

West Bengal Act XVI of 1951

THE REHABILITATION OF DISPLACED PERSONS AND EVICTION OF PERSONS IN UNAUTHORISED OCCUPATION OF LAND ACT, 1951.

[Passed by the West Bengal Legislature.]

[Assent of the President was first published in the *Calcutta Gazette, Extraordinary*, of the 9th June, 1951.]

An Act to provide for the rehabilitation of displaced persons and eviction of persons in unauthorised occupation of land and for certain other matters connected therewith.

WHEREAS it is expedient to provide for the rehabilitation of displaced persons and eviction of persons in unauthorised occupation of land and for certain other matters connected therewith;

It is hereby enacted as follows :—

1. (1) This Act may be called the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act, 1951.

Short title,
extent,
commence-
ment and
duration.

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

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and shall remain in force for a period of three years from such date.

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

Definitions.

(1) “displaced person” means any person who in the opinion of Competent Authority—

(a) was ordinarily resident in East Bengal but on account of communal disturbances occurring after the 1st day of October, 1946, left East Bengal and arrived in West Bengal on or before the 31st day of December, 1950; and

(b) has no land in West Bengal of which he is the owner; and

(c) has affirmed in an affidavit filed in the office of the Competent Authority that he does not intend to return to East Bengal;

Explanation.—In this clause “East Bengal” means the territories now comprised in the Province of East Bengal forming part of the Dominion of Pakistan.

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(Section 3.)

- (2) "Competent Authority" means a judicial officer not below the rank of a District Judge appointed by the State Government in consultation with the High Court by notification in the *Official Gazette*, to perform the functions of a Competent Authority under this Act for such area as may be specified in the notification;
- (3) "land" means immovable property;
- (4) "owner" in relation to any land means a person (other than a tenant-at-will or a monthly tenant) who is entitled to the use or occupation of such land or to receive rent in respect of or derive other pecuniary benefits from such land and includes Government and any local authority;

Explanation.—A person in unauthorised occupation of any land shall not be deemed to be an owner in relation to such land.

- (5) "prescribed" means prescribed by rules made under this Act;
- (6) "unauthorised occupation" used in relation to any land means the use or occupation of any land or part thereof without being authorised in writing by the owner.

Eviction of
persons in
unauthorised
occupation.

3. (1) An owner of any land may make an application in the prescribed manner to the Competent Authority for the eviction of persons in unauthorised occupation of the land:

Provided that no such application shall be entertained by the Competent Authority if the unauthorised occupation commenced before the 1st day of October, 1946.

(2) On receipt of such application the Competent Authority shall make such enquiry as it thinks fit, and shall, by notice served in the prescribed manner on every person who appears to it upon such enquiry to be in unauthorised occupation of the land, require him to show cause within thirty days of the service of the notice why he should not vacate the land and pay to the owner compensation for unauthorised occupation.

(3) The Competent Authority may, if no cause is shown or if any cause or causes is or are shown, then after considering such cause or causes, by order direct every person in respect of whom it is satisfied that he is in unauthorised occupation of the land to vacate the land within such time, not being less than thirty days from the date of the order as it may fix and to pay to the owner such compensation on account of the unauthorised occupation as it may deem fit to assess keeping in view the letting value of the land as well as the actual pecuniary loss, if any, sustained by the owner:

Provided that if in the case of an application which the Competent Authority can entertain it is of opinion after enquiry made under sub-section (2) that the case should be tried by a civil court, it shall not proceed further with the application and shall refer the parties to a civil court.

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(Section 4.)

(4) If any person against whom an order under sub-section (3) has been made directing him to vacate the land, refuses or fails to vacate the land within the time fixed by the Competent Authority, the order may be executed in the manner prescribed.

(5) The Competent Authority may, on an application supported by an affidavit made by any displaced person for refund of money obtained from such person by any person without lawful authority for allotment of land for unauthorised occupation, order refund of such sum as it may think just,

provided that no order shall be made without giving the person against whom such claim is made an opportunity of being heard and in case the allegations are found false and frivolous may take such steps against such person as may seem fit and proper.

4. (1) Notwithstanding anything contained in section 3, no order under sub-section (3) of that section shall be executed if the person in respect of whom the order has been made is a displaced person who on the 31st day of December, 1950, was in unauthorised occupation of any land, until the State Government provides for him in the prescribed manner—

Protection
of
displaced
persons.

(a) other land which in the opinion of the Competent Authority is situated in an area from where the displaced person would be able to carry on conveniently such occupation as he may have been engaged in for earning his livelihood at the time when the Competent Authority makes the order,

(b) and also a house on such other land, suitable for him in the opinion of the Competent Authority, if immediately before the Competent Authority makes the order he had a house on the land,

and pending the providing of such other land, and house (if any), the displaced person shall be permitted to use and occupy the land and house (if any), of which he was in unauthorised occupation on payment of such consideration periodically or otherwise to the owner as the Competent Authority may by order deem fit to assess.

(2) The State Government, on the application of the owner of any land or of its own motion, may, if it thinks fit so to do, acquire any land or any part thereof for a public purpose. Such acquisition shall be made under the provisions of the Land Acquisition Act, 1894:

I of 1894.

Provided that no land shall be acquired in pursuance of this section except with the consent of the owner thereof if the owner is entirely dependent for shelter or livelihood on such land.

Explanation.—In construing this Act and the Land Acquisition Act, 1894, the expression “public purpose” shall be deemed to include the rehabilitation of displaced persons.

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(Sections 5—10.)

Owner may apply for admitting as a tenant or lessee any person in unauthorised occupation.

5. The owner of any land if he desires to admit as a tenant or a lessee any person who is in unauthorised occupation of the land may apply to the Competent Authority to fix the premium and the rent payable therefor and the Competent Authority shall thereupon by order fix such premium and rent; and upon such premium and rent being fixed the person who is in unauthorised occupation of the land shall be admitted as a tenant or lessee on condition that he duly pays the premium and the rent so fixed.

Appeals.

6. (1) Any person aggrieved by an order of the Competent Authority under section 3 or under section 4 or under section 5 may, within thirty days from the date of the order, appeal to a Tribunal appointed by the State Government consisting of three persons including a Chairman who shall be a person who is or has been or is eligible to be a Judge of a High Court.

(2) The Tribunal may set aside, confirm or modify the order of the Competent Authority.

(3) The procedure of such appeals (including the procedure for the stay of execution of any order of the Competent Authority) shall be such as may be prescribed.

Use or occupation of land under section 4 not to create any interest.

7. The use or occupation of any land under section 4 shall not create in the person so using or occupying the land any interest in the land.

Competent Authority or Tribunal to have prescribed powers.

8. For the purpose of this Act the Competent Authority or the Tribunal may exercise such powers as may be prescribed.

Recovery of sums payable under order of Competent Authority or Tribunal.

9. Any sum payable under an order of the Competent Authority or of the Tribunal as consideration, compensation, premium or rent shall be recoverable—

(a) where it is payable to the State Government—as a sum recoverable under a decree of a civil court, or as a public demand, or

(b) where it is payable to an owner other than the State Government—as a sum recoverable under a decree of a civil court.

Bar of jurisdiction.

10. An order passed by the Tribunal on appeal under section 6, and save as provided in section 6, an order made by the Competent Authority under section 3 or section 4 or section 5 shall be final and shall not be called in question in any court or tribunal or by any authority.

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(Sections 11—13.)

11. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder. Indemnity.

(2) No suit or other legal proceeding shall lie against the State Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

12. (1) The State Government may make rules for carrying out the purposes of this Act. Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any matters required to be prescribed.

13. Nothing in this Act shall apply to any land which is evacuee property under section 3 of the West Bengal Evacuee Property Act, 1951. Act not to apply to evacuee property.

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