

Conversion of End Use of Agricultural Land in Rural Areas into Industrial Land and Creation of Security/Equitable Mortgage in Favour of Financial Institutions*

S.K. LALIT, FCS, Company Secretary, Samcor Glass Limited, New Delhi.

PURCHASE of agricultural land by corporates and industrial enterprises is very common for establishing industrial units therein. However, before such end use the agricultural land ought to be converted into non-agricultural land which involves several procedural compliances. This article explains such procedure.

FOR the purpose of setting up of industrial undertaking/factory/plant, either commercial concerns purchase industrial lands from State Development Corporation or directly agricultural lands from farmers. In the latter case, agricultural land requires conversion of end use of the land into industrial land before commencing any sort of industrial activities on the land. The procedure to be followed for conversion of end use of agricultural land into industrial land is explained in this article.

1. Issuance of appropriate Power of Attorney in favour of a company employee/Advocate/Authorised Representative for dealing with land matters of the company.
2. Purchase of agricultural land from the farmers. It is advisable that before finalising the purchase of agricultural land, title of land records be completely verified from the revenue records of Village Patwari and Tehsildar office.
3. Thereafter, transaction for land purchased be finalised, with subsequent execution of Sale Deeds of Agricultural Land and its Registration with the office of Sub-Registrar.
4. Formal application be submitted in the office of Tehsildar for entering the name of the purchase of Agricultural Land (respective Company) in the Revenue/Mutation Records of the above office. This requires continuous follow up with the concerned Tehsildar office and Patwari of the Area.
5. In addition to the above, an application for conversion of end use of Agricultural Land in Rural Areas into Industrial land be filed with the office of concerned Tehsildar, *inter alia* including the following documents:
 - Memorandum & Articles of Association of the Company;
 - Particulars and xerox copies of the Sale Deeds executed with the Farmers and subsequently registered with the Sub-Registrar;
 - Drawings prepared by Architects for the various Khasra Nos. of the agricultural land;
 - Approvals of Department of Industries for the establishment of the industrial undertaking; and
 - Copy of the power of attorney in favour of Authorised Representative of the Company. This application is required to be filed in *Annexure-I* if land falls in Rural Area and if land falls in Non-Rural Area, then this application is required to be filed in *Annexure-II*.
6. Before undertaking any construction work on the above land, an application for Mutation and Conversion of end use be submitted with the above office.

In case of non-submission of above application and undertaking any construction work on the above land, the appropriate authorities are competent to levy a fine at the rate of not less than five times the prevalent highest market price of the land in the neighbouring area of that land:

Provided that in towns or villages that are not municipalities, and the population whereof does not exceed 8,000 such fine shall not exceed the market price of the said land in the vicinity plus permissible premium as per rules:

*NOTE : This Article, explains the procedure involved in conversion of end use of Agricultural Land into Industrial land in the State of Rajasthan and subsequent formalities upto creation of Security/Equitable Mortgage in favour of FIs/Banks. Though there may be variation in the requirements in different States, broadly the article gives an idea as to the requirements and compliances and to that extent help company secretaries to know the nature of requirements and compliances.

Provided further that no fine shall be required to be paid in cases in which an application seeking permission to use agricultural land for non-agricultural purposes was finally accorded and the applicant has furnished in writing sufficient reasons for having used agricultural land for non-agricultural purposes during the pendency of such application.

7. The procedural aspect of permission to use agricultural land for non-agricultural purposes, requires follow up with the offices of Tehsildar, District Collector, Divisional Commissioner, Department of Revenue. Department of Industries & Department of Land Conversion, Urban Improvement Trust (UIT)/Senior Town Planner (STP), Mayor of the City and Gram Sarpanch.
8. After conversion of land use, the Company is required to surrender the above land to the Government. Thereafter, the said land is allotted to the Company by the Government for industrial purposes on lease hold basis for 99 years, with an option to renew the said lease for another period of 99 years and so on.
9. Thereafter, a formal lease in the prescribed format is executed with the District Collector on behalf of Department of Industry and Revenue of the Concerned State and registered with the Sub-Registrar of the respective city.
10. The prescribed lease rentals as notified by Government from time to time are required to be paid to the office of District Collector on annual basis.

CREATION OF SECURITY/EQUITABLE MORTGAGE IN FAVOUR OF FINANCIAL INSTITUTIONS

11. Only after the execution of Lease Deed, a title of the Company is created in the said land and equitable charge can be created on immovable property favouring Financial Institutions & Banks subject to completion of certain formalities.

A certificate from an Advocate should be arranged for satisfactory title of the Company on the industrial land and should be submitted to FIs.

12. A certificate from Patwari of the area should be arranged on title of Company's land and should be submitted to FIs.
13. A detailed drawing of site plan of the said land should be prepared and submitted to Financial Institutions.
14. All the Registered Sale Deeds, Lease Deeds and other revenue records in original are required to be submitted to FIs. It is advisable, to take xerox of all these documents and kept in safe custody of some responsible officers of the Company.
15. Thereafter, officials of FIs will conduct an investigation of the revenue records on the title of the said land for the last 30 years in the office of Sub-Registrar & Tehsildar. FIs may reduce the period for the purpose of investigation of the revenue records. This process involves follow-up with the offices of Sub-Registrar & Tehsildar and Patwari of the area.
16. Officials of FIs may conduct an investigation of the

Register of Charges in the office of Registrar of Companies or alternatively, subject to satisfaction of FIs/Banks, Search Report of ROC office records be submitted to these institutions.

17. A detailed title report is prepared by the concerned FIs and submitted to their Corporate Legal Department, for the necessary approval. At this stage, it should be ensured that the respective FI makes an unqualified and clear title report.
18. Necessary Draft Board Resolution be passed for creation of first Charge in favour of FIs and (if required second charge in favour of bankers).
19. Thereafter, the equitable mortgage and substantive security is created in favour of FIs and the Company will have the commercial benefit of reducing the cost of borrowed funds in the nature of Rupee Loan/Foreign Currency Loan/Working Capital Facilities etc. Presently, on creation of equitable mortgage and substantive security in favour of FIs, the interest rate on the borrowed funds is reduced by 1.05%.

If the quantum of borrowed funds from financial institution is a substantial amount, it is always advisable that utmost attention be provided to this function. On an institutional term loan of say Rs. 80 crores, financial savings will be Rs. 84 lacs on an annualised basis and Rs. 7 lacs per month. Of course, on commencement of repayments of principal sum of borrowed funds, the annualised and monthly benefits as stated in the example will start reducing over a period of the currency of the term loans.

20. Form Nos. 8 & 13 are required to be filed with the office of Registrar of Companies within 30 days of creation of equitable mortgage and substantive security in favour of FIs and necessary entries to this effect should be made in the Register of Charges.

ANNEXURE-I

(Formats as prescribed by Government of Rajasthan are reproduced hereunder)

FORM-A

(See rule 3)

Application for Permission to use Agricultural Land for Non-agricultural Purposes

To,
The Tehsildar,
Sir,

1. I hereby apply under Section 90-A of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956), read with rule 3 of the Rajasthan Land Revenue (Conversion of Agricultural into Non-Agricultural Land) Rules, 1961 for permission to use the agricultural land, particulars whereof are given hereunder, for the non-agricultural purposes indicated below:
2. The required particulars are given:
 - (1) Name of applicant with parentage and address.

(2) Particulars of land in respect of which permission is required—

- (a) Name of village with name of Tehsil
- (b) Khewat No. (if any)
- (c) Khasra Number
- (d) Area
- (e) Soil class, if known
- (f) Annual assessment
- (g) Use to which the land was put during the past three years.
- (h) Name, Parentage and address of land holder
- (i) Name, Parentage and address of tenant, together with class of tenancy, if known

(3) The exact area proposed to be converted in square yards

(4) Full details of the non-agricultural purpose for which land is to be used if permission is accorded, e.g. construction of factory or mills, establishment of brick kiln etc.

3. I verify that the particulars given above are correct to the best of my knowledge and belief; and I hereby undertake to pay the premium and/or urban assessment to accordance with the rules and to abide by the terms and conditions on which the permission may be granted.

Yours faithfully,

Place : _____ For _____
 Date : _____
 Witness : _____
 Date : _____

**ANNEXURE-II
FORM-A**

Application for Conversion of Agricultural Land for Non-Agricultural Purpose

To,
The District Collector
Sir,

I/We hereby apply under Rule 8 of the Rajasthan Land Revenue (Conversion of Agricultural Land for Non-Agricultural Purposes in Rural Areas) Rules, 1992 for the conversion of agricultural land held in my/our khatedari tenancy for non-agricultural purpose, the particulars whereof are given hereunder:—

- 1. Name/Names of khatedar tenant with father's/husband's name and complete address
- 2. Whether the applicant is a member of SC or ST.
- 3. Details of the land sought to be converted:

- (a) Name of the village, Gram
- (b) Whether the land is situated in any periphery village or within the local area of a Municipal Council/Board.
- (c) Khasra No./Nos. of the land; alongwith total area of each Khasra No.

NOTE : Enclose two certified copies of the latest jamabandi.

- 4. Area (in hectare of sq. mt.) applied for conversion, indicating the exact location of such area in the map.
- 5. Purpose of conversion—Industrial Purpose
- 6. Whether the land is covered by Urban Land (Ceiling and Regulation) Act, 1976.
- 7. Whether the land is declared surplus under the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 or under the repealed Chapter III B of the Rajasthan Tenancy Act, 1955.
- 8. Whether the land is under acquisition under the Land Acquisition Act, 1894.
- 9. Whether the land was allotted to the applicant by the State Govt. for any specific purpose. If so, give the No. and date of the order.
- 10. Land use shown in the Master Plan, if applicable.
- 11. Distance from
The Railway line : 9/10 Kms.
National Highway : _____
State Highway : _____
or any other road or rural path way (in Ft.).
- 12. Distance from the outer limit of the Abadi of a village in case of industrial purpose.
- 13. Whether the application in submitted under Rule 12 for regularisation of the construction made prior to coming into force of these rules.
- 14. Rate of premium payable.
- 15. No. and date of the challan making the payment of the premium
- 16. Any other relevant information:

We hereby certify that the above particulars are correct according to our knowledge and belief.

Yours faithfully,

Signature/s of Applicant

Place : _____ For _____
 Date : _____

Receipt No. _____
 Received the application from Shri _____
 for conversion of Khasra No. _____ in village _____
 to-day i.e. _____

Signature

Prescribed Authority

(The District Collector/SDO/ Tehsildar)