

TRIPURA PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1982*¹

(Act No. 1 of 1983)

An Act to provide an effective machinery for eviction of unauthorised occupants from public premises and certain incidental matters

Be it enacted by the Legislative Assembly of Tripura in the Thirty-third year of the Republic of India as follows :

1. Short title, extent, and commencement. (1) This Act may be called the Tripura Public Premises (Eviction of Unauthorised Occupants) Act, 1982.

(2) It extends to the whole of the Tripura.

(3) It shall come into force at once.

2. Definitions. In this Act unless the context otherwise requires—

(a) “Estate Officer” means an officer appointed as such by the State Government under S. 3 ;

(b) “Premises” means any land or any building or part of a building and includes,—

(i) that garden, grounds and out-houses, if any, appertaining to such building or part of a building ; and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(c) “prescribed” means prescribed by rules made under this Act;

(d) “Public premises” means any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the State Government and includes any premises belonging to, or taken on lease by, or on behalf of—

(i) any company as defined in S. 3 of the Companies Act, 1956 in which not less than fifty-one per cent of the paid up share capital is held by the State Government ; or

(ii) any Corporation (not being a company as defined in S. 3 of the Companies Act, 1956 or a local authority) established by or under a Central or State Act and owned or controlled by the State Government ; or

(iii) any Municipal Committee or Notified Area Authority ;

(iv) any gaon sabha constituted under U. P. Panchayat Raj Act as extended to Tripura ;

(e) “rent” in relation to any public premises, means the consideration payable periodically for the authorised occupation of the premises, and includes,—

(i) any charge for electricity, water or any other services in connection with the occupation of the premises ;

(ii) any tax (by whatever name called) payable in respect of the premises or the statutory authority ;

where such charge or tax is payable by the State Government or the statutory authority ;

(f) “statutory authority” means any authority referred to in Cl. (d) of this section ;

(g) “unauthorised occupation” in relation to any public premises means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation, by any person of the public premises, after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

3. Appointment of Estate Officers. The State Government may, by notification in the official Gazette—

(a) appoint such persons, being Gazetted officers of the Government, officers of equivalent in rank of the corporate or statutory authority, as it thinks fit to be Estate Officers for the purposes of this Act :

¹ *Published in the Tripura Gazette, dated 21-3-1983.

Provided that an officer of a corporate or statutory authority shall be appointed, in consultation with that authority, as an Estate Officer in respect of only those public premises which are controlled by that authority ; and

(b) define the local limits within which, or the categories of public premises in respect of which, each Estate Officer shall exercise the powers conferred, and perform the duties imposed, on Estate Officers by or under this Act.

4. Issue of notice to show cause against order of eviction. (1) If the Estate Officer is of opinion that any person is in unauthorised occupation of any public premises and that he should be evicted, the Estate Officer shall issue in the manner hereinafter provided a notice in writing calling upon the persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall—

(a) specify the grounds on which the order of eviction is proposed to be made ; and

(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in the public premises,

(i) to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issue thereof ; and

(ii) to appear before the Estate Officer on the date specified in the notice along with the evidence which they intend to produce in support of the cause shown, and also for personal hearing, if such hearing is desired.

(3) The Estate Officer shall cause the notice to be served by having affixed on the outer door or some other conspicuous part of the public premises, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.

5. Eviction of unauthorised occupants. (1) If, after considering the cause, if any, shown by any person in pursuance of a notice under S. 4 and any evidence produced by him in support of the same and after personal hearing, if any, given under Cl. (b) of sub-S. (2) of S. 4, the Estate Officer is satisfied that the public premises are in unauthorised occupation, the Estate Officer may make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated, on such date as may be specified in the order, by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises.

(2) If any person refuses or fails to comply with the order of eviction within thirty days of the date of its publication under sub-S (1), the Estate Officer or any other officer duly authorised by the Estate Officer in this behalf may, after the expiry of the period aforesaid, evict that person from, and take possession of, the public premises and may, for that purpose, use such force as may be necessary.

6. Power to remove unauthorised constructions etc. (1) No person shall—:

(a) erect or place or raise any building or other structure or fixture ; or

(b) bring or keep any cattle or other animal ; or

(c) display or spread any goods, on or against, or in front of any public premises except in accordance with the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy such premises.

(2) Where any building or other structure or fixture has been erected or any cattle or other animal has been brought on, or any goods have been displayed or spread, in public premises in contravention of the provisions of sub-S. (1), the Estate Officer may serve upon the person erecting such building or other structure or fixture or bringing such cattle or other animal or displaying or spreading such goods on the public premises, a notice requiring him either to remove, or to show cause why he shall not remove such building, other structure or fixture, or, as the case may be, such goods or cattle or other animal from the public premises within such period, not being less than seven days, as he may specify in the notice, and on the omission or refusal of such person either to show cause, or to remove such building or other structure or fixture, or as the case may be, such goods or cattle or other animal from the public premises, or, where the cause shown is not in the opinion of the Estate Officer sufficient, the Estate Officer may remove the building or other structure or fixture, or, as the case may be, such goods or cattle or other animal from the public premises and recover the costs of such removal from the person aforesaid as an arrear of land revenue.

7. Order of demolition of unauthorised construction. (1) Where the erection of any building or execution of any

work has been commenced, or is being carried on, or has been completed, on any public premises by any person in occupation of such public premises under an authority (whether by way of grant or any other mode of transfer), and such erection of building or execution of work is in contravention of, or not authorised by such authority, then, the Estate Officer may, in addition to any other action that maybe taken under this Act, or in accordance with the terms of the authority aforesaid, make an order, for reasons to be recorded therein, directing that such erection or work shall be demolished by the person at whose instance the erection or work has been commenced, or is being carried on, or has been completed, or within such period, as may be specified in the order, not being less than seven days, or more than fifteen days, from the date of publication of the order under sub-S. (3) :

Provided that no order under this sub section shall be made unless the person concerned has been given, by means of a notice served in the prescribed manner, a reasonable opportunity of showing cause why such order should not be made.

(2) Where the erection or work has not been completed, the Estate Officer may, by the same order or by a separate order, whether made at the time of the issue of the notice under the proviso to sub-S. (1) or at any other time, direct the person at whose instance the erection or work has been commenced or is being carried on, to stop the erection or work until the expiry of the period within which an appeal against the order of demolition, if made, may be preferred under S. 11.

(3) The Estate Officer shall cause every order made under sub-S. (1), or as the case may be under sub-S. (2), to be affixed on the outer door, or some other conspicuous part, of the public premises.

(4) Where no appeal has been preferred against the order of demolition made by the Estate Officer under sub-S. (1) or where an order of demolition made by the Estate Officer under that sub-section has been confirmed on appeal, whether with or without variation, the person against whom the order has been made shall comply with the order within the period specified therein, or, as the case may be, within the period, if any, fixed by the appellate officer on appeal, and, on the failure of the person to comply with the order within such period, the Estate Officer or any other officer duly authorised by the Estate Officer in this behalf, may cause the erection or work to which the order relates to be demolished.

(5) Where an erection or work has been demolished, the Estate Officer may, by order, require the person concerned to pay the expenses of such demolition within such time, and in such number of installments, as may be specified in the order.

8. Disposal of property left OH public premises by unauthorised occupants. (1) Where any person has been evicted from any public premises under S. 5, or where any building or other work has been demolished under S. 7, the Estate Officer may, after giving fourteen days' notice to the person from whom possession of the public premises has been taken and after publishing the notice in at least one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public auction any property left by such person and remaining on such premises.

(2) Where any materials, cattle or other animal *have been removed from any public premises under S. 6, the Estate Officer may, after giving fourteen days' notice to the persons owning such materials, cattle or other animal and after publishing the notice in at least one newspaper having circulation in the locality, dispose of, by public auction, such materials, cattle or other animal.

(3) Notwithstanding anything contained in sub-Ss. (1) and (2), the giving or publication of any notice referred to therein shall not be necessary in respect of any property which is subject to speedy and natural decay, and the Estate Officer may, after recording such evidence as he may think fit, cause such property to be sold or otherwise disposed of in such manner as he may think fit.

(4) Where any property is sold under sub-S (1), the sale proceeds shall, after deducting the expenses of the sale and the amount, if any, due to the State Government or the corporate authority on account of arrears of rent or damages, or costs, be paid to such person or persons as may appear to the Estate Officer to be entitled to the same :

Provided that where the Estate Officer is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he may refer such dispute to the Civil Court of competent jurisdiction and the decision of the Court thereon shall be final.

(5) The expression 'costs', referred to in sub-S. (4) shall include the cost of removal recoverable under S. 6 and the expenses of demolition recoverable under S. 7.

9. Power to require payment of rent or damages in respect of public premises. (1) Where any person is in arrears of rent payable in respect of any public premises, the Estate Officer may, by order, require that person to pay the same within such time and in such installments as may be specified in the order.

(2) Where any person is, or has, at any time, been in unauthorised occupation of any public premises, the Estate Officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such premises and may by order, require that person to pay the damages within such time and in such installments as may be specified in the order,

(3) While making an order under sub-S. (1) or sub-S. (2), the Estate Officer may direct that the arrears of rent or, as the case may be, damages shall be payable together with simple interest at such rate as may be prescribed, noticing a rate exceeding the current rate of interest within the meaning of the Interest Act, 1978.

(4) No order under sub-S. (1) or sub S. (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the Estate Officer.

10. Powers of Estate Officers. An Estate Officer shall, for the purpose of holding any inquiry under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), when trying a suit 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 documents ; and
- (c) any other matter which may be prescribed.

11. Appeals. (1) An appeal shall lie from every order of the Estate Officer made in respect of any public premises under S. 5 or S. 7 or S. 9, to an appellate officer who” shall be the District Magistrate and Collector of the district in which the public premises are situate.

(2) An appeal under sub-S. (1) shall be preferred—

(a) in the case of an appeal from an order under S. 5, within fifteen days from the date of publication of the order under sub-S. (1) of that section ; and

(b) in the case of an appeal from an order under S. 7 or S. 9, within fifteen days from the date on which the order is communicated to the appellant :

Provided that the appellate officer may entertain the appeal after the expiry of the said period of fifteen days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred from an order of the Estate Officer, the appellate officer may stay the enforcement of that order for such period and on such conditions as he deems fit.

Provided that where the construction or erection of any building or other structure or fixture or execution of any other work was not completed on the day on which an order was made under S. 7 for the demolition or removal of such building or other structure or fixture, the appellate officer shall not make any order for the stay of enforcement of such order, unless such security, as may be sufficient in the opinion of the appellate officer, has been given by the appellant for not proceeding with such construction, erection or work pending the disposal of the appeal.

(4) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

(5) The cost of any appeal under this section shall be in the discretion of the appellate officer.

(6) The State Government may call for and examine the record of any case pending before or disposed by any appellate officer for the purpose of satisfying itself as to the legality or propriety of any decision made or order passed by that officer and may make such order in the case as it thinks fit.

12. Finality of orders. Save as otherwise expressly provided in this Act every order made by an Estate Officer or appellate officer under this Act shall be final and shall not be called in question in any original suit, application or executive proceeding 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.

13. Offences and penalties. (1) If any person who has been evicted from any public premises under this Act again occupies the premises without authority for such occupation, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

(2) Any Magistrate convicting a person under sub-S. (1) may make an order for convicting that person summarily and he shall be liable to such eviction without prejudice to any action that may be taken against him under this Act.

14. Power to obtain information. If the Estate Officer has reason believe that any persons are in unauthorised occupation of any public premises, the Estate Officer or any other officer authorised by him in this behalf may require those persons or any other person to furnish information relating to the names or other particulars of the persons in occupation of the public premises and every person so required shall be bound to furnish the information in his possession.

15. Liability of heirs and legal representatives. (1) Where any person against whom any proceeding for the determination of arrears of rent or for the assessment of the damages or for the determination of the amount payable by way of interest on such arrears of rent or damages, or for recovery of any cost under sub-S. (2) of S. 6 or any expenses under sub-S. (5) of S. 7, is to be or has been taken dies before the proceeding is taken or during the pendency thereof, the proceeding may be taken or, as the case may be, continued against the heirs or legal representatives of that person.

(2) Any amount due to the State Government or the statutory authority from any person whether by way of arrears of rent or damages or costs of removal referred to in S. 6 or expenses of demolition referred to in S. 7 or interest referred to in sub S. (3) of S. 9 or any other cost shall, after the death of the person, be payable by his heirs or legal representatives, but their liability shall be limited to the extent of the assets of the deceased in their hands.

16. Recovery of rent, etc., as an area of land revenue. If any person refuses or fails to pay the expenses of demolition payable under sub-S. (5) of S. 7 or the arrears of rent payable under sub-S. (1) of S. 9 or the damages payable under sub-S. (2) or the interest determined under sub-S. (3) of that section or the costs awarded to the State Government or the statutory authority under sub-S. (5) of S. 11 or any portion of such rent, damages, expenses, interest or costs, within the time, if any or specified therefor in the order relating thereto, the Estate Officer may issue a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue.

17. Bar of jurisdiction. No Court shall have jurisdiction to entertain any suit or proceeding in respect of,—

- (a) the eviction of any person who is in unauthorised occupation of any public premises ; or
- (b) the removal of any building, structure or fixture or cattle or other animal from any public premises under S. 6, or
- (c) the demolition of any building or other structure made, or ordered to be made, under S. 7, or
- (d) the arrears of rent payable under sub-S. (1) of S. 9 or damages payable under sub-S. (2), or interest payable under sub-S. (3), of that section ; or
- (e) the recovery of—
 - (i) costs of removal of any building, structure or fixture or goods, cattle or other animal under S. 6, or
 - (ii) expenses of demolition under S. 7, or
 - (iii) costs awarded to the State Government or statutory authority under sub-S. (5) of S. 11, or
 - (iv) any portion of such rent, damages, costs of removal, expenses of demolition or costs awarded to the State Government or the statutory authority.

18. Protection of action taken in good faith. No suit, prosecution or other legal proceeding shall lie against the State Government or the statutory authority or the appellate officer or the Estate Officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

19. Delegation of power. The State Government may, by notification in the official Gazette, direct that any power exercisable by it under this Act shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by an officer of the State Government.

20. Power to make rules. (1) The State Government may, by notification in the official Gazette, make rules for

carrying 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 form of any notice required or authorised to be given under this Act and the manner in which it may be served ;
- (b) the holding of inquiries under this Act ;
- (c) the distribution and allocation of work to Estate Officers and the transfer of any proceeding pending before an Estate Officer to another Estate Officer ;
- (d) the procedure to be followed in taking possession of public premises ;
- (e) the manner in which damages for unauthorised occupation may be assessed and the principles which may be taken into account in assessing such damages ;
- (f) the manner in which appeals may be preferred and the procedure to be followed in appeals ; and
- (g) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before the Legislative Assembly of Tripura while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule or the House agrees 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.