

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act XIII of 1962

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

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 14th December, 1962.]

[14th December, 1962.]

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. Short title and extent.

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

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

(1) "Collector" means—

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

(b) elsewhere, the Chief Officer in charge of the revenue administration of the district, and includes any Officer, not below the rank of a Magistrate of the first class, 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;

Price—Indian, 12 nP.; English, 3d.

2 *The West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962.*

[West Ben. Act

(Section 3.)

- (3) "notification" means a notification published in the *Official Gazette*;
- (4) "owner" in relation to public land means the State Government or a local authority, 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 or any local authority 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 or any part of such Government road or highway;
- (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.

Ben. Act  
III of 1925.

Issue of notice to show cause against order for eviction of unauthorised occupant from public land.

3. (1) If, in respect of any public land, the Collector is of opinion, upon application made by an officer of the owner of the public land authorised in this behalf by such owner or upon information received otherwise, that the public land is in the unauthorised occupation of any person or persons, the Collector shall issue a notice 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 in the notice why an order under clause (a) of sub-section (1) of section 4 should not be made, and shall cause it to be served in the manner referred to in sub-section (2). Intimation of the date so specified shall be given to the owner of the public land and to its officer authorised under this sub-section.

(2) A notice issued under sub-section (1) shall be served by affixing it on a conspicuous part of the public land concerned and in such other manner as may be prescribed.

(3) A notice served in the manner referred to in sub-section (2) shall be deemed to have been duly served.

The West Bengal Public Land (Eviction of  
Unauthorised Occupants) Act, 1962.

XIII of 1962.]

(Sections 4, 5.)

4. (1) If, after considering the cause, if any, shown by any person in pursuance of a notice issued under section 3 and any evidence adduced in support thereof, and any evidence which may be adduced by the owner and after making such further inquiry, if any, as he deems necessary,—

Order for  
eviction of  
unauthoris-  
ed occu-  
pants from  
public  
land.

(a) the Collector is satisfied that no *bona fide* dispute regarding title to the public land exists and that the public land is in the unauthorised occupation of any person, he shall make an order directing such person—

(i) to vacate the public land and deliver possession thereof to the owner, and

(ii) to pay for the entire period during which he has been and continues to be in unauthorised occupation of the public land, damages at such rate, not exceeding double the rate of rent prevailing for similar lands with similar advantages in the vicinity, as may be prescribed, within such time as may be specified in the order; or

(b) the Collector is satisfied that the person concerned is not in unauthorised occupation of the public land or is of opinion that a *bona fide* dispute regarding title to the public land exists, he shall make an order cancelling the proceedings and referring the parties to the civil court:

Provided that no order under this sub-section shall be made to the prejudice of any person who has had no opportunity of being heard.

(2) Where an order has been made under clause (a) of sub-section (1), the Collector shall cause a copy of the order to be served in the manner referred to in sub-section (2) of section 3.

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 sub-clause (i) of clause (a) of sub-section (1) of section 4 within the time specified in the order or within such further time as the Collector may allow, then the Collector shall,—

Collector's  
power to  
enforce  
delivery of  
possession  
by evicting  
unautho-  
rised  
occupant.

(a) if a Magistrate, enforce delivery of possession of such public land or part to the owner after evicting the person concerned, or



4 *The West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962.*

[West Ben. Act

(Sections 6—9.)

(b) if not a Magistrate, apply to a Magistrate, or, in Calcutta as defined in section 3 of the Calcutta Police Act, 1866, to the Commissioner of Police, Calcutta, and such Magistrate or Commissioner of Police, as the case may be, shall enforce delivery of possession of such public land or part to the owner after evicting the person concerned.

Ben. Act  
IV of 1866.

(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.

Damages  
and costs  
recoverable  
as public  
demand.

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

Appeal.

7. 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 any officer specially appointed under sub-clause (b) of clause (1) of section 2,

if preferred within thirty 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 be final.

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

Indemnity.

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.

Power to  
make rules.

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 all or any of the following matters, namely:—

(a) the forms and the manner of service of notices under this Act;

*The West Bengal Public Land (Eviction of 5  
Unauthorised Occupants) Act, 1962.*

**XIII of 1962.]**

*(Sections 10, 11.)*

(b) the procedure to be followed and the fees, if any, payable in appeals under section 7;

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

**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 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 (I) 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 sub-section (1) of section 3 of that Act.

**Applica-  
tion.**

**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.

**Repeal and  
savings.**

(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.

**West Ben.  
Ord. VI of  
1962.**