



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ३, अंक २१(२)]

सोमवार, मार्च ६, २०१७/फाल्गुन १५, शके १९३८

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असाधारण क्रमांक ३९

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 and the Maharashtra Municipal Corporations (Amendment) Bill, 2017 (L. A. Bill No. II of 2017), introduced in the Maharashtra Legislative Assembly on the 6th March 2017, is hereby published under the authority of the Governor.

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

PRAKASH H. MALI,

Principal Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. II OF 2017.

A BILL

further to amend the Mumbai Municipal Corporation Act and the Maharashtra Municipal Corporations Act.

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 and the Maharashtra Municipal Corporations Act, for the purposes hereinafter appearing ; and, therefore, promulgated the Mumbai Municipal Corporation and the Maharashtra Municipal Corporations (Amendment) Ordinance, 2017, on the 8th January 2017;

III of
1888.
LIX of
1949.
Mah.
Ord. III
of 2017.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-eighth 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 and the Maharashtra Municipal Corporations (Amendment) Act, 2017.
(2) It shall be deemed to have come into force on the 8th January 2017.

CHAPTER II

AMENDMENT TO THE MUMBAI
MUNICIPAL CORPORATION ACT

- Amendment of section 152A of III of 1888. 2. In section 152A of the Mumbai Municipal Corporation Act, in sub-section (1), for the words “ shall be liable to pay every year a penalty, which shall be equal to twice the property tax leviable on such building”, the following shall be substituted, namely :—
“ shall be liable to pay a penalty, at such rate as may be decided by the corporation, on such building”.

CHAPTER III

AMENDMENT TO THE MAHARASHTRA
MUNICIPAL CORPORATIONS ACT

- Amendment of section 267A of LIX of 1949. 3. In section 267A of the Maharashtra Municipal Corporations Act, in sub-section (1), for the words “ shall be liable to pay every year a penalty, which shall be equal to twice the property tax leviable on such building”, the following shall be substituted, namely :—
“shall be liable to pay a penalty, at such rate as may be decided by the corporation, on such building”.

CHAPTER IV

MISCELLANEOUS

- Power to remove difficulty. 4. (1) If any difficulty arises in giving effect to the provisions of the Mumbai Municipal Corporation Act or, as the case may be, the Maharashtra Municipal Corporations Act, as amended by this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, give such directions not inconsistent with the provisions of the relevant Act, as amended by this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that, no such order shall be made after expiry of a period of two years from the date of commencement of this Act.

(2) Every order issued under sub-section (1) shall be laid, as soon as may be, after it is issued, before each House of the State Legislature.

- Repeal of Mah. Ord. III of 2017 and saving. 5. (1) The Mumbai Municipal Corporation and the Maharashtra Municipal Corporations (Amendment) Ordinance, 2017, is hereby repealed.
(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 and the Maharashtra Municipal Corporations Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the relevant Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Section 152A of the Mumbai Municipal Corporation Act (III of 1888) and section 267A of the Maharashtra Municipal Corporations Act (LIX of 1949) provide for levy of penalty on unlawful building.

By sub-section (1) of the said sections, it was provided that whoever unlawfully constructs or reconstructs any building or part of a building on his land without prior permission under those Acts or any other law for the time being in force or in contravention of the provisions attached to the permission or, on a site without approval under the law relating to Regional and Town Planning or, on his land in breach of any provision of Act or the rules or bye-laws made thereunder or in breach of any direction or requisition given under those Acts or, on any land belonging to or leased by the Corporation, or the Central or, State Government or a statutory organisation or company set by such Government, in breach of the provisions of the Act or any law for the time being in force, shall be liable to pay every year, a penalty which shall be equal to twice the property tax leviable on such building, so long as such building remains unauthorised. The said sections further provided that such levy shall be without prejudice to any proceedings which may be taken against such person for such unlawful construction. It is also provided that the levy and collection of the tax and penalty shall not be construed as regularization of such unlawful construction or reconstruction for any period whatsoever of its unlawful existence.

Sub-section (2) of the said sections provide that the penalty provided under sub-section (1) shall be determined and collected as if the amount due were arrears of property tax.

2. It had been observed that, some unscrupulous elements after constructing the building unlawfully, sell the flats and units thereof to the buyers, who purchase the flats under genuine belief that such construction is duly authorised under the law. Since the amount of penalty is recovered as if it were the arrears of property tax, such buyers are required to pay the penalty, not for his fault.

3. It was, therefore, proposed to provide that, instead of levy of penalty at twice the amount of property tax, the amount of penalty shall be decided by the respective corporation, within whose jurisdiction such building is situated. This levy of penalty shall not, however, preclude the corporation from undertaking any proceedings against the person in respect of such unlawful construction.

4. 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) and the Maharashtra Municipal Corporations Act (LIX of 1949), for the purposes aforesaid, the Mumbai Municipal Corporation and the Maharashtra Municipal Corporations (Amendment) Ordinance, 2017 (Mah. Ord. III of 2017), was promulgated by the Governor of Maharashtra on the 8th January 2017.

5. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
dated the 23rd February 2017.

DEVENDRA FADNAVIS,
Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

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

Clause 4.— Under this clause, power is taken to the State Government to issue an order for removing any difficulty, which may arise in giving effect to the provisions of the Mumbai Municipal Corporation Act and the Maharashtra Municipal Corporations Act, as amended by this Act, within a period of two years from the date of commencement.

2. The above-mentioned proposal for delegation of legislative power is of a normal character.