

Madras Slum Improvement (Acquisition Of Land) Act, 1954

11 of 1954

[14 April 1954]

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SCHEDULE 1 :- Schedule

Madras Slum Improvement (Acquisition Of Land) Act, 1954

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PREAMBLE

An Act to provide for the acquisition of land in slum areas in the City of Madras.

Whereas there are a number of slum areas in the City of Madras which are likely to become a source of danger to the public health and sanitation of the City;

And whereas under the existing law, it has not been possible to provide for the basic needs of sewerage, water-supply and road and side-drains in these slum areas, without causing excessive financial strain on the owners of the lands affected;

And whereas to obviate this difficulty it is expedient first to acquire

the lands in those areas and thereafter to undertake the execution of works designed to improve those areas;

It is hereby enacted as follows:--

1. For Statement of Objects and Reasons, see Fort St. George Gazette, Extraordinary, dated the 19th December 1953, Part IV-A, page 145.

1. Short title, extent and commencement :-

(1) This Act may be called the Madras Slum Improvement (Acquisition of Land) Act, 1954.

(2) It extends to the whole of the City of Madras.

(3) It shall come into force at once.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context--

(a) Court means the Madras City Civil Court;

(b) land includes things attached to the earth or permanently fastened to anything attached to the earth;

(c) person interested, in relation to any land, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition of that land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

(d) prescribed means prescribed by rules made under this Act;

(e) slum area means any area declared to be a slum area under section 3, sub-section (1);

(f) all expressions not defined in this Act but defined in the Madras City Municipal Act, 1919 (Madras Act IV of 1919), shall have the respective meanings assigned to them in the latter Act.

3. Power to acquire land :-

(1) Where the State Government are satisfied that any area is or may be a source of danger to the public health, safety or convenience of its neighbourhood by reason of the area being low-lying, insanitary, squalid or otherwise, they may, by notification in the Fort St. George Gazette, declare such area to be a slum area.

(2) Where the State Government are satisfied that it is necessary to acquire any land in a slum area for the purpose of clearing or improving the area, they may acquire the land by publishing in the

Fort St. George Gazette a notice to the effect that they have decided to acquire it in pursuance of this section:

Provided that, before publishing such notice, the State Government shall call upon the owner of, or any other person who, in the opinion of the State Government, may be interested in, such land to show cause why it should not be, acquired; and after considering the cause, if any, shown by any person interested in the land, the State Government may pass such orders as they deem fit.

Explanation.--Cause shown by the person interested in the land may be against the declaration of the area as a slum area under sub-section (1) as well as against the necessity to acquire the land for the purpose of clearing or improving the area.

(3) When a notice as aforesaid is published in the Fort St. George Gazette, the land shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the State Government free from all encumbrances.

(4) The State Government may, by order, authorize any authority or officer subordinate to them to exercise all or any of the powers conferred and perform all or any of the duties imposed on them by this section, subject to such conditions and restrictions as may be specified in the order.

4. Transfer of land in a slum area by Government :-

(1) Where any land in a slum area has been acquired under this Act, the State Government may either hold the land under their own control and management and undertake the clearance or improvement of the slum area or transfer the land to the Corporation of Madras or the Board of Trustees for the Improvement of the City of Madras for the purpose of undertaking the clearance or improvement of the slum area; and in the latter case, the land shall vest in the Corporation or the Board of Trustees, as the case may be.

(2) Where land is transferred under sub-section (1) to the Corporation or the Board of Trustees, it shall be liable to pay the cost of acquisition of the land or of such portion hereof as the State Government may fix in each case.

(3) Where the State Government hold the land under their own control and management and undertake the clearance or improvement of the slum area, the cost of acquisition shall be borne by the persons to whom the land is allotted in parcels for residence and such cost shall be recoverable from them in such

proportion and in such manner as may be prescribed..

5. Right to receive compensation :-

Every person whose right, title or interest in any land is acquired under this Act shall be entitled to receive and be paid compensation as hereinafter provided.

6. Basis of determination of compensation :-

(1) The amount payable as compensation in respect of any land acquired under this Act shall be an amount equal to twelve times the net average annual income actually derived from such land during the period of five consecutive years immediately preceding the date of publication of the notice referred to in section 3, sub-section (2).

(2) The net average annual income referred to in subsection (1) shall be calculated in the manner and in accordance with the principles set out in the Schedule to this Act.

(3) The prescribed authority shall, after holding an inquiry in the prescribed manner, determine in accordance with the provisions of sub-section (2), the net average annual income actually derived from the land and publish a notice in the Fort St. George Gazette specifying the amount so determined and calling upon every person interested to intimate to it before a date specified in the notice whether such person agrees to the amount determined, and if not, what amount he claims to be the net average annual income actually derived from the land.

(4) (a) Any person who does not agree to the amount of the net average annual income determined by the prescribed authority under sub-section (3) and claims a sum in excess of that amount, may prefer an appeal to the Court within thirty days from the date specified in the notice referred to in that sub-section.

(b) Against any decision of the Court under clause (a), a second appeal on any question of law shall lie to the High Court within thirty days from the date of such decision if the amount claimed by the person concerned exceeds twenty-five thousand rupees.

7. Apportionment of compensation :-

(1) Where there are several persons interested, the prescribed authority shall determine the persons who in its opinion are entitled to the compensation and the amount payable to each of them.

(2) If any dispute arises as to the apportionment of the compensation or any part thereof, or as to the persons to whom the same or any part thereof is payable, the proscribed authority may refer such dispute to the decision of the Court; and the Court shall, in deciding any such dispute, follow, so far as may be, the provisions of Par III of the Land Acquisition Act, 1894 (Central Act I of 1894).

8. Payment of compensation or deposit of same in Court :-

(1) The prescribed authority shall tender payment of the compensation to the persons entitled thereto and shall pay it to them.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive compensation, or as to the apportionment of it, the prescribed authority shall deposit the amount of the compensation in the Court, and the Court shall deal with the amount so deposited in the manner laid down in sections 32 and 33 of the Land Acquisition Act, 1894 (Central Act I of 1894).

9. Payment of interest :-

When the amount of such compensation is not paid or deposited on or before taking possession of the land, the prescribed authority shall pay the amount with interest thereon at the rate of four per cent per annum from the time of so taking possession until it shall have been so paid or deposited.

10. Powers of prescribed authority :-

(1) The prescribed authority may, with a view to carrying out the purposes of section 5 or section 6 or section 7, by order, require any person to furnish such information in his possession relating to any land which is acquired under this Act as may be specified in such order.

(2) The prescribed authority shall, while holding an inquiry under section 6, sub-section (3), have all the powers of a Civil Court, while trying a suit, under the Code of Civil Procedure, 1908 (Central Act V of 1908), 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 any document;

- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any Court or office;
- (e) issuing commissions for examination of witnesses.

11. Service of notices and Orders :-

(1) Save as otherwise provided by this Act and subject to the provisions of this section, and of any rules that may be made under this Act, every notice issued or order made under this Act shall--

(a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Fort St. George Gazette; and

(b) in the case of any notice or order affecting an individual, corporation or firm, be served in the manner provided for the service of summons in rule 2 of Order XXIX, or rule 3 of order XXX, as the case may be, in the First Schedule to the Code of Civil Procedure, 1908 (Central Act V of 1908); and

(c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person--

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to the head of the office in which such person is employed or to any adult male member of the family of such person, or by affixing a copy of it on the outer door, or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or

(iii) failing service by these means, by post.

(2) Where the ownership of the land is in dispute or the persons interested in the land are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Fort St. George Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the land to which it relates.

12. Protection of action taken in good faith :-

(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 of any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government or the prescribed authority or any officer or authority

subordinate to the State Government or the prescribed authority, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

13. Bar of jurisdiction of Civil Courts :-

Save as otherwise expressly provided in this Act, no Civil Court shall have jurisdiction in respect of any matter which the Government or the prescribed authority is empowered by or under this Act, to determine, 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.

14. Power to make rules :-

The State Government may, by notification in the Fort St. George Gazette, make rules to carry out the purposes of this Act.

15. Application of the Act to certain pending cases of acquisition :-

The provisions of this Act shall, if the State Government so direct, apply also to any case or cases in which proceedings have been started before the commencement of this Act for the acquisition of any land in a slum area under the Land Acquisition Act, 1894 (Central Act I of 1894) (hereinafter referred to as the said Act), but no award has been made by the Collector under section 11 of the said Act before such commencement, as if--

(i) the notification published under section 4, subsection (1), of the said Act, or

(ii) the declaration made under section 6 of the said Act, or

(iii) the notice given under section 9, sub-section (1), of the said Act,

were a notice to show cause against the acquisition of the land served by the State Government under the proviso to section 3, sub-section (2), of this Act.

16. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

SCHEDULE 1

Schedule

The Schedule.

[See section 6 (2).]

1. The not average annual income referred to in section 6, sub-section (1), shall be one-fifth of the gross rent actually derived by the owner, from the land acquired and the huts and buildings, if any, thereon, during the period of five consecutive years referred to in that sub-section after deducting municipal taxes, revenue charges and cost of repair for the said period of five years from such gross rent.
2. The gross rent shall be determined by the prescribed authority by local enquiry, and if necessary, by obtaining certified copies of extracts from the property tax assessment books of the Corporation showing the rental values of any such lands, huts or buildings. The cost of repairs to the huts and buildings on the land shall be calculated at the rate of one months rent per year in each case.
3. Where there are trees on the land acquired, the prescribed authority shall take into account the income, if any, actually derived by the owner from such trees during the said period of five years.
4. If the land, or the huts or buildings thereon remained unoccupied, or the owner has not been in receipt of any rent for the occupation of such land, huts or buildings during the whole or any part of the said period of five years, the gross rent shall be taken to be the income which, the owner would in fact have derived if the land, huts or buildings had been leased out or given for rent during the relevant period, and for this purpose the income actually derived from similar lands, huts or buildings in the vicinity shall be taken into account.