

Rajasthan Requisitioning of Land (Improvement of Agriculture) Act, 1951

(Act No. 29 of 1951)

[Published in the Rajasthan Gazette (Raj-patra), No. 123, dated December 8, 1951]

An act to provide for the requisitioning of land for certain public purposes.

Whereas it is expedient to provide for the requisitioning of land for certain public purposes;

It is hereby enacted as follows: -

1. Short title, extent and commencement. - (1) This Act may be called the Rajasthan Requisitioning of Land (Improvement of Agriculture) Act, 1951.

(2)[It extends to the whole of the State of Rajasthan.]

(3) It shall come into force at once.

2. Definition. - In this Act, unless there is any thing repugnant in the subject or context-

(1) "Competent authority" means an authority appointed by the [State Government] by notification in the [Official Gazette] to be (he competent authority for any local area;

(2) [x x x]

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

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

(5) "Public purpose" means a purpose having or being connected with any of the following subjects, that is to say,-

(i) making, enlarging or deepening of tank, for purposes of irrigation

(ii) composting of village refuse or preparation of any other form of manure;

(iii) Plant nurseries;

(iv) any other subject which the [State Government] may by notification in the [Official Gazette] declare to be essential for the improvement of agriculture; and

(6) "requisition" means to take possession of any land or require any land to be placed at the disposal of the requisitioning authority.

3. Application for requisition by competent authority. - A competent authority may, in the prescribed manner, apply to the [State Government] to requisition any land which in its opinion is needed or is likely to be needed for a public purpose.

4. Requisition of land. - On receipt of an application under section 3, the [State Government], shall hold such inquiry as may be prescribed and, if satisfied that the land [specified in the application is needed or is likely to be needed for a public purpose, the [State Government] may, by order in writing, requisition such land.

5. Requisitioned land may be placed at the disposal of competent authority. - The *[State Government] may, subject to such terms and conditions, as it deems fit, place any land requisitioned under section 4 at the disposal of the competent authority on whose application, the land was requisitioned.

6. Payment of compensation. - (1) Where any land is requisitioned under this Act, there shall be paid as compensation to persons having an interest in such land, an amount which shall be determined by an officer authorised in this behalf by the [State Government.]

(2) Such Officer shall, after holding an inquiry in the prescribed manner determine the amount of compensation, and in determining such compensation, he shall have regard to the circumstances of the case, and in particular shall be guided by the provisions contained in the Schedule annexed to this Act.

(3) Where there are several persons interested in the land, such officer shall decide the dispute, if any, as to the apportionment of the amount of compensation or any part thereof or as to the persons to whom the same or any part thereof is payable.

(4) An appeal shall lie against the decision of such officer under sub-section (2) or sub-section (3) to the District Judge within whose jurisdiction the requisitioned land is situate.

(5) Every appeal under sub-section (4), shall be made within a period of sixty days from the date of the decision appealed against.

7. Power to take possession. - Any officer authorised in this behalf by the [State Government] by general or special order, may take possession of any land in respect of which an order has been made under section 4 and may take or cause to be taken such steps and use or cause to be used such force, as may, in the opinion of such officer, be reasonably necessary for taking possession of such land.

8. Release from requisition. - (1) Where any land requisitioned under this Act is no longer required for the public purpose for which it was requisitioned, the competent authority at whose instance the land was requisitioned, shall send an intimation in writing to that effect to the [State Government]

(2) Where the [State Government] is satisfied that the land is no longer required for a public purpose, the [State Government] may release the land from requisition and upon such release the land shall be restored as far as possible in the same condition in which it was on the date on which the [State Government] was put in possession thereof and the [State Government] shall pay compensation for damage, if any caused to the land otherwise than by reasonable use thereof or irresistible force:

Provided that nothing in this sub-section shall apply to any structures, trees or crops standing on the land on the date on which compensation has been paid.

(3) An officer authorised in this behalf by the [State Government] shall after holding such inquiry as he deems fit, determine the amount of compensation payable under sub-section (2).

(4) The decision of such officer, shall be subject to an appeal to the [State Government] which shall be made within a period of thirty days from the date of the decision, be final.

(5) Where any land is to be released from requisition, the [State Government] may, after making such inquiry, if any, as it deems fit, specify by order in writing, the person to whom possession of the land shall be given.

(6) The delivery of possession of land to the person specified in an order made under sub-section (5), shall be a full discharge of the [State Government] from all liability in respect of such delivery but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(7) Where the person to whom possession of any requisitioned land is to be given, cannot be found and has no agent or other person empowered to accept delivery on his behalf, the [State Government] shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the land and shall also publish such notice in the [Office Gazette].

(8) When a notice referred to in sub-section (7) is published in the [Office Gazette] the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the [State Government] shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

9. Power to obtain information. - (Any officer authorised in his behalf by the [State Government] by general or special order may, with a view to carrying out the purposes of this Act, by order require any person to furnish to him such information in such person's possession relating to any land which is requisitioned or is intended to be requisitioned.

(2) Every person required to furnish such information as is referred to in sub-section (1), shall be deemed to be legally bound to do so within the meaning of section 176 and 177 of the Indian Penal Code, 1860, of the Central Legislature [x x x]

10. Service of orders. - Every order made under section 4 or section 9, shall be served on the person affected thereby,-

(i) in the manner provided for the service of a summons in Order V, in the First Schedule to the Code of Civil Procedure, 1908 of the Central Legislature [x x x]: or

(ii) in such other manner, as may be prescribed.

11. Power to enter and inspect land. - Without prejudice to any powers otherwise conferred by this Act, any officer or person empowered in this behalf by the [State Government] by general or special order may enter and inspect any land for the purpose of determining whether the land is needed or is likely to be needed for a public purpose.

12. Power to inquiry. - For the purpose of holding any inquiry under this Act the authorised officer shall have the same powers as are vested in civil courts in respect of-

- (a) summoning and enforcing the attendance of any person and examining him on oath:
- (b) compelling the production of documents; and
- (c) issuing commissions for the examination of witnesses.

13. Delegation of functions. - The [State Government] may, by order published in the [Official Gazette], direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged by such officer, not being lower in rank than a Collector, as may be so specified.

14. Savings as to orders. - (1) No order made in exercise of any power conferred by or under this Act, shall be called in question in any court.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a court shall, within the meaning of the Indian Evidence Act, 1872 of the Central Legislature [x x x], presume that such order was so made by that authority.

15. Protection of action taken under the Act. - (1) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any order made thereunder.

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the [State Government] for any damage caused or likely to be caused by anything in good faith done or intended to be done under this Act or any order made thereunder.

16. Officers to be deemed public servants. - Every office authorised or empowered by the [State Government] to exercise any power or to perform any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860, of the Central Legislature [x x x].

17. Power to make rules. - (1) The [State Government] may, by notification in the [Official Gazette], make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generally of the foregoing power, such rules may provide for-

- (i) the form of application under section 3.
- (ii) the manner of holding an inquiry under section 4 or section 6.
- (iii) the manner of serving an order made under section 4 or section 9,
- (iv) the levy of court fees in respect of appeals under section 6 and 8.

18. [Omitted]

Schedule

[See sub-section (2) of section 6]

1. In determining the amount of compensation to be awarded for land requisitioned under this Act, the following matters shall be taken into consideration, namely:-

- first, the market value of the land at the date of the order under section 4;
- secondly, the damage sustained by the person having an interest in the land requisitioned under section 4 by reason of the taking of any standing crops or trees which may be on the land at the time of taking possession thereof under section 7;
- thirdly, damage (if any) sustained by such person at the time of taking possession of the land, by reason of severing such land from his other land;
- fourthly, the damage (if any) sustained by such person at the time of taking possession of the land, by reason of the requisition injuriously affecting his other property movable or immovable, in any other manner or his earnings;
- fifthly, if in consequence of the requisition of the land, such person is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and
- sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the making of the order under section 4 and the time of taking possession of the land under section 7.

2. For the purposes of clause first of paragraph 1 of this Schedule.-

- (a) the market value of the land shall be the market value according to the use to which the land was put at the date with reference to which the market value is to be determined under the clause: for the purpose of such market value transfers to land similarly situated and in similar use shall be taken into consideration and the evidence that any price actually paid for similar land in similar use contain any

element of the potential value of the land transferred for any more lucrative use shall not be admitted and if on the material data the land is subject to any restrictions under any law for the time being in force, the market value shall be assessed taking into account these restrictions:

- (b) if it be shown that before such date, the owner of the land had taken active steps and incurred expenditure to secure a more profitable use of the same, further compensation based on his actual loss, may be paid to him;
- (c) if the market value is specially high in consequence of the land being put to a use which is unlawful or contrary to public policy that use shall be disregarded and the market value shall be deemed to be the market value of the land, if put to ordinary uses;
- (d) if the market value has been increased by means of any improvement made by the owner or his predecessor-in-interest within two years before the aforesaid date, such increase shall be disregarded unless it be proved that the improvement so made was made in good faith and not in contemplation of proceedings for the requisition of the land being taking under this Act:
- (e) if the market value has been increased or decreased owing to the land falling within or near to the alignment of a projected public street so much of the increase or decrease as may be due to such cause shall be disregarded:
- (f) if the market value of any building is specially high in consequence of the building being so overcrowded as to be dangerous to the health of the inmates, such over crowding shall be disregarded and the market value shall be deemed to be the market value of the building if occupied by such number of persons only as could be accommodated in it without risk of danger from overcrowding; and
- (g) when the owner of the land or building has, within two years preceding the aforesaid date made a return of the land or building to the [State Government] or any local authority, the rent of the land or building shall not in any case be deemed to be greater than the rent shown in the latest return so made, and the market value may be determined on the basis of such rent:

Provided that where any addition to or improvement of the land or building has been made after the date of such latest return and previous to the date with reference to which the market value is to be determined any increase in the letting value of the land or building due to such addition or improvement may be taken into consideration.

3. The following matters shall not be taken into consideration in determining the amount of compensation to be awarded for land requisitioned under this Act, namely:-

first, the degree of urgency which has led to the requisition:

secondly, any disinclination of the person having an interest in the land requisitioned to part therewith:

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land requisitioned after the date of the order under section 4. by or consequence of the use to which it will be put:

fifthly, any increase to the value of the land requisitioned likely to accrue from the use to which it will be put when requisitioned.

sixthly, any increase to the value of the other land of such person likely to accrue from the use in which the land requisitioned will be put; or

Seventhly, any outlay on improvements on, additions to or disposal of, the land, requisitioned, commenced, made or effected after the date of the order under section 4.

4. In determining the amount of compensation to be awarded for any land requisitioned under this Act, regard shall also be had to the following provisions, namely:-

- (i) when any interest in any land requisitioned under this Act has been acquired after the date of the order under section 4, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land;
- (ii) if in the opinion of the officer authorised under sub-section (1) of section 6, any building is in a defective state, from a sanitary point of view or is not in a reasonably good state of repair, the amount of compensation for such building shall be exceed the sun which the building would be worth if it were put into a sanitary condition, or into a reasonably good state of repair, as the case may be, minus the estimated cost of putting it into such condition or state;
- (iii) if in the opinion of such officer any building which is used or is intended or is likely to be used for human habitation is to reasonably capable of being made fit for human habitation, the amount of compensation for such building shall not exceed the value of the materials of the building minus the cost of demolishing the building.

Notifications

No. F. 16 (24) Revenue I/52, dated November 21, 1952. Published in Rajasthan Raj-patra dated November 9, 1952. Part I, at page 850.

In exercise of the powers conferred by clause (i) of section 2 of the Rajasthan Requisitioning of Land (Improvement of Agriculture) Act, 1951 the Government of Rajasthan is pleased to appoint the Collectors to be the competent authority within their respective districts, for the purposes of the said Act.

Notifications

No. F. 16 (24) Revenue I/52, dated July 23, 1953. Published in Rajasthan Raj-patra dated July 18, 1953, Part I, at page 515.

In exercise of the powers conferred by section 13 of the Rajasthan Requisitioning of Land (Improvement of Agriculture) Act, 1951 and in supersession of Note No. 16 (24) Revenue 1/52, dated 22-11-52 the Government of Rajasthan is pleased to direct that all powers conferred on the Government by the said Act shall be exercised by the Commissioners within their respective Divisions.

No. F. 16 (24) Revenue I/52, dated November 21, 1952. Published in Rajasthan Raj-patra Part 129-11-52 at page 850.

In exercise of the powers conferred by section 13 of the Rajasthan Requisitioning of Land (Improvement of Agriculture) Act, 1951, the Government of Rajasthan is pleased to direct that all powers conferred on the Government by the said Act, shall be exercised by the Collectors within the respective districts.