

M.P. Gandhi Basti Kshetra (Sudhar Tatha Nirmulan) Adhiniyam, 1976

The M.P. Gandhi Basti Kshetra (Sudhar Tatha Nirmulan) Adhiniyam, 1976

M.P. Act No. 39 of 1976

mp278

[Dated 29th July, 1976]

LEGISLATIVE HISTORY 6

Received the assent of the President on the 29-7-1976; assent first published in the Madhya Pradesh Gazette (Extraordinary), dated 12-8-1976.

An Act to provide for the improvement and clearance of sum areas in the State and for protection of tenants in such areas from eviction.

Be it enacted by the Madhya Pradesh Legislature in the Twenty-seventh Year of the Republic of India as follows :-

CHAPTER I

Preliminary

1. **Short title, extent and commencement.**- (1) This Act may be called the Madhya Pradesh Gandhi Basti Kshetra (Sudhar Tatha Nirmulan) Adhiniyam, 1976.

(2) It extends to the whole of Madhya Pradesh.

(3) It shall come into force in-

(a) the towns and cities of Bhopal, Jabalpur, Indore, Raipur, Ujjain, Gwalior and Neemuch at once; and

(b) any other town having a population of more than five thousand on such date as the State Government may, by notification, appoint and different dates may be appointed for different towns.

2. **Definitions.**- In this Act, unless the context otherwise requires :-

(a) [x x x]

(b) "*building*" includes any structure or erection of any part of a building as so defined but does not include plant or machinery comprised in a building;

(c) "*competent authority*" means such officer or authority as the State Government may, by notification, appoint as the competent authority for the purposes of this Act;

(d) "*erection*" in relation to a building includes extension, alteration or re-erection;

(e) "*land*" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(f) "*occupier*" includes-

(i) any person who for the time being paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;

[(i-a) any person who has acquired lease hold rights in respect of any land occupied by him under the provisions of the Madhya Pradesh Nagariya Kshetro Ke Bhoomihin Vyakti (Pattadhruti Adhikaron Ka Pradan Kiya Jana) Adhiniyam, 1984 (No. 15 of 1984);]

(ii) an owner in occupation of or otherwise using his land or building;

(iii) a rent free tenant on any land or building;

(iv) a licensee in occupation of any land or building; and

(v) any person who is liable to pay to the owner damages for the use or occupation of any land or building;

(g) "*owner*" includes any person who is receiving or is entitled to receive the rent of any building or land whether on his own account or on behalf of himself and others or as agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant;

(h) "*slum clearance*" means the clearance of any slum area by the demolition or removal of buildings therefrom;

(i) "*work of improvement*" includes in relation to any building in a slum area the execution of any one or more of the following works, namely :-

(i) necessary repairs;

- (ii) structural alterations;
 - (iii) provision of light points, water taps and bathing places;
 - (iv) construction of drains open or covered;
 - (v) provision of latrines, conversion of dry latrines into water borne latrines;
 - (vi) provision of additional or improved fixtures or fittings;
 - (vii) opening up or paning of courtyards;
 - (viii) removal of rubbish;
 - (ix) laying of roads;
 - (x) broadening of lanes;
 - (xi) removal of dangerous and hazardous trades;
 - (xii) development of land and provision for open space for children park, play ground and public parks; and
 - (xiii) any other work including the demolition of any building or any part thereof which in the opinion of the competent authority is necessary for executing any of the works specified above;
- (j) "*local authority*" in respect of a town means the Municipal Corporation, Municipal Council, Notified Area Committee or Town Improvement Trust, if any, as the case may be, constituted for such town under the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956), the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961) or the Madhya Pradesh Town Improvement Trusts Act, 1961 (No. 14 of 1961) as the case may be, and includes any person or committee of persons appointed to exercise and perform the powers and functions of such Corporation, Council, Committee or Trust, as the case may be, on its dissolution or supersession;
- (k) "*slum area*" means area declared to be a slum area under sub-section (1) of Section 3.

CHAPTER II

Slum Areas

3. **Declaration of slum area.**- (1) Where the competent authority upon report from any of its officers or upon report from the local authority if directed by the competent authority to

submit such report, or other information in its possession is satisfied in respect of any area that the buildings in that area-

(a) are in any respect unfit for human habitation; or

(b) are by reason of dilapidation, overcrowding, faulty arrangement and design of such buildings, hazardous and unwholesome trade carried on therein, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, are detrimental to safety, health or morals,

it may, by notification declare such area to be a slum area.

(2) In determining whether a building is unfit for human habitation for the purposes of this Act, regard shall be had to its condition in respect of the following matters, that is to say-

(a) repair;

(b) stability;

(c) freedom from damp;

(d) natural light and air;

(e) natural water supply;

(f) drainage and sanitary conveniences;

(g) facilities for storage, preparation and cooking of food and for the disposal of waste water;

and the building shall be deemed to be unfit as aforesaid if and only if it is so far defective in one or more of the said matters that it is not reasonably suitable for occupation in that condition.

CHAPTER III

Slum Improvement

4. **Power of competent authority to require improvement of buildings unfit for human habitation.**- (1) Where the competent authority upon report from any of its officers or upon a report from the local authority or other information in its possession is satisfied that any building in a slum area is in any respect unfit for human habitation, it may, unless in its opinion the building is not capable at reasonable expense of being rendered so fit, serve upon the owner of the building a notice requiring him within such time not being less than

thirty days as may be specified in the notice to execute the works of improvement specified therein and stating that in the opinion of the authority these works will render building fit for human habitation :

Provided that where the owner of the building is different from the owner of the land on which the building stands and the works of improvement required to be executed relate to provision of water taps, bathing places, construction of drains, open or covered, as the case may be, provision of water borne latrines or removal of rubbish and such works are to be executed outside the building, the notice shall be served upon the owner of the land.

(2) In addition to serving notice under this section on the owner, the competent authority may serve a copy of the notice on any other person having an interest in the building or the land on which the building stands whether as lessee, mortgagee or otherwise.

(3) In determining, for the purposes of this Act, whether a building can be rendered fit for human habitation at a reasonable expense, regard shall be had to the estimated cost of the works necessary to render it so fit and the value which it is estimated that the building will have when the works are completed.

5. Enforcement of notice requiring execution of works of improvement.- (1) If a notice under Section 4 requiring the owner of the buildings or of the land on which the building stands as the case may be, to execute works of improvement is not complied with, then after the expiration of the time specified in the notice the competent authority may itself do the works required to be done by the notice.

(2) All expenses incurred by the competent authority under this section, together with interest, at such rate as the State Government may, by order, fix, from the date when a demand for the expenses is made until payment, may be recovered by the competent authority from the owner of the buildings or of the land on which the building stands, as the case may be, as arrears of land revenue ;

Provided that if the owner proves that he-

(a) is receiving the rent merely as agent or trustee for some other person; and

(b) has not in his hands on behalf of that other person sufficient money to satisfy the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has in his hands as aforesaid :

Provided further that if the competent authority is satisfied that owner does not have means to carry

out the orders under the notice, it may provide facility to deposit the amount of the expenses incurred without interest in as many equal instalments as the competent authority deems proper.

[5A. Special slum improvement in certain slum areas. - (1) If the State Government is satisfied that circumstances in any slum area exist which render it necessary for it to take immediate action for the improvement of the slum, it shall, by notification, declare such slum area to be under special slum improvement and thereupon the competent authority shall from such date as the State Government may, by order direct, execute the work of improvement in such area without giving notice to the occupiers thereof as required by Section 4.

(2) Save as otherwise provided in sub-section (1) the provisions of Chapter III shall apply *mutatis mutandis* to the special slum improvement.

(3) The expenses incurred by the competent authority under sub-section (1) together with interest at such rate as the State Government may specify, may be recovered by the competent authority from the occupiers of the buildings or of the land in such slum area, in such manner and to such extent, as the State Government may prescribe.

Explanation. - For the purpose of this section "work of improvement" includes community work which shall mean such work of improvement which is for the collective benefit of the occupiers of buildings or of the lands in slum area under special slum improvement.]

6. Expenses of maintenance of works of improvement etc. to be recoverable from the occupier of buildings.- Where works of improvement have been executed in relation to any building in a slum area in pursuance of the provisions of Sections 4 and 5, the expenses incurred by the competent authority or, as the case may be, by a local authority in connection with the maintenance of such works or improvement or the enjoyment of amenities and conveniences rendered possible by such works shall be recoverable from the occupier or occupiers of the building as arrears of land revenue.

7. Restriction on building etc. in a slum area.- (1) The competent authority may, by notification, direct that no person shall erect any building in a slum area except with the previous permission in writing of the competent authority.

(2) Every notification issued under sub-section (1) shall cease to have effect on the expiration of two years from the date thereof except as respects things done or omitted to be done before such ceasure.

(3) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the competent authority in such form and containing such information in respect of the erection of the building to which the application relates as may be prescribed.

(4) On receipt of such application the competent authority, after making such enquiry as it

considers necessary, shall by order, in writing :-

(a) either grant the permission subject to such forms and conditions, if any, as may be specified in the order; or

(b) refuse to grant such permission :

Provided that before making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused.

(5) Nothing contained in sub-section (1) shall apply to-

(a) any works of improvement required to be executed by a notice under sub-section (1) of Section 4 or in pursuance of an undertaking given under sub-section (2) of Section 8; or

(b) the erection of any building in any area in respect of which a slum clearance order has been made under Section 11.

8. Power of competent authority to order demolition of buildings unfit for human

habitation.- (1) Where the competent authority upon a report from any of its officers or upon a report from a local authority or other information in its possession is satisfied that any building within a slum area is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit, it shall serve upon the owner of the buildings, and upon any other person having an interest in the building, whether as lessee, mortgagee or otherwise a notice to show cause within such time as may be specified in the notice as to why an order of demolition of the building should not be made.

(2) If any of the persons upon whom a notice has been served under sub-section (1), appears in pursuance thereof before the competent authority and gives an undertaking to the authority that such person shall within a period specified by the authority execute such works of improvement in relation to the building as will in the opinion of the authority render the building fit to human habitation, or that it shall not be used for human habitation until the authority on being satisfied that it has been rendered fit for that purpose cancels the undertaking, the authority shall not make any order of demolition of the building.

(3) If no such undertaking as is mentioned in sub-section (2) is given, or if in case where any such undertaking has been given any work of improvement to which the undertaking relates is not carried out within the specified period, or the building is at any time used in contravention of the terms of the undertaking the competent authority shall forthwith make an order of demolition of the building requiring that the building shall be vacated within a period to be specified in the order not being less than thirty days from the date of the order, and that it shall be demolished within six weeks after the expiration of that period.

9. **Procedure to be followed where demolition order has been made.**- (1) Where an order for demolition of a building under Section 8 has been made the owner of the building or any other person having an interest therein shall demolish that building within the time specified in that behalf by the order; and if the building is not demolished within that time the competent authority shall enter and demolish the building and sell the materials thereof.

(2) Any expenses incurred by the competent authority under sub-section (1), if not satisfied out of the proceeds of sale of materials of the building shall be recoverable from the owner of the building or any other person having an interest therein as arrears of land revenue :

Provided that the competent authority if satisfied that owner does not have means to carry out the orders under the notice, may provide facility to deposit the amount of expenses incurred without interest in as many equal instalments as the competent authority deems proper.

CHAPTER IV

Slum Clearance and Re-Development

10. **Power to declare any slum area to be clearance area.**- (1) Where the competent authority upon a report from any of its officers or upon a report from the local authority or other information in its possession is satisfied as respects any slum area that the most satisfactory method of dealing with the conditions in the area is the demolition of all the buildings in the area, the authority shall, by notification, declare the area to be a clearance area, that is to say, an area to be cleared of all buildings in accordance with the provisions of this Act:

Provided that any building in the area which is not unfit for human habitation or dangerous or injurious to health may be excluded from the declaration if the authority considers it necessary.

(2) The competent authority shall forthwith transmit to the State Government a copy of the declaration under this section together with a statement of the number of persons who on a date specified in the statement were occupying buildings comprised in the clearance area.

11. **Slum clearance order.**- (1) As soon as may be after the competent authority has declared any slum area to be a clearance area, it shall make a slum clearance order in relation to that area ordering the demolition of each of the buildings specified therein and requiring each such building to be vacated within such time as may be specified in the order and submit the order to the State Government for confirmation.

(2) The State Government may either confirm the order in *toto* or subject to such variations as it considers necessary or reject the order.

(3) If the State Government confirms the order, the order shall become operative from the date of such confirmation.

(4) When a slum clearance order has become operative, the owners of buildings to which the order applies shall demolish the buildings before the expiration of six weeks from the date on which the buildings are required by the order to be vacated or before the expiration of such longer period as in the circumstances of the case the competent authority may deem reasonable.

(5) If the buildings are not demolished before the expiration of the period mentioned in sub-section (4), the competent authority shall enter and demolish the buildings and sell the materials thereof.

(6) Any expenses incurred by the competent authority in demolishing any building shall, if not satisfied out of the proceeds of sale of materials thereof, be recoverable by the competent authority as arrears of land revenue.

(7) Subject to the provisions of this Act where a slum clearance order has become operative, the owner of the land to which the order applies may re-develop the land in accordance with the plans approved by the competent authority and subject to such restrictions and conditions including a condition with regard to the time within which the re-development shall be completed, if any, as that authority may think fit to impose :

Provided that an owner who is aggrieved by a restriction or condition so imposed on the user of his land or by a subsequent refusal of the competent authority to cancel or modify any such restrictions or conditions may, within such time as may be prescribed, appeal to the State Government and the State Government shall make such order in the matter as it thinks proper and its decision shall be final.

(8) No person shall commence or cause to be commenced any work in contravention of a plan approved or a restriction or condition imposed under sub-section (7).

12. Power of competent authority to re-develop clearance area.- (1) Notwithstanding anything contained in sub-section (7) of Section 11, the competent authority may at any time after the land has been cleared of the buildings in accordance with the slum clearance order but before the work of re-development of that land has been commenced by the owner by order determine to re-develop the land if that authority is satisfied that it is necessary in the public interest to do so.

(2) Where land has been cleared of the buildings in accordance with a slum clearance order, the competent authority, if it is satisfied that the land has been, or is being, re-developed by the owner thereof in contravention of plan approved by the authority or any restrictions or conditions imposed under sub-section (7) of Section 11 or has not been re-developed within the time, if any, specified under such conditions, may, by order, determine to re-develop the land :

Provided that before passing such order the owner shall be given a reasonable opportunity to show cause why the order shall not be passed.

CHAPTER V

Acquisition of Land

- 13. Power of State Government to acquire land.-** (1) Where on any representation from the competent authority it appears to the State Government that, in order to enable the authority to execute any work of improvement in relation to any building in a slum area or to re-develop any clearance area, it is necessary that land within, adjoining or surrounded by any such area should be acquired the State Government may acquire the land by publishing in the Gazette a notice to the effect that the State Government has decided to acquire the land in pursuance of this section :

Provided that, before publishing such notice, the State Government may call upon the owner of or any other person who, in the opinion of the State Government, may be interested in, such land to show cause why it should not be acquired; and after considering the cause if any shown by the owner or any other person interested in the land, the State Government may pass such order as it deems fit.

(2) When a notice as aforesaid is published in the Gazette the land shall on and from the date on which the notice is so published vest absolutely in the State Government free from all encumbrances.

- 14. Land acquired by State Government to be made available to competent authority.-** (1) Where any land in a slum area or clearance area has been acquired under this Act the State Government shall make the land available to the competent authority for the purpose of executing any work of improvement or carrying out any order of demolition or for the purpose of re-development;

Provided that where local authority is appointed as the competent authority the State Government may either hold the land under its own control and management or transfer the land to the local authority and the local authority shall be liable to pay the cost of acquisition of the land or of such portion thereof as the State Government may fix in each case :

Provided further that where on any representation from the competent authority, the State Government is satisfied that any such land or any portion thereof is unsuitable for the purposes mentioned in this section the State Government may use the land or allow it to be used for such other public purpose or purposes as it may deem fit.

- 15. Right to receive amount in lieu of deprivation of right in land.-** Every person having

any interest in any land acquired under this Act shall be entitled to receive from the State Government an amount in lieu of the deprivation of the right in land as provided hereafter in this Act.

16. Basis for determination of amount payable in lieu of deprivation of right in land.- (1)

The amount payable in respect of any land acquired under this Act shall be an amount equal to ten times the net average income actually derived from such land during the period of five consecutive years immediately preceding the date of publication of the notice referred to in Section 13.

(2) The net average annual income referred to in sub-section (1) shall be calculated in the manner and in accordance with the principles set out in the Schedule.

(3) The competent authority shall after holding an inquiry in the prescribed manner, determine in accordance with the provision of sub-section (2) the net average annual income actually derived from the land and publish a notice in the Gazette specifying the amount so determined and calling upon the owner of the land and every person interested therein to intimate to it before a date specified in the notice whether such owner or person agrees to the amount so determined and if he does not so agree what amount he claims to be the net average annual income actually derived from the land.

(4) Any person who does not agree to the amount of the net average annual income determined by the competent authority under sub-section (3) and claims a sum in excess of that amount may prefer an appeal to the State Government within thirty days from the date specified in the notice referred to in that sub-section.

(5) On appeal the State Government shall, after hearing the appellant, determine net average annual income and its determination shall be final and shall not be questioned in any Court of law.

(6) Where there is any building on the land in respect of which the net average annual income has been determined no separate amount shall be paid in respect of such building :

Provided that where the owner of the land and the owner of the building on such land are different, the competent authority shall apportion the amount payable in lieu of deprivation of the right in land between the owner of the land and the owner of the building in the same proportion as the market price of the land bears to the market price of the building on the date of acquisition.

17. Apportionment of amount payable in lieu of deprivation of right in land.- (1) Where several persons claim to be interested in the amount payable in lieu of deprivation of right in land determined under Section 16, the competent authority shall determine the persons who in its opinion are entitled to receive the amount and the amount payable to each of them.

(2) If any dispute arises as to the apportionment of the amount or any part thereof, or as to the persons to whom the same or any part thereof is payable the competent authority may refer the dispute to the decision of the State Government and the State Government in deciding any such dispute shall follow, as far as may be, the provisions of Part III of the Land Acquisition Act, 1894 (No. 1 of 1894).

18. Payment of amount in lieu of deprivation of right in land or deposit of same in

Court.- (1) After the determination of the amount the competent authority shall on behalf of the State Government tender payment of, and pay, the amount to the persons entitled thereto.

(2) If the persons entitled to receive the amount do not consent to receive it, or if there be any dispute as to the title to receive the amount or as to the apportionment of it, the competent authority shall deposit the amount in the Court of the District Judge and the Court shall deal with the amount so deposited in the manner laid down in Sections 32 and 33 of the Land Acquisition Act, 1894 (No. 1 of 1894).

19. Powers of competent authority in relation to determination of amount payable in lieu of deprivation of right in land.-

(1) The competent authority may for the purpose of determining the amount or apportionment thereof, require, by order, any person to furnish such information in his possession as may be specified in the order.

(2) The competent authority shall, while holding inquiry under Section 16, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (No. 5 of 1908) in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any Court or office;
- (e) issuing commissions for examination of witnesses.

CHAPTER VI

Protection of Tenants in Slum Areas from Eviction

20. Proceeding for eviction of tenants not to be taken without permission of competent authority.- (1) Notwithstanding anything contained in any other law for the time being in

force, no person shall except with the previous permission in writing of the competent authority :-

(a) institute any suit or proceeding for obtaining any decree or order for the eviction of a tenant from any building or land in a slum area; or

(b) where any decree or order is obtained in any suit or proceeding instituted before declaration of such area to be slum area under Section 3 for the eviction of a tenant from any building or land in such area, execute such decree or order.

(2) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the competent authority in such form and containing such particulars as may be prescribed.

(3) On receipt of such application, the competent authority, after giving an opportunity to the parties of being heard and after making summary enquiry into the circumstances of the case as it thinks fit, shall, by order in writing, either grant or refuse to grant such permission.

(4) Whether alternative accommodation within the means of the tenant would be available to him if he were evicted;

(a) whether alternative accommodation within the means of the tenant would be available to him if he were evicted;

(b) whether the eviction is in the interest of improvement and clearance of the slum area;

(c) such other factors, if any, as may be prescribed.

(5) Where the competent authority refuses to grant the permission, it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant.

21. **Appeals.**- Any person aggrieved by an order of the competent authority refusing to grant the permission referred to in sub-section (1) of Section 7 or referred to in sub-section (1) of Section 20 may, within such time as may be prescribed, prefer an appeal to the State Government and the State Government may, after hearing the applicant, decide such appeal and its decision shall be final.

22. **Restoration of possession of premises vacated by tenant.**- (1) Where a tenant in occupation of any building in a slum area vacates any building or is evicted therefrom on the ground that it was required for the purpose of executing any work of improvement or for the purpose of re-erection of the building, the tenant may, within such time as may be prescribed, file a declaration with the competent authority that he desires to be replaced in occupation of the building after the completion of the work of improvement or re-erection of

the building, as the case may be.

(2) On receipt of such declaration, the competent authority shall by order require the owner of the building to furnish to it, within such time as may be prescribed, the plans of the work of improvement or re-erection of the building and estimates of the costs thereof and such other particulars as may be necessary and shall on the basis of such plans and estimates and particulars, if any furnished and having regard to the provisions of sub-section (3) of Section 23 and after holding such enquiry as it may think fit, provisionally determine the rent that would be payable by the tenant if he were to be replaced in occupation of the building in pursuance of the declaration made by him under sub-section (1).

(3) The rent provisionally determined under sub-section (2) shall be communicated in the prescribed manner to the tenant and the owner.

(4) If the tenant after the receipt of such communication intimates in writing to the competent authority within such time as may be prescribed that when he is replaced in occupation of the building in pursuance of the declaration made by him under sub-section (1), he would pay to the owner until the rent is finally determined under Section 23 the rent provisionally determined under sub-section (2), the competent authority shall direct the owner to place the tenant in occupation of the building after the completion of the work of improvement or re-erection of the building, as the case may be, and the owner shall be bound to comply with such direction.

23. Rent of buildings in slum areas.- (1) Where any building in a slum area is let to a tenant after the execution of any work of improvement or after it has been re-erected, the rent of the building shall be determined in accordance with the provisions of this section.

(2) Where any such building is let to a tenant other than a tenant who is placed in occupation of the building in pursuance of a direction issued under sub-section (4) of Section 22, the tenant shall be liable to pay to the owner

(a) if the Madhya Pradesh Accommodation Control Act, 1961 (No. 41 of 1961) is in force in the area in which the building is situated and applicable to that building, the rent determined in accordance with the provisions of that Act;

(b) if the said Act is not in force in such area or is not applicable to that building, such rent as may be agreed upon between the owner and the tenant.

(3) Where any such building is let to a tenant in pursuance of a direction issued under sub-section (4) of Section 23, the tenant shall notwithstanding any law relating to the control of rents in force in the area be liable to pay to the owner :-

(a) if any work of improvement has been executed in relation to the building, an annual rent of a

sum equivalent to the aggregate of the following amounts, namely :-

- (i) the annual rent the tenant was paying immediately before he vacated the building for the purpose of execution of the work of improvement;
 - (ii) six percent of the cost of the work of improvement; and
 - (iii) six percent of a sum equivalent to the compensation payable in respect of any land which may have been acquired for the purpose of effecting such improvement as if such land were acquired under Section 13 on the date of the commencement of the work of improvement;
- (b) if the building has been re-erected, an annual rent of a sum equivalent to four percent of the aggregate cost of a construction of the building and the cost of the land on which the building is re-erected.

Explanation. - For the purpose of this clause, the cost of the land shall be deemed to be a sum equivalent to the compensation payable in respect of the land if it were acquired under Section 13 on the date of commencement of the reconstruction of the building.

(4) The rent payable by a tenant in respect of any building under sub-section (3) shall, on an application made by the tenant or the owner, be determined by the authority referred to in sub-section (5) :

Provided that an application for determination of such rent by the owner or the tenant shall not, except for sufficient cause, be entertained by such authority after the expiry of ninety days from the completion of the work of improvement or re-erection of the building, as the case may be.

(5) The authority to which the application referred to in sub-section (4) shall be made, shall be-

(a) where there is general law relating to the control of rents in force in the area in which the building is situate, the authority to whom application may be made for fixing the rents of building are in the area; and for the purpose of determining the rent under this section that authority may exercise all or any of the powers it has under the said general law; and the provisions of such law including provisions relating to appeals shall apply accordingly;

(b) if there is no such law in force in that area, such authority as may be specified by rules made in this behalf by the State Government and such rules may provide the procedure that will be followed by that authority in determining the rent and also for the appeals against the decision of such authority.

(6) Where the rent is finally determined under this section then the amount of rent paid by the tenant shall be adjusted against the rent so finally determined and if the amount so paid falls short

of, or is in excess of, the rent finally determined, the tenant shall pay the deficiency, or be entitled to a refund, as the case may be.

24. **Chapter not to apply to eviction of tenants from certain buildings.-** Nothing in this chapter shall apply to or in relation to the eviction under any law of a tenant from any building in a slum area belonging to the Government, or any local authority.

[CHAPTER VII

Slum Clearance Board 25. to 35. * * *

CHAPTER VIII

Miscellaneous

36. **Power of entry.-** It shall be lawful for any person authorised by the competent authority in this behalf to enter into or upon any building or land in a slum area with or without assistants or workmen in order to make any enquiry, inspection, measurement, valuation or survey, or to execute any work which is authorised by or under this Act or which it is necessary to execute for any of the purposes or in pursuance of any of the provisions of this Act or of any rule or order made thereunder.

37. **Powers of inspection.-** (1) The competent authority may, by general or special order, authorise any person-

(a) to inspect any drain, latrine, urinal, cesspool, pipe, sewer or channel in or on any building or land in slum area, and in his discretion to cause the ground to be opened for the purpose of preventing or removing any nuisance arising from the drain, latrine, urinal, cesspool, pipe, sewer or channel, as the case may be;

(b) to examine works under construction in the slum area, to take levels or to remove, test, examine, replace or read any meter.

(2) If, on such inspection, the opening of the ground is found to be necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building, but if it is found that no nuisance exists or but for such opening would have arisen, the ground or portion of any building, drain, or other work opened injured or removed for the purpose of such inspection shall be filled in, reinstated, or made good, as the case may be, by the competent authority.

38. **Power to enter land adjoining land where work is in progress.-** (1) Any person authorised by the competent authority in this behalf may, with or without assistants or workmen, enter on any land within fifty yards of any work authorised by or under this Act for

the purpose of depositing thereon any soil, gravel, stone or other materials, or for obtaining access to such work or for any other purposes connected with the carrying on of the same.

(2) The person so authorised shall, before entering on any land under sub-section (1), state the purpose thereof, and shall if so required by the occupier, or owner, offence off so much of the land as may be required for such purpose.

(3) The person so authorised shall, in exercising any power conferred by this section, do as little damage, as may be, and compensation shall be payable by the competent authority to the owner or occupier of such land or to both for any such damage whether permanent or temporary.

39. **Breaking into buildings.-** It shall be lawful for any person authorised by the competent authority in this behalf to make any entry into any place, to open or cause to be opened any door, gate or other barrier-

(a) if he considers the opening thereof necessary for the purpose of such entry; and

(b) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

40. **Entry to be made in day time.-** No entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

41. **Owner's consent ordinarily to be obtained.-** Save as provided in this Act, no building or land shall be entered without the consent of the occupier, or if there is no occupier, of the owner thereof, and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than twenty-four hours' written notice of the intention to make such entry :

Provided that no such notice shall be necessary if the place to be inspected is a shed for cattle or a latrine, urinal or a work under construction.

42. **Power of eviction to be exercised only by competent authority.-** Where the competent authority is satisfied either upon a representation from the owner of a building or upon other information in its possession that the occupants of the building have not vacated it in pursuance of any notice, order or direction issued or given by the authority, the authority shall, by order, direct the eviction of the occupants from the building in such manner and within such time as may be specified in the order and for the purpose of such eviction may use or cause to be used such force as may be necessary :

Provided that before making any order under this section the competent authority shall give a reasonable opportunity to the occupants of the building to show cause why they should not be evicted therefrom.

43. **Power to remove offensive or dangerous trades from slum areas.**- The competent authority may, by order in writing, direct any person carrying on any dangerous or offensive trade in a slum area to remove the trade from that area within such time as may be specified in the order :

Provided that no order under this section shall be made.... person carrying on the trade has been afforded a reasonable opportunity of showing cause as to why the order should not be made.

44. **Appeals.**- (1) Except as otherwise expressly provided in this Act, any person aggrieved by any notice, order or direction issued or given by the competent authority may appeal to the State Government within a period of thirty days from the date of issue of such notice, order or direction.

(2) Every appeal under this Act shall be made by petition in writing accompanied by a copy of the notice order or direction appealed against.

(3) On the admission of an appeal, all proceedings to enforce the notice, order or direction and all prosecutions for any contravention thereof shall be held in abeyance pending the decision of the appeal, and if the notice, order or direction is set-aside in appeal, disobedience thereto shall not be deemed to be an offence.

(4) No appeal shall be decided under this section unless the appellant has been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner.

(5) The decision of the State Government on appeal shall be final and shall not be questioned in any Court.

45. **Service notices etc.**- (1) Every notice, order or direction issued under this Act shall, save as otherwise expressly provided in this Act, be served-

(a) by giving or tendering the notice, order or direction or by sending it by post to the person from whom it intended; or

(b) if such person cannot be found, by affixing the notice, order or direction on some conspicuous part of his last known place of abode or business, or by giving or tendering the notice, order or direction to some adult male member or servant of his family or by causing it to be affixed on some conspicuous part of the building or land, if any, to which it relates.

(2) Where the person on whom a notice, order or direction to be served is a minor, service upon his guardian or upon any adult male member or servant of his family shall be deemed to be the service upon the minor.

(3) Every notice, order or direction which by or under this Act is to be served as a public notice, order or direction which is not required to be served to any individual therein specified shall, save as otherwise expressly provided, be deemed to be sufficiently served if a copy thereof is affixed in such conspicuous part of the office of the competent authority or in such other public place during such period, or is published in such local newspaper or in such other manner, as the competent authority may direct.

46. **Penalties.**- (1) Whoever fails to comply with any notice, order or direction issued or given under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever commences or causes to be commenced any work in contravention of any restriction or condition imposed under sub-section (7) of Section 11 or any plan for the re-development of a clearance area shall be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(3) Whoever obstructs the entry of any person authorised under this Act to enter into or upon any building or land or molests such person after such entry shall be punishable with fine which may extend to one thousand rupees.

(4) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and" was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(5) Notwithstanding anything contained in sub-section (3) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purposes of this section-

(a) '*company*' means a body corporate and includes a firm or Other association of individuals; and

(b) '*director*' in relation to a firm means a partner in the firm.

47. **Order of demolition of buildings in certain cases.**- (1) Where the erection of any

building has been commenced, or is being carried out, or has been completed, in contravention of any restriction or condition imposed under sub-section (7) of Section 11 or a plan for the re-development of any clearance area, or in contravention of any notice, order or direction issued or given under this Act the competent authority may, in addition to any other remedy that may be resorted to under this Act or under any other law, make an order directing that such erection shall be demolished by the owner thereof within such time not exceeding two months as may be specified in the order, and on failure of the owner to comply with such orders, the competent authority may itself cause the erection to be demolished and the expenses of such demolition shall be recoverable from the owner as arrears of land revenue:

Provided that no such order shall be made unless the owner has been given a reasonable opportunity of being heard.

(2) For the purpose of causing any building to be demolished under sub-section (1), the competent authority may use or cause to be used such force as may be necessary.

48. **Jurisdiction of Courts.**- No Court inferior to that of a Magistrate of the first class shall try as offence punishable under this Act.

49. **Previous sanction of competent authority or officers authorised by it for prosecution.**- No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the competent authority or an officer authorised by the competent authority in this behalf.

50. **Power to delegate.**- (1) The competent authority may, by notification, direct that any power exercisable by it under this Act may also be exercised, in such cases and subject to such conditions, if any as may be specified in the notification, by such officer or the local authority as may be mentioned therein.

(2) The State Government may, by notification, direct that any power exercisable by the State Government under sub-section (7) of Section 11, Section 16, Section 21 and Section 44 may, subject to such conditions, if any, as may be specified in the notification, be exercised also by the Chief Secretary or by such other officer as may be mentioned therein.

[50A. Absorption of the officers and servants. - Notwithstanding anything in this Act or the Madhya Pradesh Municipal Corporations Act, 1956 or the Madhya Pradesh Municipalities Act, 1961 and the rules made thereunder the services of officers and employees appointed under this Act shall be absorbed in such Municipal Corporation or Municipal Council or Nagar Panchayat, as the case may be, in such manner and on such terms and conditions as the State Government may, by order, determine ;

Provided that such absorption shall not affect the seniority of any employee or officer of the Municipal Corporation or Municipal Council or Nagar Panchayat, as the case may be.]

51. **Protection of action taken in good faith.**- No suit, prosecution or other legal proceeding shall lie against the competent authority or against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.
52. **Bar of jurisdiction.**- Save as otherwise expressly provided in this Act, no Civil Court shall have jurisdiction in respect of any matter which the competent authority or any other person is empowered by or under this Act, to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.
53. **Competent authority etc. to be public servant.**- The competent authority and any person authorised by him under this Act shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (No. 45 of 1860).
54. **Act to override other laws.**- The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law.
55. **Power to make rules.**- (1) The State Government may, by notification, 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 all or any of the following matters, namely:-

- (a) the manner of authentication of notices, orders and other instruments of the competent authority;
- (b) the preparation of plans for the re-development of any slum area, and matters to be included in such plans;
- (c) the form in which an application under sub-section (3) of Section 7 shall be made and the information to be furnished and the fees to be levied in respect of such application;
- (d) the manner in which inquiries may be held under Sections 16 and 20;
- (e) the form and manner in which applications for permission under sub-section (2) of Section 20 shall be made and the fees to be levied in respect of such applications;
- (f) the procedure to be followed and the factors to be taken into consideration by the competent authority before granting or refusing to grant permission under Section 20;
- (g) the time within which an appeal may be preferred under sub-section (7) of Section 11 or Section 21;
- (h) the time within which a declaration may be filed under subsection (1) of Section 22 or an intimation may be sent under subsection (4) of the said section and the fees, if any, to be levied in respect of such declaration;

- (i) the time within which plans, estimates and other particulars referred to in sub-section (2) of Section 22 may be furnished;
- (j) the procedure to be followed by the competent authority for fixing the provisional rent under sub-section (2) of Section 22;
- (k) the manner in which the rent provisionally determined under Section 22 shall be communicated to the tenants and owners;
- (l) the matters in respect of which provisions may be made under sub-section (5) of Section 23;
- [(m) to (q) omitted]
- (r) any other matter which has to be, or may be, prescribed.

(3) All rules made under this Act shall be subject to condition of previous publication.

(4) All rules made under this Act shall be laid on the table of the Legislative Assembly.

56. **Repeal.**- The Madhya Pradesh Slum Improvement (Acquisition of Land) Act, 1956 (No. 32 of 1956), is hereby repealed.

The Schedule

[See Section 16 (2)]

Principles for determination of the net average annual income-

1. The net average annual income shall be one-fifth of the amount arrived at by deducting municipal taxes, revenue charges and cost of repairs for the period of five consecutive years referred to in sub-section (1) of Section 16 from the gross rent actually derived by the owner during the said period of five years from the land acquired including any hut or building, if any, thereon if it is actually rented.
2. The gross rent shall be determined by the competent authority by local enquiry and, if necessary, by obtaining certified copies of extract from the property tax assessment books of the Municipal or other local authority concerned showing the rental values of any such lands, huts or buildings. The cost of repairs to the huts and buildings on the land shall be calculated at the rate of one month's rent per year in each case.
3. Where there are trees on the land acquired, the competent authority shall take into account the income, if any, actually derived by the owner from such trees during the said period of five years.
4. If the land or the huts or buildings thereon, remained unoccupied or the owner has not been

in receipt of any rent for the occupation of such land, huts or buildings during, the whole or any part of the said period of five years, the gross rent shall be taken to be the income which the owner would in fact have derived if the land, hut or building has been leased out or given for rent during the relevant period, for this purpose the income actually derived from similar lands, huts or buildings in the vicinity shall be taken into account.

Notifications

[Notification No. 2074-CR-40-XXXIII-77, dated the 13th June, 1977.] - In exercise of the powers conferred by sub-section (c) of Section 2 of the Madhya Pradesh Gandhi Basti Kshetra (Sudhar Tatha Nirmulan) Adhiniyam, 1976 (No. 39 of 1976) the State Government hereby appoints the following Collectors as a competent authority to exercise the powers given under Sections 3 to 14 and 16,17,19,20,22,36,37,38,39,42,47,49 and 50 of the Act. Area of the competent authority are mentioned against their name for the purpose of the said Adhiniyam.

Officer (1)	Area (2)
1. Collector, Bhopal	Vikas Pradhikari, Bhopal.
2. Collector, Indore	Vikas Pradhikari, Indore.
3. Collector, Ujjain	Vikas Pradhikari, Ujjain.
4. Collector, Raipur	Vikas Pradhikari, Raipur.
5. Collector, Gwalior	Town Improvement Trust, Gwalior.
6. Collector, Ratlam	Town Improvement Trust, Ratlam.
7. Collector, Jabalpur	Town Improvement Trust, Jabalpur.
8. Collector, Mandsaur	Town Improvement Trust, Neemuch.
9. Collector, Durg	Special Area Development Authority, Bhilai-Durg.
10. Collector, Bilaspur	Nagar Palika Parishad, Bilaspur.
11. Collector, East Nimar (Khandwa)	Nagar Palika, Burhanpur
12. Collector, Satna	Nagar Palika, Satna.
13. Collector, Jabalpur	Nagar Palika, Katni.
14. Collector, Sagar	Nagar Palika, Sagar.