1.THE TAMIL NADU SLUM AREAS (IMPROVEMENT AND CLEARANCE) ACT, 1971

(ACT NO. XI OF 1971)

An Act to provide for the improvement and clearance of slums in the State of Tamil Nadu.

WHEREAS the number of slums in certain areas in the State of Tamil Nadu is on the increase and the slums are likely to become a source of danger to public health and sanitation of the said area.

AND WHEREAS under the existing law, it has not been possible effectively to arrest the growth of slums, to eliminate congestion and to provide for certain basic needs such as streets, water-supply and drainage in slums and to clear slums which are unfit for human habitation.

AND WHEREAS to obviate this difficulty, it is expedient to provide for the removal of un-hygenic and insanitary conditions prevailing in slums, for better accommodation and improved living conditions for slum dwellers, for the promotion of public health generally and for the acquisition of land for the purpose of improving or developing slum areas, re-developing slum clearance areas and rehabilitating slum dwellers:

AND WHEREAS it is Directive principle of State Policy embodied in the constitution that the State should regard the improvement of public health as among its primary duties.

Be it enacted by the legislature of the State of Tamil Nadu in the Twenty-second year of the Republic of India as follows:

CHAPTER 1
PRELIMINARY

1. Short title, extent and commencement:- This Act may be called Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971.

2. It extends to the whole of Tamil Nadu.

3. It should come in to force on such date as the Government may, by notification, appoint and different dates may be appointed for different areas and for different provisions of this Act:

Provided that any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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2. **Definitions.**- In this Act, unless the context otherwise requires.

(a) "Board" means the Tamil Nadu Slum Clearance Board, established under section 34;

(b) "Building" Includes a house, out-house, stable, latrine, shed, hut, wall and any other such structure, whether or masonry, bricks, wood, mud, metal or any other materials whatsoever, but does not include part or machinery comprised in a building;

(c) "Court" means-

(i) in the city of Madras, the Madras City Civil Court;

(ii) elsewhere, the Subordinate Judge's Court having jurisdiction and if there is not such Subordinate Judge's Court, the District Court having jurisdiction;

(d) "erection" in relation to a building includes extension, alteration or re-erection;

(e) "Government" means the State Government;

(f) 'land' includes building and benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth or permanently fastened to anything attached to the earth;

(g) "occupier" includes-

(i) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;

(ii) an owner in occupation of, or otherwise using his land or building;

(iii) a rent-free tenant of any land or building;

(iv) a licensee in occupation of any land or building; and

(v) any person who is liable to pay to the owner damages for the use and occupation of any land or buildings;

(h) "owner" includes any person, who is receiving or is entitled to receive the rent of any land or building whether on his own account or on behalf and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent, if the land or building were let to a tenant;

(i) "person interested" in relation to any land or building, includes any person claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition of that land or building under this Act;

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(j) “prescribed authority” means any authority or person authorized by the Government in this regard, by notification;

(k) “slum area” means any area declared to be a slum area under sub-section (1) of section 3; (1) of section 3;

(l) “slum clearance area” means any slum area declared to be a slum clearance area under section 11;

(m) “State Housing Board” means the Tamil Nadu State Housing Board constituted under the Tamil Nadu State Housing Board Act, 1961 Tamil Nadu Act XVII of1961);

(n) “work of improvement” in relation to any building in a slum area includes the execution of any one or more of the following works, namely:-

(i) necessary repairs;

(ii) structural alterations;

(iii) provision of light points, water-taps and bathing places;

(iv) construction of drains, open or covered;

(v) provision of latrines, including conversion of dry latrines into water-borne latrines;

(vi) provision of additional or improved fixtures or fittings;

(vii) opening up or paving of Court-yards;

(viii) removal of rubbish; and

(ix) any other work including the demolition of any building or any part there of which in the opinion of the prescribed authority is necessary for executing any of the works specified above.

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CHAPTER II
DECLARATION OF SLUM AREAS.

3. **Declaration of slum areas**.- (1) Where the Government are satisfied that-

(a) any area is or may be a source of danger to the health, safety or convenience of the public of that area or of its neighborhood, by reason of the area being low-lying, insanitary, squalid, overcrowded or otherwise; or

(b) the buildings in any area, used or intended to be used for human habitation are-

(i) in any respect, unfit for human habitation; or

(ii) by reason of dilapidation, over-crowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, detrimental to safety, health or morals, they may by notification, declare such area to be a slum area.

(2) In determining whether a building is unfit for human habitation, for the purposes of this Act, regard shall be had to its condition in respect of the following matters, that is to say:-

(i) repair,

(ii) stability,

(iii) freedom from damp,

(iv) natural light and air.

(v) water-supply

(vi) drainage and sanitary conveniences,

(vii) facilities for storage, preparation and cooking of food and for the disposal of water waste;

and the building shall be deemed to be unfit as aforesaid, if and only if it is so defective in one or more of the said matters that it is not reasonably suitable for occupation in that condition.

NOTES

There must be a notification declaring the particular area as slum area under Section 3 and as per Section 11 there must be declaration that such area comes under the slum clearance area without following the procedures under Section 3 © and 11 (notification and declaration, the Slum Clearance Board has no right to evict. The declaration under Section 11 and notification under Section 3 are mandatory.

1984 (1) M.L.J. page 352

The State is stopped form pleading the application of any other act with respect to the tenements taken possession under this Act.

1984 (1) M.L.J. 352

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CHAPTER III
PREVENTION OF GROWTH OF SLUMS.

4. **Registration of buildings**- (1) (a) Within the period specified in clause (b) the owner or occupier of every building situated in any slum area shall send to the prescribed authority a statement in such form as may be prescribed.

(b) The statement under clause (a) shall be sent within such period as may be prescribed.

(2) On receipt of the statement under sub-section (1) the prescribed authority shall, on being satisfied about the correctness of the statement, register the building in a register maintained for the purpose and containing such particulars as may be prescribed and shall issue, in the prescribed form a registration certificate to the owner or occupier of the building.

NOTES

The building situated in Slum Area has to be Registered under Section 4 (1). This can be done either by the owner or the Occupier. See Rule No.3 and the form Appendix A Registration Certificate is Appendix B.

5. **Restriction on buildings, etc., in slum areas.**- (1) The prescribed authority may, by notification, direct that no person shall erect any building in a slum area except with the previous permission in writing of the **prescribed authority.**

(2) Every notification issued under sub-section (i) shall cease to have effect on the expiration of two years from the date thereof except as respect things done or omitted to be done before such cesser.

(3) Every person desiring to obtain permission referred to in sub-section (1) shall make an application in writing to the prescribed authority, in such form and containing such information in respect of the erection of the building to which the application, the prescribed authority, after making such enquiry as it considers necessary shall, by order in writing.-

(a) either grant the permission subject to such terms and conditions, if any, as may be specified in the order; or

(b) refuse to grant such permission;

Provided that before making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused.

NOTES

The permission from the Chairman of The Tamil Nadu Slum Clearance Board. See the form in Appendix C.

(4) Nothing contained in sub-section (1) shall apply to-

(a) any works of improvement required to be executed by a notice under sub-section (1) of section 6 or in pursuance of an undertaking given under sub-section (2) of Section 9; or

(b) the erection of any building in any area in respect of which a notification has been issued under sub-section (1) of Section 11.

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CHAPTER IV
IMPROVEMENT OF SLUM AREAS

6. **Power of prescribed authority to require execution of works of improvement to slum areas**.- (1) Where the prescribed authority is satisfied that at a reasonable expense.

(a) any slum area or any part thereof is capable of being improved so as not to be a source of danger to the health, safety or convenience of the public of that area; or

(b) any building being unfit for human habitation in a slum area can be rendered fit for human habitation.

It may serve upon the owner of the slum area or part thereof or of the building, as the case any be, a notice requiring him within such time not being less than sixty days, as may be specified in the notice, to execute the works of improvement specified therein:

Provided that where the owner of the building is different from the owner of the land on which the building stands and the works of improvement required to be executed relate to provision of water-taps, bathing places, construction of drains, open or covered as the case may be, provision of water-borne latrines or removal of rubbish and such works are to be executed outside the buildings, the notice shall be served upon the owner of the land.

(2) In addition to serving a notice under sub-section (1) on the other concerned, the prescribed authority may serve a copy of the notice on any other person having an interest in the slum area or part thereof or the building or the land on which the building stands, whether as lessee, mortgagee or otherwise.

(3) In determining for the purposes of this Act, whether at a reasonable expense the slum area or part thereof can be improved or the building rendered fit for human habitation, regard shall be had to the estimated cost of the works of improvement of the slum area or part thereof or of the works necessary to render the building fit for human habitation and the estimated value that the slum area or part thereof or the building will have when such works are completed.

7. **Power to execute works of improvement to slum areas and to recover expense**.- (1) If a notice under sub-section (1) of section 6 is not complied with, then, after the expiration of the time specified in the notice, the prescribed authority may itself execute the works required to be executed by the notice.

(2) All expenses incurred by the prescribed authority under this section, together with interest, at such rate as the Government may, by order, fix from the date when a demand for the expenses is made under payment, may be recovered by the prescribed authority from the owner of the slum area or part thereof or of the building or of the land on which the building stands, as the case may be, as arrears of land revenue and all such expenses and interest shall constitute a charge upon the slum area or part thereof or the building or the land on which the building stands, as the case may be;

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Provided that if the owner proves that he-

(a) is receiving the rent merely as agent or trustee for some other person; and

(b) has not in his hands on behalf of that other person sufficient money to satisfy the whole demand of the prescribed authority.

his liability shall be limited to the total amount of the money which he has in his hands as aforesaid.

8. **Expenses of maintenance of works of improvements, etc., to be recoverable from the occupiers of the land or building.-** (1) Where works of improvement have been executed in relation to any land or building in a slum area, in pursuance of the provisions of sections 6 and 7, the expenses incurred by the prescribed authority, or as the case may be, by any local authority, in connection with the maintenance of such works of improvement or the enjoyment of amenities and conveniences rendered possible by such works, may be recovered from the occupier or occupiers of the land or buildings as arrears of land revenue.

(2) The amount of expenses referred to in sub-section (1) shall be determined by order by the prescribed authority and in the case of expenses incurred by the local authority, the prescribed authority shall consult the local authority before passing an order determining the amount of expenses incurred by the local authority.

9. **Power of prescribed authority to order demolition of building unfit for human habitation.-** (1) Where the prescribed authority on a report from the local authority concerned or the State Housing Board or the Board or an officer authorizes by the Government for this purpose is satisfied that any building being unfit for human habitation in a slum area is not capable at a reasonable expense of being rendered so fit, it shall serve upon the owner of the building and upon any other person having an interest in the building, whether as lessee, mortgagee or otherwise, a notice to show cause, within such time as may be specified in the notice, as to why an order of demolition of the building should not be made.

(2) If any of the persons upon whom a notice has been served under sub-section (1) appears in pursuance thereof before the prescribed authority and gives an undertaking to that authority that such person shall, within such period as may be specified by the authority, execute such works of improvement in relation to the building, as will in the opinion of the authority, render the building fit for human habitation or that it shall not be used for human habitation until that authority on being satisfied that it has been rendered fit for that purpose cancels the undertaking, the authority shall not make any order of demolition of the building.

(3) If no such undertaking as is mentioned in sub-section (2) is given, or if, in a case where any such undertaking has been given, any work of improvement to which the undertaking relates is not carried out within the specified period or the building is at any time used in contravention of the terms of the undertaking, the prescribed authority shall forthwith make an order of demolition of the building, or require that the building shall be demolished within such period as may be prescribed.

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10. **Procedure to be followed where demolition order has been made.-** Where an order of demolition of building under section 9 has been made, the owner of the building or any other person having an interest therein shall demolish that building, within the period mentioned in sub-section (3) of section 9; and if the building is not demolished within that time, the prescribed authority shall enter and demolish the building and subject to the provisions of section 61, sell the materials thereof.

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CHAPTER V
SLUM CLEARANCE AND RE-DEVELOPMENT

11. **Power to declare any slum area to be a slum clearance area.-** (1) Where the Government, on a report from the Board or the prescribed authority, or the local authority concerned or the State Housing Board or an officer authorized by the Government for this purpose are satisfied as respects any slum area that the most satisfactory method of dealing with the conditions in the area is the clearance of such area and the demolition of all the buildings in the area, they may, by notification, declare the area to be a slum clearance area, that is to say, an area to be cleared of all buildings in accordance with the provisions of this Act:

Provided that before issuing such notification the Government shall call upon the owners of the land and buildings in such slum area to show cause why such declaration should not be made and after considering the cause, if any, shown by such owners, the Government may pass such orders as they may deem fit.

(2) Any part of the slum area or any building in the slum area which is not unfit for human habitation or dangerous or injurious to safety, health or morals may be excluded from the notification under sub section (1) if the Government consider it necessary.

(3) The notification under sub-section (1) shall specify each of the buildings to be demolished and the area to be cleared.

NOTES

Tenant withdrawn the application and applied for refund deposited in the ejectment suit filed by the landlord.

In the meanwhile notification was made under section 11 of Act 21 of 1971 declaring the area as slum clearance.

There is no prohibition for transfer of land or building by the owner even after the area has been declared as a slum area.

The question that was considered in that case was whether the respondent can withdraw the application filed under section 9 of the City Tenant Protection Act and claim refund of the amount deposited in court – Yes.

(1979 (2) M L J page 463)

In the Writ petition filed by the slum dwellers and pavement dwellers from evicting them by the authorities under the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1972 it was held that the improving slums and providing alternative accommodation, the notification issued and the steps that are taken for improving the slum and for providing alternative accommodation is valid – no writ or direction issued except time for eviction is extended following AIR 1986 SC 180 Bombay Pavement and Slum Dwellers.

[AIR 1986 SC 204]

Section 11 (1) of the Act reads as follows.-

It is clear from the above provisions that there must be a notification declaring a particular area as a slum area under Section 3; and as per section 11 there must be a declaration that such areas come under the slum clearance area. Neither of these things has been done in this case, before the Slum Clearance Board launched its coercive proceedings to evict the appellants herein. No provision in the Act has been shown to us as to how such

proceedings are taken by the second respondent herein. Even assuming that the second respondent has power to evict the appellants under Act 11 of 1971, on account of the failure on the part of the second respondent to declare the area as a slum area, and the further failure to declare such area as a slum clearance area, the action taken by the second respondent to clear the appellants from the area cannot be sustained. These declarations, in our view, are mandatory in nature and the failure to adhere to the procedure prescribed vitiates all the proceedings taken by the second respondent to evict the appellants.

1984 T L N J Page 224 dated 11.4.1984.

12. **Obligation to clear area and demolish buildings.-** When a slum area has been declared to be a slum clearance area under sub-section (1) of section 11, the owners of the lands and the buildings in that area shall clear the area and demolish the buildings before the expiration of such period as may be prescribed.

13. **Power to clear slum clearance areas.-** If any slum clearance area is not cleared or the buildings demolished before the expiration of the period mentioned in section 12, the prescribed authority shall enter and clear the area and demolish the buildings and subject to the provisions of section 61, sell the materials thereof.

14. **Owner may re-develop.-** (1) Subject to the provisions of this Act, where a notification under sub-section (1) of section 11 has been issued, the owner of the land to which the notification applies may re-develop the land in accordance with plans approved by the prescribed authority and subject to such restrictions and conditions (including a condition with regard to the time within which the re-development shall be completed), if any, as that authority may thing fit to impose:

Provided that an owner who is aggrieved by a restriction or condition so imposed on the user of his land or by a subsequent refusal of the prescribed authority to cancel or modify any such restriction or condition may, within such time as may be prescribed, appeal to the Government and the Government shall make such order in the matter as they think proper and their decision shall be final.

(2) No person shall commence or cause to be commenced any work in contravention of a plan approved or a restriction or condition imposed under sub-section (1).

15. **Power of prescribed authority to re-develop clearance area.-** (1) Notwithstanding anything contained in sub-section (1) of section 14, the prescribed authority may, at any time, after the land has been cleared and the buildings have been demolished in accordance with the foregoing provisions of this Chapter but before the work of re-development of that land has been commenced by the owner, by order, determine to re-develop the land if that authority is satisfied that it is necessary in the public interest to do so.

(2) Where land has been cleared and the buildings have been demolished in accordance with the4 foregoing provisions of this Chapter, the prescribed authority, if it is satisfied that the land has been, or is being re-developed by the owner thereof in contravention of plans approved by the authority or any restrictions or conditions imposed under sub-section (1) of section 14, or has not been re-developed within the time, if any, specified under such conditions, may, by order, determine to re-develop the land:

Provided that before passing an order under sub-section (1) or sub-section (2), the owner shall be given a reasonable opportunity to show cause why the order should not be passed.

(3) All expense incurred by the prescribed authority under this section, together with interest at such rate as the Government may, by order, fix from the date when a demand for the expenses is made until payment, may be recovered by the prescribed authority from the owner of the land as arrears of land revenue and all such expenses and interest shall constitute a charge upon the land and the building.

(4) The amount of expenses referred to in sub-section (3) shall be determined by order by the prescribed authority.

16. **Rules to provide for transfer to previous occupants.-** Subject to the provisions of this Act, the Government may, by rules, provide for or regulate the transfer, to persons who immediately before the transfer, to persons who immediately before the declaration of any slum area to be a slum clearance e area, were occupying lands or buildings in that area, of lands or buildings in such slum clearance area after its re-development and the conditions of such transfer.

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CHAPTER VI
ACQUISITION OF LAND

[1][17. **Power to acquire land**.- (1) Where the Government are satisfied that, for the purpose of executing any work of improvement in relation to any slum area or any building in such area or for the purpose of re-developing any slum clearance area, or for the purpose of rehabilitating slum dwellers, it is necessary to acquire any land within, adjoining or surrounded by any such area or any other land not lying in such area, they may acquire the land by published in the Tamil Nadu Government Gazette, a notice to the effect that they have decided to acquire the land in pursuance of this section.

(2) Before publishing a notice under sub-section (1), the Collector, or any officer, authorized by the Government in this behalf shall call upon the owner or any other person, who, in the opinion of the Collector or the officer so authorized, may be interested in such land, to show cause why it should not be acquired. The Collector or the officer shall, after considering the cause, if any, shown by the owner or other person interested in the land, make a report to the Government containing his recommendations on the causes so shown, for the decision of the Government. After considering such report, the Government may pass such orders as they deem fit.]

18. **Land acquired to vest in Government free from all encumbrances**.- When a notice under section 17 is published in the Tamil Nadu Government Gazette, the land to which the said notice relates shall, on and from the date on which the notice is so published, vest absolutely in the government free from all encumbrances.

19. **Right to receive compensation**.- Every person having any interest in any land acquired under this Act shall be entitled to receive and be paid compensation as hereinafter provided.

20. **Compensation**.- (1) The compensation payable in respect of any land acquired under this Act shall be the market-value of such land on the date of the publication of the notice referred to in section 17.

(2) The prescribed authority shall, after holding an enquiry in the prescribed manner, determine by order the mount of compensation under sub-section (1) [1][***]. A copy of the said order shall be communicated to the owner of the land and every person interested therein.

(3) Where the owner of the land and the owner of the building on such land are different, the prescribed authority shall apportion the amount of compensation between the owner of the land and the owner of the building (in the same proportion as the market-value of the land bears to the market-value of the building on the date of the acquisition).

NOTES

Acquisition Proceedings. – Determination of question quantum of compensation in view of the Judgment in W A No 1495 of 1979, dated 25th of 1985 holding that the compensation available could be only on the basis as determinable under the Land Acquisition Act. (1984 (1) M L J page 352)

21. **Matters to be neglected in determining compensation**.- In determining the amount of compensation under section 20.

(1) no solatium shall be payable in consideration of the compulsory nature of the acquisition;

(2) the following factors shall not be taken into account, namely:-

(a) the degree of urgency which has led to the acquisition:

(b) any disinclination of the person interested to part with the land acquired;

(c) any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

(d) any damage which is likely to be caused to the land acquired after the date of the publication of the notice under sub-section (1) of section 17, by or in consequence of the use to which it will be put;

(e) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

(f) any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;

(g) any outlay or improvement on, or disposal of, the land acquired, commenced, made or effected without the sanction of the prescribed authority after the date of the publication of the notice under sub-section (1) of section 17.

22. **Appeal against order of compensation**.- Any person who does not agree to the amount of compensation determined by the prescribed authority under sub-section (2) of section 20 may prefer an appeal to the Court within such period as may be prescribed.

23. **Apportionment of compensation**.- (1) Where several persons claim to be interested in the amount of compensation determined, the prescribed authority shall determine the persons who in its opinion are entitled to receive compensation and the amount payable to each of them.

(2) If any dispute arises as to the apportionment of the compensation or any part thereof, or as to the persons to whom the same or any part thereof is payable, the prescribed authority may refer such dispute to the decision of the Court and the Court shall, in deciding any such dispute follow as far as may be, the provisions of Part iii of the Land Acquisition Act, 1894 (Central Act I of 1894).

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24. **Payment of compensation**.- (1) After the amount of compensation has been determined, the prescribed authority shall tender payment of the compensation to the persons entitled thereto and shall pay it to them.

(2) If the persons entitled to the compensation do not consent to receive it or if there be no person competent to alienate the land, or if there by any dispute as to the title to receive compensation, or as to the apportionment of it, the prescribed authority shall deposit the amount of compensation in the Court, and the Court shall deal with the amounts so deposited in the manner laid down in sections 32 and 33 of the Land Acquisition Act, 1984 (Central Act I of 1984).

25. **Payment of interest**.- When the amount of such compensation is not paid or deposited on or before taking possession of the land, the prescribed authority shall pay the amount with interest thereon at the rate of four percent, per annum from the time of so taking possession until it shall have been so paid or deposited and such interest shall be paid or deposited by the prescribed authority in the same manner as provide for the amount of compensation.

26. **Appeal to High Court**.- Subject to the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908), applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, a second appeal shall only lie to the High Court from any decision of the Court under this Act if the amount of compensation as determined by the prescribed authority exceeds rupees twenty-five thousand.

27. **Power of prescribed authority in relation to determination of compensation etc**. – (1) The prescribed authority may, for the purpose of carrying out the provisions of sections 20, 21, 23, 24 and 25, by order, require any person to furnish such information in his possession relating to any land which is acquired under this Act as may be specified in such order.

(2) The prescribed authority shall, while holding an enquiry under this Act, have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908), in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him an oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any Court or office;

(e) issuing commission for examination of witnesses.

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28. **Use of land acquired**. – (1) Where any land has been acquired under this Act, the Government may undertake or cause to be undertaken such measures as may be necessary for the improvement, development, clearance or re-development of the land, or the erection of buildings thereon, in accordance with such plan as may be approved by them.

(2) (i) For the purpose of undertaking the measures referred to in sub-section (1), the Government may either hold the land under their own control and management and undertake such measures themselves or through the Board on such terms and conditions as may be determined by them, or transfer the land to the local authority concerned or the Board for the purpose of undertaking those measures.

(ii) Where the land is transferred as provided in clause (i), such land shall vest in the local authority concerned or the Board, as the case may be, and the local authority or the Board shall-

(a) pay to the Government the cost of acquisition of the land or such portion thereof as the Government may determine in each case; and

(b) undertake the measures referred to in sub-section (1) in accordance with such plans as may be approved by the government, and subject to such directions as may, from time to time, be given by the Government.

NOTES

Chapter VI was struck down as unconstitutional (being violation of Article 14 of the Indian Constitution). Notice was served by the Tamil Nadu Slum Clearance Board under Section 17 (2) to show cause why the lands mentioned in the Schedule should not be acquired.

Writ of mandamus to quash the acquisition proceedings and to forebear the respondents from acquiring the lands for the purpose of Tamil Nadu Slum Clearance Board under the Act was issued.

[1983 (2) MLJ P. 459] Dated 25th March 1983.

NOTES – (Contd…)

It cannot be gainsaid that at its heart the law enforcement problem has always been and will remain a human problem. In human living conditions lack of hygiene and sanitation prevalent in slums produce serious crime problems. The day of the silent poor must come to an end. There is anger and bitterness in the contemporary slums. Slums in an affluent society constitute an anachronism. Many a children born in slum are diseased at birth, stricken with hereditary illness, but the greatest of all illness is poverty, since it is the most deadly and prevalent disease. More often than not lack of job and money is not the cause of poverty but the symptom. The cause lies deeper in our failure to give fellow citizens a fair habitation and decent living. Provisions of Chapter VI of the Act are however clearly unconstitutional being violative of Article 14 of the Constitution of India. At the same time, there is no justification for holding the other provisions of the Slum Clearance Act unconstitutional. The Act can exist even de hors of Chapter VI.

Applying the doctrine of severance, chapter VI of the Act is struck down as unconstitutional. This decision was overruled in 1995 W.L.R. P.781 the State of Tamil Nadu & Ors. V. Ananthammal 22.11.1994 CA No.3312 of 1991 and held that Chapter VI is constitutionally valid. The provision of Chapter VI of the Slum Clearance Act are held to be “intravires” the constitution.

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1995 Writ L.R. 781

SUPREME COURT OF INDIA

22nd November, 1994/Civil Appeal No.3312 of 1981

J.S. Verma, S.P. Bharucha and K.S. Paripoornan, JJ.

The State of Tamil Nadu & Ors.

Vs.

Ananthi Ammal & Ors. …Respondents

Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act (31 of 1978), S.11(1), and Constitution of India, Arts. 14 and 31-C- Tamil Nadu Act, held, intra vires, except a part of S.11(1), in so far as it provides for payment of compensation in instalments – S.11(1) part, is severable and remaining part of the Section and the Act upheld, as not violative of Art.14 – Judgment of Madras High Court reversed.

No unreasonableness in S.20 enacting that provisions of Land Acquisition Act, shall save an expressly provided, cease to apply to the land.

Applicability of the Act according to S.22, to cases in which proceedings had been started under L.A. Act before the commencement of the said Act but no award has been passed – No unreasonableness.

Obligation of the prescribed authority under s.7(2) to award marked value plus 15% solatium – Appeal contemplated under 5.9 is in respect of the award for the land which comprises its market value and solatium – Sx.7 and 9 should not be read so as to render S.9 an absurdity.

Compensation determined under the L.A. Act on the basis of "Market Value" of land on date of S.4 (1) Notification is on a specified principle – In the same way, it is of no great consequence when compensation is determined (under this enactment) on the basis of market value on a date anterior to the date of extinction of interest, which is still determined "on a principle specified' within Art.31(2). Provisions of S.4 of the Act, held, substantially encapsulate provisions of Ss.4 to 6 of L.A. Act, and are not unreasonable or arbitrary.

Tamil Nadu Slum Clearance Act – Chapter VI, held to be intra vires the Constitution – See Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act (31 of 1978) etc., (para 26)
Constitution of India, Arts. 14 and 31-C, etc.,- See Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act (31 of 1978), S. 11(1), etc.,

Held: "We do not find the provisions of the said Act, except for the provision as to instalments, in Section 11, violative of the provisions of Article 14 of the Constitution of India. It is therefore unnecessary to consider whether or not the said Act has the protection of Article 31-C of the Constitution".

Except of the provisions of Section 11(1) of the said Act, in so far they provide for payment of the compensation amount in instalments the said Act is intra vires the Constitution Section 11(1) is valid only to this extent.

Paras 9,20

"We must, however, take account of the fact that the judgment under appeal striking down the said Act was delivered as far back as September, 1981, and no stay thereof, was obtained from the court. It is likely, therefore, that in cases where proceedings under the Land Acquisition Act had already been started to acquire lands for Harijan Welfare Schemes, they might have been revived and completed in the interregnum. We, therefore, make it clear that the provisions of section 22 shall have no effect in such cases where awards have been made".

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Para 18.

"S. 22 makes the provisions of the said Act applicable also to cases in which proceedings have been started before the commencement of the said Act under the Land Acquisition Act for the purpose of Harijan Welfare Schemes, provided that no award has been made under the Land Acquisition Act. We see no unreasonableness in this provision".

Para 18.

It is true that the said Act provides for matters which are to be ignored in determining the amount under Section 8, but does not make provision, as the Land Acquisition Act does, in determining the amount. It has, however, to be realized that the concept of market value and how it is to be determined is well established. Under the Land Acquisition Act compensation is determined on the basis of "market value" of the land on the date of the notification under Section 4(1) of the Act. That is a specification of principle. Compensation determined on the basis of market value prevailing on a date anterior to the date of extinction of interest is still determined "on a principle specified". It is therefore, of no great consequence that the said Act does not go on to specify what is to be taken into account in determining the amount payable as compensation for land that is acquired there under.

Para 11.

The provisions of Section 4, substantially encapsulate the provisions of Sections 4 to 6 of their Land Acquisition Act, the only major difference being that, under the said Act, it is the District Collector and not the State Government who must be satisfied that the land is required to be acquired. "It does not appear to us that this is a provision which is unreasonable or arbitrary".

Para 8.

When a statute is impugned under Article 14, what the Court has to decide is whether the statute is so arbitrary or unreasonable that it must be struck down. At best, a statute upon a similar subject which desires its authority from another source can be referred to, if which desires its authority its authority from another source can be referred to, if its provisions have been held to be reasonable or have stood the test of time, only for the purpose of indicating what may be said to be reasonable in the context. "we proceed to examine the provisions of the said Act upon this basis".

Para 7.

"We have held the provisions of the said Act (TN Act.31 of 1978) to be valid legislation except in so far as they provide for payment of the compensation amount in instalments. The said Act being valid legislation, its provisions preclude the State from acquiring land for the purpose of a Harijan Welfare Scheme under the Land Acquisition Act. The appeal is allowed and the proceedings under the Land Acquisition Act to acquire the appellant's land for the purpose of a Harijan Welfare Scheme are, therefore, quashed and set aside".

Para 29.

AIR 1954 S.C.493;
AIR 1988 S.C.485;
AIR 1969 S.C.64;
1962-1-S.C.R.676; and
1991-4-S.C.C.95; Referred to.

The provisions of Chapter VI of the Slum Clearance Act are held to be intra vires the Constitution.

Para 26.

Judgment of the Madras High Court reversed
Civil Appeals allowed

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CHAPTER VII
PROTECTION OF [OCCUPANTS] IN SLUM AREAS FROM EVICTION

29. **Proceedings for eviction of [occupants] not to be taken without permission of the prescribed authority :-** (1) Notwithstanding anything contained in any other law for the being in force, no person shall except with the previous permission in writing of prescribed authority-

(a) institute, after the commencement of this Act any suit or proceedings for obtaining any decree or order for the eviction 1[an occupant] from any building or land in such area: or

(b) where any degree or order is obtained in any suit or proceeding instituted before such commencement for the eviction of [1][an occupant] from any building or land in such area, execute such decree or order.

(2) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the prescribed authority in such form and containing such particulars as may be prescribed.

(3) On receipt of such application, the prescribed authority after giving an opportunity to the parties of being heard and after making such summary enquiry into the circumstances of the case as it thinks fit shall, by order in writing, either grant or refuse to grant such permission.

(4) In granting or refusing to grant permission under sub-section (3), the prescribed authority shall take into account the following factors, namely:--

(a) whether alternative accommodation within the means of the 1[occupant] would be available to him if he were evicted:

(b) whether the eviction is in the interest of improvement and clearance of the slum area;

(c) such other factors, if any, as may be prescribed.

(5) Where the prescribed authority refuses to grant the permission, it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant.

[2][**Explanation.-**In, this section and, in sections 31,32, and 33, 'occupant' means an occupier, not bring an owner in occupation of, or otherwise using, his hand or building.]

NOTES

The respondent, 'K' had obtained a decree for eviction against the petitioners and thereafter, filed execution petitions for taking delivery of possession of the disputed areas from the petitioners. One of the defences taken by the petitioners in those execution petitions filed by the respondent decree-holder was that s the area, which was the subject-matter of the suit and from which they were sought to be ejected, had already been declared as slum area under a notification issued under Section 3 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 the execution petition cannot be maintained unless permission has been obtained from the Slum Clearance Board as required under Section 29 of the said Act. The executing Court relying on Section 5(2) of the Act held that as

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the notification declaring the area to be a slum area had become unenforceable on the expiry of two years as contemplated by Section 5(2), the embargo contained in Section 29 was no longer in operation and that therefore, the respondent decree holder can maintain the execution petitions without any permission from the Slum Clearance Board, in that view, the executing Court allowed the execution to proceed and directed delivery of possession in accordance with the decree obtained against the petitioners. Aggrieved by the order of the executing Court, the petitioners filed a revision.

Held:- The two years period referred to in Section 5(2) applied only to a notification issued under Section 5(1) preventing the erection of any building in a slum area, without permission, and it did not refer to any notification issued under Section 3 declaring a particular area as a slum area. Therefore, the Executing Court was in error in stating that the declaration declaring the area as slum area has ceased by efflux of time and therefore, Section 29 could not come in the way. The application of Section 29 could not be avoided on the ground that two years time had elapsed since the issue of the notification declaring the area as slum area.

A conjoint reading of all the sub-sections of Section 29 of the Act would clearly indicate that the legislature intended to impose a restriction on the owner of the land either executing the decree obtained earlier or instituting a suit for eviction against an occupant of slum area, by imposing a precondition that the owner of the slum area should get the permission of the requisite authority either for filing the suit for eviction or for executing the decree obtained earlier against an occupant without such permission.

So long as there is no permission in writing obtained by the owner of the slum area execution proceedings cannot be maintained in view of the prohibition contained in Section 29 (1980)2MLJ83=93 LW 142=AIR 1980 Madras 246.

Contention, as to petition without prior sanction by the Slum Board being incompetent - landlord securing order under section 29 - order revoked later - Order once passed not liable to be revoked or cancelled. (1984) 2MLJ 310

A conjoint reading of all the sub-sections of Section 29 of the Act clearly indicate that the legislature intends to impose a restriction on the owner of the land either executing the decree obtained earlier or instituting a suit for eviction against the occupant of slum area by imposing a re-condition that the owners of slum area should get the permission of the requisite authority either for filing a suit for eviction or for executing the decree that has already been obtained.

AIR 1980 Madras Page 246 Dated 17th October 1979
Overruling 1977 (II)MLJ Short Notes Page 17
1985 TLNJ 308 Dt. 29-10-85.

30. **Appeal against order refusing permission.-** Any person aggrieved by an order of the prescribed authority, refusing to grant the permission under sub-section (4) of Section 5 or under sub-section (3) of Section 29 may, within such time as may be prescribed, prefer an appeal to the Government and the Government may, after hearing the appellant, decide such appeal and their decision shall be final.

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31. **Restoration of possession of premises vacated by [1][an occupant].-**

(1) Where [1][an occupant] in occupation of any building in a slum area vacates any building or is evicted there from on the ground that it may required for the purpose of executing any work of improvement or for the purpose of re-erection of the building, the [1][an occupant] may, within such time as may be prescribed, file a declaration with the prescribed authority that he desires to be replaced in occupation of the building after the completion of the work of improvement or re-erection of the building as the case may be.

(2) On receipt of such declaration, the prescribed authority shall, by order, require the owner of the building to furnish to it, within such time as may be prescribed, the plan of the work of improvement or re-erection of the building and estimates of the cost thereof land such other particular as may be necessary and shall, on the furnished and having regard to the provisions of sub-section (3) of section 32 and after holding such enquiry as to may think fit, provisionally determine the rent that would be payable by the [occupant] if he were to be replaced in occupation of the building in pursuance of the declaration made by him under sub-section (1)

(3) The rent previously determined under sub-section (2) shall be communicated in the prescribed manner to the [1][an occupant]if he were to be replaced in occupation of the building in pursuance of the declaration made by him under sub-section (1).

(4) If the [1][an occupant], after the receipt of such communication, intimates in writing to the prescribed authority within such time as may be prescribed that when he is replaced in occupation of the building in pursuance of the declaration made by him under sub-section (1), he would pay to the owner, until the rent is finally determined under section 32, the rent provisionally determined under sub-section (2), the prescribed authority shall direct the owner to place the [1][an occupant] in occupation of the building after the completion of the work of improvement or re-erection of the building, as the case may be, and the owner shall be bound to comply with such direction.

32. **Rent of buildings in slum areas.-** (1) Where any building in a slum area is let to [1][an occupant] after the execution of any work of improvement of after it has been re-erected, the rent of the building shall be determined in accordance with the provisions of this section.

(2) Where any such building is let to [1][an occupant] other than [1][an occupant] who is placed in possession of the building in pursuance of a direction issued under sub-section (4) of section 31, the [1][an occupant] shall be liable to pay to the owner-

(a) if there is a general law relating to the control of rents in force in the area in which the building is situated and applicable to that building, the rent determined in accordance with the provisions of that law of the agreed rent whichever is less;

(b) if there is no such law in force in such area, such rent as may be agreed to between the owner and the [1][an occupant].

(3) Where any such building is let to [1][an occupant] shall, not withstanding any law relating to the control of rents in force in the area, be liable to pay to the owner-

(a) if any work of improvement has been executed in relation to the building, an annual rent of slum equivalent to the aggregate of the following amount, namely:-

(i) the annual rent the [1][an occupant] was paying immediately before he vacated the building for the purpose of execution of the work improvement.

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(ii) six per cent, of the cost of the work of improvement; and

(iii) six percent, of a sum equivalent to the compensation payable in respect of any land which may have been acquired for the purpose of effecting such improvement as if such land were acquired under section 17 on the date of commencement of the work of improvement;

(b) if the building has been re-erected, an annual rent of a sum equivalent to four per cent, of the aggregate cost of re-erection of the building and cost of the land on which the building is re-erected.

Explanation.- for the purpose of this clause, the cost of the land shall be deemed to be a sum equivalent to the compensation payable in respect of the land if it were acquired under section 17 on the date of commencement of the re-erection of the building.

(4) The rent payable by [1][an occupant] in respect of any building under sub-section (3) shall, on an application made by the [1][an occupant]or the owner, be determined by the authority referred to in sub-section (5);

Provided that an application for determination of such rent by the owner or the [1][an occupant] shall not, except for sufficient cause, be entertained by such authority after the expiry of ninety days from the date of completion of the work of improvement or re-erection of the building, as the case may be.

(5) The authority to which the application referred to in sub-section (4) shall be made, shall be -

(a) Where there is a general law relating to the control of rents in force in the area in which the building in situate, the authority to whom applications may be made for fixing of rents of buildings situate in that area; and for the purposes of determining the rent under this section that authority may exercise all or any of the powers it has under the said general law; and the provisions of such law including provisions relating to the appeals shall apply accordingly;

(b) if there is no such law in force in that area, such authority as may be specified by rules made in this behalf by the Government and such rules may provide the procedure that will be followed by that authority in determining the rent and also for appeals against the decision of such authority.

(6) Where the rent in finally determined under this section, then the amount of rent paid by the [1][an occupant] shall be adjusted against the rent so finally determined and if the amount so paid falls short of, or is in excess of, the rent finally determined the [1][an occupant] shall pay the deficiency or be entitled to a refund, as the case may be.

33. **Chapter not to apply to [1][an occupant] of certain building**. - Noting in this Chapter shall apply to or in relation to [2][an occupant]of any building situate in a slum area and belonging to the Government or Board or any local authority.

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CHAPTER VIII

SLUM CLEARANCE BOARD

34. **Establishment of Slum Clearance Board.-** (1) with effect from such date as the Government may, by notification, appoint in this behalf there shall be established by Board by the name of the Tamil Nadu Slum Clearance Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal, and shall, by the said name sue and be sued.

35. **Constitution of the Board.-** (1) The Board shall consist of a Chairman, the Managing Director and such member of other official and non-official members not exceeding fifteen as may be prescribed.

(2) The Chairman, the Managing Director and other members of the Board shall be appointed by the Government.

(2-A) The Managing Director shall be the Chief Executive Officer of the Board.

(3) No act or proceeding of the Board shall be invalid by reason only by the existence of any vacancy among its members or any defect in the appointment of a member thereof.

36. **Conditions of service of members.-** The terms and conditions of the service of members of the Board shall be such as may be prescribed.

37. **Appointment of officers and servants.-** (1) The Secretary to the Board shall be appointed by the Government.

(2) The Secretary shall be the Chief Executive Officer of the Board.

(3) The Board may appoint such other officials and servants as it considers necessary for the efficient performance of its functions.

38. **Conditions of service of officers and servants.-** (1) The pay and other conditions of service of the officers and servants of the Board shall be such as may be prescribed.

(2) Where any officer or servant of the State Housing Board is appointed in the Board, is appointed in the Board, his conditions of service (including conditions as to pay, provident fund, pension and gratuity) shall be subject to such rules as may be made in this behalf by the Government.

39. **General disqualification of members, officers and servants.-** No person who has directly or indirectly by himself, or his partner or agent, any share or interest in any contract by or on behalf of the Board, shall become or remain a member or officer or servant of the Board.

40. **Functions of the Board.-** The functions of the Board shall be -

(a) to exercise the powers of the prescribed authority in cases where the Government have, by notification, directed the powers of the prescribed authority shall be exercised by the Board.

(b) such other functions as may be prescribed.

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41. **Finance, accounts and audit.-** The provisions of Chapter XII of the Tamil Nadu State Housing Board Act, 1961 (Tamil Nadu Act XVII of 1961), relating to finance, accounts and audit shall apply, as far as may be, to the Board as the said provisions apply to the State Housing Board.

42. **No disqualification in certain cases.-** No person shall be disqualified for being chosen as, or for being a member of the Legislative Assembly or of the Legislative Council by reason only of the fact that he is a Chairman or a member of the Board.

43. **Power of Board to make regulations.-** The Board may make regulations is in regard to the meetings of the Board and the conduct of business.

44. **Board of comply with directions of Government.-** It shall be the duty of the Board to comply with such directions as the Government may, from time to time, issue either generally or in regard to any particular matter.

45. **Powers of the State Housing Board to cease.-** With effect from the date of the establishment of the Board, the State Housing Board shall cease to exercise any function under the Tamil Nadu State Housing Board Act, 1961 (Tamil Nadu Act XVII of 1961), in respect of matters dealt with in this Act and in particular, the improvement of the slum area, the clearance of a slum area and the re-development of a slum clearance area.

46. **Transfer of certain assets and liabilities of the State Housing Board to the Board.-** (1) All property, assets, rights and liabilities of the State Housing Board shall, in so far as such property, assets rights and liabilities are related immediately before the date of the establishment of the Board to the improvement of the slum area, the clearance of the slum area and the re-development of the slum clearance area, stand transferred to and vested in the Board.

(2) *(a)* If any dispute arises whether any property, assets, rights and liabilities stand transferred to and vested in the Board under sub-section (1), the dispute shall be referred to the decision of the Government and their decision shall be final.

47. **Board to enforce certain Contracts and agreements.-** (1) All contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of the establishment of the Board and to which the State Housing Board is a party, in so far as such contracts, agreements and instruments are relatable to the improvement of a slum area, the clearance of a slum area and the re-development of the slum clearance area shall be of as full force and effect against or in favour of the Board and may be enforced or acted upon as fully and effectually as if, instead of the State Housing Board, the Board had been a party thereto or as if they had been entered into or issued in favour of the Board.

(2) If, on the date of the establishment of the Board, any suit, appeal or other legal proceeding of whatever nature by or against the State Housing Board is pending then such suit, appeal or other legal proceeding in so far as it is relatable to the improvement of the slum area, the clearance of a slum area and the re-development of a slum clearance area, shall not abate,

be discontinued or be in anyway prejudicially affected by reason of the transfer to the Board of the property, assets, rights and liabilities of the State Housing Board or of anything done under this Act, but the suit, appeal or other legal proceeding may be continued, prosecuted and enforced by or against the Board.

Explanation - For the purpose of this sub-section 'legal proceeding' includes any proceeding under the Land Acquisition Act proceeding under the Land Acquisition Act, 1984 (Central Act 1 of 1984).

48. **Payment of certain amount by the State Housing Board to the Board.-** Subject to the provisions of section 46, the State Housing Board shall, out of its funds, as on the date of the establishment of the Board, pay to the Board, such amount as the Government may, in consultation with the State Housing Board, specify.

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CHAPTER IX
MISCELLANEOUS

49. **Board to exercise the powers of prescribed authority:-** The Government may, by notification, direct that any power exercisable by the prescribed authority under this Act, may be exercised, by the Board in such cases, and subject to such conditions if any, as may be specified in the notification and on the issue of such notification, the prescribed authority shall not exercise the power in respect of the matters specified in such notification.

50. **Service of notices and orders.-** (1) Save as otherwise provided in this Act and subject to the provisions of this section and of any rules made in this behalf every notice issued or order made under this Act shall-

(a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the *Tamil Nadu Government Gazette*;

(b) in the case of any notice or order affecting an individual corporation or firm, be served in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 or Order XXX, as the case may be, in the First Schedule to the Code of Civil Procedure, 1908 (Central Act V of 1908); and

(c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person-

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to the head of the office in which such person is employed, or to any adult male servant of such person, or to any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or

(iii) failing service by any of the means aforesaid, by post or by affixing a copy of the said notice or order on some conspicuous part of the land or building to which it relates.

(2) Where the notice or order cannot be served without undue delay, due to any dispute in the ownership of the land or building or due to the person to whom the notice or order is intended being not readily traceable, the notice or order may be served by publishing it in the Tamil Nadu Government Gazette, and where possible, by affixing a copy thereof on some conspicuous part of the land or building to which it relates.

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51. **Power of entry.-** It shall be lawful for any person authorized by the prescribed authority in this behalf to enter into or upon any land or building in any slum area or slum clearance area with or without assistants or workmen, in order to make any enquiry, inspection measurement, valuation or survey, or to execute any work which is authorized by or under this Act or which it is necessary to execute for any of purposes or in pursuance of any of the provisions of this Act or of any rule or order made there under.

52. **Powers of inspection.-** (1) The Government may, by general or special order, authorise any person-

(a) to inspect any drain, latrine, urinal, cesspool, pipe, sewer or channel in or on any land or building in a slum area or slum clearance area, and in his discretion to cause the ground to be opened for the purpose of preventing or removing any nuisance arising from the drain, latrine, urinal, cesspool, pipe , sewer or channel as the case may be;

(b) to examine works under construction in the slum area or to take level or to remove, test, examine, replace or read any meter.

(2) if no such inspection, the opening of the ground is found to be necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building, but if it is found that no nuisance exists or but for such opening would not have arisen, the ground or portion of any building, drain or other work opened, injured or removed, for the purpose of such inspection shall be filled in, reinstated, or made good, as the case may be, by the Government.

53.**Power to enter land adjoining land where work is in progress.-** (1) Any person authorized by the Government in this behalf may, with or without assistants of workmen, enter on any land within forty-five meters of any work authorized by or under this Act for the purpose of depositing thereon any soil, gravel, stone or other materials, or for obtaining access to such work or for any other purpose connected with the carrying on of the same.

(2) The person so authorized shall, before entering on any land under sub-section (1), state the purpose thereof, and shall, if so required by the occupier or owner fence off so much of the land as may be required for such purpose.

(3) The person so authorized shall, in exercising any power conferred by this section do as little damage, as may be, an compensation shall be payable by the Government to the owner or occupier of such land or to both for any such damage whether permanent or temporary in accordance with such rules as may be made.

54. **Power to enter into building.-** It shall be lawful for any person authorized by the prescribed authority in this behalf to enter into any place or to open or cause to be opened any door, gate or other barrier -

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(a) if he considers the opening thereof necessary for the purpose of such entry; and

*(b)*if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

55. **Entry to be made in the day time.-** No entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

56.**Occupier's consent ordinarily to be obtained.-** Save as provided in this Act, no land or building shall be entered without the consent of the occupier, or if there be no occupier, of the owner thereof, and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than twenty-four hours written notice of the intention to make such entry:

Provided that no such notice shall be necessary if the place to be inspected is a shed for cattle or a latrine, urine or a work under construction.

57. **Powers of eviction.-** Notwithstanding anything contained in this Act, where the prescribed authority is satisfied either upon a representation from the owner of a building or upon other information in its possession that the occupants of the building have not vacated it in pursuance of -

(i) any notice, order or direction issued by the prescribed authority; or

(ii) any notice or direction issued by the owner;

the prescribed authority shall, if satisfied that such eviction is necessary to carry out the purposes of the Act, by order, direct the eviction of the occupants from the building, in such manner and within such time as may be specified in the order and may for that purpose use or cause to be used such force as may be necessary:

Provided that, before making any order under this section, the prescribed authority shall call upon the occupants of the building to show cause why they should not be evicted there from and after considering the cause, if any, shown by any occupants, the prescribed authority may pass such orders as it deems fit.

58. **Power to remove dangerous or offensive trades from slum areas.-** The prescribed authority may, by order in writing, direct any person carrying on any dangerous or offensive trade in a slum area to remove the trade from that area within such time as may be specified in the order ;

Provided that before making any order under this section the prescribed authority shall call upon the person carrying on the trade to show cause why the order should not be made and after considering the cause, if any, shown by such person, the prescribed authority may pass such orders as it deems fit.

59. **Appeal.-** (1) Except as otherwise expressly provided in this Act, any person aggrieved by any notice, order or direction issued by the prescribed authority may, within such time as may be prescribed, appeal to the Government.

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(2) Every appeal under this Act shall be made by petition in writing accompanied by a copy of the notice, order or direction appealed against.

(3) On the admission of an appeal, all proceedings to enforce the notice, order or direction and all prosecutions for any contravention thereof shall be held in abeyance pending the decision on the appeal and if the notice, order or direction is set aside on appeal, disobedience thereto shall not be deemed to be an offence.

(4) No appeal shall be decided under this section unless the appellant has been heard or has had a reasonable opportunity or being heard.

(5) The decision of the Government on appeal shall be final and shall not be questioned in any Court.

60. **Order of demolition of buildings in certain cases.-** Where the erection of any building has been commenced, or is being carried out, or has been completed, in contravention of any restriction or conditions imposed under section 14 or of a plan for the re-development of any slum clearance areas or in contravention of any notice, order or direction issued under this Act, the prescribed authority may in addition to any other remedy that may be resorted to under this Act, or under any other law, make an order directing that such building shall be demolished by the owner thereof, within such time, not exceeding sixty days, as may be specified in the order, and on the failure of the owner to comply with the order within the time specified, the prescribed authority may itself cause the building to be demolished and subject to the provisions of section 61, sell the materials thereof:

Provided that, before making any order under this section, the prescribed authority shall call upon the owner to show cause why the order should not be made and after considering the cause, if any, shown by such owner, the prescribed authority may pass such orders as it deems fit.

NOTES

Writ Petition No. 13464 of 1998.- If the board wants to demolish the building or remove encroachments they have to resort to proceedings laid down under Section 60 of the Act, under the provision the authorities are empowered to demolish a building if it is built or has been completed in contravention of the provision of the Act after giving time to the owner not exceeding 60 days that the owner should be directed to demolish the building and if they fall to demolish the building, the prescribed authority may itself cause the building to be demolished subject to the provisions of Section 61 of this Act.

1989 (II) LW Page 122 Dated 12th January 1989

61. **Disposal of proceeds of sale of materials of demolished building and recovery of expenses**.- (1) Where the materials of any building demolished by the prescribed authority, under section 10, section 13 or section 60 are sold, the prescribed authority shall apply the proceeds of such sale in or towards payment of the expenses incurred by that authority under that section and pay any surplus accruing from such sale to the owner or other person entitled thereto on demand made within twelve months from the date of sale. If no such demand is made, such surplus shall be deposited with the Government or authority specified by them.

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(2) Any expenses referred to in sub-section (1), if not satisfied out of the sale proceeds of the materials of any building referred to in that sub-section, may be recovered by the prescribed authority from the owner of the building or any other person having an interest therein as arrears of land revenue.

62. **Penalties**.- (1) Any person who -

(a) commences or causes to be commenced any work in contravention of any restriction or condition imposed under section 14 or of any plan for the re-development of a slum clearance area; or

(b) contravenes or fails to comply with any other provision of this Act or of any rule made thereunder or of any notice, order or direction issued 1[in pursuance of any of the provisions of this Act or the rules made there under] shall be punishable for the first offence with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both and for a second or any subsequent offence with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

(2) Any person who obstructs any person authorised 1[under any of the provisions of this Act or the rules made thereunder] to enter into or upon any land or building or molests such person after such entry shall be punishable with fine which may extent to one thousand rupees.

63. **Offenses by companies**.- (1) If the person committing an offence under this Act is a company, every person, who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceed against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation - For the purpose of this section -

(a) 'company' means a body corporate and includes a film or other association of individuals; and

(b) 'director' in relation to a firm means a partner in the firm.

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(64) **Prosecution and trial of offence.-** (1) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the prescribed authority.

(2) No Court inferior to that of a salaried presidency magistrate or a salaried magistrate of the first class shall try any offence punishable under this Act.

65. **Bar of Jurisdiction of civil courts.-** Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Government are, or the prescribed authority is, empowered by or under this Act, to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

NOTES

Allottee filing a suit for declaration that he is not liable for eviction when appeal pending against cancelling allotment. Civil Court have no jurisdiction to entertain suit if the allotment is cancelled by the Slum Clearance Board under statutory power and especially when the matter is pending on appeal before the court under the Act.

1996(1) MLJ 347.

66. **Prescribed authority, etc. to be public servants.-** The prescribed authority and any person authorised by it under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

67. **Protection of action taken in good faith.-** (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith, done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government or the prescribed authority or any authority or office subordinate to the Government or the prescribed authority for any damage caused or likely to be caused by anything which is, in good faith, done or intended to be done in pursuance of this Act or may rule or order made thereunder.

68. **Delegation of powers of Government**.- (1) The Government by notification, authorise any authority or officer to exercise any of the powers vested in them by this Act (except the power to acquire land under 1[sub-section(1) of section 17] and the power to make rules under section 70) and may in like manner withdraw such authority.

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification and also to control and revision by the Government or by such officer as may be empowered by the Government in this behalf. The Government shall also have power to control and revise the acts or proceedings of any officer so empowered.

69. **Act to voverride other law.-** The provisions of this Act and the rules made there under shall have effect notwithstanding anything inconsistent therewith contained in any law for the time being in force, or any custom, usage or contract or decree or order of a Court or other authority.

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70. **Power to make rules.-** (1) The Government may make rules *[whether prospectively or retrospectively]* for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for or regulate -

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the fees payable in respect of any application or statement under this Act;

(c) the manner of authentication of notices, orders and other instruments of the prescribed authority; and

(d) the preparation of plans for the development of any slum area or slum clearance area and matters to be included in such plans.

NOTES

1. Inserted by the Amendment and Validation Act 1999.
   Act 22 0f 1999
   Tamil Nadu Slum Areas (Improvement and Clearance) Amendment and Validation Act 1999 - Act 22 of 1999
   Published in Tamil Nadu Government Gazette Extraordinary, Issue No. 491, June 17-1999.

71. **Application of the Act to certain pending cases of acquisition.-** (1) The provisions of this Act shall apply also to any case or cases in which proceedings have been started before the commencement of this Act for the acquisition of any land in a slum area under the Land Acquisition Act, 1894(Central Act I of 1894) (hereinafter in this section referred to as the said Act), but no award has been made by the Collector under section II of this said Act before such commencement, as if -

(i) the notification published under sub-section (1) of section 4 of the said Act, or

(ii) the declaration made under section 6 of the said Act, or

(iii) the notice given under sub-section (1) of section 9 of the said Act,

were a notice to show cause against the acquisition of the land served by the government under the provision to section 17 of this Act.

(2) Nothing contained in sub-section (1) shall apply in relation to any land unless and until after the Government have published a notice in the Tamil Nadu Government Gazette to the effect that the said land is required for any of the purposes specified in section 17 of this Act.

72. **Publication of the rules, the date of the commencement of the rules and notifications and placing of rules and notifications on the table of the Legislature.-**
(1) (a) All rules made under this Act shall be published in the Tamil Nadu Government Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

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(b) All notifications issued under this Act shall unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(2) Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification 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 or notification.

73. **Repeal of Tamil Nadu Act XI of 1954.-** The Tamil Nadu Slum Improvement (Acquisition of Land) Act, 1954 (Tamil Nadu Act X1 of 1954), is hereby repealed.

74. **Repeal of Tamil Nadu Ordinance 1 of 1971.-** (1) The Tamil Nadu Slum Areas (Improvement and Clearance) Ordinance, 1971 (Tamil Nadu Ordinance 1 of 1971) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance including any orders passed, notifications issued, rules, regulations and appointments made shall in so far as they are not inconsistent with this Act be deemed to have been done or taken under this act and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act.[1]

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2. THE TAMIL NADU SLUM AREAS (IMPROVEMENT AND CLEARANCE) RULES, 1971

(G.O.M.S. No.1614, Labour (Housing),10th December 1971)

S.R.O.No.A-1104 of 1971 – In exercise of the powers conferred by section 70 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 (Tamil Nadu Act XI of 1971) the Governor of Tamil Nadu makes the following rules:-

RULES

1. **Short title**.– These rules may be called the TAMIL NADU SLUM AREAS (IMPORVEMENT AND CLEARANCE RULES,1971.

2. **Definitions.- In these rules-**

(a) "Act" means the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 (The Tamil Nadu Act XI of 1971).

(b) "Form" means a form appended to these rules.

(c) "Prescribed authority" referred to in the Act in Chapters III, IV, VI I, IX of the Act shall be the Chairman, Tamil Nadu Slum Clearance Board appointed under subsection (2) of section 35 of the Act.

(d) "Prescribed authority" referred to in Chapter VI of the Act shall be the Collector of the district or any officer of the district authorized by the Government to perform the functions of the prescribed authority under the said chapter.

3. Form and time for registration of building. – (i) Every statement to be filled under clause (a) of sub-section (1) of section 4 of the Act shall be signed by the owner or occupier of the building in any slum area and shall be in the Form appended to these rules-vide Appendix 'A'.

(ii) The said statement shall be sent with in a month from the date of notification of the slum area under sub-section (1) of section 3 of the Act.

(iii) The register referred to in sub-section (2) of section 4 of the Act shall contain the particulars as in the Appendix 'A' to these rules and registration certificate to be issued thereon shall be in the Form appended to these rules – vide Appendix 'B'.

(iv) Application for permission to erect building in a slum area under sub-section (1) of section 5 of the Act shall be made to the Chairman, Tamil Nadu Slum Clearance Board in the Form appended to these rules-vide Appendix 'C'.

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1. Substituted by G.O. Ms.No.1614, Labour (Housing), dated 10the Dec, 1971

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(v) The notice for execution of works of improvement referred to in sub-section (1) of section 6 of the Act shall be in the Form appended to these rules – vide Appendix 'E'.

4. Notice for demolition of building.- (i) The notice for the demolition of building, under sub-section (1) of section 9 of the Act shall be issued by the Chairman, Tamil Nadu Slum Clearance Board, in the form appended to theses rules – vide Appendix 'D'.

(ii) The order of demolition referred to in sub-section (3) of section 9 of the Act shall be carried out within the period of 30 days from the date of expiry of the period specified in the said notice.

5. Time for demolition of building in a Slum Clearance Area-

(i) The owner of the lands and the buildings in the areas notified by the Government as Slum Clearance Area under sub-section (1) of section 11 of the Act shall clear the area and demolish the buildings before the expiry of thirty days from the date of the said notification-

(ii) The time for appeal to the Government under the proviso to sub-section (1) of section 14 of the Act shall be thirty days from the date of approval of the plan and the conditions attached thereto under sub-section (1) of section 14 of the Act.

6. Determination of compensation – (i) For the purpose of the enquiry referred to in sub-section (2) of the section 20 of the Act, the said authority shall follow the procedure laid down in the Land Acquisition Manual of the Government of Tamil Nadu, as far as possible and applicable.

(i) The period with which an appeal should be made by any person who is aggrieved by the order of determination of compensation by the prescribed authority referred to in section 22 of the Act shall be thirty days from the date of receipt of the said order by that person.

7. Form of application for eviction of tenants and time for appeal-

(i) The application for obtaining previous permission referred to in sub-section (2) of section 29 of the Act shall be made in the Form appended to these vide Appendix 'F'

(ii) The time with which an appeal shall be preferred to the Government by any person who is aggrieved by an order of the prescribed authority refusing to grant permission under sub-section (4) of section 5 or under sub-section (3) of section 29 of the Act shall be thirty days from the date of receipt of the said order by that person. Any person aggrieved by an order of refusal by the Tamil Nadu Slum Clearance Board under rule 7 (i) above may appeal to the government within thirty days from the date or order of the refusal.

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(iii) Entry tenant who has vacated any building or is evicted thereform in pursuance of sub-section (i) of Section 31 of the Act may file a declaration with the Tamil Nadu Slum Clearance Board with in the time within which any tenant should file a declaration with the prescribed authority that he desires to be replaced in occupation of the building after completion of improvement or re-erection of the building as the case may be shall be thirty days from the date of vacation or eviction.

(iv) The provisional rent determined in pursuance of sub- section (2) of section 31 of the Act shall be communicated to the tenant by register post with acknowledgement due.

(v) The tenant shall intimate his acceptance of the said provisional rent to the prescribed authority with 30 days from the date of receipt of the communication to him.

8. Time for appeal under section 59 (1) of the Act. – The time within which an appeal should be made to Government by any person aggrieved by any notice, order or direction issued by the prescribed authority shall be thirty days from the date of the receipt of the said notice, order or direction by that person.

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APPENDIX "A"

FORM OF THE STATEMENT TO BE FILED BY THE OWNER
OR OCCUPIER OF THE BUILDING IN ANY SLUM AREA
(Under Section 4 (1) of the Act)

1. Name (IN BLOCK LETTERS)	
2. Father or Husband's name	
3. Age	
4. Number of members of the family-	
Name	Relation- ship of applicant
1.	
2.	
3.	
4.	
5.	
5. Occupation and monthly income	Rs.
6. Brief description of the Building-	
(i) Name of the Slum Area (also give corporation No:)	
(ii) Patta and R.S.No.	
(iii) Length, Breadth and height of the Building	
(iv) Nature of the roof of the building	
(v) Materials used for construction of the walls, if any	
7. If the applicant himself is not owner of the land in which the building is located- .	
(i) Name and address of the owner of the land	
(ii) Brief particulars of the terms and conditions under which the applicant occupies the building on the land.	

WITNESSES- Signature of the Applicant

(Signature with the name and addresses):
1.
2.

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APPENDIX "B"

FORM OF REGISTRATION CERTIFICATE

(Under Section 4 (1) of the Act).

To,

The statement filed by you in pursuance of section 4 (1) of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 in respect of the building……
……..……
……in ……..

Declared to be a "Slum Area" under section 3 (1) of the Act has been registered in the registered in the Register under section 4 (2) of the Act.

Signature of the
Prescribed Authority

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APPENDIX "C"

APPLICATION UNDER SECTION 5(3) OF THE ACT AND
RULE 6 OF THE RULES.

To,

The Chairman,

Slum Clearance Board,

Nandanam

Madras – 600 035.

Sir,

I beg to give you notice that I intend to erect ……..…..……building in ……..……Division and in accordance With the provisions of Section 5 (3) of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971. I forward herewith in triplicate-

(a) Site plan of the land for your approval, and

(b) a ground plan, elevations and section of the proposed building and a specification of the work.
I request the site plan and the building plan may be approved and that permission may be accorded to execute the said work.

Signature of the licensed surveyor: *Signature of the owner or applicant*

Name in Block Letters: *Name in Block Letters:*

Address: *Address:*

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QUESTIONNAIRE

TO BE COMPLETED BY THE APPLICANT & THE LICENSED SURVEYOR
WHO SIGNS THE BUILDING APPLICATION

TO BE ENCLOSED ALONG WITH THE BUILDING APPLICATION.

	Particulars.	Say 'Yes' or 'No'
1.	Whether three copies of the plans duly singed by the applicant are enclosed.	
2.	Whether detailed and clear site plan enclosed.	
3.	Whether patta and R.S. No. of the plot are enclosed	
4.	Whether the signature of the licensed surveyor approved by the Slum Clearance Board were obtained in the case where the proposed construction involves RCC work RSJ columns giriders etc.	
5.	Whether a sanctioned lay-out or sub-division plan enclosed or previous sanction B.A. No or sanctioned, plan, if any, furnished.	
6.	In the case of the lease lands whether 'No objection certificate' from the owner of the land is enclosed.	
7.	In case of site allotted by the S.H.B whether a 'No Objection Certificate' from the state housing board is enclosed.	
8.	In case of construction of storage of combustible articles whether a 'No Objection Certificate' from Explosive Inspector in enclosed.	
9.	In case High Tension Wires passing close to the proposed construction whether a 'No Objection Certificate' from the electricity Board in enclosed.	
10.	In case of construction for public resort, viz., community centre, Place of worship, multistoried buildings, hug lodges and hotels whether a 'No Objection Certificate' from the Commissioner of Police is enclosed.	
11.	In case of corner plot, whether space is provided at the junction of roads.	

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IN CASE OF CONSTRUCTIONS IN TOWN – PLANNING AREA THE FOLLWING QUESTIONNAIRE ALSO BE FILLED UP

	Particulars.	**Say 'Yes' or 'No'**
1.	Whether open space has been left as per particulars given below:- I. Open space to be left Frontside Rear. (a) Front road and width 20 feet below 5 feet on 5 feet either side 10 feet 5 feet on 15 feet, 15 feet 10 feet on 15 feet on either side. (b) On 20 feet upto 40 feet (c) Above 40 feet.	
2.	Whether the plot is not less that half ground in poor class areas and not less than 1 ½ ground in other areas?	
3.	Whether the height of the construction in rear does not exceed 2 feet from the ground level?	
4.	Whether any of the following have been proposed within 1/3 rear width of the plot; Ash pit, Carage Cowshed?	
5.	Whether more than one family is proposed in one plot?	
6.	Whether the width of the road is furnished?	
7.	Whether any shops have been proposed in residential areas which involve usage of electric motors licensable traders?	
8.	Whether shop – cum- residence is proposed?	

Signature of the Party

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THE QUESTIONNAIRE TO BE FILLED BY THE LICENSED SERVERYOR.

	Particulars.	**Say 'Yes' or 'No'**
1.	In multi-storeyed buildings whether provision of sanitary amenities such as water supply, drainage, dust bin, overhead tank with pump and pump room connections have been made in the plans.	
2.	In multi – storyed buildings whether load calculations with design particulars are furnished	
3.	Whether car parking spaces have been provided for buildings more than three storeyed?	
4.	Whether dimensions are marked clearly giving particulars regarding purpose of rooms, shops and godowns, etc., with colour indications given in the plans?	
5.	Whether balconies and subshades encroaching on roadside are shown, If so, delete the same and submit seprate applications supported with calculations for the stability of the structure?	
6.	Whether the building rules given in the Application has been gone through and the plans drawn confine to Rules and Regulations?	

Signature of the

Licensed Surveyor.

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APPENDIX "D"

NOTICE UNDER SECTION 9 (1) OR THE TAMIL NADU SLUM AREAS (IMPROVEMENT AND CLEARANCE) ACT, 1971.

TO

Whereas

I,…….

……..the prescribed authority, an satisfied upon report from ……

Other information in my possession, that the buildings…… In …….. declare to be a "Slum Area" under section 3 (1) of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971, is/ are unfit for human habitation and is/are not capable at reasonable expense of being rendered so fit.

Now, therefore in pursuance of the powers conferred upon me under section 9(1) of the land Act. I hereby call upon you, an owner, lessee or mortgagee or any other person having an interest in the buildings to show cause within 15 days of the receipt of this notice as to why an order for demolition of the building should not be made.

Prescribed Authority

Note: The items not required should be struck out.

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APPENDIX "E"

NOTICE UNDER SECTION 6 (1) OR THE TAMIL NADU SLUM AREAS (IMPROVEMENT AND CLEARANCE) ACT, 1971.

TO

Whereas I, ……. the prescribed authority, an satisfied upon report from …….. other information in my possession, that the buildings ……in ……. declared to be a "Slum Areas" under Section 3(1) of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 is / are unfit for human habitation in the following respects:-

1.
2.
3.
4.

Now, therefore, in pursuance of the powers conferred upon me under sub-section (1) of section 6 of the said Act, I hereby require you, owners of the buildings to execute the works of improvement mentioned in the schedule below within 60 days of the receipt of this notice, as in my opinion these works will render the buildings fit for human habitation.

In case you fail to comply with this notice, I shall get these works executed under section 7 of the said Act and all expenses so incurred together with interest at the rate of ……. Per cent per annum from the date of demand shall be recovered from you as arrears of land revenue.

Prescribed Authority.

SCHEDULE

Note :-The items not required should be struck out

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APPENDIX "F"

FORM OF APPLICATION FOR PERMISSION TO TAKE LEGAL ACTION TO EVICT A TENANT U/S 29 (2) OF THE TAMIL NADU SLUM AREAS (IMPROVEMENT & CLERANCE) ACT, 1971

(Vide rule 7)

1.	Name of the Applicant	
2.	Full postal Address	
3.	Description of the building for which permission is sought (i) Door No (ii) Monthly rent payable (iii)Other itmes if any	 Rs.
4.	Terms of the tenancy (i) Period of Tenancy (ii) Monthly rent payable (iii)Other items is any	 Rs.
5.	Reasons for eviction- (i) Whether for default of rent? (ii) Whether the building is required for owners occupation? (iii)Whether infringement conditions of tenancy is involved? (iv)Other reasons if any in detail	

Signature of the Applicant

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3.TAMIL NADU SLUM CLEARANCE BOARD (CONSTITUTION) RULES 1971.

(G.O.Ms.No.1138, Labour (Housing), 7th Sep. 1971)

S.R.O.No.A-950 of 1971 – In exercise of the powers conferred by sections 35 and 70 of the Tamil Nadu Slum Areas (improvement and Clearance) Act. 1971 (Tamil Nadu Act XI of 1971), the Governor of Tamil Nadu hereby makes the following rules:-

RULES

[1] **[1.Short Title.–** These rules may be called that Tamil Nadu Slum Clearance Board (Constitution) Rule, 1971.]

[2] **[2] Members of the Board –** The Board shall besides the Chairman, consist of the following members, namely:-

(a) five non – official members appointed by the Government.

(b) the secretary to Government, Labour Department, ex-officio:

(c) the Secretary to Government Health and Family Planning Department, ex-officio;

(d) the Secretary to Government, Revenue Department, ex-officio;

(e) The Secretary to Government, Rural Development and Local Administration Department, ex- officio;

(f) The Secretary to Government, Social Welfare Department, ex-officio;

(g) The Secretary to Government, Finance Department or an officer of the Finance Department nominated by the Secretary to Government, Finance Department, ex-officio;

(h) The Chairman, Tamil Nadu Housing Board, Madras, ex-officio;

(i) The Mayor of Madras or the Commissioner, Corporation of Madras, ex-officio;

(j) Director of Town Planning, Madras, ex-officio;

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1. Inserted by Memo No.43354 Hg F(1) 7202, dated 22nd November, 1972
2. Renumbered by ibid.

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(3) **Appointment of Chairman and members to be notified. –** The appointment of the Chairman and the non-official members shall be notified in the Tamil Nadu Government Gazette.

(G.O. Ms.No.359, Housing and Urban Development (SC 3(1) 20th March 1995

No.SRO A-20/95 – In exercise of the powers conferred by section 70 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act 1971 (Tamil Nadu Act 11 of 1971 read with section 35 of the said act and in supersession of the rules issued with the Labour Department notification NO.SRO A-951 of 1971, dated the 7th September 1971 published at pages 980-982 of Part V of the Tamil Nadu Government Gazette, dated 10th November 1971, as subsequently amended, the Governor of Tamil Nadu hereby make the Following. Rules:-

RULES

1. Short title – These rules may be called the Tamil Nadu Slum Clearance Board (Constitution) Rules 1994.
2. Number of members of the Board. – The number of members of the Board including the Chairman shall not exceed fifteen.

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4.TAMIL NADU SLUM CLEARANCE BOARD
(REMUNERATIVE ENTERPRISES)
RULES, 1972.

(G.O.Ms.No.671, Labour (Housing), dated 2nd May, 1972.)

S.R.O.No.A-428 of 1972. – In exercise of the powers conferred by clause (b) of section 40, read with section 70 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 (Tamil Nadu Act XI of 1971), the Governor of Tamil Nadu hereby makes the following rules.

RULES

1. **Short title.-** These rules may be called the Tamil Nadu Slum Clearance Board (Remunerative Enterprises) Rules, 1972.

2. **Definitions.-** In these rules, unless the context otherwise requires.

(a) A" means the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 (Tamil Nadu Act XI of 1971);

(b) "Board" means the Tamil Nadu Slum Clearance Board established under section 34 of the Act.

3. **Functions of the Board.-** In addition to the functions of the Board under the Act, the Board shall perform the following functions, namely:-

(a) acquisition by purchase, exchange or otherwise of any property or the improvement, development, clearance or erection of buildings, for carrying out the purpose of the Act;

(b) Laying or relaying out of any land comprised in the scheme of the Board;

(c) Distribution or redistribution of sites, buildings or tenements of the Board;

(d) Closure or demolition of dwellings or portions of dwellings unfit for human habitation;

(e) Construction and reconstruction of buildings;

(f) Sale, lease or exchange of any property;

(g) Constructions and alteration of roads, streets, back lanes, bridges, culverts and causeways;

(h) Providing drainage, water-supply and lighting of the streets in the slum areas;

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(i) Providing open parks, playing fields and openspaces for the benefit of any area comprised in any scheme or any adjoining area, and the enlargement of existing parks, playing fields, open spaces, approaches;

(j) Providing sanitary arrangements required for the area comprised in any scheme, including the conservation of and prevention of injury or contamination to rivers or other sources and means of water supply;

(k) Providing accommodation for any class of inhabitants;

(l) Providing facilities for communications and transports;

(m) Advancing money for the purpose of the scheme;

(n) Collection of such information and statistics as may be necessary for the purpose of the Act;

(o) reclamation or reservation of lands for markets, gardens, playing fields and afforestation;

(p) providing schools, parks, swimming pools, restaurants, shops, markets, fuel depots, laundries, hair dressing saloons and other amenities;

(q) any other remunerative enterprise.

4. The functions of the Board provided in rule 3 shall be confined only to the areas notified under the Act.

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5.TAMIL NADU SLUM CLEARANCE BOARD

(CONTROL & MANAGEMENT OF PROPERTIES) RULES, 1971.

(G.O.Ms.No.1137, Labour (Housing), dated 7th September, 1971)

S.R.O.No.A-931 of 1971.-In exercise of the powers conferred by sub-section (1) of section 70 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 (Tamil Nadu Act XI of 1971), the Governor of Tamil Nadu hereby makes the following rules:-

RULES

1. **Short title.-**

These rules may be called the Tamil Nadu Slum Clearance Board (Control and Management of Properties) Rules, 1971.

2. **Definitions.-** In these rules-

(a) "Act" means the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 (Tamil Nadu Act XI of 1971);

(b) "Form" means a form appended to these rules

(c) "Chairman" means Chairman of the Tamil Nadu Clearance Board established under section 34 of the Act.

(d) "Board" means the Tamil Nadu Slum Clearance Board established under section 34 of the Act.

(e) "Executive Engineer" means Executive Engineer appointed by the Board.

3. **Allotment of Plots Tenements Buildings.-** The Chairman may allot or grant plots of lands, tenements or buildings or other premises owned or otherwise controlled by the Board to such slum dwellers whom he considers eligible by way of sale, lease-cum –sale, lease or license, on such terms and conditions and subject to such restrictions and on payment of such value, rent free or other charges as the Board determines form time to time.

4. **Penalty for Non-observance of conditions of allotment.-**

(a) If the Executive Engineer or any other authority by the Chairman, Tamil Nadu Slum Clearance Board, is satisfied that the persons authorized to occupy any of the Board's premises under Rule 3 has:-

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(i) not paid the rent, license fee, charges value or any other amount due to the Board in respect of the premises in his occupation for a period of two months from the date on which the same has become due and payable, or

(ii) sublet, without the previous permission in writing of the Engineer, the whole or any party of the said premises, or

(iii) otherwise acted in contravention of any of the terms, condition or restriction expressed or implied under which he is authorized to occupy he said premises, or

(iv) for any other reasonable cause, the Executive Engineer shall evict, notwithstanding any other law in force the said persons from the said premises and resume possession of the said premises;

(b) if any person is in unauthorized occupation of any of the Board's premises, the Executive Engineer or the Officer of the Board authorized by the Chairman shall evict him and resume possession.

5. **Procedure to be adopted before eviction.-**

Before an order of eviction is passed under rule 4 of the Executive Engineer or an officer of the Board authorized by the Chairman in this behalf shall issue notice to the person against whom action is taken, to show cause why an order of eviction should not be passes against him. After considering the explanation, if any, given, the Executive Engineer or the Officer or the Board authorized by the Chairman, shall pass appropriate orders.

6. **Powers of the Executive Engineer to evict tenants for refusal to comply with orders.-**

If any person refuses or fails to comply with an order made under rule 4, the Executive Engineer or the officer authorized by the Chairman may evict that person from and take possession of the premises and may for that purpose, use such force as may be necessary.

7. **Power to recover license fee or other amounts due to the Board as arrears of land revenue.-**

Without prejudice to the provisions of rule 4, where any person is in arrears of dues fee or other amount due to the Board in respect of any Board's premises, the Chairman of the Board or any other authorized by him in this behalf may be notice served, order that person to pay the same within such time not being less than fifteen days as may be specified in the notice. If such person refuses or fails to pay the same within the time specified in the notice, such arrears may be recovered as if it is an arrears of land revenue.

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CONTROL AND MANAGEMENT OF PROPERTIES RULES, 1971

8. **Damages for unauthorized occupation.-**

Where any person is in unauthorized occupation of any Board's premises. Chairman of the Board or any officer authorized by him in this behalf may, in the prescribed manner, assess such damages on account of the use and occupation of the premises and may by notice order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice the damages may be recovered from him as if it is an arrear of land revenue.

9. **Appeal.-**

(1) Any person aggrieved by an order of the Executive Engineer or the officer of the Board authorized by an Chairman under the foregoing rule may within 15 days from the date of service of such order prefer an appeal to the Chairman:

Provided that the Chairman may entertain to the appeal after the expiry of the said period of 15 days, if he is satisfied that the appellant was prevented by sufficient cause from filling the appeal in time.

(2) On receipt of an appeal under sub-rule (1), the Chairman may, after calling for a report from the Executive Engineer, or the officer of the Board authorized by the Chairman and after making such further inquiry, if any as may be necessary pass such orders as he thinks fit and the order of the Chairman shall be final.

(3) On such appeal being preferred, the Chairman may stay the execution of the order of the Executive Engineer or the officer of the Board authorized by the Chairman for such period and on such conditions as he thinks fit.

10. **License fee or other amounts due to the Board to be recovered from deductions from salary or wages in certain cases.-**

(1) Subject to the provisions of Rules 4 and 5, any slum dweller who is an employee of the Government or a local authority and who has been allotted any Board's premises may execute an agreement in favour of the Board, providing that the Government or the local authority, as the case may be, under or by whom he is employed shall be competent to deduct from the salary or wages payable to him such amount as may be specified in the agreement and to pay the amount so deducted to the Board in satisfaction of the rent fee or other amounts due by him in respect of the Board's premises allotted to him.

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(2) On the execution of such an agreement, the Government or local authority, as the case may be, shall, if so required by the Board by requisition in writing, make the deduction of the amount specified in the requisition, from the salary or wages of the employee specified in the requisition, in accordance with agreement any pay the amount so deducted to the Board.

11. **Forms of Notices and orders.-** The notices to be served under these rules shall be in the Forms given in Annexure.

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ANNEXURE

FORM A

NOTICE UNDER RULE 5 READ WITH RULE 4 OF TAMIL NADU SLUM CLEARANCE BOARD (CONTROL AND MANAGEMENT OF PROPERTIES) RULES, 1971

Thiru……(a) has not paid rent/license fee……due by him to the Tamil Nadu Slum Clearance Board (Hereinafter called the Board) in respect of the premises described in Annexure I here under, belonging to the Board, which is now under his occupation as detailed in Annexure II.; or

(b) has allowed any person to occupy without the permission of the Board the whole or any part of the aforesaid premises; or

(c) has violated the following conditions and terms and restriction under which he was authorized to occupy the aforesaid premises; or

(d) ……He is hereby directed to show cause within fifteen days from the date of receipt of this notice why action should not be taken to evict him from the aforesaid premises. If no explanation is tendered, or if the explanation tendered is not acceptable, final orders will be issued and he will be summarily evicted, without prejudice to the right to the Board to recover the amounts due from him till the date of resumption of possession by the Board.

Dated Signature of the Executive Engineer

ANNEXURE I

Description of the Premises

ANNEXURE II

Details of Arrears

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FORM B

FINAL ORDER UNDER RULE 4 OF TAMIL NADU SLUM CLEARANCE BOARD (CONTROL AND MANAGEMENT OF PROPERTIES) RULES, 1971

To

Thiru/Thirumathi,

WHEREAS for the reasons stated in the notice issued to you on… you were directed to show cause within fifteen days from the date of receipt of the said notice why action should not be taken to evict you from the Board's premises.

WHEREAS you have not tendered any explanation / whereas your explanation as duly considered and is found not acceptable;

You are hereby ordered to vacate and deliver vacant possessions of the Board's premises described in the annexure, within 15 days from the service of this notice. If you fail to deliver peacefully the possessions of the said premises, you will be evicted there from using such force as may be necessary and possession taken after the expiry of the period of 15 days allowed in this order;

This order is made without prejudice to the right of the Board to recover the arrears and other amounts due to the Board as arrears of Land Revenue or by any other mode of recovery.

Dated at Madras this……day of……..1971.

Executive Engineer

N.B.- An appeal will lie against this order to the Chairman, Tamil Nadu Slum Clearance Board within 15 days under rule 9 of the Rules.

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6. TAMIL NADU SLUM CLEARANCE BOARD

(MANNER OF OPERTION OF ACCOUNT)

RULES, 1976

(G.O.Ms.No.906, Housing, dated 24th June, 1976)

S.R.O.No.A-225 of 1976. – In exercise of the powers conferred by section 20, read with section 41 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 (Tamil Nadu Act XI of 1971), the Governor of Tamil Nadu hereby makes the following rules.

RULES

1. **Short title**.- These rules may be called the Tamil Nadu Slum Clearance Board (Manner of Operation of Accounts) Rules, 1976.

2. **Definitions**.- In these rules, unless the context otherwise requires.

   (a) "Act" means the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 (Tamil Nadu Act XI of 1971); and
   (b) "Board" means the Tamil Nadu Slum Clearance Board established under section 34 of the Act.

3. **Deposit of the funds of the Board**.- (1) The Board may be authorized to deposit, its funds in one or more Nationalised Commercial Banks of 'A' Class Schedule Banks in such accounts as may be found convenient, up to a maximum monetary limit of one hundred lakhs of rupees in each bank.

   (2) The Bank account shall be opened by the name of the Board.

4. **Payment from Board's funds**.- No payment exceeding fifty rupees shall be made except through cheque.

5. **Authority to sign orders for deposit and cheques**.- Orders for making any deposit shall be, in writing, and all such orders and cheques shall be signed by the Chairman or the Chief Accounts Officer of the Board in respect of the main Accounts of the Board and by the Executive Engineer or the Estate Officers concerned in respect of the Divisions / Units.

6. **Precautions to be observed before signing a cheque**.- The Chairman, the Chief Accounts Officer, the Executive Engineer, or the Estate Officer, as the case may be shall satisfy himself before he signs a cheque that the sum for which such cheque is drawn is required for a purpose of work specifically sanctioned by the Board or any other competent authority where such sanction is necessary under the Act or rules made there under. The Chairman, of the Chief Accounts Officer, the Executive Engineer, or the Estate Officer, as the case may be shall also satisfy himself before signing the cheque that a proper bill has been prepared and passed for payment by the competent authority.

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7. **Procedure to be followed in writing a cheque**.- (i) Every cheque shall be made payable to order only. In the absence of a specific request to the contrary from the payee, the cheque drawn in favour of corporate bodies, firms or private persons shall always be crossed. Subject to any instructions from the payee, the cheque shall be crossed …… and Company between the crossing.

(ii) These accounts in the Bank shall be operated by the Chairman, the Chief Accounts Officer of the Boards, the Executive Engineers and the Estate Officers of the divisions. The Board shall decide, from time to time, the names and designation of the officers who shall operate such accounts in the Banks mentioned to rule 3.

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7. TAMIL NADU SLUM CLEARANCE BOARD SERVANTS SERVICE ASSOCIATIONS RECOGNITION RULES, 1981.

(G.O.Ms.No.581, Housing & Urban Devpt.,

18th July 1981)

S.R.O.No.A-231/81.- In exercise of the powers conferred by section 70, read with section 38 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 (Tamil Nadu Act XI of 1971), the Governor of Tamil Nadu hereby makes the following rules.

RULES

1. Short title.- These rules may be called the Tamil Nadu Slum Clearance Board's Servant's Recognition of Service Associations[1] (Recognition) Rules, 1981.

2. **Commencement**.- These rules shall come into force on the 18th July 1981.

3. Definition. In these rules, unless the context otherwise requires.

(a) "Board Servant" means any person who is an Officer or a servant of the Tamil Nadu Slum Clearance Board constituted under Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 or any of its units but does not include a servant of the Central or State Government or local authority whose services have been lent to the Board.

(b) Service Association includes a Federation or a Confederation of Service Associations.

[1] [4] **Conditions for recognition of Service Associations**.- No Service Association shall be recognized by the Board after the commencement of these rules, unless such service Association satisfies the following conditions, namely .-

[a] An application for recognition of the Service Association shall be made with th following particulars:-

(1) Title of the Association;
(2) Headquarters of the Association;
(3) The number of members of the Association; and
(4) The names of branches; if any.

[b] The object of the Service Association shall be to promote the common service interests of its members;

[c] No person, who is not a Board's servant, shall be connected with the affairs of the Service Association.

1.Ins.by.G.O.Ms.No.133, Housing & Urban Development, 2nd Feb, 1987.

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[d] The Service Association shall not be framed on the basis of any caste, tribe or religious denomination or of any group within or section of such case, tribe or religious denomination;

[e] The executive functions of the Service Association shall be vested in one or more of the members appointed for the purpose;

[f] The funds of the Service Association shall consist exclusively of subscription from members and grants, if any, made furtherance of the object of Service Associations.

5. **Conditions subject to which recognition is granted.-**

Every Service Association recognized under these rules shall comply with the following conditions namely:-

(a) All representatives by the Service Association shall be submitted through the proper channel, and shall, as a normal practice be addressed to the Chairman of the Board;

(b) A list of members and officer-bearers, an up-to-date copy of the rules and an audited statement of accounts of the Service Association shall be furnished to the Board annually through proper channel after the general annual meeting so as to reach the Board, before the first day of July each year;

(c) All Service Associations, whose annual turn over is of the order of Rs.10,000 (Rupees ten thousand) and above, shall have their accounts duly audited by a qualified registered Auditor.

(d) Any amendment of a substantial character in the rules or bye-laws of the Service Association shall be made only with the previous approval of the Board and any other amendment of minor character shall be sent through the proper channel to the Board.

(e) The Service Association shall not do any act or assist in the doing of any act which, if done by a Board's servant would contravene any of the provisions of rules of the Tamil Nadu Slum Clearance Board's Officers and Servants Conduct Rules.

(f) The Service Association shall not address any communications to a foreign authority except through the Board which shall have the right to withhold it;

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(g) Communications addressed by the Service Association or by any officer/bearer on its behalf of the Board or the Government shall not contain any disrespectful or improper language;

(h) The Service Association shall not, without the previous sanction of the Board, permit its proceedings to be open to the Press;

(i) The Service Association shall not use a strike or the threat of a strike against the Board as a means of achieving any of the purposes of the Association; and

(j) The Service Association shall have the following rule incorporated among its rules, namely:-

" A strike or the treat of a strike against the Board shall never be used as a means of achieving any of the purposes of the Association".

[1] 6. The Tamil Nadu Slum Clearance Board may if the Board is of opinion that a service Association recognized or deemed to have been recognized under these rules have failed to comply with any of the condition in rule 4 or rule 5 for good and sufficient reason to be recorded in writing deserves to be de-recognised, withdraw the recognition accorded to such service association provided that the recognition shall not be withdrawn, unless such service association has been given an opportunity of making its representations.

7. **Power to relax rule.-** The Board may dispense with or relax the requirements of any of these rules to such extent and subject to such conditions as it may deem fit in regard to any Service Association or Class of Service Associations.

8. Decision of the Board.- If any question arises as to the interpretation of any of provisions of these rules, it shall be referred to the Board whose decision thereon shall be final.

1.Subs.By G.O.Ms.No.133, Housing & Urban Development, 2nd Feb. 1987.

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