

Andhra Pradesh Public Premises (Eviction Of Unauthorised Occupants) Act, 1968

20 of 1968

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Andhra Pradesh Public Premises (Eviction Of Unauthorised Occupants) Act, 1968

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An Act to provide for the eviction of unauthorised occupants from public premises and for matters connected therewith.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Nineteenth Year of the Republic of India as follows:--

1. Short title and extent :-

(1) This Act, may be called the Andhra Pradesh Public Premises

(Eviction of Unauthorised Occupants) Act, 1968.

(2) It extends to the whole of the State of Andhra Pradesh.

2. Definitions :-

In this Act, unless the context otherwise requires,--

(a) "corporate authority" means--

(i) any local authority,

(ii) any company or corporation referred to in clause (d);

(aa) "estate officer" means an officer appointed as such by the Government under section 3;

(b) "Government" means the State Government;

(c) "Notification" means a notification published in Andhra Pradesh Gazette and the expression "notified" shall be construed accordingly;

(d) "Public Premises" means any premises belonging to, or "taken" on lease or requisitioned by, or on behalf of the Government; and includes any premises belonging to, or taken on lease by, or on behalf of--

(i) any local authority,

(ii) any company as defined in section 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 Government, and

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

(e) "premises" means any land or building or part thereof and includes--

(i) out houses, gardens, grounds and vacant sites, if any appertaining to such building or part of a building,

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

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

(g) "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, where such charge or tax is payable by the Government or corporate authority;

(h) "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 Officer :-

The Government may, by notification--

- (a) appoint such persons, being gazetted officers of Government, or officers of equivalent rank of corporate authority as they think fit, to be estate officers for the purpose of this Act; 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 officer 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 all 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, 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 the date of issue thereof.

(3) the estate officer shall cause the notice to be served by having it 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.

(4) Where the estate officer knows or has reason to believe that any person is in occupation of the public premises, then without prejudice to the provisions of sub-section (3), he shall cause a copy of the notice to be served on every such person by registered post

or by delivering or tendering it to that person or in such other manner as may be prescribed.

5. Eviction of unauthorised occupants :-

(1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence he may produce in support of the same and after giving him an opportunity of being heard, the estate officer is satisfied that the public premises are in unauthorised occupation, the estate officer may, for reasons to be recorded, on a date to be fixed for the purpose, make an order of eviction, directing that the public premises shall be vacated by all persons who may be in occupation 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-section (1), the estate officer or any other officer duly authorised by the estate officer in this behalf may evict that person from, and take possession of, the public premises and may, for that purpose, use such force as may be necessary.

6. Disposal of property left on public premises by unauthorised occupants :-

(1) Where any person has been evicted from any public premises under section 5, 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 remaining on such premises.

(2) Where any property is sold under sub-section (1), the sale proceeds, shall, after deducting the expenses of the sale and the amount, if any, due to the Government or corporate authority on account of arrears of rent or damages or 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.

7. Power to recover rent or damages in respect of public premises as arrears of land revenue :-

(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 instalments as may be specified in the order.

(2) Where any person is, or has at any time (whether before or after the commencement of this Act) 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 instalments as may be specified in the order.

(3) No order under sub-section (1) or sub-section (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 be made, and until his objections, and any evidence he may produce in support of the same, have been considered by the estate officer.

8. Power of estate officer :-

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 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.

9. Appeals :-

(1) An appeal shall lie from every order of the estate officer made in respect of any public premises under section 5 or section 7 to an appellate officer who shall be the District Judge of the district in which the public premises are situate or such other judicial officer in that district of not less than ten years standing as the District Judge may designate in this behalf.

(2) An appeal under sub-section (1) shall be preferred,--

- (a) in the case of an appeal from an order under section 5, within

fifteen days from the date of publication of the order under sub-section (1) of that section; and

(b) in the case of an appeal from an order under section 7 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 thirty 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 pending may stay the enforcement of that order for such periods on such conditions as he deems fit the appellate officer, pending disposal of the said appeal, unless the appellate officer is satisfied,--

(i) that substantial loss may result to the party applying for stay, unless the order is made; and

(ii) that security has been given by the appellant for the due performance of such order as may ultimately be binding upon him.

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

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

(6) An order made by an appellate officer, shall be executable by the estate officer concerned as if it were an order made by him under sub-section (1) of section 5 or section 7, as the case may be.

(7) For the purposes of this section, the cities of Hyderabad and Secunderabad shall be deemed to be a district judge and the Chief Judge or the Principal Judge of the City Civil Court therein shall be deemed to be the District Judge of the district.

10. 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 execution 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.

11. Bar of Jurisdiction :-

No Court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorised

occupation of any public premises or, the recovery of the arrears of rent payable under sub-section (1) of section 7 of the damages payable under sub-section (2) of the section or the cost awarded to the Government or the corporate authority under sub-section (5) of section 9 or any portion of such rent, damages or costs.

12. 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 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-section (1) may make an order for evicting 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.

13. Power to obtain information :-

If the estate officer has reason to believe that any person is in unauthorised occupation of any public premises, the estate officer or any other officer authorised by him in this behalf may require such person or any other person to furnish information relating to the names and 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.

14. Liability of heirs and legal representatives :-

(1) Where any person against whom any proceeding for determination of arrears of rent or for the assessment of damages 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 Government or corporate authority from any person whether by way of arrears of rent or damages or costs 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.

15. Recovery of rent, etc., as an arrear of land revenue :-

If any person refuses or fails to pay the arrears or rent payable under sub-section (1) of section 7 or the damages payable under sub-section (2) of that section or costs awarded to the Government or corporate authority under sub-section (5) of section 9, or any portion of such rent, damages or costs, within the time, if any specified therefor in the order relating thereto, the estate officer may issue a certificate for the amount due to the District Collector who shall proceed to recover the same as an arrear of land revenue.

16. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against the Central Government or the corporate authority or the appellate officers or 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.

17. Delegation of powers :-

The Government, may, by notification, in the direct that any power exercisable by them under this Act, shall subject to such conditions, if any, as may be specified in the notification be exercisable also by a State Government or an officer of the State Government.

18. Power to make rules :-

(1) The Central Government may, by notification; 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 one 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.

(g) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this section shall immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session, or in two successive sessions, and if before the expiration of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or in the annulments of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, 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.

19. Andhra Pradesh Land Encroachment Act, not to apply to garden, etc., appertaining to public premises :-

The provisions of the Andhra Pradesh Land Encroachment Act, 1905 shall not apply to the garden, ground or vacant site, appertaining to any public premises. Section 20 - Repeal of Act XXXVIII of 1961

(1) The Andhra Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1961 is hereby repealed.

(2) Upon such repeal the provisions of sections 8 and 11 of the Andhra Pradesh General Clauses Act, 1891 shall apply:

Provided that all proceedings pending before any officer or authority under the provisions of the repealed Act, may be continued by the appropriate officer or authority under this Act, as if this Act had been in force on the day on which the said proceedings were instituted.

20. Repeal of Act XXXVIII of 1961 :-

(1) The Andhra Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1961 is hereby repealed.

(2) Upon such repeal the provisions of sections 8 and 11 of the Andhra Pradesh General Clauses Act, 1891 shall apply:

Provided that all proceedings pending before any officer or authority under the provisions of the repealed Act, may be continued by the appropriate officer or authority under this Act, as if this Act had been in force on the day on which the said

proceedings were instituted.