



LEGISLATIVE ASSEMBLY STATE OF GOA

**THE LAND ACQUISITION (GOA
AMENDMENT) BILL, 2009**

(Bill No. 9 of 2009)

(To be introduced in the Legislative Assembly State of Goa)

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA
MARCH, 2009.**

The Land Acquisition (Goa Amendment)
Bill, 2009

(Bill No. 9 of 2009)

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BILL

5 *further to amend the Land Acquisition Act, 1894
(Central Act 1 of 1894), as in force in the State
of Goa.*

Be it enacted by the Legislative Assembly of
Goa in the Sixtieth Year of the Republic of India
as follows:—

10 **1. Short title and commencement :— (1)**
This Act may be called the Land Acquisition (Goa
Amendment) Act, 2009.

(2) It shall be deemed to have come into force
with effect from 15-10-1964.

15 **2. Amendment of Section 41.—** In Section 41
of the Land Acquisition Act, 1894 (Central Act 1
of 1894), as in force in the State of Goa, after
clause (5), the following shall be inserted, namely:—

20 “(6) Notwithstanding anything contained in
the judgement, decree or an order of any Court,
tribunal or any other authority, any development
done or construction undertaken in pursuance
of the agreement entered under this section
between the Government and the Company on
the basis of the statutory approvals like

permissions granted by the Planning and Development Authority, Eco-Development Council, Goa Coastal Zone Management Authority, Municipal Council, Panchayat, including renewals and deviations thereof approved and regularized, and all permissions obtained by the company and all the buildings constructed by the Company and all the proceedings taken by the competent authorities to issue the license or permission for undertaking construction, shall be deemed to have been validly done and have always been undertaken in accordance with the said agreement.

(7) Notwithstanding anything contained in the judgement, decree, or Order of any Court, Tribunal or any other Authority the appropriate Government shall be at liberty to modify the agreement executed under this section between the Government and the Company on mutually agreed terms in furtherance of the purpose for which the land was acquired, by publication of the modified agreement in the Official Gazette, and any such modifications made in the agreement, shall come into force from the date on which the original agreement with the Company was executed under this section and any action taken or things done under the modified agreement, shall for all purposes be deemed and to have always been done or taken in accordance with the original agreement."

(8) Notwithstanding anything contained in any judgment, Decree or Order of any Court, Tribunal or any other authority, if in any agreement entered into between the

Government and the Company there be any clause prohibiting the Company to construction any building or structures in the acquired land such clause shall stand deleted with
5 retrospectives effect from 15-10-1964.

(9) No suit or other proceeding shall be instituted, maintained or continued in any Court or before any Tribunal or other authority for cancellation of such permission or for demolition
10 of buildings which were constructed after obtaining the permissions from the Statutory Authorities and have been validated under this section, or for questioning the validity of any
15 action taken or things done or permission granted in pursuance of the original agreement as modified and no Court shall enforce or recognize any decrees, judgement or orders
20 declaring any such action taken or things done under the original agreement as modified, as invalid or unlawful."

3. Repeal and Saving.— (1) The Land Acquisition (Goa Amendment) Ordinance, 2009 (Ordinance No. 2 of 2009) is hereby repealed.

(2) Notwithstanding such repeal anything done
25 or any action taken under the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as the "Principal Act") as amendment by the Ordinance, namely, Land Acquisition (Goa Amendment) Ordinance, 2009 (Ordinance No. 2
30 of 2009), shall be deemed to have been done or taken under the principal Act as amendment by this Act.

Statement of Objects and Reasons

Chapter VII of the Land Acquisition Act, 1894 deals with acquisition of land by the Government for companies under this chapter. The Government has acquired land for various companies and for Acquiring land, the requirement of execution of an agreement between Government and Company in terms of Section 41 of the Land Acquisition Act, 1894 had been executed by Government with various companies for whom land has been acquired under chapter VII of the land Acquisition Act. Recently, the Hon'ble Supreme Court in the case of Fomento Resort and Hotels Limited and another Appellant(s) Versus Minguel Martins and others Respondent(s) in Civil Appeal No. 4154, 4155 and 4156 of 2000 has held that the clauses of the agreements have the force of law. The Hon'ble Supreme Court has thereafter interpreted the clause of agreement which was not as per the intention of the parties to the agreement. The Apex Court have also specifically held that there is no power to amend, modify, alter or change of agreement entered into as per requirement of Section 41 of the Act, 1894. It is therefore felt necessary to amend the Act by conferring power on the Government to modify or amend the agreement. This power is otherwise also necessary with changing time. Amendment to agreement may be the need of the days.

Therefore it is proposed to amend provision of section 41 of the Land Acquisition Act, 1894 (1 of 1894), after clause (5), by incorporating new clause namely **Clauses (6), (7), (8) and (9)** in order to meet the requirement thereof so as to enable the Government to exercise power to modify any

agreement to meet the exigencies arising at any time, wherein acquisitions made for Companies in which agreements under Section 41 have been executed and with changing times, it may be required to modify such agreements to bring in conformity with the purpose of acquisition or in public interest.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum of Delegation Legislation

No Delegation Legislation is envisaged in this Bill.

Porvorim-Goa
19. March, 2009

Jose Phillip D'Souza
Minister Revenue

Assembly Hall,
Porovorim,
19. March, 2009

R. Kothandaraman
Secretary Legislature