

Kerala Land Development Corporation Limited (Special Powers) Act, 1974

5 of 1974

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Kerala Land Development Corporation Limited (Special Powers) Act, 1974

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An Act to invest the Kerala Land Development Corporation Limited

with certain powers to facilitate the execution of Land Development schemes in the State of Kerala. WHEREAS it is expedient to invest the Kerala Land Development Corporation Limited with certain powers to facilitate the execution of land development schemes in the State of Kerala. BE it enacted in the Twenty-fifth Year of the Republic of India as follows:-

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Kerala Land Development Corporation Limited (Special Powers) Act, 1974.

(2) It extends to the whole of the State of Kerala

(3) It shall be deemed to have come into force on the 21st day of November, 1973.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) appellate authority means an officer not below the rank of Deputy Collector, appointed by the Government to be an appellate authority for the purposes of this Act;]

(aa) "Corporation" means the Kerala Land Development Corporation Limited, registered under the Companies Act, 1956 (Central Act 1 of 1956) ;

(b) "cost of works" shall not include charges for establishment and supervision;

(c) "Inquiring Officer" means an officer appointed as such by the Corporation or by the Government or by an Officer authorised by the Government in this behalf;]

(d)"owner" means any person for the time being receiving or entitled to receive, whether on his own account, or as agent, trustee, guardian, manager or receiver for another person, rent or profit derivable from land, and includes a tenant, an occupant or mortgagee in possession of land;

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

(f) "record of rights" means the record of rights and liabilities prepared under section 14;

(g) "scheme" means any land development scheme prepared or to be prepared under this Act;

(h) "work" means any work of public utility constructed erected or carried out or to be constructed, erected or carried out under any scheme under this Act.

3. Preparation Of Land Development Schemes :-

(1) Whenever the Corporation is of opinion that it is expedient and in the public interest to execute a scheme in any area, it may prepare a draft scheme containing the following particulars, namely;-

- (a) the object of the scheme;
- (b) the boundaries and approximate area, of land to be included in the scheme;
- (c) [xxx]
- (d) the work to be carried out under the scheme; and
- (e) such other particulars as may be prescribed.

(2) On the preparation of a draft scheme under sub-section (1), [the Corporation or the Government or an officer authorised by the Government in this behalf shall appoint an Inquiring Officer] for the purpose hereinafter specified.

4. Matters For Which A Scheme May Provide :-

A draft scheme prepared under section 3 may provide for all or any of the following matters, namely:-

- (a) control and prevention of soil erosion;
- (b) preservation and improvement of soil;
- (c) reclamation of waste, saline or water-lodged areas;
- (d) improvement in the methods of cultivation and extension of cultivation;
- (e) construction of earth and masonry works in fields, gullies and ravines, including construction of catch water drains and contour bunding whenever necessary;
- (f) construction of permanent bunds in water logged lands for increasing agricultural production;
- (g) control and maintenance of tree growth;
- (h) improvement of water supply;
- (i) consolidation of the holdings of cultivators in an area for the better use of land;
- (j) draining of canals, streams and rivers to prevent bank erosion;
- (k) providing pumpsets and platforms for erection of such pumpsets for dewatering process;
- (l) providing channels for watering and dewatering purposes; and
- (m) such other matters, not inconsistent with the objects of this Act, as may be prescribed.

5. Publications Of Scheme And Inviting Objections :-

(1) Copies of the draft scheme together with the connected maps and plans, if any, shall be made available by the Corporation for inspection by the public, free of charge,-

(a) in every village in which the lands included in the scheme are situate;

(b) in the office of every local authority within whose jurisdiction the lands included in the scheme are situate;

(c) at the headquarters of the taluk in which such lands are situate; and

(d) at such other places as the Corporation may direct.

(2) A general notice shall be published in two or more news papers having wide circulation in the locality as may be determined by the corporation;]

(a) intimating that the draft scheme has been prepared and that copies thereof have been kept and may be inspected by the public free of charge, at the places referred to in sub-section (1);

(b) requiring all persons affected by the draft scheme who wish to make any objections to it or any part thereof to submit their objections in writing to the Inquiring Officer or to appear before him and state their objections within thirty days of the publication of the notice or within such further period not exceeding fifteen days as such officer may for sufficient reasons allow.]

(3) [xxx]

6. Report Of The Inquiring Officer :-

The Inquiring Officer shall inquire into the objections received or recorded by him and submit them to the Corporation together with his report thereon and his recommendations, if any, for the modification of the draft scheme.

7. Decision To Execute Or Abandon Scheme Or Reference To Government For Sanction :-

(1) After considering the objections and the reports and recommendations, if any, submitted by the Inquiring Officer under section 6, the Corporation may either decided to execute the scheme with or without modifications or abandon the scheme;

Provided that the Corporation shall submit the scheme to the Government for their orders-

(a) where the owners of more than fifty per cent of the area of the lands included in the scheme, other than Government lands

included in the scheme, or

(b) where more than sixty per cent of the owners of the land included in the scheme, other than the Government, have made objections to the draft scheme or part thereof and the Corporation is of opinion that the scheme should be executed with or without modifications.

(2) Where a draft scheme is submitted to the Government under sub-section (1), they may sanction the draft scheme with or without modifications or may reject it or may direct that a fresh scheme be prepared.

8. Publication Of Scheme :-

(1) The scheme as decided to be executed by the Corporation or as sanctioned by the Government shall be published at the places referred to in sub-section (1) of section 5.

(2) A general notice specifying the places at which the scheme has been published and intimating the public that the same may be inspected at those places free of charge shall also be published in the newspaper which, in the opinion of the Corporation, has the widest circulation in the locality.

(3) The publication of the scheme under sub-section (1) and the publication of the notice under sub-section (2) shall be conclusive evidence that the scheme has been duly framed.

9. Power To Enforce Scheme :-

(1) Upon the publication of a scheme under section 8, it shall be lawful for the Corporation to take up any work which is to be executed under the scheme.

(2) Nothing contained in sub-section (1) shall be deemed to prevent the Corporation from entrusting any work to be executed under the scheme to the owner of the land on which the work is to be executed or to a padasekharan committee constituted under the Kerala Land Development Act, 1964 (17 of 1964), or to any other Person.

(3) Where the Government are the owner of any land included in the scheme, the Government or the Corporation shall carry out the work on that land.

10. Liability Of Certain Persons To Pay Cost Or To Contribute :-

(1) Every owner of land included in the scheme shall pay the cost or part of the cost, as the case may be, of the work which under the scheme is carried out by the Corporation and has benefited his land.

(2) If, in consequence of any work carried out by the Corporation under section 9, any person (including the Government) other than the owners of lands included in the scheme, is, or is, likely, in the opinion of the Corporation, to be, benefited by such work, such person shall pay to the Corporation, by way of contribution, such amount within such time and in such manner as the Corporation may determine, and such contribution shall be adjusted against the cost of such work payable by the owners of lands included in the scheme in accordance with such principles as may be prescribed: Provided that before any person is required to pay any such contribution, he shall be given a reasonable opportunity of making this representation, if any, in regard to the matter.

(3) If default is made by the person in the payment of the cost or part of the cost, as the case may be payable by him under sub-section (1) within the period specified in the statement prepared under section 14 or of any contribution under sub-section (2) within the time determined in that behalf under that sub section, the Corporation shall recover the amount from that person.

11. Liability To Pay Interest :-

Every person liable to pay the cost or part of the cost of any work under sub-section (1) of section 10 or to pay any contribution under sub-section (2) of that section or to pay expenses under sub-section (2) of section 15 shall be liable to pay interest on such cost, part of the cost contribution or expenses, as the case may be, at such rate and with effect from such date as may be prescribed.

12. Right Of Entry :-

Any director or officer or servant of the Corporation may enter upon, survey and mark out any land and do all such other acts as may be necessary for the purpose of preparing, inquiring into or executing any scheme or for the purpose of inspecting any work.

13. Declaration Of Completion Of Work :-

As soon as may be after the execution of the works under a scheme, the Corporation shall, by notification in the Gazette,

publish a declaration to that effect and such declaration shall be conclusive evidence that the execution of the works has been completed.

14. Record Of Rights And Liabilities :-

(1) The Corporation shall, as soon as may be after the publication of the declaration under section 13, prepare a statement setting out--

- (a) the names of the owners of the land included in the scheme;
- (b) a map and plan showing the situation, nature and dimensions of the works under the scheme;
- (c) the cost of such works;
- (d) the total amount to be recovered from the owners including interest;
- (e) the principles of apportionment of the cost of such works;]
- (f) the periods within which such amount is to be recovered;
- (g) in regard to each such work, the owner or owners liable to maintain and repair it, and the extent of the liability of each such owner;
- (h) restrictions, if any, on the rights of the owners as regard the use of any such work; and]
- (i) such other matters as may be prescribed.

(2) After a statement as aforesaid has been prepared, a notice shall be published in the prescribed manner intimating that such a statement has been prepared and that it may be inspected at such places as may be specified in the notice.

(3) A copy of the relevant extracts from the statement] prepared under sub-section (1) shall also be served on every owner of the lands included In the scheme.

(4) Any person aggrieved by any entry in the statement prepared under sub-section (1) may file his objection to the Corporation within fifteen days of the service of the extracts under sub-section (3), and the Corporation shall, after giving such person an opportunity of being heard, decide the objection.]

14A. Interim Payment Of Cost :-

(1) Every owner benefited by any work under a scheme shall, on demand by the Corporation at any time after his land has been made fit for enjoying the benefit and before the publication of the statement under sub-section (2) of section 14, be liable to pay the estimated cost of such work, in such manner and in such number of instalments as may be specified by the Corporation.

(2) Any amount paid under sub-section (1) shall be adjusted towards the cost

payable by him under section 10.

14B. Additional Liability To Be Apportioned Among Owners

:-

(1) If as a result of any modification in appeal or otherwise of the statement prepared under sub-section (1) of section 14 the cost of the works under a scheme exceeds the cost specified in the statement prepared under that sub-section, the Corporation may apportion the difference among the owners of the lands benefited by the scheme in the same proportion in which the cost has been apportioned among them.

(2) The provisions of this Act shall, so far as may be, apply in relation to the amount payable under sub-section (1) as they apply in relation to the cost specified in the statement prepared under sub-section (1) of section 14].

15. Obligation Of Owners Of Lands To Maintain And Repair Works :-

(1) Every person shown in the statement prepared under section 14 as liable to maintain and repair any work shall, to the satisfaction of the Corporation, maintain and repair that work in his own land and in any other land in respect of which he is shown as liable in the said statement.

(2) If any person liable to maintain or repair a work fails to do so, the Corporation shall issue a notice to him requiring him to maintain or repair it within a period to be specified in such notice and, on his failure to comply with such direction within the time fixed by the Corporation, the Corporation shall cause, the work to be maintained or repaired, and the expenses incurred thereby shall be recovered from the owner and such other persons, if any, liable to contribute.

(3) Any dispute as to the amount to be recovered under sub section (2) shall be decided by the Corporation and such decision shall, subject to the provisions of section 16, be final.

16. Appeals :-

(1) Any owner or other person liable under section 10 to pay the cost or part of the cost of any work or to pay any amount by way of contribution, who objects to such liability, or any owner or other person who is aggrieved by any decision of the Corporation under sub-section (4) of section 14 or under sub-section (3) of section 15, may within such time as may be prescribed, appeal to the appellate authority.

(1a) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant and the Corporation a

reasonable opportunity of being heard either in person or by a representative pass such order on the appeal as it deems fit.]

(2) The order of the appellate authority] in an appeal under sub-section (1) shall be final.

(3) [xxx]

(4) Whereas a result of an order under sub-section (2), any modification to the statement prepared under sub-section (1) of section 14 becomes necessary, the Corporation shall revise the statement in accordance with such order.

(5) Where a statement is revised as aforesaid, notice shall be given of the fact of such revision in the prescribed manner.

17. Rectification Of Mistakes :-

At any time within one year from the date of any order passed by it, the Corporation may, on its own motion, rectify any mistake apparent from the record, and shall, within a like period, rectify any such mistake which has been brought to the notice of the Corporation by any person affected by any order issued under this Act:

Provided that no such rectification shall be made which has the effect of enhancing the liability of any person unless that person has been given a reasonable opportunity of being heard in the matter.

18. Amounts Due To Corporation To Be First Charge :-

All amounts due to the Corporation from any owner of land under sub-section (1) of section 10 as the cost, or part of the cost of any work carried out by the Corporation or towards expenses incurred by the Corporation for maintaining or repairing any work, or from any person as contribution under sub-section (2) of section 10, together with interest thereon, shall, subject to any charge for basic tax or other taxes, cesses or other amounts due to the Government, or a local authority, be a first charge on the land benefited by such work and upon the movable property, if any, found within or upon the same and belonging to such person.

Explanation.-In this section, "basic tax" means the tax payable under the Kerala Land Tax Act, 1961 (13 of 1961).

19. Recovery Of Money :-

Without prejudice to any other mode of recovery, any sum of

money payable by any owner of land or other person to the Corporation under the provisions of this Act shall on the issue of a certificate by the Corporation in that behalf, be recoverable from the defaulting person as arrears of public revenue due on land under the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968).

20. Service Of Notice :-

Any notice required to be served on or given to any person under this Act shall be deemed to be duly served or given-

- (i) if the notice is addressed to that person and is given or tendered to him; or
- (ii) where that person cannot be found, if it is affixed on some conspicuous part of his last known place of residence or business or is tendered to some adult member or his family or is affixed on some conspicuous part of the land to which it relates; or
- (iii) if it is sent by registered post to that person at his last known place of residence or business.

21. Scheme Not To Be Invalidated :-

21A. Delegation Of Powers And Functions Of Corporation :-

The Corporation may delegate any of its powers and functions under this Act to the Managing Director of the Corporation or to any Committee of Directors of the Corporation consisting of two or more such Directors.

21B. Execution Of Agreement For Certain Purposes :-

Nothing contained in this Act shall be deemed to prevent any person from entering into an agreement with the Corporation regarding payment of the cost in advance; the mode and manner of payment of the cost and interest thereon and such other matters connected therewith, and where such an agreement is executed, the matters specified therein shall be regulated in accordance with the provision of such agreement.]

22. Directions By Government :-

(1) The Government may give to the Corporation general instructions, not inconsistent with the Companies Act, 1956 (Central Act 1 of 1956) or the Memorandum or Articles of Association of the Corporation, to be followed by the Corporation.

(2) In the exercise of its powers and performance of its duties under this Act, the Corporation shall not depart from any general

instructions issued under sub-section (1) except with the previous permission of the Government.

23. Members And Servants Of Corporation To Be Public Servants :-

All members of the Corporation and all officers and servants of the Corporation shall be deemed, while, acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

24. Protection Of Persons Acting In Good Faith, Limitation Of Suits And Procecutions :-

(1) No suit, prosecution or other legal proceedings shall lie against the Government for any act done or purporting to be done under this Act or any rule made thereunder.

(2) No suit, prosecution or other legal proceedings shall be instituted against the Corporation or any public servant or any person duly authorised, under this Act in respect of anything in good faith done or intended to be done under this Act or any rule made thereunder.

(3) No suit, or prosecution shall be instituted against the Corporation or any public servant or any person duly authorised under this Act unless the suit or prosecution has been instituted within six months from the date of the Act complained of.

25. Power To Make Rules :-

(1) The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

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

(3) Repeal and saving.-

(1) The Kerala Land Development Corporation Limited (Special Powers) Ordinance, 1973 (15 of 1973). is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.