West Bengal Act XIII of 1962¹

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

[14th December, 1962.]

Wesl Ben. Acl XXXVI of 1963.

AMENDED

West Ben. Act XLIX of 1976.

An Acl to provide far the speedy eviction of unauthorised occupants

from public lauds.

Whereas it is expedient to provide for the speedy eviction of unauthorised occupants from public lands;

Ii is hereby enacted in the Thirteenth Year of ihe Republic of India, by the Legislature of West Bengal, as follows: \hat{o}

- 1. (1) This Act may be called the West Bengal Public Land (Eviction of Unauthorised Occupations) Act, 1962.
 - (2) II extends to the whole of West Bengal.

Short lille andexieni.

- 2. In this Acl, unless there is anything repugnant in the subject or $context,\hat{o}$
 - (1) "Collector" meansô
 - (a) in Calcutta, the Land Acquisition Collector, Calcutta, and

Dcfi nil ions.

(b) elsewhere, ihe Chief Officer in charge of ihe revenue administration of the district, and includes Man Additional District Magistrate, a Subdivisional Magistrate, and] any '[Executive Magistrate], specially appointed by the Stale Government lo perform all or any of the functions of a Collector under this Acl;

Explanation.ô In this clause "Calcutta" has the same meaning as in the Calcutta Municipal Act, 19SI.

- (2) "land" includes buildings and other things attached to the earlh or permanently fastened to things attached to the earth;
- (3) "notification" means a notification published in the Official Gazette;

For Statement of Objects and Reasons, see [he Calcutta Gazelle, Extraordinary of the 5ih November, 1962, Part IV A, page 3225: for proceedings of the West Bengal Legislative Assembly, see ihe proceedings ofihe meeting of that Assembly held on the 20th November. 1962: and for proceedings of the Wesl Bengal Legislative Council, see the proceedings of the meeting of thai Council held on the 22nd November. 1962.

TTiescwords within the squan: bracken were inserted bys. 2(1) of the Wesl Bengal Public Land (Evi ci i o n ofUnau Lhori sed Occupan is) (Amend meru) Aa, 1963 (Wcs i B c n. Act XX XVI 01*1963)

The words within ihe square brackets were substituted Tor the words "Onicer, not below the rank of a Magistrate af (he tint class," by s. 2 of the West Bengal Public Land (Eviclion of Unauthorised Occupants) (Amendment) Act, 1976 (West Ben. Act XLIX of 1976).

WcsiBcn, AciXXXm of] 95 J.

Occupants) Act, 1962.

[West Ben. Act

(Section 3.)

- '(4) "owner" meansô
 - (a) in relation to any land belonging to, or taken on lease by, or requisitioned by or on behalf of, ihe Slate Government, that Government, and
 - (b) in relation to any land belonging lo, or taken on lease by, a local authority, eompany or corporation, such local authority, company or corporation, as the case may be;
- (5) "person concerned" in relation lo any public land, means any
- person who is in the use or occupation of the public land; "prescribed" means prescribed by rules made under this Act;
- (7) "public land" means any land belonging to, or taken on lease by, the Slate Government, a local authority, a Government company or a corporation owned or controlled by the Central or ihe State Government and includes any land requisitioned by, or on behalf of iheState Government, but does noinclude a Government road or a highway within Ihe meaning of the Bengal Highways Act, 1925, or any other law for the lime Ben. AciIII being in force on ihe subject;

Explanation.ô In this clause "Government company" means a Government company wilhin the meaning of section 617 of the Companies Act, 1956.

(8) "unauthorised occupation", in relation to any public land means ihe use or occupation by any person of Ihe public land without authority in writing by or on behalf of the owner thereof-'[and includes the continued use or occupation of any such land on the expiry or termination of such authority.]

3. (I) If, in respect of any public land, the Collector is of opinion, staweause ${}^{u}P^{on} {}^{a}PP^{uca,on}$ made by an officer of the owner of the public land against order authorised in this behalf by such owner or upon information received foreviction otherwise, that the public land is in the unaulhorised occupation of unauthorised any person or persons, the Collector shall issue ^J{a notice in such form ftom'pijblic ^{anc, conla}ining ^{such} particulars as may be prescribed calling land. upon all persons concernd] lo show cause before such dale, not being

less than fifteen days after the date of ihe notice, as may be specified

Substituted for the existing clause (<1) by s. 2(2) of the West Bengal Public Land (Eviction of Unauthorised Occupant) (Amendment) Act,

SubMuutedlbrlhe existing clause (7) bys. 2(2).ibitl. These words were added by s. 2(4). ibid.

É

'Substituted for the words "n noticecnllinp, unonnll persons concerned" bvs. 3. ibid.

1963 (West Ben, Act XXXVI of 1963).

of 1925.

425

The West Bengal Public Land (Eviction of Unauthorised Occupants) A ct, ¹ 1 962.

XIII of 1962.]

(Sections 4, 4A.)

in the notice why an order under '* * * * sub-section (1) of section 4 should not be made, and shall cause it lo be served in the manner referred lo in sub-section (2). Intimation of Lhc dale so specified shall be given to the owner of the public land and lo its officer authorised under this sub-section.

- (2) A notice issued under sub-section (I) shall be served by affixing ii on a conspicuous part of ihe public land concerned and in such other manner as may be prescribed.
- (3) A noiicc served in the manner referred to in sub-section (2) shall be deemed lo have been duly served.
- ²4. (1) If after considering the cause, if any, shown by any person in pursuance of a notice issued under section 3 and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the Collector is satisfied lhai ihe public land is in unauthorised occupation, he shall make an order of eviction directing all persons in such unauthorised occupation to vacate ihe public land and deliver possession lhcrcof to ihe owner within such lime as may be specified in the order.
- (2) The Collector shall cause a copy of the order made under subsection (1) lo be served in the manner referred to in sub-section (2) of section 3.
- ^J4A, When an order of eviction has been made under sub-Poweno section (1) of section 4 in respect of any public land, ihe Collector may, upon application made by an officer of the owner of the public land authorised in this behalf by the owner, make an order directing any person who is, or has at any lime been, in unauthorised occupation of the public land to pay for Ihe period during which he has or had been in such occupation, damages al such rale noi exceeding *per annum*
 - (i) in (he case of agricultural land, twenty-five *per centum* of the money value of the gross annual produce of such land,

and

The words, brackets and letter "clause (a) or' were omitted by s. 3 of the West Bengal Public Land (E^clion of Unauthorised Occupants) (Amendment) Act, 1976 (West Ben. Act XLtXof 1976).

Section 4 was first substituted by s. 4 of lhc West Bengal Public Land (Eviction of Unauthorised Occupants) (Amendment) Act. 1963. (West Ben. Act XXX VI of 1963). Thereafter, the same was resubstituted bys. 4 of the West Bengal Land (Eviction of Unauthorised Occupants) (Amendment)

Aci, 1976 (West Ben.ActXLIXofl976).

Section 4A was first substituted by s. 4 of the West Bengal hiblic Land (Eviction of Unaulhorised Occupants) (Amendment) Act, 1963 (West Ben. Acl XXXVI of 1963). Thereafter, ihe some was resubslituted by s. 5 of the West Bengal Public L.-md (Eviction of Unauthorised Occupanis)(Amendment)Acl. 1976</br>

Order of eviction of persons in unauthorised occupation from public land

[West Ben. Act

(Sections 5-7.)

(ii) in any other case, ten per centum of ihe market value oflhe land, within such lime as may be specified in the order:

Provided that no such order shall be made against any person without giving him an opportunity or showing cause against the order proposed to be made.

¹5. (1) If, in respect of any public land or pari thereof, any person concerned refuses or fails to comply with an order made under subsection (1) of section 4 within the lime specified in the order, the Collector shall enforce delivery of possession of such public land or part thereof to the owner after evicting ihe person concerned and for this purpose the Collector, or any officer authorised by him, may take such steps or use such force

Collector's power io as may be necessary. enforce (2) The costs of enforcing such delivery of possession after evicting the person delivery of

concerned shall be payable by Ihe person concerned within such time as the Collector may, by order, direct. 6. Any sums payable by any person as damages or costs under an order of the

Collector under this Acl shall be recoverable as a public demand. ⁷6A. (1) Where any person has been evicted from any public land under section 4, the Collector may, after giving fourteen days' notice to the person from whom

possession of the land has been taken, remove or cause to be removed or dispose of by public auction any property remaining on such land. (2) Where any property is sold under sub-section (t), the sale proceeds thereof shall, after deducting the expenses of the sale and the amount, if any, due to the

Collector or to the owner of the public land on account of arrears of rent or damages or costs, be paid to such person as may appear to the Collector to-be entitled to the same.

^sl. (1) An appeal from an order made under this Acl shall lie toô

(a) the Commissioner of the Division, where the order is made by the Collector, and

(b) the Collector, where ihe order is made by an officer specially appointed under sub-clause (b) of clause (1) or section 2,

if preferred within fiften days from Ihe dat of the order appealed against and the decision or the Commissioner or the Collector, as the case may he, on such appeal shall, subject to the provisions of sub-section (2), be final:

'Section 5 was subsli luted for the original section by s, 6 of the West Bengal Public Land (Evielion of Unauthorised Occupants) (Amendment) Ao. 1976 (West Ben. Acl XLIX of 1976).

'Section 6A was inserted bys. 7, *ibid*.

Appeal

JSpt4linn 7 wrK ^nhsliiu^H fnrrhf>nn<>innl hv c 8 ihtrf

426

by evicting

unauthorise

occupants.

Damages

and easts

recoverable

as public do nun d.

Disposal or pro perry left on

public land by

unauthorised

occupan is.

Xin of 1962.]

(Sections 7A-9.)

Provided that [he appellate authority on being satisfied (hat the appellant was prevented by sufficient cause from filing lhc appeal in lime may entertain the appeal even nfier the expiry of the said period of fifteen days.

(2) The Stale Government may, of its own moiion or on an application made to it by any person aggrieved against the order of ihe appellate authority within thirty days from the date of such order, on grounds of gross error of facts or of law or of both facts and law, call for and examine the record of lhc appeal and may make such orders thereon as il thinks fit.

Explanation.ô In this section 'Collector' does noi include an'officer specially appointed under sub-clause (b) of clause (1) of section 2.

- ¹7A -(1) Whoever wilfully obstructs the Collector, or any person authorised by him, in discharging his duties under the provisions of this Act, shall, on conviction before a Judicial Magistrate, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.
- (2) An offence punishable under sub-section (1> shall be cognizable and bailable.
- 8. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Acl or any rule or order made thereunder.
- ^J8A. No civil court shall have jurisdiction to decide or deal with any question which is by or under this Act required lo be decided or dealt with under the provisions of this Act.
- 9. (1) The Slate Government may, by notification, make ¹rules for canying Dut the purposes of this Acl.
- [2) In particular and without prejudice to the generality of the foregoing power the Slate Government may make rules with respect to 11 or any of the following matters, namely:ô
 - (a) the forms and the manner of service of notices under this Acl;
 - (b) the procedure lo be followed and the fees, if any, payable in appeals under section 7;

'Section 7 A was inserted by s. 5 ofihe Wesi BengaJ Public Land (Eviction of Unauthorised Occupants) (Amendment) Act, 1963 (West Ben. Acl XXXVI ol" 19G3),

⁵Sub-scclion (1) was substituted Tor the original sub-section by s. 9 of the West Bengal Public Land (Eviction of Unauthorised Occupants) (Amendment) Act, [976 (West Ben. Acl XLIX of 1976). ^Section 8 A was inserted by 5.10, ibid.

For Ihe Wesl Bengal Public Land (Eviction or Unauthorised Occupants) Rules, 1963. see notification No 3666-L. Ref., dated itK 7th March, 1963, published in the Calcium Gazelle. Extraordinary, of 1963, Pan I. pages 539-540, as subsequently amended.

Penalty for obstructing Collector or person authorised by Collector.

Indemnity

jurisdiction o ("civil courts.

Power 10 make rules,

[West Ben. Act Xm of 1962.]

(Sections 10, 11.)

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

Application. 10. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any law for the time being in force other than the Indian Penal Code, 1860 or the Code of Criminal Procedure, 1898, but shall not apply in respect of the use or occupation of any public land by a displaced person as defined in clause (L) of section 2 of the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act, 1951, in respect of which an application for eviction has been entertained under subsection (1) of section 3 of thai Act.

AclXLVof I860, Acl V of 1S98, Wwi Ben. Ad XVI of 1951.

- 11. (1) The West Bengal Public Land (Eviction of Unauthorised Occupants) Ordinance, 1962, is hereby repealed.
- (2) Anything done or any action taken under the said Ordinance shall be deemed to have been validly done or taken under this Acl as if this Acl had commenced on the 8ih day of September, 1962.

Repeal and savings.

West Ben. Ord.VI of 1962.