

THE PONDICHERRY LAND ENCROACHMENT ACT, 1970

(Act No. 2 of 1971)

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8th February, 1971.

AN ACT

To provide measures for checking unauthorized occupation of lands which are the property of Government in the Union territory of Pondicherry.

BE it enacted by the Legislative Assembly of Pondicherry in the Twenty-first Year of the Republic of India as follows :-

Short title, extend and commencement

1. (1) This Act may be called the Pondicherry Land Encroachment Act, 1970.
- (2) It extends to the whole of the Union territory of Pondicherry.
- (3) It shall come, into force on ¹ [such date] ¹ as the Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,—
 - (a) "Government" means the Administrator of the Union territory of Pondicherry appointed by the President under article 239 of the Constitution ;
 - (b) "prescribed" means prescribed by rules made under this Act;
 - (c) "Union territory" means the Union territory of Pondicherry.

Right of property in public roads, etc., water and lands

3. (1) All public roads, streets, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, the bed of the sea and of harbours and creeks below high water mark and of rivers, streams, lakes and tanks, all back-water, canals and water courses, and all standing and following water and all lands, wherever situated save in so far as the same are the property—
 - (a) of any person holding under ryotwari tenure or in any way subject to the payment of land tax direct to Government, or

1. The Act came into force on the 1st day of July, 1971 vide Notification No.E.829/68 Revenue-1 dated 26-06-1971 Extraordinary Gazette No.69 dated 28-06-1971.

(b) of any other person holding land under grant from the Government otherwise than by way of lease or licence, and, as to lands, save also in so far as they are temple site or owned as house-site or backyard are, and are hereby declared, to be, the property of Government except as may be otherwise provided by any law for the time being in force, subject always to all rights of way and other public rights and to the natural and easement rights of other land-owners, and to all customary rights legally subsisting.

(2) All public roads and streets and sites vested in any local authority shall, for the purposes of this Act, be deemed to the property of Government.

Explanation:– In this section, "high water mark" means the highest point reached by ordinary spring tides at any season of the year.

Levy of assessment of lands unauthorisedly occupied

4. Any person who shall unauthorisedly occupy any land which is the property Government shall be liable to pay by way of assessment–

(i) If the land so occupied forms an assessed survey number or part thereof, the full assessment of such number for the whole period of his occupation or a part thereof proportionate to the area occupied, as the case may be ;

(ii) if the land so occupied be unassessed, an assessment on the area occupied calculated for the same period at the rate imposed on lands of a similar quality in the neighbourhood, or at the highest dry or wet rate of the village, as the case may be, or when no such rates exist in such manner as may be prescribed :

Provided that payment of assessment under this section shall not confer any right of occupancy.

Explanations.– For the purpose of this section, occupation for an incomplete portion of a year may be deemed to be occupation for a whole year.

Conclusiveness of decision as to amount of assessment

5. The decision as to the rate or amount of assessment payable under section 4 shall be recorded in writing and shall be questioned in any civil court.

Liability of person unauthorisedly occupying land to penalty after notice

6. Any person liable to pay assessment under section 4 shall also be liable at the discretion of the Deputy Collector (Revenue) or subject to his control, the Tahsildar or Deputy, as the case may be, to pay in addition by way of penalty–

(i) if the land be assessed land, a sum not exceeding five rupees or when ten times the assessment payable for one year under section 4 exceeds five rupees, a sum not exceeding ten times such assessment.

Provided that no penalty shall ordinarily be imposed in respect of the unauthorised occupation of such land for any period not exceeding one year ;

(ii) if the land be unassessed, a sum not exceeding ten rupees, or when twenty times the assessment payable for one year under section 4 exceeds ten rupees, a sum not exceeding twenty times such assessment.

Notice before proceeding under section 6

7. Before taking proceedings under section 6, the Deputy Collector (Revenue), or the Tahsildar or Deputy Tahsildar or Revenue Inspector, shall cause to be served in the prescribed manner on the person reputed to be in unauthorised occupation of land being the property of Government, a notice specifying the land so occupied and calling on him to show cause before a certain date why he should not be proceeded against under section 6:

Provided that where the notice under this section is caused to be served by the Revenue Inspector, he shall require the person reputed to be in unauthorised occupation of the land to show cause against such notice to the Tahsildar or Deputy Tahsildar having jurisdiction and shall also make a report in writing containing such particulars as may be prescribed.

Recovery of assessment or penalty levied as arrears of land revenue

8. The amount of assessment and penalty imposed under this Act on any person unauthorisedly occupying any land shall be deemed to be land revenue and may be recovered from him as arrears of land revenue under the law relating to recovery of land revenue for the time being in force.

Appeal

9. An appeal shall lie—

(a) to the Deputy Collector (Revenue) against any decision or order passed by a Tahsildar or Deputy Tahsildar, as the case may be, under this Act,

(b) to the Collector from any decision or order of the Deputy Collector (Revenue) passed otherwise than on appeal, and

(c) to the Government from any decision or order of the Collector passed otherwise than on appeal.

Revision

10. (1) Any decision or order passed under this Act may be revised either **suo motu** or an application—

(a) by the Collector if such decision or order was passed by the Deputy Collector (Revenue) or a Tahsildar or Deputy Tahsildar.

(b) by the Government if such decision or order was passed by the Collector.

(2) The power conferred by the sub-section (1) shall not be exercised except on the ground that the Officer or authority whose decision or order is sought to be revised appears to have exercised a jurisdiction not vested in him by law, or to have failed to exercise a jurisdiction so vested or to have acted in exercise of his jurisdiction illegally or with material irregularity.

(3) No decision or order shall be passed under sub-section (1) prejudicial to any person without giving such person a reasonable opportunity of making any representation that he may desire to make and such representation, if any, shall be taken into consideration before such decision or order is passed.

Stay pending decision in appeal or revision

11. Pending the disposal of any appeal or application or proceedings for revision under this Act, the Deputy Collector (Revenue), Collector or the Government, as the case may be, may by order and subject to such conditions as may be specified therein, stay the execution of the decision or order appealed against or sought to be revised.

Limitation for appeal and application for revision

12. (1) No appeal shall be preferred under section 9 after the expiration of thirty days from the date on which the decision or order appealed against was received by the appellant.

(2) No application for revision shall be preferred under sub-section (1) of section 10 after the expiration of thirty days from the date on which the decision or order sought to be revised was received by the applicant.

(3) In computing the period of thirty days referred to in sub-sections (1) and (2), the time required to obtain a copy of the decision or order appealed against or sought to be revised shall be excluded.

(4) Notwithstanding anything contained in sub-sections (1) and (2), the officer or the Government may admit an appeal or application preferred after the period specified therein, if such officer or the Government is satisfied that the appellant or the applicant had sufficient cause for not preferring the appeal or application within that period.

Document accompanying petition of appeal or application for revision

13. Every petition or appeal or application for revision under this Act shall be accompanied by the decision or order appealed against or sought to be revised or by an authenticated copy of the same.

Saving of operations of other laws in force

14. Nothing contained in this Act shall be construed as exempting any person unauthorisedly occupying land from liability to be proceeded against under any law for the time being in force.

Provided that if any penalty has been levied from any person under section 6, no similar penalty shall be levied from him under any other law in respect of such occupation.

Saving of suits by persons aggrieved by proceedings under the Act

15. Nothing contained in this Act shall be held to prevent persons deeming themselves aggrieved by any proceedings under this Act except as hereinbefore provided, from applying to the Civil Courts for redress :

Provided that the Civil courts shall not take cognizance of any suit instituted by such person for any such cause of action unless such suit shall be instituted within six months from the time at which the cause of action arose.

Explanation:— The cause of action shall be deemed to have arisen in respect of any assessment or penalty, on the date on which such assessment or penalty was levied.

Certain persons deemed to be in unauthorised occupation of land

16. Where a lease of land which is the property of Government expires or is terminated by the Government or any other authority competent in that behalf, the lessee or any other person remaining in possession of the land after such expiry or termination, or where land granted to any person is liable to be resumed by the Government for the breach or non-observance of any of the conditions subject to which the grant is made and the Government or any other authority competent in that behalf has passed orders resuming the land for such breach or non-observance, the grantee or any other person remaining in possession of the land after the passing of those orders, shall for the purposes of sections 4 to 14, be deemed to be a person unauthorisedly occupying such land.

Saving of lands claimed by right of escheat or reversion

17. Nothing in this Act save as provided in section 16 shall apply to any lands claimed by right of escheat or reversion, until such lands have been reduced into possession by the Government.

Power to make rules

18. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely :—

(a) the rates of assessment leviable under section 4;

(b) the manner and procedure for imposition of penalties under section 6;

(c) the manner of declaring that any particular land or class of lands which are the property of Government shall not to be open to occupation;

- (d) the mode of service of notices under this Act;
- (e) the procedure to be followed in appeals and revisions under this Act and the fees to be paid in respect of such appeals and revisions; and
- (f) any other matter which under this Act is to be, or may be prescribed.

(3) Every rule made under this Act shall, as soon as may be after it is made, be laid before the Legislative Assembly, Pondicherry, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties

19. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order to be notified in the Official Gazette do anything not inconsistent with the provisions of this Act which appears to the Government to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made under this section with reference to any matter relating to any provision of this Act after the expiration of two years from the date of the commencement of this Act.

Repeal and saving

20. (1) All laws in force (including the Decree dated 18th May, 1920) in the Union territory corresponding to the provisions of the Act shall, as from the commencement of this Act, stand repealed.

(2) The repeal by sub-section (1) of any law in force in the Union territory immediately before the commencement of this Act shall not affect

- (a) the previous operation of any such law or anything duly done or suffered thereunder, or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any such law; or
- (c) any penalty, forfeiture or punishment incurred in respect of any office committed against any such law; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(3) Subject to the provision of sub-section (2) anything done or any action taken, including any appointment or delegation made, notification, order, instruction, or direction issued, rule, regulation or form framed, certificate granted for registration effected under any such corresponding law shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act.