

West Bengal Act XIII of 1962¹

THE WEST BENGAL PUBLIC LAND (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1962.

[14th December, 1962.]

West Ben. Act XXXVI of 1963.

AMENDED

West Ben. Act XLIX of 1976.

An Act to provide for the speedy eviction of unauthorised occupants from public lands.

WHEREAS it is expedient to provide for the speedy eviction of unauthorised occupants from public lands;

It is hereby enacted in the Thirteenth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962.

(2) It extends to the whole of West Bengal.

Short title and extent.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Collector" means—

(a) in Calcutta, the Land Acquisition Collector, Calcutta, and

Definitions.

(b) elsewhere, the Chief Officer in charge of the revenue administration of the district, and includes the Additional District Magistrate, a Subdivisional Magistrate, and any [Executive Magistrate], specially appointed by the State Government to perform all or any of the functions of a Collector under this Act;

Explanation.— In this clause "Calcutta" has the same meaning as in the Calcutta Municipal Act, 1951.

(2) "land" includes buildings and other things attached to the earth or permanently fastened to things attached to the earth;

(3) "notification" means a notification published in *the Official Gazette*;

West Ben. Act XXXVI of 1963.

For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary* of the 5th November, 1962, Part IV A, page 3225; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 20th November, 1962; and for proceedings of the West Bengal Legislative Council, see the proceedings of the meeting of that Council held on the 22nd November, 1962.

The words within the square brackets were inserted by s. 2(1) of the West Bengal Public Land (Eviction of Unauthorised Occupants) (Amendment) Act, 1963 (West Ben. Act XXVI of 1963).

The words within the square brackets were substituted for the words "Officer, not below the rank of a Magistrate of the first class," by s. 2 of the West Bengal Public Land (Eviction of Unauthorised Occupants) (Amendment) Act, 1976 (West Ben. Act XLIX of 1976).

(Section 3.)

(4) "owner" means

- (a) in relation to any land belonging to, or taken on lease by, or requisitioned by or on behalf of, the State Government, that Government, and
- (b) in relation to any land belonging to, or taken on lease by, a local authority, company or corporation, such local authority, company or corporation, as the case may be;

(5) "person concerned" in relation to any public land, means any person who is in the use or occupation of the public land;

(6) "prescribed" means prescribed by rules made under this Act;

(7) "public land" means any land belonging to, or taken on lease by, the State Government, a local authority, a Government company or a corporation owned or controlled by the Central or the State Government and includes any land requisitioned by, or on behalf of the State Government, but does not include a Government road or a highway within the meaning of the Bengal Highways Act, 1925, or any other law for the time being in force on the subject;

of 1925.

Explanation. In this clause "Government company" means a Government company within the meaning of section 617 of the Companies Act, 1956.

(8) "unauthorised occupation", in relation to any public land means the use or occupation by any person of the public land without authority in writing by or on behalf of the owner thereof-[and includes the continued use or occupation of any such land on the expiry or termination of such authority.]

É

3. (1) If, in respect of any public land, the Collector is of opinion, that the public land is in the unauthorised occupation of any person or persons, the Collector shall issue a notice in such form from time to time as may be prescribed calling upon all persons concerned to show cause before such date, not being

less than fifteen days after the date of the notice, as may be specified

¹Substituted for the existing clause (1) by s. 2(2) of the West Bengal Public Land (Eviction of Unauthorised Occupant) (Amendment) Act, 1963 (West Ben. Act XXXVI of 1963).

²Substituted for the existing clause (7) by s. 2(2), *ibid.*

³These words were added by s. 2(4), *ibid.*

⁴Substituted for the words "a notice in such form from time to time as may be prescribed" by s. 3, *ibid.*

Act, 1976 (West Ben. Act XLIX of 1976).

Section 4A was first substituted by s. 4 of the West Bengal Public Land (Eviction of Unauthorised Occupants) (Amendment) Act, 1963 (West Ben. Act XXXVI of 1963). Thereafter, the same was substituted by s. 5 of the West Bengal Public Land (Eviction of Unauthorised Occupants) (Amendment) Act, 1976 (West Ben. Act XLIX of 1976).

Order of
eviction of
persons in
unauthorised
occupation
from public
land

(Sections 5-7.)

(ii) in any other case, ten *per centum* of the market value of the land, within such time as may be specified in the order:

Provided that no such order shall be made against any person without giving him an opportunity or showing cause against the order proposed to be made.

5. (1) If, in respect of any public land or part thereof, any person concerned refuses or fails to comply with an order made under subsection (1) of section 4 within the time specified in the order, the Collector shall enforce delivery of possession of such public land or part thereof to the owner after evicting the person concerned and for this purpose the Collector, or any **officer** authorised by him, may take such steps or use such force as may be necessary.

Collector's power to enforce delivery of possession by evicting unauthorised occupants.

(2) The costs of enforcing such delivery of possession after evicting the person concerned shall be payable by the person concerned within such time as the Collector may, by order, direct.

6. Any sums payable by any person as damages or costs under an order of the Collector under this Act shall be recoverable as a public demand.

Damages and costs recoverable as public demand.

6A. (1) Where any person has been evicted from any public land under section 4, the Collector may, after giving fourteen days' notice to the person from whom possession of the land has been taken, remove or cause to be removed or dispose of by public auction any property remaining on such land.

Disposal or property left on public land by unauthorised occupants.

(2) Where any property is sold under sub-section (1), the sale proceeds thereof shall, after deducting the expenses of the sale and the amount, if any, due to the Collector or to the owner of the public land on account of arrears of rent or damages or costs, be paid to such person as may appear to the Collector to be entitled to the same.

7. (1) An appeal from an order made under this Act shall lie to

(a) the Commissioner of the Division, where the order is made by the Collector, and

(b) the Collector, where the order is made by an officer specially appointed under sub-clause (b) of clause (1) or section 2,

if preferred within fifteen days from the date of the order appealed against and the decision of the Commissioner or the Collector, as the case may be, on such appeal shall, subject to the provisions of sub-section (2), be final:

Appeal and review.

Section 5 was substituted for the original section by s. 6 of the West Bengal Public Land (Eviction of Unauthorised Occupants) (Amendment) Act, 1976 (West Ben. Act XLIX of 1976).

Section 6A was inserted by s. 7, *ibid.*

Section 7 was inserted by s. 8, *ibid.*

Xin of 1962.]

(Sections 7A-9.)

Provided that [he appellate authority on being satisfied (hat the appellant was prevented by sufficient cause from filing the appeal in time may entertain the appeal even after the expiry of the said period of fifteen days.

(2) The State Government may, of its own motion or on an application made to it by any person aggrieved against the order of the appellate authority within thirty days from the date of such order, on grounds of gross error of facts or of law or of both facts and law, call for and examine the record of the appeal and may make such orders thereon as it thinks fit.

Explanation. In this section 'Collector' does not include an officer specially appointed under sub-clause (b) of clause (1) of section 2.

¹7A -(1) Whoever wilfully obstructs the Collector, or any person authorised by him, in discharging his duties under the provisions of this Act, shall, on conviction before a Judicial Magistrate, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

(2) An offence punishable under sub-section (1) shall be cognizable and bailable.

8. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

¹8A. No civil court shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with under the provisions of this Act.

9. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the State Government may make rules with respect to 11 or any of the following matters, namely:

- (a) the forms and the manner of service of notices under this Act;
- (b) the procedure to be followed and the fees, if any, payable in appeals under section 7;

¹Section 7 A was inserted by s. 5 of the West Bengal Public Land (Eviction of Unauthorised Occupants) (Amendment) Act, 1963 (West Ben. Act XXXVI of 1963).

²Sub-section (1) was substituted for the original sub-section by s. 9 of the West Bengal Public Land (Eviction of Unauthorised Occupants) (Amendment) Act, 1976 (West Ben. Act XLIX of 1976).

³Section 8 A was inserted by s. 10, *ibid.*

For the West Bengal Public Land (Eviction of Unauthorised Occupants) Rules, 1963. see notification No 3666-L. Rcf., dated 7th March, 1963, published in the *Calcutta Gazette. Extraordinary*, of 1963, Part I, pages 539-540, as subsequently amended.

Penalty for obstructing Collector or person authorised by Collector.

Indemnity.

Bar to jurisdiction of civil courts.

Power to make rules.

[West Ben. Act Xm of 1962.]

(Sections 10, 11.)

(c) any other matter which may be or is required to be prescribed.

Application. 10. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any law for the time being in force other than the Indian Penal Code, 1860 or the Code of Criminal Procedure, 1898, but shall not apply in respect of the use or occupation of any public land by a displaced person as defined in clause (L) of section 2 of the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act, 1951, in respect of which an application for eviction has been entertained under subsection (1) of section 3 of that Act.

Act XLV of
1860,
Act V of
1898,
West Ben.
Act XVI of
1951.

11. (1) The West Bengal Public Land (Eviction of Unauthorised Occupants) Ordinance, 1962, is hereby repealed.

(2) Anything done or any action taken under the said Ordinance shall be deemed to have been validly done or taken under this Act as if this Act had commenced on the 8th day of September, 1962.

Repeal and
savings.

West Ben.
Ord. VI of
1962.