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The 1st August 1964

No.LJL.5/63/51.—The following Act of the Assam Legislative Assembly which received the assent of the President is hereby published for general information.

(Received the assent of the President on the 29th July 1964)

ASSAM ACT XV OF 1964

THE ASSAM LAND (REQUISITION AND ACQUISITION) ACT, 1964.

[Published in the Assam Gazette Extraordinary, dated the 3rd August 1964]

An
Act

to amend and consolidate the law for requisition and speedy acquisition of premises and land for certain public purposes.

Preamble WHEREAS it is expedient to amend and consolidate the law for requisition and speedy acquisition of premises and land for certain public purposes ;

It is hereby enacted in the Fifteenth Year of the Republic of India as follows:—

Short title, extent and commencement. 1. (1) This Act may be called the Assam Land (Requisition and Acquisition) Act, 1964.

- (2) It extends to the State of Assam.
- (3) It shall come into force at once.

Definitions 2. In this Act, unless there is anything repugnant in the subject or context:—

- (a) "Collector", "land" and "person interested" have the same meaning as in the Land Acquisition Act, 1894 ; Act I of 1894.

Explanation:—

Land for the purpose of this Act includes trees, buildings and standing crops on it, and easement.

- (b) "Court" means a principal Civil Court of original jurisdiction, and includes the Court of any Additional Judge, Subordinate Judge or Munsif whom the State Government may appoint, by name or by virtue of his office, to perform, concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act within any specified local limits and, in the case of Munsif, up to the limits of the pecuniary jurisdiction with which he is vested under section 19 of the Bengal, Agra and Assam Civil Courts Act, 1887 ; Act XI of 1887.

(c) "displaced person" means—

(i) any person, who on account of this setting up of the two Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan has been compelled to leave his place of residence in such area after the 1st day of March 1947 and who has subsequently been residing in India and is in distress,

or

(ii) a person who has been displaced due to various acquisition proceedings relating to land in Assam since 1943

(d) "Owner" means proprietor or patta holder and his co-sharer ; and

(e) "prescribed" means prescribed by rules made under this Act.

Power to
requisition.

3. (1) If in the opinion of the State Government or any person authorised in this behalf by the State Government it is necessary so to do, for maintaining supplies and services essential to the life of the community or for providing proper facilities for accommodation, transport, communication, irrigation, flood control and anti-erosion measures including embankment and drainage or for providing land individually or in groups to landless, flood affected or displaced persons, or to a society registered under the Assam Co-operative Societies, Act, 1949, or a company incorporated under the Companies Act, 1956, formed for the benefit and rehabilitation of landless, flood affected or displaced persons the State Government or the person so authorised, as the case may be, may, by order in writing, requisition any land and may make such further orders as appear to it or to him to be necessary or expedient in connection with the requisitioning:

Assam
Act I of
1950.
Act I of
1956.

Provided that no land used for the purpose of religious worship shall be requisitioned under this section:

Provided further that where it is necessary to provide the land to landless or displaced persons such land shall not be requisitioned unless the person interested in the land has been given an opportunity of making representation against it within such time and in such manner as may be prescribed in this behalf.

(2) An order under sub-section (1) shall be served in the prescribed manner on the owner of the land and where the order relates to land in occupation of a tenant, also on such tenant.

(3) When the order for requisition is made by any authority other than the State Government, any person interested in the land, within 30 days from the date of service of the order, may appeal to the State Government and the decision of the State Government in such appeal shall be final.

Powers to take possession of requisitioned land.

4.(1) Where any land has been requisitioned under section 3, the State Government or the person authorised in this behalf by the State Government may, by order in writing, direct the owner, the tenant, or any other person who may be in possession of the land whether at the time of requisition or at any time thereafter before the land is released from requisition under section 8, to surrender or deliver possession thereof to the Collector or any other person duly authorised by him in this behalf within such days of the service of the order as may be specified therein.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the State Government or the person authorised in this behalf, in addition to any other provisions in this Act, may take possession of the land and may, for that purpose, use such force as may be necessary.

(3) An order under sub-section (1) shall be served in the prescribed manner on the owner of the land and where the order relates to land in occupation of a tenant or any other person also on such tenant or occupant.

(4) If after service of the notice on the owner, tenant or the occupant, any person other than the person on whom the notice is served enters into possession of the land, nothing in this sub-section shall be construed as requiring fresh notice on such person and such person shall deliver possession to the Collector or any other person duly authorised by him in this behalf, on the date previously notified, notwithstanding that no fresh notice has been served on him.

(5) If it is found that the person entering into unauthorised possession of the land under sub-section (4) has raised any crop or erected any building or other construction on the land, the Collector or any other person duly authorised by him in this behalf shall have the power to confiscate or destroy the crop so raised or the building or other construction so erected by such person and such person shall not be entitled to any compensation for any loss or damage so done.

Repairs to
Buildings.

5. Where any land with building standing thereon is requisitioned under section 3, the State Government or the person authorised in this behalf by the State Government may order the owner to execute such repairs as may be necessary and are usually made by landlords of that locality and as may be specified in the notice issued in this behalf within such reasonable time as may be mentioned therein and if the owner fails to execute any repairs in pursuance of such order, the State Government or the person authorised in this behalf by the State Government may cause repairs specified in the order to be executed at the expense of the owner and the cost thereof, may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the owner in such proportion and over such period as may be prescribed:

Provided that where an order is made by an authority other than the State Government, to carry out repairs at the expense of the owner, the owner or any other person interested in the land, within 30 days from the date of service of the order, may appeal to the State Government, and the decision of the State Government on such appeal shall be final.

Acquisition
of land.

6. (1) Where any land has been requisitioned under section 3, the State Government may use or deal with it in such manner as may appear to it to be expedient and may acquire such land by publishing in the official Gazette, a notice to the effect that the State Government has decided to acquire such land in pursuance of this section.

(2) Where a notice as aforesaid is published in the official Gazette, the requisitioned land and premises shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the State Government free from all encumbrances and the period of requisition of such land shall end.

(3) Subject to the provisions of this Act on such vesting, the provisions of the Land Acquisition Act, 1894, with the rules framed thereunder shall, so far as may be, apply to such land.

Act I of
1894.

Notice to
persons
interested.

7. (1) After the publication of a notice under sub-section (1) of section 6, the Collector shall cause public notice to be given at convenient places on or near the land to be taken stating that the State Government has acquired the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so acquired, and shall require all persons interested in the land to appear personally or by duly authorised agent before the Collector at a time and

place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claim to compensation for such interests. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

Release from
requisition.

8. (1) Where any land requisitioned under section 3 is not acquired and is to be released from requisition, it will revert to the owner and the Collector will deliver possession of the land to such owner or person interested who was recognised under sub-section (4) of section 11 in as good a condition as the land was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force.

(2) The delivery of possession of such land to the person specified in the order made under sub-section (1) shall be a full discharge of any liability of the State Government to deliver possession to such person as may have rightful claim to possession thereof but shall not prejudice any right in respect of such land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(3) Where the person to whom the possession of any land requisitioned under section 3 is to be delivered cannot be found or is not readily traceable or has no agent or other person empowered to accept delivery on his behalf, the State Government shall publish in the official Gazette a notice declaring that such land is released from requisition and shall cause a copy thereof to be affixed on some conspicuous part of such land.

(4) When a notice referred to in sub-section (3) is published in the official Gazette, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof; and the State Government shall not be liable for any compensation or other claims in respect of such land for any period after the said date.

Speedy
acquisition
of land in
certain
cases.

9. (1) Notwithstanding anything contained herein before, if in the opinion of the State Government or the Collector it is necessary or expedient to acquire speedily any land for works or other development measures in connection with flood control and anti-erosion measures including embankment and drainage,

the State Government or the Collector by order in writing acquire the land stating the area and boundaries thereof.

(2) The Collector shall cause the order passed under sub-section (1) to be served in such manner as may be prescribed on the owner of the land and also on the tenant or the occupant in cases where the owner is not in occupation of the land and also a notice to the same effect stating that claims to compensation for all interests in the land may be made to him within such time as may be prescribed :

Provided that when the person to be so served is not readily traceable or the ownership of the land is in dispute, the Collector shall cause the above order and notice to be published in such manner as may be prescribed.

Vesting and taking possession of land acquired under section 9.

10. (1) When an order of acquisition is served or published under sub-section (2) of section 9, the land shall vest absolutely in the State Government free from all encumbrances on the date the order is so served or published.

(2) The Collector may, at any time after the land becomes so vested, proceed to take possession thereof.

(3) On such vesting, the order passed under sub-section (1) of section 9 shall be published in the official Gazette in the manner prescribed.

Compensation.

11. (1) Subject to the provisions of sub-section (2), whenever any land is acquired under section 6 or section 9 there shall be paid compensation the amount of which shall be determined by the Collector. In determining the amount of compensation the Collector shall take into consideration the market value of the land for a period of five years preceding the date of publication of the notice under sub-section (1) of section 6 where the land is acquired under the said section, and where the land is acquired under section 9, from the date of passing the order under sub-section (1) of the said section, and the amount of compensation payable shall be on the basis of the average market value so arrived at :

Provided that where any building is acquired under section 6, the compensation shall be payable at the market value of the building on the date of publication of the notice under sub-section (1) thereof.

(2) In the case of land with respect to which any settlement has been made for special cultivation or which is included in any grant, if such land is

lying fallow or uncultivated or is not utilised for the purpose for which the grant or settlement was made or for the purposes incidental thereto, then the compensation payable for acquisition of such land together with trees if any standing on it shall be an amount equal to ten times the annual land revenue which, on the date of publication of the notice referred to in sub-section (1) of section 6 or sub-section (1) of section 9, is or would have been payable if such land is or had been assessable to revenue at full rates :

Provided that where any amount was originally paid to Government by the grantee as price or premium for the land, an additional amount equal to the amount originally paid by the grantee shall also be payable.

Explanation.—"Special cultivation" means cultivation which involves, either owing to the nature of the crop or owing to the process of cultivation, a much larger expenditure of capital per acre than is incurred by most of the cultivators in the State, and includes cultivation of tea.

(3) when the compensation has been determined under sub-section (1) or sub-section (2), the Collector shall make an award in accordance with the principles set out in section 11 of the Land Acquisition Act, 1894 but no amount referred to in sub-section (2) of section 23 of that Act shall be included in the award. Act I of 1894.

(4) Where any land is requisitioned under section 3, there shall be paid subject to the provisions of sub-section (5) below, to every person interested such compensation as may be agreed upon in writing between such person and the Collector or in the absence of agreement, reasonable compensation in respect of—

- (a) the requisition of such land; and
- (b) the damage done during the period of requisition of such land other than what may have been sustained by reasonable wear and tear and irresistible force :

Provided that in determining the amount of compensation whether in the case of agreement or otherwise, such amount shall not exceed the rent payable under the provisions of the Assam Urban Areas Rent Control Act, 1961 or the Assam Non-Agricultural Urban Areas Tenancy Act, 1955 or the Assam (Temporarily Settled Districts) Tenancy Act, 1935 so far as they may be applicable or of any of the statutory re-enactment or modification thereof. Assam Act II of 1962. Assam Act XII of 1955. Assam Act III of 1935.

(5) Notwithstanding the provisions of sub-section (2) of section 12, in the case of land included in any grant or settlement made for special cultivation or

other purposes which is lying fallow or uncultivated and which is requisitioned for the purpose of cultivation, the annual compensation payable under clause (a) of sub-section (4) shall in no case be more than double the annual land revenue which, on the date of order of requisition, is or would have been payable if such land is or had been assessable to revenue at full rates.

12. (1) The Collector shall in every case—

Reference to Court.

- (a) where any person aggrieved by an award made under sub-section (3) of section 11 makes an application requiring the matter to be referred to the Court; or
- (b) where there is any disagreement with regard to the compensation payable under sub-section (4) of section 11 on the application of the person entitled to compensation requiring the matter to be referred to Court,

refer the matter to the decision of the Court.

(2) Subject to the provisions of this Act, the Act I of provisions of the Land Acquisition Act, 1894, shall 1894. *mutatis mutandis* apply in respect of any reference made to the Court under sub-section (1).

Payment of interest.

13. When the amount of any compensation payable under this Act is not paid or deposited within thirty days from the date of the award the Collector shall pay the amount awarded with interest thereon at the rate of 6 per cent per annum from the date of the award until it shall have been so paid or deposited.

Refund of Land Revenue

14. After the publication of the notice referred to in sub-section (1) of section 6 or after taking possession of the land under sub-section (2) of section 10, as the case may be, no land revenue shall be payable for any period thereafter and land revenue if any paid in respect of such period shall be refunded.

Power to enter upon land, etc.

15. The State Government may, with a view to requisitioning any land or for the purpose of determination by the Collector of the amount of compensation payable under this Act, by order:—

- (a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be specified;
- (b) direct that the owner or occupier of the land shall not dispose of it or alter it

without permission from the Government till the expiry of such period as may be specified in the order ;

(c) authorise any person to perform in respect of any land all or any of the functions referred to in sub-section (2) of section 4 of the Land Acquisition Act, 1894.

Act 1 of
1894.

Penalty

16. If any person contravenes any order made under this Act he shall 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.

Saving

17. Save as otherwise expressly provided in this Act no decision or order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

Protection of
action taken
under this
Act.

18. (1) 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 any order made thereunder.

(2) Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rule or any order made thereunder.

Recovery of
money pay-
able to Go-
vernment.
Power to
make rules.

19. Any money payable to State Government under this Act shall be recoverable as arrear of land revenue.

20. (1) The State Government may make rules or carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

- (a) the manner of service of orders on the owner or occupier of land referred to in sub-section (2) of section 3 ;
- (b) the manner of service of notice and orders on the persons referred to in sub-section (2) of section 7 and in sub-section (2) of section 9 respectively ;
- (c) the manner and the conditions and terms on which land will be settled or disposed of by Government ; and
- (d) the manner of disposal of any structure or tree standing on the land.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen 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

sessions immediately following the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly 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.

Repeal and Saving.

21. (1) The Assam Land (Requisition and Acquisition) Act, 1948, the Assam Acquisition of Land for Flood Control and Prevention of Erosion Act, 1955, and the Assam Acquisition of Land for Flood Control and Prevention of Erosion (Validation) Act, 1959 are hereby repealed.

Assam Act
XXV of
1948, Assam
Act, VI of
1955 and
Assam Act
XXI of
1960.

(2) Notwithstanding such repeal,

(a) any rule made, any order issued, any notification published, any proceedings commenced, any action taken or anything whatsoever done under the Acts repealed, shall continue and be deemed to have continued and have effect as if made, issued, published, commenced, taken or done under the corresponding provisions of this Act;

(b) any action taken, order made or other acts and things done by any officer acting or purporting to act under the Acts repealed in connection with the requisition or acquisition of any land shall be valid and shall be deemed always to have been valid, and shall not be called in question in any Court on the ground of incompetency of the officer to act under the Acts repealed.

Validation of acquisition and Compensation under the repealed Acts.

22. Notwithstanding anything contained in any judgment, decree or order of any Court, all lands requisitioned, acquired, compensation paid for, works undertaken or purported to have been requisitioned, acquired, compensation paid or works undertaken under the Acts repealed, shall be and shall be deemed always to have been, as validly requisitioned, acquired, paid or undertaken as if the provisions of this Act were in force at all material times when such requisition or acquisition was made or compensation was paid or works were undertaken,

and accordingly,

(a) no suit or other proceeding shall be maintained or continued in any Court against the State Government or any officer for the release of any land so requisitioned or acquired or for payment of any damages; and

(b) no Court shall enforce a decree or order directing the release of any land so requisitioned or acquired or for the payment of any damages.

B. SARMA,
Secy. to the Govt. of Assam, Law Deptt.