

**Land Acquisition (Maharashtra Amendment And Validation
Of Certain Proceedings For Acquisition Of Lands) Act, 1965**

24 of 1965

[26 March 1965]

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PREAMBLE

An Act further to amend the Land Acquisition Act, 1894 in its application to the State of Maharashtra and to validate certain acquisitions and certain proceedings for acquisition.

WHEREAS by the Commissioner, Bombay Division's Notification No. LAQ-B. 7244-B, dated 5th January, 1963 and No. LAQ-B. 7725, dated 20th March, 1963 under the Land Acquisition Act, 1894 (I of 1894) hereinafter referred to as "the principal Act") proceedings were taken for the acquisition of lands for the purposes specified in those notifications, namely, for development and utilisation of lands as an industrial area, and the former notification provided that as the Commissioner, Bombay Division, was of the opinion that the lands specified in the said notification were waste or arable, and that their acquisition was urgently necessary, the provisions of section 5A of the principal Act should not apply in respect of the said lands;

AND WHEREAS, the High Court in Special Civil Application No. 1024 of 1963 (S. S. Jhaveri v. The State of Maharashtra) has held that

the proceedings for acquisition of lands initiated under the Commissioner, Bombay Division's notifications aforesaid were void on the ground that -

(a) the Commissioner, Bombay Division, before issuing his Notification No. LAQ-B. 7725, dated the 20th March, 1963 did not apply his mind to the question whether the lands specified in that notification were being acquired for a public purpose or for a Company, because under an admitted mistake as to the source from which the funds came, he could never have come to a correct decision as to whether or not there existed a public purpose;

(b) as compensation was being paid by the Corporation constituted under the Maharashtra Industrial Development Act, 1961 (Mah. III of 1962) (hereinafter referred to as "the said Corporation") out of the sum advanced by way of loan by the State Government, the land was being acquired for the said Corporation which is a company within the meaning of the principal Act without following the provisions of Part VII of the principal Act;

(c) possession of those lands was taken under the provisions of section 17 of the principal Act although the lands were cultivated lands, and therefore, not "arable" lands within the meaning of the said section 17, read with clause (aa) of section 3, of the principal Act; and

(d) the Commissioner, Bombay Division did not apply his mind and state in the said notifications which lands were in fact arable, and which were in fact waste;

AND WHEREAS, in pursuance of notifications under the principal Act, proceedings have been or are being taken for the acquisition of lands by following more or less the same procedure which was followed in connection with the acquisition of lands specified in the notifications of the Commissioner, Bombay Division, which were held void by the High Court in Special Civil Application No. 1024 of 1963 aforesaid; and whereas, in certain acquisitions or proceedings for acquisition of lands, no statement has been made that the lands were waste or arable lands;

AND WHEREAS, after the date of the judgment in that case, certain lands were notified for acquisition and possession also taken, and those notifications have been cancelled and possession of the lands returned or is to be returned to the owners thereof in view of the judgment aforesaid;

AND WHEREAS, it is not possible to return the lands to the owners from whom they were taken in cases where the lands have already been developed, or have been disposed of with undertakings given

for the development of those lands; and whereas in some cases although lands are neither developed nor disposed of as aforesaid, it is not possible to return the lands to the owners thereof as that would interfere with the planning and development of industrial areas;

AND WHEREAS, it is necessary further to amend the principal Act and validate certain acquisitions and proceedings for acquisition of lands; It is hereby enacted in the Sixteenth Year of the Republic of India as follows :-

1. Short Title And Commencement :-

(1) This Act may be called the Land Acquisition (Maharashtra Amendment and Validation of Certain Proceedings for Acquisition of Lands) Act, 1965.

(2) It shall be deemed to have come into force on the 11th day of February, 1965.

1. For Statement of Objects and Reasons, see Bombay Government Gazette, 1965, Part V, Extra, p. 24.

2. Amendment Of Section 3 Of Act I Of 1894 :-

In section 3 of the Land Acquisition Act, 1894 (hereinafter referred to as "the principal Act"), for clause (aa), the following shall be and shall be deemed always to have been substituted, namely :-

"(aa) the expression arable land means land fit for cultivation, whether in fact cultivated or not; and includes garden land;"

3. Amendment Of Section 6 Of Act I Of 1894 :-

In section 6 of the principal Act, in sub-section (1), to the proviso, the following Explanation shall be and shall be deemed always to have been added, namely :-

"Explanation.- Where compensation to be awarded for such property is paid or to be paid out of any money provided by the State Government to a Company, being a corporation owned or controlled by the State, whether provided as loan, grant or otherwise howsoever, for the purpose of payment of the whole or part of the compensation, such compensation shall be deemed to be compensation paid or to be paid out of public revenues."

4. Amendment Of Section 17 Of Act I Of 1894 :-

In section 17 of the principal Act, after sub-section (4), the following Explanation shall be and shall be deemed always to have been inserted, namely :-

"Explanation. - It shall not be necessary for the purpose of sub-section (1) for taking possession of any waste or arable land, to state separately which lands are waste and which are arable".

5. Validation Of Certain Acquisitions And Proceedings For Acquisition Of Lands :-

(1) Notwithstanding anything contained in any judgment, decree or order of any Court, where any lands have been acquired or purported to be acquired, or where any proceedings have been taken or are being taken, for the acquisition of land for a public purposes or a Company, then subject to sub-section (2), every such acquisition or proceedings for acquisition shall be deemed to be valid and effectual, and shall not be invalid for any one or more of the following grounds, that is to say,-

(a) that any of the lands acquired or mentioned in any of the proceedings had been cultivated lands, and therefore were not "arable" lands; or

(b) that in respect of lands which were in fact waste or arable, in any proceedings or notifications no statement was made that they were waste or arable lands or in any proceedings or notifications it was not specified which of the lands were arable and which waste, and that the authority issuing any notification did not apply its mind to the question whether the lands were arable or waste at all, or which of the lands were in fact arable, and which were in fact waste; or

(c) that the whole or part of the compensation for such lands has been paid or is to be paid out of any sum provided, whether by way of loan, grant or otherwise howsoever by the State Government to a Company, such Company being a corporation owned or controlled by the State, and that since such sum had become part of the fund of the Company, and any part of the compensation was consequently not paid or to be paid out of public revenues, and that, therefore, Part VII of the principal Act should have been followed for the purposes of acquisition; and that the authority issuing any notification in respect of such lands did not know correctly the source of the compensation awarded or to be awarded, and therefore, did not apply its mind to the question whether the lands acquired or to be acquired, were for a public

purpose, or for a Company;

and accordingly, the acquisition, purported acquisition, or proceedings, shall not be questioned in any Court on any one or more of the grounds aforesaid, and any such lands acquired, or purported to be acquired shall be deemed to duly vest in the State Government, and such proceedings shall be deemed to be validly taken.

(2) The provisions of clause (c) of sub-section (1) shall not apply in respect of acquisitions or proceedings for acquisitions of lands -

(i) in Special Civil Application No. 1024 of 1963 (S. S. Jhaveri v. The State of Maharashtra) and Special Civil Application No. 1121 of 1963 (Jogindarlal Shamlal v. The State of Maharashtra);

(ii) in respect of which notifications under sections 4 and 6 under the principal Act have been cancelled and the possession of lands has been returned or is to be returned by reason of the fact that the notifications under the principal Act were issued after the date of the judgment in Special Civil Application No. 1024 of 1963 (S. S. Jhaveri v. The State of Maharashtra) and possession taken in pursuance thereof, and the lands were neither developed in any manner, nor disposed of.

6. Repeal :-

The Land Acquisition (Maharashtra Amendment and Validation of Certain Proceedings for Acquisition of Lands) Ordinance, 1965, is hereby repealed; and anything done or action taken by or under the Ordinance so repealed shall be deemed to have been done or taken under the principal Act as amended by this Act in so far as it is not inconsistent therewith.

NOTES

Objects and Reasons.- The High Court in Special Civil Application No. 1024 of 1963 (S. S. Jhaveri v. The State of Maharashtra) held that the proceedings for acquisition of lands initiated under the Commissioner. Bombay Divisions notifications under the Land Acquisition Act, 1894, were void on the several grounds set out in the Preamble. Acquisitions were made and proceedings have been taken or was being taken for acquisition of lands for a public purpose or a Company, by following more or less the same procedure followed by the Commissioner, Bombay Division. The decision of the High Court may have far reaching consequences in respect of acquisitions of lands and proceedings for acquisition both for a public purpose, and for Companies. The decision may also

effect the development of industrial areas. In order to avoid, this, the Land Acquisition (Maharashtra Amendment and Validation of Certain Proceedings for Acquisition of Lands Ordinance, 1965) (Mah. Ordinance II of 1965), was promulgated on 11th February, 1965, amending sections 3, 6 and 17 of the principal Act and validating certain acquisitions and certain proceedings for acquisition.

The Bill was intended to replace the Ordinance by an Act of the State Legislature.

Important Provisions

Section 1(2).- It provides that the Act shall come into force from 11th February, 1965.

Section 2.- It substitutes a new clause which defines the expression of "arable land".

Section 3.- It adds an explanation to the proviso of sub-section (1) of section 6 which explains that when a compensation is paid or to be paid out of any monies provided by the State Government to a Company being corporation owned or controlled by Government such compensation shall be deemed to have been paid out of public revenues.