

West Bengal Act XXIII of 1974

THE WEST BENGAL TANKS (ACQUISITION OF IRRIGATION RIGHTS) ACT, 1974.

[4th April, 1974.]

An Act to provide, in the public interest, for the acquisition of the right of using water of derelict tanks for purposes of irrigation and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide, in the public interest, for the acquisition of the right of using water of derelict tanks for purposes of irrigation and for matters connected therewith or incidental thereto.

It is hereby enacted in the Twenty-fifth Year of [the Republic of India, by the Legislature of West Bengal, as follows:—

1. This Act may be called the West Bengal Tanks (Acquisition of Shon line. Irrigation Rights) Act, 1974.

2. It is hereby declared that this Act is for giving effect to the policy Declaration of the State towards securing the principles specified in clause (b) or article the 39 of the Constitution. - Slate.

3. In this Act, unless there is anything repugnant in the subject or con lex i,—

"Collector" means the Collector of the district and includes any officer not below the rank of a Sub-divisional Officer appointed by the State Government to carry out all or any of the functions of a Collector under this Act;

(ii)

"Derelict tank" means a tank which has fallen into disrepair or disuse;

(iii)

(iv)

"prescribed" means prescribed by rules made under this Act; "tank" includes *doba, pukur, be el, baor*, or other water area.

4. (a) If the Collector is satisfied that the public has no right to use the water of any derelict tank and such tank is, or when excavated will be, capable of irrigating the adjoining lands, he may, by order in writing, and (i after serving the same in the prescribed manner, on the owner of the) tank, and where the tank is in the occupation of any other occupier not being the owner, also on such occupier, acquire the right of using water of such tank for the purposes of irrigation of the adjoining lands, and on and from the date of such Order, such right shall stand transferred to, and vest in, the State Government.

Acquisition.
Definitions,

For Statement of Objects and Reasons. See the *Calcutta Gazette. Extraordinary*, Part IV of the 15th February, 1974, page 326; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 27th February, 1974.

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(Sections 5-12,)

(b) After acquisition and vesting as aforesaid, [he Collector may make such farther orders as may appear id him to be necessary or expedient in connection with, or in relation to, such acquisition.

Power of
Collector
[o
Cr.:it upon
tanks.

5. Where the Col lector acquires the right of using the waierof any lank for (he purposes of irrigation under section 4, it shall be lawful For the Collector or for any person or persons authorised by him in this behalf, to enter upon such tank, and to excavate, enlarge or deepen the tank or construct, strengthen, enlarge or improve any *buttdor* embankment of such tank ono do any other thing for the purposes of ensuring, irrigation 10 the adjoining lands.

Enforcement
of the right of
ihe public (u
Lit water.

6. Where the public lias the light of using water for purposes of irrigation from any derelict tank and the owner, or where there arc more than one owner, all the owners do not agree or neglect to provide irrigational facilities, it shall be competent for the Collector to enforce by order in writing the right of the public and to take action as provided in section 5.

ReslricUan on
Lie use of
wafer.

7, Notwithstanding anything contained in sections4and 6, the water of any tank shall not be used for the purposes of irrigation beyond such limit as maybe fixed by the Collector having regard Jo ihe minimum level of water necessary for pisciculture.

Amount to be
paid.

8. Where the right of using water Tor purposes of irrigation of any tank has been acquired under section 4, there shall be paid to the owner and every person interested in such tank, an amount which may be determined by the Collector at the rate of rupee one per 0.4 hectare of the total area of the tank.

Bar to
jurisdiction
of Conns,

Appeal. 9, /^_ny person aggrieved by an order under section 4 or section 6, may appeal to such authority as may be prescribed.

10. Any orderserved or any action taken or anything done in exercise of ihe power conferred by or under this Act, shall not be called in question in any Court.

indemnity. n, No suit, prosecution or other legal proceedings 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.

Power i a
make
rules.

12, The State Government may make rules for carrying out the purposes of this Act.

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(Section 13.)

West Ben. **13. (1) The West Bengal Tanks (Acquisition or Irrigation Rights) Repeal and**
1973 ^{***OF} **Ordinance, 1973, is hereby repealed.** **savings.**

**(2) Anything done or any action taken under the West Bengal Tanks (Acquisition or
Irrigation Rights) Ordinance, 1973, shall be deemed to have been validly done or taken under this Act as if
this Act had . commenced on the 15th day of October, 1973.**