further proceeding shall be taken against him in respect of offence compounded

**15.** No court inferior than that of a Judicial Magistrate of the First Class shall try an offence punishable under this act.



**16.** No suit Prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulations made thereunder.

**17.** Every member and every officer and other employee of the planning Authority shall be deemed to be public servant within the meaning of the Indian penal code.

**18.** Every order passed or direction issued by the state government or order passed or notice issued by any planning authority under this act shall be final and shall not be questioned in any suit or other legal proceedings

**19.** (1) The state Government may by notification in the official gazette delegate any power excisable by it under this Act or rule made thereunder to any officer of the state government in such case and subject to such conditions if any as may be specified in such notificatioin.

(2) The planning authority may by an order in writing delegate any power exercisable by it under this act or rule or regulation made thereunder to any officer of the planning authority in such cases and subject to such condition if any as may be specified therein.

**20.** The power and function of a planning Authority shall for the purposes of this Act be exercised and performed by the following officers namely –

(a) in the case of a Municipal corporation by the concerned Municipal Commissioner or such other officer as he may appoint in this behalf

(b) in the case of the Municipal council by the concerned Chief officer of the council

(c) in the case of Nagpur Improvement Trust or a special planning authority by the chief executive officer or person exercising such power under the Acts applicable to such authorities; and

(d) in the case of collector either the collector or such other officer as he may authorize inthis behalf;

**21.**(1) Every planning authority shall carry out such directions or instruction as may be issued from time to time by the state Government for the efficient administration of this Act.

(2) If in or in connection with the exercise of its power and discharged of its functions by any planning Authority under this Act any dispute arises between the planning authority and the state Government the decision of the state Government on such dispute shall be final

**22.** Every planning Authority shall furnish to state Government such report return and other information as the state Government may from time to time require.

**23.** (1) The state Government may by notification in the Official Gazette and subject to the condition of previous publication make rule to carry out the all or any of purposes of this Act

(2) every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days , which may be comprised in one section or in two or more successive session and if before the expiry of the session in which it is so laid other session or sessions immediately following both Houses agree in making any modification in the rule or both houses agree that the rule should not be made and notify such decision in the Official Gazette the rule shall from the date of publication of such decision have effect only in such modified from or be of on effect as the case may be so however that any such modification or annulment shall be without prejudice to the validity of a anything previously done or omitted to be done under the rule.

**24.** The planning Authority may with the previous approval of the state Government make regulations consistent with this act and rule made thereunder to carry out the purposes of this Act

**25.** (1) The Maharashtra Gunthewari Development (Regularisation Upgradation and Control) Ordinance 2001 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken (including any rule made or notification or order issued) under the said Ordinance shall be deemed to have been done taken or issued as the case may be under the corresponding provisions of this Act.