

The West Bengal Public Land (Eviction Of Unauthorised Occupants) Act, 1962

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Act 13 of 1962

- Published on 14 December 1962
- Commenced on 14 December 1962
- [This is the version of this document from 14 December 1962.]
- [Note: The original publication document is not available and this content could not be verified.]

The West Bengal Public Land (Eviction Of Unauthorised Occupants) Act, 1962 West Bengal Act 13 of 1962 [14th December, 1962.] An Act to provide for the speedy eviction of unauthorised occupants from public lands. Whereas it is expedient to provide for the speedy eviction of unauthorised occupants from public land; It is hereby enacted in the thirteenth Year of the Republic of India, by the Legislature of West Bengal, as follows :-

1. Short title and extent.

(1) This Act may be called the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, -(1) "Collector" means -(a) in Calcutta, the Land Acquisition Collector, Calcutta, and (b) elsewhere, the Chief Officer-in-Charge of the revenue administration of the district, and includes [an Additional District Magistrate, a Sub-divisional Magistrate, and] [Words inserted by W.B. Act 36 of 1963.] any [Executive Magistrate] [Words substituted for the words 'officer, not below the rank of a Magistrate of the first class,' by W.B. Act 49 of 1976.] specially appointed by the State Government to perform all or any of the functions of a Collector under this Act. Explanation. - In this clause Calcutta has the same meaning as in the Calcutta Municipal Act, 1951; (2) "land" includes buildings and other things attached to the earth or permanently fastened to things attached to the earth; (3) "notification" means a notification published in the Official Gazette; (4) ["owner" means -(a) in relation to any land belonging to, or taken on lease by, or requisitioned by or on behalf of, the State Government, that Government, and (b) in relation to any land belonging to, or taken on lease by, a local authority,

company or corporation, such local authority, company or corporation, as the case may be;](5)"person concerned" in relation to any public land, means any person who is in the use or occupation of the public land;(6)"prescribed" means prescribed by rules made under this Act;(7)["public land" means any land belonging to, or taken or lease by, the State Government, a local authority, a Government company or a corporation owned or controlled by the Central or the State Government and includes any land requisitioned by, or on behalf of, the State Government, but does not include a Government road or a highway with the meaning of the Bengal Highways Act, 1925, or any other law for the time being in force on the subject.] [Clause (7) substituted by W.B. Act 36 of 1963.]Explanation. - In this cause "Government company" means a Government company within the meaning of section 617 of the Companies Act, 1956.(8)"unauthorised occupation", in relation to any public land means the use or occupation by any person of the public land without authority in writing by or on behalf of the owner thereof [and includes the continued use or occupation of any such land on the expiry or termination of such authority.] [Words inserted by W.B. Act 36 of 1963.]

3. Issue of notice to show cause against order for eviction of unauthorised occupant from public land.

(1)If, in respect of any public land, the Collector is of opinion, upon application made by an officer of the owner of the public land authorised in this behalf by such owner or upon information received otherwise, that the public land is in the unauthorised occupation of any person or persons, the Collector shall issue [a notice in such form and containing such particulars as may be prescribed calling upon all person concerned] [Words substituted for the words 'a notice calling upon all persons concerned' by W.B. Act 36 of 1963.] to show-cause before such date, not being less than fifteen days after the date of the notice, as may specified in the notice why an order under [* * *] [Words, letter and brackets 'clause (a) of' omitted by W.B. Act 49 of 1976.] sub-section (1) of section 4 should not be made, and shall cause it to be served in the manner referred to in sub-section (2). Intimation of the date so specified shall be given to the owner of the public land and to its officer authorised under this sub-section.(2)A notice issued under sub-section (1) shall be served by affixing it on a conspicuous part of the public land concerned and in such other manner as may prescribed.(3)A notice served in the manner referred to in sub-section (2) shall be deemed to have been duly served.

4. [Order of eviction of person in unauthorised occupation from public land. [[Section 4 first substituted by W.B. Act 36 of 1963, then again substituted by W.B. Act 49 of 1976. Previous Section 4 was as under:-

'4. Order of eviction of persons in unauthorised occupation from public land. - (1) If after considering the cause, if any, shown by any person in pursuance of a notice issued under section 3 and any evidence adduced in support thereof, and any evidence which, may be adduced by the owner and after making such further inquiry, if any, as he deems necessary, -(a)the Collector is satisfied that no bona fide dispute regarding title to the public land exists and that the public land is in unauthorised occupation, he shall make an order of eviction directing all persons in such unauthorised occupation to vacate the public land and deliver possession thereof to the owner

within such time as may be specified in the order; or (b) the Collector is satisfied that any person concerned is not in unauthorised occupation of the public land or is of opinion that a bona fide dispute regarding title to the public land exists, he shall make an order cancelling the proceedings and referring the parties to the civil court. (2) For the purpose of making an inquiry referred to in sub-section (1), the Collector, or any person authorised by him in this behalf, may - (a) enter upon the public land and inspect, measure or demarcate the same at any time between sunrise and sunset; and (b) require, in such manner as may be prescribed, all persons concerned or any other person to furnish information relating to the names and other particulars of the persons concerned and the persons concerned or any other person so required shall be bound to furnish such information. (3) The Collector shall cause a copy of the order made under clause (a) of sub-section (1) to be served in the manner referred to in sub-section (2) of section 3. ']] (1) If after considering the cause, if any, shown by any person in pursuance of a notice issued under section 3 and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the Collector is satisfied that the public land is in unauthorised occupation, he shall make an order of eviction directing all persons in such authorised occupation to vacate the public land and deliver possession thereof to owner within such time as may be specified in the order. (2) The Collector shall cause a copy of the order made under sub-section (1) to be served in the manner referred to in sub-section (2) of section 3. [Clause (4) substituted by W.B. Act 36 of 1963.]

4A. [Power to recover damages. [[Section 4A first substituted by W.B. Act 36 of 1963, then again substituted by W.B. Act 49 of 1976. Previous Section 4A was as under :-

'4A. Power to recover damages. - When an order of eviction has been made under clause (a) of sub-section (1) of section 4 in respect of any public land, the Collector may, upon application made by an officer of the owner of the public land authorised in this behalf by the owner, make an order directing any person who is, or has at any time been, in unauthorised occupation of the public land to pay for the period during which he has or had been in such occupation, damages at such rate, not exceeding double the rate of rent prevailing for similar lands which similar advantages in the vicinity, as may be prescribed, with such time as may be specified in the order: Provided that no such order shall be made against any person without giving him an opportunity of showing cause against the order proposed to be made. ']] - When in order of eviction has been made under sub-section (1) of section 4 in respect of any public land, the Collector may, upon application made by an officer of the owner of the public land authorised in this behalf by the owner, make an order directing any person who is, or has at any time been, in unauthorised occupation of the public land to pay for the period during which he has or had been in such occupation, damages at such rate not exceeding per annum - (i) in the case of agricultural land, twenty-five per centum of the money value of the gross annual produce of such land, and (ii) in any other case, ten per centum of the market value of the land, within such time as may be specified in the order: Provided that no such order shall be made against any person without giving him an opportunity of showing cause against the order proposed to be made.]

5. [Collector's power to enforce delivery of possession by evicting unauthorised occupants. [[Section 5 substituted by W.B. Act 49 of 1976. Previous Section 5 was as under :-

'5. Collector's power to enforce delivery of possession by evicting unauthorised occupant. - (1) If, in respect of any public land or part thereof, any person concerned refuses or fails to comply with an order made under sub-clause (i) of clause (a) of sub-section (1) of section 4 within the time specified in the order or within such further time as the Collector may allow, then the Collector shall, -(a)if a Magistrate, enforce delivery of possession of such public land or part to the owner after evicting the person concerned, or(b)if not a Magistrate, apply to a Magistrate, or in Calcutta as defined in section 3 of the Calcutta Police Act, 1866, to the Commissioner of Police, Calcutta and such Magistrate or Commissioner of Police, as the case may be, shall enforce delivery of possession of such public land or part to the owner after evicting the person concerned.(2)The costs of enforcing such delivery of possession after evicting the person concerned shall be payable by the person concerned within such time as the Collector may, by order direct.'.]](1)If, in respect of any public land or part thereof, any person concerned refuses or fails to comply with an order made under sub-section (1) of section 4 within the time specified in the order, the Collector shall enforce delivery of possession of such public land or part thereof to the owner after evicting the person concerned and for this purpose the Collector, or any officer authorised by him, may take such steps or use such force as may be necessary.(2)The costs of enforcing such delivery of possession after evicting the person concerned shall be payable by the person concerned within such time as the Collector may, by order, direct.]

6. Damages and costs recoverable as public demand.

- Any sum payable by any person as damages or costs under an order of the Collector under this Act shall recoverable as a public demand.

6A. [Disposal of property left on public land by unauthorised occupants. - (1) Where any person has been evicted from any public land under section 4, the Collector may, after giving fourteen days' notice to the person from whom possession of the land has been taken, remove or cause to be removed or dispose of by public auction any property remaining on such land.

(2)Where any property is sold under sub-section (1), the sale proceeds thereof shall, after deducting the expenses of the sale and the amount, if any, due to the Collector or to the owner of the public land on account of arrears of rent or damages or costs, be paid to such person as may appear to the Collector to be entitled to the same.] [Section 6A inserted by W.B. Act 49 of 1976.]

7. [Appeal and review. [[Section 7 substituted by W.B. Act 49 of 1976, which was earlier as under :-

'7. Appeal. - An appeal from an order made under this Act shall lie to -(a)the Commissioner of the Division, where the order is made by the Collector, and(b)the Collector, where the order is made by any officer specially appointed under sub-clause (b) of clause (1) of section 2,if preferred with thirty days from the date of the order appealed against and the decision of the Commissioner or the Collector, as the case may be, on such appeal shall be final.Explanation. - In this section 'Collector' does not include an officer specially appointed under sub-clause (b) of clause (1) of section 2.'.]](1)An appeal from an order made under this Act shall lie to -(a)the Commissioner of the Division, where the order is made by the Collector, and(b)the Collector, where the order is made by an officer specially appointed under sub-clause (b) of clause (1) of section 2,if preferred within fifteen days from the date of the order appealed against and the decision of the Commissioner or the Collector, as the case may be, on such appeal shall, subject to the provisions of sub-section (2), be final:Provided that the appellate authority on being satisfied that the appellant was prevented by sufficient cause from filing the appeal in time may entertain the appeal even after the expiry of the said period of fifteen days.(2)The State Government may, of its own motion or on an application made to it by any person aggrieved against the order of the appellate authority within thirty days from the date of such order, on grounds of gross error of facts or of law or of both facts and law, call for and examine the record of the appeal and may make such orders thereon as it thinks fit.Explanation. - In this section 'Collector' does not include an officer specially appointed under sub-clause (b) of clause (1) of section 2.]

**7A. [Penalty for obstructing Collector of person authorised by Collector.
[Section 7A inserted by W.B. Act 36 of 1963.]**

- [(1) Whoever wilfully obstructs the Collector, or any person authorised by him, in discharging his duties under the provisions of this Act, shall, on conviction before a Judicial Magistrate, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.](2)An offence punishable under sub-section (1) shall be cognizable and bailable.]

8. Indemnity.

- 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 any rule or order made thereunder.

8A. [Bar to jurisdiction of civil court. - No civil court shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with under the provisions of this Act.] [Section 8A inserted by W.B. Act 49 of 1976.]

9. Power to make rules.

(1)The State 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 the State Government may make rules with respect to all of any of the following matters, namely :-(a)the forms and the manner of service of notices under this Act;(b)the procedure to be followed and the fees, if any, payable in appeals under section 7;(c)any other matter which may be or is required to be prescribed.

10. Application.

- The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any law for the time being in force other than the Indian Penal Code or the Code of Criminal Procedure, 1898, but shall not apply in respect of the use or occupation of any public land by a displaced person as defined in clause (1) of section 2 of the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act, 1951, in respect of which an application for eviction has been entertained under sub-section (1) of section 3 of that Act.

11. Repeal and savings.

(1)The West Bengal Public Land (Eviction of Unauthorised Occupants) Ordinance, 1962, is hereby repealed.(2)Anything done or any action taken under the said Ordinance shall be deemed to have validly done or taken under this Act as if this Act had commenced on the 8th day of September, 1962.