



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ६, अंक ४५(५)]

सोमवार, डिसेंबर १४, २०२०/अग्रहायण २३, शके १९४२

[पृष्ठ ७, किंमत : रुपये २७.००

असाधारण क्रमांक ९१

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Bill, 2020 (L. A. Bill No. XLVIII of 2020), introduced in the Maharashtra Legislative Assembly on the 14th December 2020, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BHUPENDRA M. GURAO,
I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. XLVIII OF 2020.

A BILL

further to amend the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

WHEREAS both Houses of the State 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 further to amend the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, for the purposes hereinafter appearing and, therefore, promulgated the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Ordinance, 2020 on the 27th October 2020 ;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Seventy-first Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY.

Short title and commencement. **1. (1)** This Act may be called the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Act, 2020.

(2) It shall be deemed to have come into force on the 27th October 2020.

CHAPTER II

AMENDMENT TO THE MUMBAI MUNICIPAL CORPORATION ACT.

Amendment of section 144F of III of 1888. **2.** In section 144F of the Mumbai Municipal Corporation Act, in sub-section (1), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st April 2020, namely :—

“Provided that, the stamp duty leviable under the Maharashtra Stamp Act, on instrument of sale, gift and usufructuary mortgage, respectively, of immovable property shall, in the case of any such instrument relating to immovable property situated in the City,— LX of 1958.

(a) for the period commencing from the 1st April 2020 and ending on the 31st March 2022, not be increased by any surcharge, under this sub-section ;

(b) with effect from the 1st April 2022, in case the State Government reduces or remits the stamp duty under the Maharashtra Stamp Act, be reduced or remitted by a surcharge at such rate as the State Government may, by an order in the *Official Gazette*, specify, under this sub-section.” LX of 1958.

CHAPTER III

AMENDMENTS TO THE MAHARASHTRA MUNICIPAL CORPORATIONS ACT.

Amendment of section 149A of LIX of 1949. **3.** In section 149A of the Maharashtra Municipal Corporations Act (hereinafter referred to as “the Municipal Corporations Act”), in sub-section (1), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st September 2020, namely :—

“Provided that, the stamp duty leviable under the Maharashtra Stamp Act, on instrument of sale, gift and usufructuary mortgage, respectively, of immovable property shall, in the case of any such instrument relating to immovable property situated in the City,— LX of 1958.

(a) for the period commencing from the 1st September 2020 and ending on the 31st December 2020, not be increased by any surcharge, under this sub-section ;

(b) for the period commencing from the 1st January 2021 and ending on the 31st March 2021, be reduced by a surcharge at the rate of half per cent., under this sub-section ;

(c) with effect from the 1st April 2021, in case the State Government reduces or remits the stamp duty under the Maharashtra Stamp Act, be reduced or remitted by a surcharge at such rate as the State Government may, by an order in the *Official Gazette*, specify, under this sub-section.” LX of 1958.

4. In section 149B of the Municipal Corporations Act, in sub-section (1), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st April 2020, namely :—

Amendment of section 149B of LIX of 1949.

LX of 1958. "Provided that, the stamp duty leviable under the Maharashtra Stamp Act, on instrument of sale, gift and usufructuary mortgage, respectively, of immovable property shall, in the case of any such instrument relating to immovable property situated in the City,—

(a) for the period commencing from the 1st April 2020 and ending on the 31st March 2022, not be increased by any surcharge, under this sub-section ;

LX of 1958. (b) with effect from the 1st April 2022, in case the State Government reduces or remits the stamp duty under the Maharashtra Stamp Act, be reduced or remitted by a surcharge at such rate as the State Government may, by an order in the *Official Gazette*, specify, under this sub-section."

CHAPTER III

AMENDMENT TO THE MAHARASHTRA MUNICIPAL COUNCILS, *NAGAR PANCHAYATS* AND INDUSTRIAL TOWNSHIPS ACT.

Mah. XL of 1965. 5. In section 147A of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, in sub-section (1), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st September 2020, namely :—

Amendment of section 147A of Mah. XL of 1965.

LX of 1958. "Provided that, the stamp duty leviable under the Maharashtra Stamp Act, on instrument of sale, gift and usufructuary mortgage, respectively, of immovable property shall, in the case of any such instrument relating to immovable property situated in the City,—

(a) for the period commencing from the 1st September 2020 and ending on the 31st December 2020, not be increased by any surcharge, under this sub-section;

(b) for the period commencing from the 1st January 2021 and ending on the 31st March 2021, be reduced by a surcharge at the rate of half per cent., under this sub-section ;

LX of 1958. (c) with effect from the 1st April 2021, in case the State Government reduces or remits the stamp duty under the Maharashtra Stamp Act, be reduced or remitted by a surcharge at such rate as the State Government may, by an order in the *Official Gazette*, specify, under this sub-section."

CHAPTER IV

MISCELLANEOUS.

6. (1) Notwithstanding anything contained in any judgement, decree or order of any court to the contrary, any assessment, review, levy or collection of additional stamp duty or surcharge in respect of execution of instruments of sale, gift and usufructuary mortgage, or any action taken or thing done in relation to such assessment, review, levy or collection under the provisions of the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (hereinafter referred to as "the principal Municipal Corporations Acts"), prior to the date of commencement of the Mumbai Municipal Corporation, the Maharashtra

Validation of additional stamp duty levied and collected.

III of 1888.
LIX of 1949.
Mah. XL of 1965.
Mah. of 2020.

Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Act, 2020 (hereinafter in this section referred to as “the Amendment Act”), shall be deemed to be valid and effective as if such assessment, review, levy or collection or action or thing had been duly made, taken or done under the principal Municipal Corporations Acts, as amended by the Amendment Act, accordingly,—

(a) all acts, proceedings or things done or taken by any authority or by the State Government or by any officer of the State Government in connection with the assessment, review, levy or collection or action or thing in connection with the levy of such stamp duty or surcharge, for all purposes be deemed to be, and to have always been done or taken in accordance with the law;

(b) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority for the refund of such stamp duty or surcharge so paid; and

(c) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of such duty or surcharge.

(2) For the removal of doubt it is hereby declared that, nothing in sub-section (1) shall be construed as preventing a person,—

(a) from questioning in accordance with the provisions of the principal Municipal Corporations Acts, as amended by the Amendment Act, assessment, review, levy or collection of such stamp duty or surcharge, referred to in sub-section (1); or

(b) from claiming refund of any additional stamp duty or surcharge paid by him in excess of the amount due from him by way of stamp duty under the principal Municipal Corporations Acts as amended by the Amendment Act.

(3) Nothing in the principal Municipal Corporations Acts, as amended by the Amendment Act, shall render any person liable to be convicted of any offence in respect of anything done or omitted to be done by him, before the date of commencement of the Amendment Act, if such act or omission was not an offence under the principal Municipal Corporations Acts on the relevant date, but for such amendment made by the Amendment Act; nor shall any person in respect of such act or omission be subject to a penalty greater than that which could have been imposed on him under the law in force immediately before the date of commencement of the Amendment Act.

Repeal of
Mah. Ord. XVI
of 2020 and
saving.

7. (1) The Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Ordinance, 2020, is hereby repealed.

Mah.
Ord. XVI
of 2020.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, as amended by the said Ordinance, shall be deemed to have been done, taken or, as the case may be, issued under the corresponding provisions of the said Acts, as amended by this Act.

III of
1888
LIX of
1949.
Mah. XL
of 1965.

STATEMENT OF OBJECTS AND REASONS

As per sub-section (1) of section 144F of the Mumbai Municipal Corporation Act (III of 1888) and sub-section (1) of section 149B of the Maharashtra Municipal Corporations Act, the stamp duty leviable under the Maharashtra Stamp Act, (LX of 1958), on the instruments of sale, gift and usufructuary mortgage, respectively, of immovable property shall, in the case of any such instrument relating to immovable property situated in the City in which one or more Vital Important Urban Transport Projects are carried out, be increased by a surcharge at the rate of one per cent., in case of instrument of sale or gift, on the value of the property so situated and in case of an instrument of usufructuary mortgage, on the amount secured by the instrument as set forth in the instrument and shall be collected accordingly under the said Act.

As per sub-section (1) of section 149A of the Maharashtra Municipal Corporations Act (LIX of 1949) and sub-section (1) of section 147A of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965), the stamp duty leviable under the Maharashtra Stamp Act (LX of 1958) on instruments of sale, gift and usufructuary mortgage, respectively, of the immovable property shall, in the case of any such instrument relating to the immovable property situated in the City, shall be increased by a surcharge at the rate of one per cent., in the case of sale or gift, on the value of the property so situated and in the case of an instrument of usufructuary mortgage on the amount secured by the instrument as set forth in the instrument and shall be collected accordingly under the said Acts.

2. The stamp duty leviable under the Maharashtra Stamp Act has been reduced by 2% during the period commencing on the 1st September 2020 and ending on the 31st December 2020 and by 1.5% during the period commencing on the 1st January 2021 and ending on the 31st March 2021. In view of this, the Government considered it expedient to reduce or remit the above-mentioned surcharge by amending sub-section (1) of section 144F of the Mumbai Municipal Corporation Act, sub-section (1) of section 149A and sub-section (1) of section 149B of the Maharashtra Municipal Corporations Act and sub-section (1) of section 147A of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, suitably. The said provisions were also proposed to be amended suitably, for reducing or remitting the stamp duty, in future, in case the stamp duty is reduced or remitted under the Maharashtra Stamp Act.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Mumbai Municipal Corporation Act (III of 1888), the Maharashtra Municipal Corporations Act (LIX of 1949) and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965), for the purposes aforesaid, the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Ordinance, 2020 (Mah. Ord. XVI of 2020), was promulgated by the Governor of Maharashtra on the 27th October 2020.

4. The Bill is intended to replace the said Ordinance by and Act of the State Legislature.

Mumbai,
Dated the 1st December 2020.

EKNATH SHINDE,
Minister for Urban Development.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely:—

Clause 2.— Under this clause, which seeks to insert a proviso to sub-section (1) of section 144F of the Mumbai Municipal Corporation Act with effect from 1st April 2020, power is taken, under clause (b) thereof, to the State Government to specify, by an order in the *Official Gazette*, the rate at which a surcharge which may be reduced or remitted from the stamp duty leviable on the instrument of sale, gift and usufructuary mortgage of immovable property under the Maharashtra Stamp Act under the said sub-section, in case the State Government reduces the stamp duty under the Maharashtra Stamp Act on such instruments.

Clause 3.—Under this clause, which seeks to insert a proviso to sub-section (1) of section 149A of the Maharashtra Municipal Corporations Act, with effect from 1st September 2020, power is taken, under clause (c) thereof, to the State Government to specify, by an order in the *Official Gazette*, the rate at which a surcharge which may be reduced or remitted, the stamp duty leviable on the instrument of sale, gift and usufructuary mortgage of immovable property under the Maharashtra Stamp Act under the said sub-section, in case the State Government reduces the stamp duty under the Maharashtra Stamp Act on such instruments.

Clause 4.—Under this clause, which seeks to insert a proviso to sub-section (1) of section 149B of the Maharashtra Municipal Corporations Act, with effect from 1st April 2020, power is taken, under clause (b) thereof, to the State Government to specify, by an order in the *Official Gazette*, the rate at which a surcharge which may be reduced or remitted, the stamp duty leviable on the instrument of sale, gift and usufructuary mortgage of immovable property under the Maharashtra Stamp Act under the said sub-section, in case the State Government reduces the stamp duty under the Maharashtra Stamp Act on such instruments.

Clause 5.—Under this clause, which seeks to insert a proviso to sub-section (1) of section 147A of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, with effect from 1st September 2020, power is taken, under clause (c) thereof, to the State Government to specify, by an order in the *Official Gazette*, the rate at which a surcharge which may be reduced or remitted, the stamp duty leviable on the instrument of sale, gift and usufructuary mortgage of immovable property under the Maharashtra Stamp Act under the said sub-section, in case the State Government reduces the stamp duty under the Maharashtra Stamp Act on such instruments.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM

Clauses 2, 3, 4 and 5 of the Bill proposes to reduce or remit the surcharge by amending sub-section (1) of section 144F of the Mumbai Municipal Corporation Act, sub-section (1) of section 149A and sub-section (1) of section 149B of the Maharashtra Municipal Corporations Act and sub-section (1) of section 147A of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, suitably. The said provisions have also been proposed to be amended suitably, for reducing or remitting the additional stamp duty, in future, in case the stamp duty is reduced or remitted under the Maharashtra Stamp Act.

There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the consolidated Fund of the State on its enactment as an Act of the State Legislature.