

# Andhra Pradesh Land Grabbing (Prohibition) Act, 1982

ANDHRA PRADESH

India

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### Act 12 of 1982

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Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 Act No. 12 of 1982 An Act to prohibit the activity of land grabbing in the State of Andhra Pradesh and to provide for matters connected therewith. Whereas there are organised attempts on the part of certain lawless persons operating individually and in groups, to grab, either by force or by deceit or otherwise, lands (whether belonging to the Government, a local authority, a religious or charitable institution or endowment, including a wakf, or any other private persons) who are known as "land grabbers". And whereas such land grabbers are forming bogus co-operative housing societies or setting up fictitious claims and indulging in large scale and unprecedented and fraudulent sales of lands belonging to the Government, local authority, religious or charitable institutions or endowments including a wakf or private persons, through unscrupulous real estate dealers or otherwise in favour of certain sections of the people resulting in large accumulation of unaccounted wealth and quick money to land grabbers And whereas, having regard to the resources and influence of the persons by whom, the large scale on which and the manner in which, the unlawful activity of land grabbing was, has been or is being organised and carried on in violation of law by them, as land grabbers in the State of Andhra Pradesh, and particularly in its urban areas, it is necessary to arrest and curb immediately such unlawful activity of land grabbing; And whereas public order is adversely affected by such unlawful activity of land grabbers. Be it enacted by the Legislature of the State of Andhra Pradesh in the Thirty-third year of the Republic of India as follows :

### 1. Short title, extent, application and commencement

(1) This Act may be called the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982. (2) It extends to the whole of the State of Andhra Pradesh. (3) It applies to all lands situated within the limits of urban agglomeration as defined in Clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976 (Central Act 33 of 1976) and a Municipality. (3A) It applies also to any other lands situated in such areas as the Government may, by notification, specify, having due regard

to,(a)the urbanisable nature of the land, or(b)the usefulness or potential usefulness of such land for commercial, industrial, pisciculture or prawn-culture purposes.(4)It shall be deemed to have come into force on the 29th June,1982.

## 2. Definitions

In this Act, unless the context otherwise requires,(a)\*\*\*(b)"Government" means the State Government;(c)"land" includes rights in or over land, benefits to arise out of land and buildings, structures and other things attached to the earth or permanently fastened to anything attached to the earth;(cc)"land belonging to a private person" means any land belonging to,(i)an evacuee;(ii)a military personnel, or(iii)any other private individual.The value or the extent of which or the nature of the evil involved shall be of substantial nature or in the interest of justice required.(d)"land grabber" means a person or a group of persons who commits land grabbing and includes any person who gives financial aid to any person for taking illegal possession of lands or for construction of unauthorised structures thereon, or who collects or attempts to collect from any occupiers of such lands rent, compensation and other charges by criminal intimidation, or who abets the doing of any of the above mentioned acts; and also includes the successors in interest;(e)"land grabbing" means every activity of grabbing of any land (whether belonging to the Government, a local authority, a religious or charitable institution or endowment, including a wakf, or any other private person) by a person or group of persons, without any lawful entitlement and with a view to illegally taking possession of such lands, or enter into or create illegal tenancies or lease and licences agreements or any other illegal agreements in respect of such lands, or to construct unauthorised structures thereon for sale or hire, or give such lands to any person on rental or lease and licence basis for construction, or use and occupation, of unauthorised structures; and the term "to grab land" shall be construed accordingly;(f)"notification" means a notification published in the Andhra Pradesh Gazette; and the word "notified" shall be constructed accordingly;(g)"person " includes a group or body of persons, an association, or a religious or charitable institution or endowment, whether incorporated or not;(h)"prescribed" means prescribed by rules made by the Government under this Act;(i)"Schedule" means a Schedule appended to this Act;(ia)"Special Court" means a Special Court constituted under 7;(ib)"Special Tribunal" means a Court of the District Judge having jurisdiction over the area concerned and includes Chief Judge, City Civil Court, Hyderabad.(j)"unauthorised structures" means any structure constructed without express permission in writing of the Municipal Commissioner in any Municipal Corporation or Municipality, and elsewhere of the authority concerned, or except in accordance with any law for the time being in force in the area concerned.

## 3. Land Grabbing to be unlawful

Land grabbing in any form is hereby declared unlawful; and any activity connected with or arising out of land grabbing shall be an offence punishable under this Act.

## 4. Prohibition of land grabbing

(1)No person shall commit or cause to be committed land grabbing.(2)Any person who, on or after the commencement of this Act, continues to be in occupation, otherwise than as a lawful tenant, of a

grabbed land belonging to the Government, local authority, religious or charitable institution or endowment including a wakf, or other private person, shall be guilty of an offence under this Act.(3)Whoever contravenes the provisions of sub-section (1) or sub-section (2) shall on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to five years, and with fine which may extend to five thousand rupees.

## **5. Penalty for other offences in connection with land grabbing**

Whoever, with a view to grabbing land in contravention of the provisions of this Act or in connection with any such land grabbing,(a)sells or allots, or offers or advertises for sale or allotment, or has in his possession for the purpose of sale or allotment any land grabbed;(b)instigates or incites any person to commit land grabbing;(c)uses any land grabbed or causes or permits knowingly to be used for purposes, connected with sale or allotment, or(d)causes or procures or attempts to procure any person to do any of above mentioned acts, shall, on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine which may extend to five thousand rupees.

## **6. Offences by companies**

(1)If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:Provided that nothing in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the such offence.(2)Notwithstanding anything in sub-section (1), where any offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation:- For the purposes of this section, -(a)"Company" means any body corporate and includes firm or other association of individuals and(b)"director" in relation to a firm, means a partner in the firm.

## **7. Constitution of Special Courts**

(1)The Government may, for the purpose of providing speedy enquiry into any alleged act of land grabbing, and trial of cases in respect of the ownership and title to, or lawful possession of, the land grabbed, by notification, constitute a Special Court.(2)A Special Court shall consist of a Chairman and four other members, to be appointed by the Government.(3)The Chairman shall be a person who is or has been a Judge of a High Court and of the other four members, two shall be persons who are or have been District Judges (hereinafter referred to as Judicial Members) and the other two members shall be persons who hold or have held a post not below the rank of a District Collector (hereinafter referred to as Revenue Members):Provided that the appointment of a person who was a

Judge of a High Court as the Chairman of the Special Court shall be made after consultation with the Chief Justice of the High Court concerned: Provided further that where a sitting Judge of a High Court is to be appointed as Chairman, such appointment shall be made after nomination by the Chief Justice of the High Court concerned, with the concurrence of the Chief Justice of India. (4) The Government from time to time likewise reconstitute the Special Court constituted under sub-section (1) or may, at any time abolish such Special Court. (4A) The Chairman or other member shall hold office as such for a term of two years from the date on which he enters upon his office, or until the Special Court is reconstituted or abolished under sub-section (4), whichever is earlier. (4B) (a) Subject to the other provisions of this Act, the jurisdiction, powers and authority of the Special Court may be exercised by benches thereof one comprising of the Chairman, a judicial member and a Revenue member and the other comprising of a Judicial Member and a Revenue Member. (b) Where the bench comprises of the Chairman, he shall be the Presiding Officer of such a bench and where the bench consists of two members, the Judicial Member shall be the Presiding Officer. (c) It shall be competent for the Chairman either suo motu or on a reference made to him to withdraw any case pending before the bench comprising of two members and dispose of the same or to transfer any case from one bench to another bench in the interest of justice. (d) Where it is reasonably apprehended that the trial of Civil Liability of a person accused of an offence under this Act, is likely to take considerable time, it shall be competent for the Chairman to entrust the trial of the criminal liability of such offender to another bench in the interest of speedy disposal of the case. (e) Where a case under this Act is heard by a bench consisting of two members and the members thereof are divided in opinion, the case with their opinions shall be laid before another judicial member or the Chairman and that member or Chairman, as the case may be after such hearing as he thinks fit, shall deliver his opinion and the decision or order shall follow that opinion. (5) The quorum to constitute a meeting of any bench of the Special Court shall be two. (5B) The Special Court may, by notification, make regulations not inconsistent with the provisions of this Act or the rules made thereunder relating to the procedure to be followed for the conduct of the cases and for regulating the manner of taking decisions. (5B) The Special Court may cause a public notice of the substance of such regulations for the information of the general public. (5C) Every regulation made under this section shall, immediately after it is made, be laid before the Legislative Assembly of the State 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 the Legislative Assembly agrees in making any modifications in the regulation or in the annulment of the regulation, the regulation 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 annulments shall be without prejudice to the validity of anything previously done under that regulation. (5D) (i) Notwithstanding anything in the Code of Civil Procedure, 1908 (V of 1908) the Special Court may follow its own procedure which shall not be inconsistent with the principles of natural justice and fair play and subject to the other provisions of this Act and of any rules made thereunder while deciding the Civil liability. (ii) Notwithstanding anything contained in section 260 or section 262 of the Code of Criminal Procedure, 1973 (2 of 1974) every offence punishable under this Act shall be tried in a summary way and the provisions of sections 263 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial. (iii) When a person is convicted of an offence of land grabbing attended

by criminal force or show of force or by criminal intimidation, and it appears to the Special Court that, by such force or show of force or intimidation the land of any person has been grabbed, the Special Court may if it thinks fit, order that possession of the same be restored to that person after evicting by force, if necessary, any other person who may be in possession of the property.(6)No act or proceeding of the Special Court shall be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the Constitution or re-constitution thereof.

## **7A. Special Tribunals and its powers, etc.**

(1)Every Special Tribunal shall have power to try all cases not taken cognizance of by the Special Court relating to any alleged act of land grabbing, or with respect to the ownership and title to, or lawful possession of the land grabbed whether before or after the commencement of the Andhra Pradesh Land Grabbing (Prohibition) (Amendment) Act,1987 and brought before it and pass such orders (including orders by way of interim directions) as it deems fit:Provided that if, in the opinion of the Special Tribunal, any case brought before it is prima facie frivolous, or vexatious it shall reject the same without any further enquiry:Provided further that if, in the opinion of the Special Tribunal any case brought before it is a fit case to be tried by the Special Court it may for reasons to be recorded by it transfer the case to the Special Court for its decision in the matter.(2)Save as otherwise provided in this Act, a Special Tribunal shall, in the trial of cases before it, follow the procedure prescribed in the Code of Civil Procedure,1908.(3)An appeal shall lie, from any judgment or order not being interlocutory order of the Special Tribunal, to the Special Court on any question of law or of fact. Every appeal under this sub-section shall be preferred within a period of sixty days from the date of Judgment or order of the Special Tribunal:Provided that the Special Court may entertain an appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of sixty days.(4)Every finding of the Special Tribunal with regard to any alleged act of land grabbing shall be conclusive proof of the fact of land grabbing, and of the persons who committed such land grabbing and every Judgment of the Special Tribunal with regard to the determination of the title and ownership to, or lawful possession of, any land grabbed shall be binding on all persons having interest in such land:Provided that the Special Tribunal shall by notification specify the fact of taking cognizance of the case under this Act. Such notification shall state that any objection which may be received by the Special Tribunal from any person including the custodian of evacuee property within the period specified therein will be considered by it:Provided further that where the custodian of evacuee property objects to the Special Tribunal taking cognizance of the case, the Special Tribunal shall not proceed further with the case in regard to such property:Provided also that the Special Tribunal shall cause a notice of taking cognizance of the case under the Act served on any person known or believed to be interested in the land, after a summary enquiry to satisfy itself about the persons likely to be interested in the land.(5)It shall be lawful for the Special Tribunal to pass an order in any case decided by it, awarding compensation in terms of money for wrongful possession, which shall not be less than an amount equivalent to the market value of the land grabbed as on the date of the order and profits accrued from the land payable by the land grabber to the owner of the grabbed land and may direct the re-delivery of the grabbed land to its rightful owner. The amount of compensation and profits so awarded and cost of re-delivery, if any, shall be recovered as an arrear of land revenue if the Government are the owner or as a decree of a Civil Court, in any other

case: Provided that the Special Tribunal shall, before passing an order under this sub-section, give to the land grabber an opportunity of making his representation or of adducing evidence, if any, in this regard and consider every such representation and evidence. (6) Any case, pending before any Court or other authority immediately before the commencement of the Andhra Pradesh Land Grabbing (Prohibition) (Amendment) Act, 1987 as would have been within the jurisdiction of a Special Tribunal, shall stand transferred to the Special Tribunal, having jurisdiction, as if the cause of action on which such suit or proceeding is based had arisen after such commencement. (7) Every case brought before the Special Tribunal shall be disposed of finally by the Special Tribunal, as far as possible, within a period of six months from the date of its having been brought before it. (8) The Special Tribunal shall have all the powers of a Civil Court for purposes of review.

## 8. Procedure and powers of the Special Courts

(1) The Special Court may, either suo motu or on application made by any person, officer or authority take cognizance of and try every case arising out of any alleged act of land grabbing or with respect to the ownership and title to, or lawful possession of, the land grabbed, whether before or after the commencement of this Act, and pass such orders (including orders by way of interim directions) as it deems fit. (1A) The Special Court shall, for the purpose of taking cognizance of the case, consider the location, or extent or value of the land alleged to have been grabbed or of the substantial nature of the evil involved or in the interest of justice required or any other relevant matter: Provided that the Special Court shall not take cognizance of any such case without hearing the petitioner. (2) Notwithstanding anything in the Code of Civil Procedure, 1908 the Code of Criminal Procedure, 1973 or in the Andhra Pradesh Civil Courts Act, 1972, any case in respect of an alleged act of land grabbing or the determination of question of title and ownership to, or lawful possession of any land grabbed under this Act, shall be triable only in a Special Court constituted for the area in which the land grabbed is situated and the decision of the Special Court shall be final. (2A) If the Special Court is of the opinion that any case brought before it, is not a fit case to be taken cognizance of, it may return the same for presentation before the Special Tribunal: Provided that if, in the opinion of the Special Court, any application filed before it is prima facie frivolous or vexatious, it shall reject the same without any further enquiry: Provided further that if on an application from an interested person to withdraw and try a case pending before any Special Tribunal the Special Court is of the opinion that it is a fit case to be withdrawn and tried by it, it may for reasons to be recorded in writing withdraw any such case from such Special Tribunal and shall deal with it as if the case was originally instituted before the Special Court. (2B) Notwithstanding anything in the Code of Criminal Procedure, 1973, it shall be lawful for the Special Court to try all offences punishable under this Act. (2C) The Special Court shall determine the order in which the civil and criminal liability against a land grabber be initiated. It shall be within the discretion of the Special Court whether or not to deliver its decision or order until both civil and criminal proceedings are completed. The evidence admitted during the criminal proceeding may be made use of while trying the civil liability. But additional evidence, if any, adduced in the civil proceedings shall not be considered by the Special Court while determining the criminal liability. Any person accused of land grabbing or the abetment thereof before the Special Court shall be a competent witness for the defence and may give evidence or oath in disproof of the charge made against him or any person charged together with him in the criminal proceeding: Provided that he shall not be called as a witness except on his own request in

writing or his failure to give evidence shall be made the subject of any comment by any of the parties or the Special Court or give rise to any presumption against himself or any person charged together with him at the same proceeding.(3)\*\*\* (4) Every case under sub-section (1) shall be disposed of finally by the Special Court, as far as possible, within a period of six months from the date of institution of the case before it.(5)\*\*\* (6) Every finding of the Special Court with regard to any alleged act of land grabbing shall be conclusive proof of the fact of land grabbing and of the persons who committed such land grabbing, and every judgment of the Special Court with regard to the determination of title and ownership to, or lawful possession of, any land grabbed shall be binding on all persons having interest in such land. Provided that the Special Court shall, by notification, specify the fact of taking cognizance of the case under this Act. Such notification, shall state that any objection which may be received by the Special Court from any person including the custodian of evacuee property within the period specified therein will be considered by it: Provided further that where the custodian of evacuee property objects to the Special Court taking cognizance of the case, the Special Court shall not proceed further with the case in regard to such property. Provided also that the Special Court shall cause a notice of taking cognizance of the case under the Act, served on any person known or believed to be interested in the land, after a summary enquiry to satisfy itself about the persons likely to be interested in the land.(7) It shall be lawful for the Special Court to pass such order as it may deem fit to advance the cause of justice. It may award compensation in terms of money for wrongful possession of the land grabbed which shall not be less than an amount equivalent to the market value of the land grabbed as on the date of the order and profits accrued from the land payable by the land grabber to the owner of the grabbed land and may direct re-delivery of the grabbed land to its rightful owner. The amount of compensation and profits, so awarded and costs of re-delivery, if any, shall be recovered as an arrear of land revenue in case the Government is the owner, or as a decree of a Civil Court, in any other case to be executed by the Special Court: Provided that the Special Court shall, before passing an order under this sub-section, give to the land grabber an opportunity of making his representation or of adducing evidence, if any, in this regard, and consider every such representation and evidence.(8) Any case, pending before any Court or other authority immediately before the Constitution of a Special Court, as would have been within the jurisdiction of such Special Court, shall stand transferred to the Special Court as if the cause of action on which such suit or proceeding is based and arisen after the constitution of the Special Court.

## **9. Special Court to have the powers of the Civil Court and the Court of Session**

Save as expressly provided in this Act, the provisions of the Code of Civil Procedure, 1908, the Andhra Pradesh Civil Courts Act, 1972 and the Code of Criminal Procedure, 1973, in so far as they are not inconsistent with the provisions of this Act, shall apply to the proceedings before the Special Court and for the purposes of the provisions of the said enactments, Special Court shall be deemed to be a Civil Court, or as the case may be, a Court of session and shall have all the powers of a Civil Court and a Court of session and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

## **10. Burden of proof**

Where in any proceedings under this Act, a land is alleged to have been grabbed, and such land is prima facie proved to be the land owned by the Government or by a private person the Special Court or as the case may be, the Special Tribunal shall presume that the person who is alleged to have grabbed the land is a land grabber and the burden of proving that the land has not been grabbed by him shall be on such person.

### **10A. Staff of the Special Court**

(1)The Chairman of the Special Court may appoint officers and other employees required to assist the Special Court in the discharge of its functions under this Act.(2)The categories of officers and employees who may be appointed under sub-section (1), their salaries, allowances and other conditions of service and the administrative powers of the Chairman of the Special Court shall be such as may be prescribed, after consultation with the Chairman.

## **11. Power to try offences**

Notwithstanding anything in the Code of Criminal Procedure,1973, every offence punishable under this Act shall be tried by a magistrate of the first class specially empowered by the Government in this behalf.

## **12. Sanction for prosecution of offence under the Act**

No Court other than the Special Court shall take cognizance of an offence punishable under this Act, except with the previous sanction of the Special Tribunal which sanction shall be accorded having regard to the circumstances of each case.

## **13. Persons acting under the Act to be public servants**

Any person acting under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

## **14. Protection of persons acting in good faith**

No suit, prosecution or other legal proceeding shall lie against any officer or employee of the Special Court or any officer of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

## **15. Act to override other laws**

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or custom, usage or agreement or decree or



order of a Court or any other tribunal or authority.

## **16. Power to make rules**

(1)The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.(2)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 annulment 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.

## **17. Prohibition of alienation of lands grabbed**

Any transaction relating to an alienation of a land grabbed or any part thereof by way of sale, lease, gift, exchange, settlement, surrender, usufructuary mortgage or otherwise, or any partition effected or a trust created in respect of such land, which has taken place whether before or after the commencement of this Act shall, except to the extent ordered by the Special Court, or Special Tribunal be null and void.

### **17A. Review**

The Special Court may in order to prevent the miscarriage of justice review its judgment or order passed under section 8 but no such review shall be entertained except on the ground that it was passed under a mistake of fact, ignorance of any material fact or an error apparent on the face of the record:Provided that it shall be lawful for the Special Court to admit or reject review petitions in circulation without hearing the petitioner:Provided further that the Special Court shall not allow any review petition and set aside its previous order or judgment without hearing the parties affected.

### **17B. Guidelines for interpretation of Act**

The Schedule shall constitute the guidelines for the interpretation and implementation of this Act.