Gujarat’s Disturbed Areas Act

Why in News

The President has given his assent to a Bill passed by the Gujarat Assembly in 2019, which made some amendments to the ‘Gujarat Prohibition of Transfer of Immovable Property and Provisions of Tenants from Eviction from Premises in Disturbed Areas Act, 1991’ - popularly known as the ‘Disturbed Areas (DA) Act’.

Key Points

- **About the Act:**
  - The Act was first introduced in Ahmedabad in 1986.
    - At that time, due to large scale and continuous riots in Ahmedabad city, a number of areas started witnessing distress sale of properties mainly by people of a particular community.
    - To check that, the then Gujarat government had brought in an ordinance. Later, it was converted into the DA Act in 1991.
  - Under the DA Act, a District Collector can notify a particular area of a city or town as a “disturbed area”. This notification is generally done based on the history of communal riots in the area.
  - Following this notification, the transfer of immovable property in the disturbed area can take place only after the Collector expressly signs off on an application made by the buyer and the seller of the property.
    - In the application, the seller has to attach an affidavit stating that she/he has sold the property of her/his free volition, and that she/he has got a fair market price.
  - Violation of the Act’s provisions, that is, if property in a notified disturbed area is transferred without the Collector’s permission, invites imprisonment and a fine.
  - The state government claims it is aiming to check communal polarisation of various parts of the state through the Act.
  - The DA Act is applicable in Ahmedabad, Vadodara, Surat, Himmatnagar, Godhra, Kapadvanj and Bharuch.

- **Reasons for Amendment:**
  - There were reports of anti-social elements selling and buying properties after either threatening people or luring them with higher prices, in areas marked as “disturbed”.
  - It was reported that at times, anti-social elements had got transfers done even without the Collector’s prior permission by getting the transfer deed registered under the provisions of the Registration Act, in which the Collector’s prior sanction under the DA Act was not required.
    - This had resulted in clustering or polarisation of localities.
  - To plug such loopholes, and to increase the punishment for the violation of the Act as deterrence, the amendment Bill was presented and passed in the Gujarat Assembly in July 2019.
**Amendments:**

- **More Powers to the Collector:** To ascertain if there is a likelihood of “polarisation” or “improper clustering” of persons belonging to a particular community, thus disturbing the demographic equilibrium in the area.
  - For probing these aspects, the **formation of a Special Investigation Team (SIT)** has also been envisaged.
- **Review Power to the State:** The state government is authorised to review a decision taken by the Collector.
- **Advisory Committee:** Enables the state government to form an advisory committee that will advise it on various aspects of the DA Act, including adding new areas to the ‘disturbed areas’ list.
- **Disturbed Area:** The government can notify any area as a ‘disturbed area’ where it sees the possibility of a communal riot, or where it sees the possibility of a particular community’s polarisation.
- **Strict Provisions:**
  - To check the registration of transfer of properties in disturbed areas without the Collector’s prior approval, the amended Act has a provision to **enlarge the scope of the term ‘transfer’**, and include transfer of right, title or interest in or over such property in disturbed areas by way of sale, gift, exchange, and lease.
  - The Act has **amended the Registration Act** under which no property in disturbed areas can be registered without prior sanction of the Collector.
  - **Redevelopment of the Property** is allowed only if it is for the owner’s purpose. But if the owner is planning to bring new people on the redeveloped property, she/he has to take the permission of the Collector.
- **Non-Applicability:** The provisions of the Act will not be applicable to the government’s rehabilitation schemes in a disturbed area, where it resettles displaced people.
- **Penal Provisions:** The amendment has **increased the punishment to imprisonment between three and five years. The fine** has also been **increased to Rs. 1 lakh, or 10% of the jantri rate** (ready reckoner of property prices in different parts of the state) of the property, **whichever is higher**.
  - The punishment for the violation of the Act was earlier imprisonment for six months and fine up to Rs.10,000.

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