

The Restoration of Property Ordinance, 2004

JAMMU & KASHMIR

India

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Act 29 of 2004

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The Restoration of Property Ordinance, 2004(Ordinance No. 29 of 2004)[Promulgated by His Highness under section 5 of the Jammu and Kashmir Constitution Act, 1996 and published in Government Gazette dated 24th Chet, 2004 (Extraordinary).]Whereas it is expedient to provide for the restoration of livestock and other movable property left behind by owners who were compelled to leave their homes during the recent riots and raids, the following Ordinance is hereby promulgated under section 5 of the Jammu and Kashmir Constitution Act of 1996

1. Short title, extent and commencement.

(a)This Ordinance shall be called the Restoration of Property Ordinance, 2004.(b)It shall come into force at once, on publication in the Government Gazette.(c)It shall apply to the whole of the Jammu and Kashmir State [except the Districts of Rajouri and Poonch.] [Added by Ordinance XI of 2007.]

2. Definition.

- "Property" for the purposes of this Ordinance shall mean movable property including livestock belonging to persons who were compelled to leave their homes during the recent raids and riots.

3. Transfers not sanctioned by competent authority to be void.

- All transfers of property effected in the absence of rightful owners shall, unless already sanctioned by competent authority, be declared void.

4. Claims to property.

- Any owner of property or his legal heir may prefer a claim to such property before a Magistrate of the first class or such other officer as the Government may appoint in this behalf.

5. Procedure.

- The Magistration or such officer, as the case may be, shall, after considering the evidence as in the circumstances of each case can reasonably be placed before him, pass such orders as he deems fit.

6. Finality of the orders.

- The orders passed by the said Magistrate shall be final subject to revision by the Sessions Judge or such other officer as the Government may appoint in this behalf.

7. Jurisdiction of Civil Courts barred.

- No Civil Court shall entertain any fresh suit or proceed with any pending suit arising out of any proceedings taken by the Magistrate.

8. Saving.

- The provisions of this Ordinance shall not be affected by anything to the contrary contained in any other Act or Rules.

9. Appointment of Committee by the Government.

(1)Notwithstanding anything contained in section 4, the Government may, by notification published in the Government Gazette, appoint for any specified locality, a Committee of two or more persons to hear and decide all or any class of claims referred to in section 4 and on its appointment such claims shall be preferred to that Committee.(2)The Committee shall be deemed to be invested with the powers of a Magistrate of the first class and as such of the provisions of section 5 and 6 shall apply to it.(3)The Government may make rules prescribing the constitution of the Committee, the procedure to be adopted by it and the mode of settling difference of opinion which may arise between the members.

10. [Power to search. [Sections 10 and 11 added by Ordinance XII of 2004]

- The Magistrate or the office appointed under section 4, or the Committee appointed under section 9, may order a police officer to enter any specified place and take possession of the property for which claim is preferred under section 4, and if necessary issue a search warrant for such property and the provisions of the Code of Criminal Procedure, shall apply in carrying out such orders or making search.

11. Proceedings under the Ordinance as aid to the Evacuees (Administration of Property) Act 2005.

- Proceedings taken under this Ordinance shall be as an aid to the proceedings taken under the Jammu and Kashmir Evacuees (Administration of Property) Act, 2005 and shall not be in any way derogatory to those proceedings.]