

Land Acquisition (Tamil Nadu Amendment) Act, 1996

TAMILNADU

India

Land Acquisition (Tamil Nadu Amendment) Act, 1996

Act 16 of 1997

- Published on 14 March 1997
- Commenced on 14 March 1997
- [This is the version of this document from 14 March 1997.]
- [Note: The original publication document is not available and this content could not be verified.]

Land Acquisition (Tamil Nadu Amendment) Act, 1996(Tamil Nadu Act 16 of 1997)Statement of Objects and Reasons - Land Acquisition (Tamil Nadu Amendment) Act, 1996 (Tamil Nadu Act 16 of 1997). - The Government desire to streamline the land acquisition procedure and to protect the interests of the Government by amending the Land Acquisition Act, 1894 (Central Act I of 1894) for the reasons indicated below:-(i) There is a time lag of 2-3 years between the selection of site, and the publication of 4(1) notification. During interval, manipulation of sales, documents and statistics take place. The approval of the notification under section 40 of the Act and declaration under section 6 of the Act is now done by Government and this leads to delay. In order avoid delay, which will eventually avoid manipulation of sales, Government have proposed to delegate powers to Collector and Commissioner of Land Administration for approving the notification under section 4(1) and declaration under section 6. There is also ambiguity on the procedure for publication of notifications and local publication of the above notification. In order to clarify about the mode of such publications, amendment to relevant section has become necessary.(ii) Lands are acquired by Government on behalf of several requisitioning bodies. But, after acquisition, the requisitioning bodies transfer the lands to others without the prior permission of Government. With a view to avoid requisitioning body from transferring the acquired lands or any part thereof by sales, mortgage, gift, etc., without the prior permission of the Government, it has become necessary to make a provision in the Act. In certain cases, the requisitioning body does not use the land acquired for them. Similarly, the land is not put to use for the purposes for which it was originally acquired and they may keep the land idle for years together without utilising the land. To prohibit this tendency, it has been decided to insert a new provision as section 16-B in the Act, so as to provide that such land may be forfeited and the land shall vest in the Government in Revenue Department.(iii) According to section 18 of the Act, any person interested in the land under acquisition may require the matter, be referred by the Collector for the determination of the Court. In some cases, the amount of enhanced compensation claimed may not have been specified by the applicant. In certain cases, the Court may fix the compensation beyond the claim of the land owners. Therefore, it is considered necessary that the persons interested in the land shall specify the amount to be enhanced in his application. Further, it is also considered that the person or authority for whom the land is acquired should also be shown as party in the application under section 18. Hence,

the Government have decided to amend sections 18 and 19.(iv) The enhanced compensation awarded by the Courts are deposited in the Courts. During the pendency of appeal, the persons interested approach the Courts and withdraw entire enhanced compensation amount deposited. If the entire amount is drawn like this, it becomes very difficult to recover the amount at a later date in case if the appeal happens to be decided in favour of the Government. Hence, it has been decided to restrict such withdrawal of amount.(v) It is considered imperative to substitute the existing provision in section 25 of the Act to the effect that the Courts do not award compensation more than the claims referred by the land owners or interested persons, at the time of award. Therefore, it has been decided to amend section 25 of the Act accordingly. It has also been decided to insert new section 25-A to the effect that where the compensation awarded under section 25 or section 28-A or section 54 is in excess of the amount awarded by the Collector under section 11, the excess amount so awarded shall be paid by the person or authority for whom the acquisition is made.(vi) Section 28-A enables re-determination of the amount of compensation 4 on the basis of the award of the Court. Now, the Government have decided to amend section 28-A of the Act to the effect that the re-determination of the compensation should be made applicable to the lands, where there is similarity of lands in all respects and merits covered by the same notification under section 4(1).(vii) As per section 44-A of the Act, no company for which any land is acquired shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government. If a company resorts to illegal transactions, there is no penal provision in the Act. Such a penal provision is necessary to prevent the companies from transferring the lands illegally, without using it for the purpose for which it was acquired. The Government have, therefore, decided to amend the existing section 44-A to the effect that the Government may, by order, declare such transfer to be null and void and on such declaration the land, shall as penalty be forfeited to, and vest in, the Government in Revenue Department free from all encumbrances.(viii) There is no provision in the Land Acquisition Act, 1894 (Central Act of 1894) for reconveyance of the land to the original owner after taking possession of the land, if the land is not required by the Government. Hence it has been decided to insert a new provision as section 48-B for this purpose.(ix) At present, no notice is issued to the requisitioning body in the cases filed before the High Court as there is no provision in the Act. If the requisitioning body is also impleaded, it can put forth its points through a separate courts, affidavit. Hence, it has been decided to make a provision for the purpose. Therefore, the Government have decided to amend the Land Acquisition Act, 1894 (Central Act 1 of 1894).2. The Bill seeks to give effect to the above decisions. Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 27th February 1996. Received the assent of the President on the 14th March 1997 and first published in Part IV- Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated the 20th March 1997. An Act further to amend the Land Acquisition Act, 1894, in its application to the State of Tamil Nadu. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-seventh Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Land Acquisition (Tamil Nadu Amendment) Act, 1996. (2) It extends to the whole of the State of Tamil Nadu. (3) It shall come into force on such date as the State Government may, by notification, appoint.

2. Amendment of section 4.

- In the Land Acquisition Act, 1894 (Central Act I of 1894) (hereinafter referred to as the principal Act), in section 4,-(1)in sub-section (1),-(a)for the expression "Whenever it appears to the appropriate Government", the expression "Subject to the provisions of sub-section (1-A), whenever it appears to the Collector or the Commissioner of Land Administration or the Government, as the case may be," shall be substituted;(b)the following Explanation shall be added at the end, namely:-"Explanation. - For the purpose of this sub-section, the publication of notification in the Official Gazette, the publication of such notification in two daily newspapers and the giving of public notice,-(a)may precede each other;(b)shall be completed within a period of sixty days. The period of sixty days shall be reckoned from the date of publication of notification in the Official Gazette or the date of publication of such notification in two daily newspapers or the date of giving public notice, whichever is earlier.";(2)after sub-section (1), the following sub-section shall be inserted, namely:-(1-A) The notification under sub-section (1) shall be published by-(a)the Collector in respect of land not exceeding ten acres in extent the value of which does not exceed rupees five lakhs;(b)the Commissioner of Land Administration in respect of land not exceeding twenty acres in extent the value of which exceeds rupees five lakhs, but does not exceed rupees twenty lakhs; and(c)the Government in other cases.";(3)in sub-section (2), for the words "by such Government", the words "by such Collector or Commissioner of Land Administration or Government, as the case may be," shall be substituted.

3. Amendment of section 5-A.

- In section 5-A of the principal Act, in sub-section (2), for the portion beginning with the words "in respect of different parcels of such land" and ending with the words "objections shall be final", the following shall be substituted, namely:-"in respect of different parcels of such land,-(i)to the Government, where the notification under sub-section (1) of section 4 was published by the Government;(ii)to the Commissioner of Land Administration, where the notification under sub-section (1) of section 4 was published by the Commissioner of Land Administration or by the Collector,containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of the Government or the Commissioner of Land Administration, as the case may be. The decision of the Government or the Commissioner of the Land Administration, as the case may be, shall be final."

4. Amendment of section 6.

- In section 6 of the principal Act,-(1)in sub-section (1),-(a)after the words "appropriate Government", the words "or the Commissioner of Land Administration, as the case may be," shall be inserted;(b)after the words "to certify its orders", the words "or under the signature of the Commissioner of Land Administration, as the case may be" shall be inserted;(2)in sub-section (2), the following Explanation shall be added at the end, namely:-"Explanation. - For the purpose of this sub-section, the publication of declaration in the Official Gazette, the publication of such declaration in two daily newspapers and the giving of public notice,-(a)may precede each other;(b)shall be completed within a period of sixty days. The period of sixty days shall be reckoned from the date of

publication of declaration in the Official Gazette or the date of publication of such declaration in two daily newspapers or the date of giving public notice whichever is earlier.";(3)in sub-section (3), after the words "appropriate Government", the words "or the Commissioner of Land Administration, as the case may be," shall be inserted.

5. Amendment of section 7.

- Infection 7 of the principal Act, for the words "by the appropriate Government in this behalf", the words "by the appropriate Government in this behalf or the Commissioner of Land Administration, as the case may be" shall be substituted.

6. Insertion of new sections 16-A and 16-B.

- After section 16 of the principal Act, the following sections shall be inserted, namely:-"16-A. Restriction on transfer, etc. - (1) No person or authority (other than the Government), for whom any land is acquired under this Act for any public purpose as referred to in sub-section (1) of section 4, shall transfer the said land or any part thereof by way of sale, mortgage, gift, lease or otherwise except with the previous sanction of the Government.(2)Where it is noticed or any information has been received that any land has been transferred in contravention of sub-section (1), the Government may, by an order, declare the transfer to be null and void, and on such declaration, the land shall, as penalty, be forfeited to, and vest in the Government in Revenue Department free from all encumbrances:Provided that no order under this sub-section shall be made unless such person or authority has had a reasonable opportunity of being heard.

16.

-B. Land to be forfeited in certain cases. - Where the Government are satisfied that the land acquired under this Act for any public purpose as referred to in sub-section (1) of section 4 is not used for the purpose for which it was acquired, they may, by an order, forfeit the land as penalty and the land shall vest in the Government in Revenue Department free from all encumbrances:Provided that no order under this section, shall be made unless the person or authority aggrieved has had a reasonable opportunity of being heard."

7. Amendment of section 18.

- In section 18 of the principal Act, -(1)in sub-section (2), for the words "the application shall state the grounds on which objection to the award is taken", the following shall be substituted, namely:-"The application shall state-(a)the grounds on which the objection to the award is taken; and(b)if it relates to the enhancement of compensation, the exact amount required to be enhanced;";(2)after sub-section (2), the following sub-section shall be substituted, namely:-(3)Notwithstanding anything contained in this Act or in the Code of Civil Procedure, 1908 (Central Act V of 1908), or in any other law for the time being in force or in any contract, the applicant shall, if such application relates to the amount of compensation and if the acquisition is

not made for the Government, implead the person or authority, as the case may be, for whom the acquisition is made, as a party in such application."

8. Amendment of section 19.

- In section 19 of the principal Act, in sub-section (1), after clause (b), the following clause shall be inserted, namely:-(bb) the name of the person or authority to be impleaded as a party in the proceedings of the Court where the acquisition is not made for the Government;"

9. Insertion of new section 23-A.

- After section 23 of the principal Act, the following section shall be inserted, namely:-"23-A. Restriction on withdrawal of amount. - The amount of compensation awarded by any Court under this Act shall be deposited in that Court and the Court shall not allow the person interested to withdraw such amount till the final disposal of the matter in this regard in the highest forum:Provided that if the Court considers that it is absolutely necessary to allow the person interested to withdraw the amount of compensation, the Court may allow him to withdraw only the amount awarded by the Collector.Explanation. - For the purpose of this section, "Court" includes the High Court.

10. Substitution of section 25.

- For section 25 of the principal Act, the following sections shall be substituted, namely:-"25. Amount of compensation awarded by Court. - The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under section 11 and shall not be more than the amount claimed by the person interested.

25.

-A. Payment of enhanced compensation in certain cases. - Notwithstanding anything contained in this Act or in any other law for the time being in force or any contract, in cases where the acquisition is not made for the Government and the compensation awarded under section 25 or section 28-A or section 54, is in excess of the amount awarded by the Collector under section 11, the excess amount so awarded including the interest, if any, payable under section 28, shall be paid by the person or authority for whom the acquisition is made."

11. Amendment of section 28-A.

- In section 28-A of the principal Act, in subsection (1), after the words "the persons interested in all the other land", the words "which is similar in all respects and merits and is" shall be inserted.

12. Amendment of section 44-A.

- Section 44-A of the Principal Act shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-(2) Where it is noticed or any information has been received that any land has been transferred in contravention of sub-section (1), the Government may, by order, declare the transfer to be null and void, and on such declaration, the land shall, as penalty, be forfeited to, and vest in, the Government in Revenue Department free from all encumbrances:Provided that no order under this sub-section shall be made unless the company has had a reasonable opportunity of being heard."

13. Insertion of new section 46-B.

- After section 48-A of the principal Act, the following section shall be inserted, namely:-"48-B. Transfer of land to original owner in certain cases. - Where the Government are satisfied that the land vest in the Government under this Act is not required for the purpose for which it was acquired, or for any other public purpose, the Government may transfer such land to the original owner who is willing to repay the amount paid to him under this Act for the acquisition of such land inclusive of the amount referred to in sub-sections (1-A) and (2) of section 23, if any, paid under this Act."

14. Insertion of new section 54-A.

- After section 54 of the principal Act, the following section shall be inserted, namely:-"54-A. Service of notice by High Court. - Notwithstanding anything contained in the Code of Civil Procedure, 1908 (Central Act V of 1908), the High Court before which an appeal has been filed under section 54, shall cause a notice, specifying the date on which such Court will proceed to hear the case and directing the appearance before such Court on that day, to be served on the person or authority also, other than the Government, for whom the acquisition is made."