The Tamil Nadu Rivers Conservancy Act, 1884

Act 6 of 1884

Keyword(s):
Conservancy of Rivers, Specified River, Survey of Rivers, Conservators of Rivers

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The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Government.

Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act.

68. Whenever it appears to the [1][Government] that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section 4[2].

Central Act X of 1870.

[3](TAMIL NADU) ACT No. VI OF 1884[4].

[THE [3](TAMIL NADU) RIVERS CONSERVANCY ACT, 1884.]

(*Received the assent of the Governor on the* 31*st March* 1884, *and of the Governor-General on the* 28th *August* 1884.)

An Act to provide for the Conservancy of Rivers in the [5](State of Tamil Nadu).

Preamble.

WHEREAS it is expedient to make provision for the conservancy of rivers in the [6][State of Tamil Nadu]; It is hereby enacted as follows :—

Short title.

1. This Act may be cited as the [3](Tamil Nadu) Rivers Conservancy Act, 1884.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation(Amendment) Order of 1950.

[2] *See* now the Land Acquisition Act, 1894 (Central Act I of 1894), s.6.

[3] These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.

[4] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated the 5th July 1881, p. 4; for Report of the Select Committee, *see ibid*, dated the 4th December 1883, p. 1; for Proceedings in Council, *see ibid*, dated the 13th September 1881, p. 9; *ibid*, dated the 3rd July 1883, p. 26; and *ibid*, dated the 25th March 1884, p. 1.

This Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Tamil Nadu Merged States (Laws) Act, 1949 (Tamil Nadu Act XXXV of 1949).

[5] This expression was substituted for the expression "Madras Presidency" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.

[6] This expression was substituted for the expression "Presidency of Madras" by *ibid*.

Notification as to the conservancy of rivers as provided by this Act.

2. The [1][State Government] may from time to time declare, by notification in the [2][Official Gazette] and in the Gazette of every district in which any part of the river is situated, that the conservancy of any specified river requires to be provided for in manner prescribed by this Act.

Power to direct survey of rivers.

3. The [1][State Government] may at the same time direct that a survey be made of such river for the purpose of determining the limits within which this Act is to be applied, and that proper charts and registers be prepared setting forth the channel and all boundaries and land-marks and all other matters necessary for the purpose of ascertaining such limits.

Powers of surveying officers to enter upon and survey lands.

4. All persons authorized to make a survey under section 3 shall have the like powers to enter upon land and to do all acts necessary for the survey as are given in sections 4 and 5 of the Land Acquisition Act, 1870,[3] and subject to the provisos therein contained. Central Act X of 1870.

Duties of surveyor.

5. It shall be the duty of the surveyor appointed to make a survey of any river to note upon the charts thereof all cultivation existing or ordinarily carried on, and all groynes, buildings, plantations, constructions or obstructions within the surveyed limits of the said river and to prepare a register to be styled the survey-register, containing the above particulars. The surveyor shall also mark upon the charts the ordinary channel as it exists at the date of the survey so far as it can be ascertained.

Survery-register.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[3] *See* now the Land Acquisition Act, 1894 (Central Act I of 1894).

Power to appoint Conservators of Rivers, and indicate their jurisdictions.

6. For the purpose of carrying out this Act in respect of any river, the [1][State Government] may appoint as many officers as may be deemed necessary, to be styled Conservators of Rivers, and may from time to time define, by order to be notified in the Gazettes of the districts in which any part of such river is situated, the limits of their several jurisdictions.

[2] * * * * * *

When notification declaring Act applicable to rivers may be published.

7. The charts prepared as is provided in section 3, shall, when completed, be exhibited for public information at the kacharis of all districts in which any part of the river so surveyed is situated, for a period of not less than ninety days. Any person or persons who may desire to raise objections to the boundaries or land-marks set forth in such charts shall be at liberty, during such period, to forward a statement in writing setting forth his or their objections to the Collector of the district in which the boundaries objected to are situated. At the expiry of such period, the Collector shall forward the said charts, with such statement of objections (if any) and his remarks thereon, to the [1][State Government] who shall then take the same into consideration, and may order such alteration in the said charts, or pass such other order thereon as to [3][them] may seem fit, previous to final approval of the said charts. On such final approval, the [1][State Government] may, by notification in the [4][Official Gazette] and in the Gazette of every district in which any part of the river is situated, declare that the provisions of this Act shall apply to the said river within the boundaries and limits prescribed in the said charts.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "Such officers shall be liable to removal by order of the Governor in Council" were omitted by the Adaptation Order of 1937.

[3] This word was substituted for the word "him" by *ibid.*

[4] These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

River-bed defined.

The land within the limits so defined and approved by the [1][State Government] shall be deemed to be the river-bed, and the limits shall, when necessary, be defined by boundary-stones or other suitable marks to be set up.

Custody of survey-register.

8. When the survey-register affecting any portion of a river is completed, it shall be handed over with the charts to the Conservator of Rivers within whose jurisdiction the said portion is situated and shall form part of the records of his office.

The Conservator shall thereupon furnish to the Collectors of the districts in which any part of such river is situated certified copies of the survey-register and charts.

Charts of rivers where to be deposited for public inspection.

9. Copies of all charts and registers prepared as provided in section 5, as finally approved, shall be deposited in the office of the Collector of the district in which any part of the river so defined is situated, and shall be open to the inspection of the public at all reasonable times.

Power to alter limits of rivers.

10. The [1][State Government] may from time to time by notification in the [2][Official Gazette] and in the Gazette of every district in which any part of the river is situated, alter, extend or restrict the limits of any such river-bed, and the altered limits shall be marked in the charts and defined in manner prescribed in section 7 :

Provided that no such alteration shall be made until full particulars thereof shall have been publicly exhibited and any objections made thereto disposed of by the [1][State Government] as provided for in the said section.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

Prohibition of new cultivation on land in bed of notified rivers.

[1][11. After such surveys have been completed and approved and the notification as provided by this Act made by the [2][State] Government, land within the limits of a river-bed as defined in section 7 which has not been cultivated for two years previous to the date on which this Act is applied to the river, shall not, without the previous permission of the Conservator of Rivers in writing, be cultivated, and it shall not be lawful without such permission to cultivate within the limits of a river-bed any new formation of land.

Penalty.

Whoever commences or carries on, or attempts to carry on, any cultivation in contravention of this section and of a notice from the Conservator to desist, shall be punishable with fine which may extend to five hundred rupees and, in default of payment of fine, to simple imprisonment not exceeding three months.

Explanation.—'Cultivation' shall, for the purposes of this Act, include the growing of plants which require the ground to be ploughed once a year or at shorter intervals and which are ordinarily removed at the end of the season but shall exclude 'plantation' as explained in section 13.]

Power to prohibit cultivation.

12. The Conservator of Rivers may, with the previous sanction of the Collector of the district, by an order in writing require any owner or occupier of land usually cultivated, or cultivated with permission under section 11, within such river-bed, to abstain from cultivating such land [3][should it appear that such cultivation will tend to obstruct or divert the course of the river]; and it shall be the duty of such owner or occupier to act in obedience to such order.

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[1] This section was substituted by section 2 of the Madras Rivers Conservancy (Amendment) Act, 1942 (Madras Act XXI of 1942) for section 11 as substituted for the original section 11 by section 1 of Madras Act II of 1885. Madras Act XXI of 1942 was permanently re-enacted by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting and Repealing (No. I) Act, 1948 (Tamil Nadu Act VII of 1948).

[2] This word was substituted for the word "Provincial" by the Adaptation Order, 1950.

[3] These words were inserted by s. 2 of Madras Act II of 1885.

Penalty.

Whoever fails to comply with any order made by the Conservator of Rivers under this section shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees five hundred, or, in default of payment, to simple imprisonment not exceeding three months for every such offence.

Constructions, plantations, etc., within river-bed without permission prohibited.

13. (1) Upon a survey being completed and the notification made as provided by this Act, any person intending to make or remove or extend any groyne, building or construction of any kind, or plantation, grasses or trees, within such river-bed [1][including any new formation of land therein] shall, one month before beginning so to make, remove or extend, make an application in writing to the Conservator of Rivers for licence to make or remove or extend such groyne, building, construction, plantation, grasses or trees.

[2][*Explanation.*—'Plantation' shall, for the purposes of this Act, include the growing of plants, shrubs or trees which do not ordinarily require the ground to be ploughed or cultivated every year and which are generally propagated by the planting of cuttings, sets, seedlings or shoots such as nanal, alchi, tilla, betel, sugarcane, plantain, bamboo and the like.]

(2) The Conservator of Rivers shall, within one month after receiving such application, pass such orders in writing thereon as he may deem fit.

(3) If the Conservator of Rivers does not pass orders in writing within one month after receiving such application, the applicant may proceed to make, remove or extend such groyne, building, construction, plantation, grasses or trees in compliance with the terms of such application.

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[1] These words were inserted by s. 3 of the Madras Rivers Conservancy (Amendment) Act, 1942 (Madras Act XXI of 1942), re-enacted permanently by s. 2 of, and the First Schedule to, the Tamil Nadu Re-enacting and Repealing (No. I) Act, 1948 (Tamil Nadu Act VII of 1948).

[2] This Explanation was added by *ibid.*

(4) An appeal from any order passed by the Conservator of Rivers under clause (2) of this section shall lie to the Collector of the district if the same be preferred within sixty days from the date of the receipt of such order.

(5) The appeal shall be in writing and shall set forth concisely the grounds of objection to the decision of the Conservator of Rivers, and shall be heard and disposed of by the Collector of the district.

Penalty.

(6)Whoever does any act [1][in contravention of this section] shall be liable on conviction before a Magistrate to a fine not exceeding rupees one thousand or, in default of payment, to simple imprisonment for a period not exceeding six months for every such offence.

Power to direct removal of constructions, plantations, etc.

14. The Conservator of Rivers may, with the previous sanction of the Collector of the district, by an order in writing, require the owner or occupier of any land within any such river-bed to remove any groynes, buildings, constructions, plantations, grasses, trees or other thing upon such land which the said Conservator may deem to be an obstruction to the course of the stream of such river ; and it shall be the duty of such owner or occupier to act in compliance with such order within a time to be mentioned in such order :

Provided that, in the case of the removal of any building being so ordered, it shall be open to the owner or other person in charge thereof to appeal, through the Collector of the district, against such order to the [2][Board of Revenue] within sixty days from the date of the receipt of such order ; and in such case the order shall remain in abeyance until such appeal shall have been decided by the [2][Board of Revenue].

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[1] These words were substituted for the words " prohibited by the section" by section 3 of the Madras Rivers Conservancy (Amendment) Act, 1942 (Madras Act XXI of 1942), re-enacted permanently by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting and Repealing (No. I) Act, 1948 (Tamil Nadu Act VII of 1948).

[2] These words were substituted for the words " Governor in Council " by section 2 of the Madras Rivers Conservancy (Amendment Act, 1936 (Madras Act XXII of 1936).

Notice of every appeal under this section, together with a copy of the petition of appeal, shall be sent by the appellant to the Conservator of Rivers at the time the appeal is sent to the Collector.

Penalty.

Whoever fails to comply with any order issued by the Conservator of Rivers under this section shall be liable, on conviction before a Magistrate, to a fine not exceeding rupees one thousand, or, in default of payment, to simple imprisonment for a period not exceeding six months for every such offence.

Particulars to be set. for permits, and copies to be furnished to Collector.

15. The writings prescribed in sections 11 and 13, clause (2), shall define and describe the kind and extent of the cultivation and the nature of the works or things authorized to be made or done, and it shall be the duty of the Conservator of Rivers from time to time to record or cause to be recorded the particulars contained in such writings in the survey-register, and in the certified copies thereof in the possession of the Collector.

The Conservator of Rivers shall also furnish the Collector of the district with copies of all orders made by him under sections 12 and 14.

Compensation to owner or occupier of land within river-bed for constructions removed.

[1][16. Whenever, under sections 11, 12, 13 or 14, the Conservator of Rivers refuses the owner or occupier of any land permission to plant, cultivate or build on any land, or requires him to remove any groynes, buildings, constructions, plantations, grasses, trees or other obstructions or works existing at the time of the survey, or subsequently authorized by the Conservator of Rivers, such owner or occupier shall be entitled to compensation for any damages sustained by him by reason of such requirement or refusal of permission.]

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[1] The section was substituted for the original section 16 by Madras Act II of 1885, section 3.

Power to Conservators to do acts necessary to prevent danger to life or property.

17. [1][The Conservator of Rivers may do or may cause to be done in connexion with the conservancy of any river to which this Act has been applied, any act which appears to him to be necessary to prevent erosion, breach of embankments or the flooding over them, encroachments by the stream or danger to life or property and for such purpose he may, notwithstanding that his acts may involve interference with private rights of property, enter upon any public or private land whether within or outside the river-bed and may dig and use earth from such land, [2](construct works, or plant and grow reeds, grass or shrubs thereon or cut and remove therefrom such reeds, grass or shrubs) or alter the course of any stream :]

Compensation for damage sustained by such acts.

Provided that compensation shall be made to any person who shall sustain any damage by reason of any act authorized by this section.

The Conservator shall furnish the Collector of the district with a report of every act done by him under this section.

Delegation of powers conferred on Conservator of Rivers to his subordinates.

18. All or any of the powers conferred upon the Conservator of Rivers by the preceding section may be exercised by such of his subordinates as may be nominated by him :

Provided such nomination be notified in the Gazettes of the district in which any part of the river is situated.

Penalty for obstructing Conservators.

19. Any person who obstructs the Conservator of Rivers in doing any act authorized by this Act shall be deemed to have committed the offence described in section 186 of the Indian Penal Code.

Central Act XLV of 1860.

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[1] This paragraph was substituted for the original paragraph by section 4 of the Madras Rivers Conservancy (Amendment) Act, 1942 (Madras Act XXI of 1942), which was permanently re-enacted by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting and Repealing (No. I) Act, 1948 (Tamil Nadu Act VII of 1948).

[2] These words were substituted for the words " construct works thereon " by section 2 of the Madras Rivers Conservancy (Amendment) Act, 1949 (Madras Act XXXI of 1949).

Conservators to be deemed officers in charge of rivers under Central Act I of 1858.

20. Conservators of Rivers under this Act shall be deemed and taken to be officers in charge of rivers within the meaning of Act I of 1858 (*An Act to make lawful compulsory labour for the prevention of mischief by inundation, etc.*).

Power to Conservator to cause removal of obstruction, etc., in case of default.

21. Whenever the Conservator of Rivers, in accordance with the provisions of this Act, requires the owner or occupier of any land to do any act or to remove any obstruction, and such owner or occupier fails to do what he is required to do within a reasonable specified time, such Conservator may cause such act to be done or obstruction to be removed and charge the expense of such act or removal to such owner or occupier.

Recovery of expenses of such removal.

The expense so incurred by the Conservator of Rivers shall be certified by him to the Collector of the district, who shall recover the same from such owner or occupier in the manner provided by law for the recovery of arrears of land-revenue.

Power to make rules.

22. The [1][State Government] may from time to time make, and when made, alter, add to and repeal, rules not inconsistent with this Act for the prevention of any injury to works constructed upon all rivers or upon any river to which this Act may be applied, and for the prevention of acts or omissions likely to affect injuriously the conservancy of such rivers or river :

Provided that no penalty for any one infringement of any such rules shall exceed rupees fifty.

All rules made under this section shall be published in three successive issues of the [2][Official Gazette] and of the Gazettes of every district in the [3][State] in which any part of the river is situated to which such rules relate, and shall not come into operation until one month after such publication.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[3] This word was substituted for the word "Presidency" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.

Central Act XLV of 1860.

23. All Conservators of Rivers, surveyors, and subordinates duly authorized under section 18 of this Act shall be deemed to be public servants within the meaning of the Indian Penal Code. Conservators, etc., to be public servants.

24. All fines imposed by this Act may be recovered in the manner provided in the Code of Criminal Procedure[1]. Fines to be recovered under the Code of Criminal Procedure.

25. No suit shall be brought against any Conservator, surveyor or subordinate, or any person acting under his direction, for anything done or intended to be done under this Act until after the expiration of three months next after notice in writing shall have been delivered or left at the office of such Conservator, surveyor, subordinate or person, or at his place of abode, explicitly stating the cause of action and the name and place of abode of the intended plaintiff and of his agent in the cause, if any, and upon the trial of such suit the plaintiff shall not be permitted to go into evidence of any cause of action except such as is stated in the notice so delivered, and unless such notice be proved, the Court shall find for the defendant ; and every such suit shall be commenced within six months next after the accrual of the cause of action. Period of limitation for suits against Conservators, etc. No evidence of cause of action except of that stated in notice.

If any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender. Tender of amends.

It shall be lawful for the defendant, before issue joined by leave of the Court in which any suit is pending, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court. Payment into Court.

26. Nothing contained in this Act shall be deemed to affect the provisions of the Indian Easements Act (Act V of 1882). Easements Act not affected.

[1] *See now* Central Act 2 of 1974.