

The Karnataka Ancient And Historical Monuments And Archaeological Sites And Remains Act, 1961

KARNATAKA

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Act 07 of 1962

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The Karnataka Ancient And Historical Monuments And Archaeological Sites And Remains Act, 1961 Act No. 7 of 1962 [15th February, 1961] BE it enacted by the Karnataka State Legislature in the Twelfth Year of the Republic of India as follows:—An Act to provide for the preservation of ancient and historical monuments and Archeological sites and remains and for the protection of sculptures, carvings and other like objects in the State of Karnataka. WHEREAS it is expedient to provide for the preservation of ancient and historical monuments and archeological sites and remains in the State of Karnataka other than those declared by or under law made by Parliament to be of national importance, and for the protection of sculptures, carvings and other like objects; Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Karnataka Ancient and Historical Monuments and Archeological Sites and Remains Act, 1961. (2) It extends to the whole of the State of Karnataka. (3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

2. Definitions.

In this Act, unless the context otherwise requires,—(1) “ancient monument” means any structure, erection or monument, or any tumulus or place of interment, or any cave, rock-sculpture, inscription or monolith, which is of historical, archeological or artistic interest and which has been in existence for not less than one hundred years, and includes,—(i) the remains of an ancient monument, (ii) the site of an ancient monument, (iii) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument, and (iv) the means of access to, and convenient inspection of, an ancient monument;—but

shall not include ancient and historical monuments declared by or under law made by Parliament to be of national importance;(2)“antiquity” includes,-(i)any coin, sculpture, manuscript, epigraph, or other work of art or craftsmanship,(ii)any article, object or thing detached from a building or cave,(iii)any article, object or thing illustrative of science, art, crafts, literature, religion, customs or morals in bygone ages,(iv)any article, object or thing of historical interest, and(v)any article, object or thing declared by the Government by notification in the official Gazette, to be an antiquity for the purposes of this Act,-which has been in existence for not less than one hundred years;(3)“archeological site and remains” means any area which contains or is reasonably believed to contain ruins or relics of historical or archeological importance which have been in existence for not less than one hundred years, and includes,-(i)such portion of land adjoining the area as may be required for fencing or covering in or otherwise preserving it, and(ii)the means of access to, and convenient inspection of, the area;(4)“Director” means the Director of Archeology, and includes any officer authorised by the Government to perform the duties of the Director;(5)“Government” means the State Government;(6)“maintain” with its grammatical variations and cognate expressions, includes the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of preserving a protected monument or of securing convenient access thereto;(7)“owner” includes,-(i)a joint owner invested with powers of management on behalf of himself and other joint owners, and the successor-in-title of any such owner; and(ii)any manager or trustee exercising powers of management and the successor-in-office of any such manager or trustee;(8)“prescribed” means prescribed by rules made under this Act;(9)“protected area” means any archeological site and remains which is declared to be protected under this Act;(10)“protected monument” means an ancient monument which is declared to be protected by or under this Act. Protected Monuments

3. Ancient and historical monuments and archeological sites and remains deemed to be protected monuments and areas.

All ancient and historical monuments and all archeological sites and remains which have been declared by the Ancient Monuments Preservation Act, 1904 (Central Act VII of 1904), or the Ancient Monuments Preservation Act, 1337 F (Hyderabad Act VIII of 1337 Fasli) or the Mysore Ancient Monuments Preservation Act, 1925 (Mysore Act IX of 1925), to be protected monuments but which have not been declared by or under law made by Parliament to be of national importance, shall be deemed to be ancient and historical monuments or archeological sites and remains declared to be protected monuments or protected areas, as the case may be, under this Act.

4. Power of Government to declare ancient monuments to be protected monuments.

(1)Where the Government is of opinion that any ancient monument should be declared as a protected monument, it may, by notification in the official Gazette, give two months' notice of its intention to declare such ancient monument to be a protected monument and a copy of every such notification shall be affixed in a conspicuous place near the monument.(2)Any person interested in any such ancient monument may within two months after the issue of the notification, object to the

declaration of the monument to be a protected monument.(3)On the expiry of the said period of two months, the Government may, after considering the objections, if any, received by it, declare by notification in the official Gazette the ancient monument to be a protected monument.(4)A notification published under sub-section (3) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the ancient monument to which it relates is a protected monument for the purposes of this Act.

5. Acquisition of rights in a protected monument.

(1)The Director may, with the sanction of the Government, purchase or take a lease of, or accept a gift or bequest of, any protected monument.(2)Where a protected monument is without an owner, the Director may by notification in the official Gazette, assume the guardianship of the monument.(3)The owner of any protected monument may, by written instrument, constitute the Director as the guardian of the monument, and the Director may, with the sanction of the Government, accept such guardianship.(4)When the Director has accepted the guardianship of a monument under sub-section (3), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Director had not been constituted a guardian thereof.(5)When the Director has accepted the guardianship of a monument under sub-section (3), the provisions of this Act relating to agreements executed under section 6 shall apply to the written instrument executed under the said sub-section.(6)Nothing in this section shall affect the use of any protected monument for customary religious observances.

6. Preservation of protected monument by agreement.

(1)The Deputy Commissioner when so directed by the Government, shall propose to the owner of a protected monument to enter into an agreement with the Government within a specified period for the maintenance of the monument.(2)An agreement under this section may provide for all or any of the following matters, namely:—(a)the maintenance of the monument;(b)the custody of the monument and the duties of any person who may be employed to watch it;(c)the restriction of the owner's right,—(i)to use the monument for any purpose,(ii)to charge any fee for entry into, or inspection of, the monument,(iii)to destroy, remove, alter or deface the monument, or(iv)to build on or near the site of the monument;(d)the facilities of access to be permitted to the public or any section thereof or to any officer of the Department of Archeology or to persons deputed by the Director or the Deputy Commissioner or the owner to inspect or maintain the monument;(e)the notice to be given to the Government in case the land on which the monument is situated or any adjoining land is offered for sale by the owner, and the right to be reserved to the Government to purchase such land, or any specified portion of such land, at its market value;(f)the payment of any expenses incurred by the owner or by the Government in connection with the maintenance of the monument;(g)the proprietary or other rights which are to vest in the Government in respect of the monument when any expenses are incurred by the Government in connection with the maintenance of the monument;(h)the appointment of an authority to decide any dispute arising out of the agreement; and(i)any matter connected with the maintenance of the monument which is a proper subject of agreement between the owner and the Government.(3)The Government or the owner may, at any time after the expiration of three years from the date of execution of an agreement

under this section, terminate it on giving six months' notice in writing to the other party: Provided that the owner shall pay to the Government the expenses, if any, incurred by it on the maintenance of the monument during the five years immediately preceding the termination of the agreement, in the case of an agreement which has been in force for more than five years, or, if the agreement has been in force for not more than five years during the period the agreement was in force. (4) An agreement under this section shall be binding on any person claiming to be owner of the monument to which it relates from, through or under a party by whom or on whose behalf the agreement was executed.

7. Owners under disability or not in possession.

(1) If the owner of a protected monument is unable, by reason of infancy or any other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 6. (2) In the case of village property, the village officer or any other person exercising powers of management over such property may exercise the powers conferred upon an owner by section 6. (3) Nothing in this section shall be deemed to empower any person not being of the same religion as the person on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

8. Application of endowment to repair a protected monument.

(1) If any owner or other person competent to enter into an agreement under section 6 for the maintenance of a protected monument refuses or fails to enter into such an agreement, and if any endowment has been created for the purpose of keeping such monument in repair or for that purpose among others, the Government may institute a suit in the Court of the District Judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the District Judge for the proper application of such endowment or part thereof. (2) On the hearing of an application under sub-section (1), the District Judge may summon and examine the owner and any person whose evidence appears to him necessary and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were a decree of a civil court.

9. Failure or refusal to enter into an agreement.

(1) If any owner or other person competent to enter into an agreement under section 6 for the maintenance of a protected monument refuses or fails to enter into such agreement, the Government may make an order providing for all or any of the matters specified in sub-section (2) of section 6, and such order shall be binding on the owner or such other person and on every person claiming title to the monument from, through or under, the owner or such other person. (2) Where an order made under sub-section (1) provides that the monument shall be maintained by the owner or other person competent to enter into an agreement, all reasonable expenses for the maintenance of the monument shall be payable by the Government. (3) No order under sub-section (1), shall be made unless the owner or other person has been given a reasonable opportunity of making a

representation in writing against the proposed order.

10. Power to make order prohibiting contravention of agreement under section 6.

(1) If the Director apprehends that the owner or occupier of a protected monument intends to destroy, remove, alter, deface, imperil or misuse the monument or to build on or near the site thereof in contravention of the terms of an agreement under section 6, the Director may after giving the owner or occupier a reasonable opportunity of making a representation in writing, make an order prohibiting any such contravention of the agreement: Provided that no such opportunity may be given in any case where the Director for reasons to be recorded, is satisfied that it is not expedient or practicable to do so. (2) Any person aggrieved by an order under this section may appeal to the Government within such time and in such manner as may be prescribed and the decision of the Government shall be final.

11. Enforcement of agreements.

(1) If an owner or other person who is bound by an agreement for the maintenance of a monument under section 6 refuses or fails within such reasonable time as the Director may fix, to do any act which, in the opinion of the Director is necessary for the maintenance of the monument, the Director may authorise any person to do any such act and the owner or other person shall be liable to pay the expenses of doing any such act or such portion of the expenses as the owner may be liable to pay under the agreement. (2) If any dispute arises regarding the amount of expenses payable by the owner or other person under sub-section (1), it shall be referred to the Government whose decision shall be final.

12. Purchasers at certain sales and persons claiming through owner bound by instrument executed by owner.

Every person who purchases, at a sale for arrears of land revenue or any other public demand, any land on which is situated a monument in respect of which any instrument has been executed by the owner for the time being under section 5 or section 6, and every person claiming any title to a monument from, through or under, an owner who executed any such instrument, shall be bound by such instrument.

13. Acquisition of protected monument.

If the Government apprehends that a protected monument is in danger of being destroyed, injured, misused, or allowed to fall into decay, it may acquire the protected monument under the provisions of the Land Acquisition Act, 1894, as if the maintenance of the protected monument were a public purpose within the meaning of that Act.

14. Maintenance of certain protected monuments.

(1)The Government shall maintain every monument which has been acquired under section 13 or in respect of which any of the rights mentioned in section 5 have been acquired.(2)When the Director has accepted the guardianship of a monument under section 5, he shall for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his agents, subordinates and workmen, for the purpose of inspecting the monument and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

15. Voluntary contributions.

The Director may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by him:Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

16. Protection of place of worship from misuse, pollution or desecration.

(1)A protected monument maintained by the Government under this Act which is a place of worship or shrine shall not be used for any purpose inconsistent with its character.(2)Where the Government has acquired a protected monument under section 13, or where the Director has, purchased or taken a lease or accepted a gift or bequest, or assumed guardianship of, a protected monument under section 5, and such monument or any part thereof is used for religious worship or observances by any community, the Deputy Commissioner shall make due provision for protection of such monument or such part thereof, from pollution or desecration,-(a)by prohibiting the entry therein, except in accordance with conditions prescribed with the concurrence of the persons, if any, in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, or(b)by taking such other action as he may think necessary in this behalf.

17. Relinquishment of Government rights in a monument.

With the sanction of the Government, the Director may,-(a)where rights have been acquired by the Director in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish, by notification in the official Gazette, the rights so acquired to the person who would for the time being be the owner of the monument if such rights had not been acquired; or(b)relinquish any guardianship of a monument which he has accepted under this Act.

18. Right of access to protected monuments.

Subject to any rules made under this Act, the public shall have a right of access to any protected monument.Protected Areas

19. Power of Government to declare archeological site and remains to be protected area.

(1)Where the Government is of opinion that any archeological site and remains should be declared as a protected area, it may, by notification in the official gazette, give two months' notice of its intention to declare such archeological site and remains to be a protected area, and a copy of every such notification shall be affixed in a conspicuous place near the site and remains.(2)Any person interested in any such archeological site and remains may, within two months after the issue of the notification, object to the declaration of the archeological site and remains to be protected area.(3)On the expiry of the said period of two months, the Government may, after considering the objections, if any, received by it, declare by notification in the official Gazette, the archeological site and remains to be a protected area.(4)A notification published under sub-section (3) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the archeological site and remains to which it relates is a protected area for the purposes of this Act.

20. Restrictions on enjoyment of property rights in protected areas.

(1)No person, including the owner or occupier of a protected area, shall construct any building within the protected area or carry on any mining, quarrying, excavating, blasting or any operation of a like nature in such area, or utilise such area or any part thereof in any other manner without the permission of the Government:Provided that nothing in this sub-section shall be deemed to prohibit the use of any such area or part thereof for purposes of cultivation if such cultivation does not involve the digging of not more than one foot of soil from the surface.(2)The Government may, by order, direct that any building constructed by any person within a protected area in contravention of the provisions of sub-section (1) shall be removed within a specified period and, if the person refuses or fails to comply with the order, the Deputy Commissioner may cause the building to be removed and the person shall be liable to pay the cost of such removal.

21. Power to acquire a protected area.

If the Government is of opinion that any protected area contains an ancient monument or antiquities of national interest and value, it may acquire such area under the provisions of the Land Acquisition Act, 1894, as if the acquisition were for a public purpose within the meaning of that Act.

Protection of Antiquities

22. Power of Government to control moving of antiquities.

(1)If the Government considers that any antiquities or class of antiquities ought not to be moved from the place where they are without the sanction of the Government, the Government may, by notification in the official Gazette, direct that any such antiquity or any class of such antiquities shall not be moved except with the written permission of the Director.(2)Every application for permission under sub-section (1) shall be in such form and contain such particulars as may be prescribed.(3)Any person aggrieved by an order refusing permission may appeal to the Government

whose decision shall be final.

23. Purchase of antiquities by Government.

(1) If the Government apprehends that any antiquity mentioned in a notification issued under sub-section (1) of section 22 is in danger of being destroyed, removed, injured, misused or allowed to fall into decay or is of opinion that, by reason of its historical or archeological importance, it is desirable to preserve such antiquity in a public place, the Government may make an order for the compulsory purchase of such antiquity at its market value and the Deputy Commissioner shall thereupon give notice to the owner of the antiquity to be purchased. (2) Where a notice of compulsory purchase is issued under sub-section (1), in respect of any antiquity, such antiquity shall vest in the Government with effect from the date of notice. (3) The power of compulsory purchase given by this section shall not extend to any image or symbol actually used for bona fide religious observances. Principles of Compensation

24. Compensation for loss or damage.

Any owner or occupier of land who has sustained any loss or damage or any diminution of profits from the land by reason of any entry on, or excavation in, such land, or the exercise of any other power conferred by this Act, shall be paid compensation by the Government for such loss, damage or diminution of profits.

25. Assessment of market value or compensation.

(1) The market value of any property which the Government is empowered to purchase at such value under this Act or the compensation to be paid by the Government in respect of anything done under this Act, shall, where any dispute arises in respect of such market value or compensation, be ascertained in the manner provided in sections 3, 5, 8 to 34, 45, 46, 47, 51 and 52 of the Land Acquisition Act, 1894, in so far as they can be made applicable: Provided that, when making an enquiry under the said Land Acquisition Act, the Deputy Commissioner shall be assisted by two assessors one of whom shall be a competent person nominated by the Government and one person nominated by the owner or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Deputy Commissioner in this behalf, by the Deputy Commissioner. (2) Notwithstanding anything contained in sub-section (1) or in the Land Acquisition Act, 1894, in determining the market value of any antiquity in respect of which an order of compulsory purchase is made under sub-section (1) of section 23, any increase in the value of the antiquity by reason of its being of historical or archeological importance shall not be taken into consideration. Miscellaneous

26. Penalties.

Whoever, - (1) (i) destroys, removes, injures, alters, defaces, imperils, or misuses a protected monument; or (ii) being the owner or occupier of a protected monument, contravenes an order made

under sub-section (1) of section 9 or under sub-section (1) of section 10; or(iii)removes from a protected monument any sculpture, carving, image, bas-relief, inscription or other like object;(iv)does any act in contravention of sub-section (1) of section 20,-shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both.(2)Any person who moves any antiquity in contravention of a notification under sub-section (1) of section 22 shall be punishable with imprisonment which may extend to three months or fine which may extend to five hundred rupees or with both, and the court convicting a person of any such contravention may by order direct that such antiquity shall be forfeited to Government.

27. Jurisdiction to try offences.

No court inferior to that of a Magistrate of the first class shall try any offence under this Act.

28. Certain offences to be cognizable.

Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Central Act V of 1898), an offence under clause (i) or clause (iii) of section 26 shall be deemed to be a cognizable offence within the meaning of that Code.

29. Recovery of amounts due to the Government.

Any amount due to the Government from any person under this Act may, on a certificate issued by the Director, be recovered in the same manner as an arrear of land revenue.

30. Protection of action taken under the Act.

No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done or in good faith intended to be done in the exercise of any power conferred by this Act.

31. Power to make rules.

(1)The Government may, by notification in the official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—(a)the prohibition or regulation by licensing or otherwise of mining, quarrying, excavating, blasting or any operation of a like nature near a protected monument or the construction of buildings on land adjoining such monument and the removal of unauthorised buildings;(b)the right of access of the public to a protected monument and the fee, if any, to be charged therefor;(c)the form in which applications for permission under section 20 or section 22 may be made and the particulars which they should contain;(d)the form and manner of preferring appeals under this Act and the time within which they may be preferred;(e)the manner of service of

any order or notice under this Act; (f) any other matter which is to be or may be prescribed. (3) Any rule made under this section may provide that a breach thereof shall be punishable,—(i) in the case of a rule made with reference to clause (a) of sub-section (2), with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both; (ii) in the case of a rule made with reference to clause (b) of sub-section (2), with fine which may extend to five hundred rupees. (4) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry 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 both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, 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.

32. Repeal and savings.

The Ancient Monuments Preservation Act, 1904 (Central Act VII of 1904), in so far as it relates to matter covered by Entry 12 of List II of the Seventh Schedule to the Constitution, the Ancient Monuments Preservation Act, 1337 F (Hyderabad Act VIII of 1337 Fasli), as in force in the Gulbarga Area, the Mysore Ancient Monuments Preservation Act, 1925 (Mysore Act IX of 1925), as in force in the Mysore Area, are hereby repealed: Provided that the provisions of section 6 of the 1[Karnataka]1 General Clauses Act, 1899 1[Karnataka]1 Act III of 1899), shall be applicable in respect of the repeal of the said enactments and section 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by this Act.

33. Act in addition to and not in derogation of Central Act 24 of 1958.

The provisions of this Act shall be in addition to and not in derogation of the provisions of the Ancient Monuments and Archeological Sites and Remains Act, 1958.