[1978: T. N. Act 31 Acquisition of Land for Harijan Welfare Schemes

TAMIL NADU ACT NO. 31 OF 1978 *

THF TAMIL NADU ACQUISITION OF LAND FOR

HARIJAN WELFARE SCHEMES ACT, 1978.

[Received the assent of the President on the 21st July 197 first published in the Tamil Nadu Government Gazette Extraordinary on the 25th July 1978 (Adi 9, Kalayukti 2009—Tiruvalluvar Andu)]

An Act to provide for acquisition of land for Harijan Welfare Schemes.

BE it enacted by tire Legislature of the State of Tamil Nadu in the Twenty-ninth Year of the Republic of India as follows:—

1. Short title, extent and commencement. (1) This Act may be called the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the Government may, by notification, appoint.

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* For Statement of Objects and Reasons, see Tamil Nadu Government Gazette Extraordinary, dated the 29th March 1978, Part IV—Section 1, Page 328.

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2. Declaration. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles laid down in Part IV, and in particular article 46 of the Constitution,

3. Definitions. In this Act, unless the context otherwise requires—

(a) "Building" includes a house, out-house, stable, latrine, shed, hut, wall and any other such structure, whether of masonry, bricks, wood, mud, metal or any other materials whatsoever;

(b) "Corporation" means a company or corporation owned or controlled by the Government;

(c) "Court" means—

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

(ii) elsewhere, the Subordinate Judge's Court having jurisdiction, and if there is no such Subordinate Judge's Court, the District Court having jurisdiction;

(d) "Government" means the State Government;

(e) "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;

(f) "Harijans" means members of the Scheduled Castes and include Scheduled Tribes;

*Explanation.— (*1) "Scheduled Castes" means the castes, races or tribes or parts of, or groups within, castes, races or tribes specified in the Constitution (Scheduled Castes) Order, 1950, made by the President under article 341 of the Constitution as amended by the Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976 (Central Act 108 of 1976).

(2) "Scheduled Tribes" means the tribes or tribal communities, or parts of, or groups within, tribes or tribal communities, specified in the Constitution (Scheduled Tribes) Order, 1950 made by the President under article 342 of the Constitution as amended by the Scheduled. Castes and Scheduled Tribes Order (Amendment) Act, 1976 (Central Act 108 of 1976).

(g) "Harijan Welfare Scheme" means any scheme for provision of house-site s for Harijans for constructing, extending or improving any dwelling house for Harijans or for providing any burial or burning grounds for Harijans or for providing any pathway leading to such dwelling house, burial or burning grounds, or for providing any other amenity for the benefit of Harijans;

(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 of himself any others or as an agent, trustee, executor, administrator receiver or guardian or who would so receive the rent 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 amount payable on account of the acquisition of that land or building under this Act;

(j) "Prescribed Authority" means any authority or Officer authorised by the Government in this regard, by notification.

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4. Power to acquire land. (1) Where the District Collector is satisfied that for the purpose of any Harijan Welfare Scheme, it is necessary to acquire any land, he may acquire the land by publishing in the District Gazette a notice to the effect that he has decided to acquire the land in pursuance of this section.

(2) Before publishing a notice under sub-section (1), the District Collector or any officer authorised by the District Collector in this behalf, shall call upon the owner or any other person, who, in the opinion of the District Collector or the officer so authorised may be interested in such land, to show cause why it should not be acquired.

(3) (a) The District Collector may, where he has himself called upon the owner or other person to show cause under sub-section (2), pass such orders as he may deem fit on the cause so shown;

(b) Where any officer authorised by the District Collector has called upon the owner or other person to show cause under sub-section (2), the officer so authorised shall make a report to the District Collector containing his recommendations on the cause so shown for the decision of the District Collector- After considering such report the District Collector may pass such orders as he may deem fit.

5. Land acquired to vest in Government free from all encumbrances. When a notice under sub-section (1) of section published in the District 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 tree from all encumbrances.

6. Right to receive amount. Every person having any interest in any land acquired under this Act shall be entitled to receive and be paid an amount a, hereinafter provided.

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7. Determination of amount. (1) The amount payable in respect of any land acquired under this Act shall be the market value of such land on the date of publication of the notice under subsection (1) of section 4.

(2) In addition to the market value of the land as provided above, the prescribed authority shall in every case award a sum of fifteen per centum on such market value as solatium in consideration of the compulsory nature of the acquisition.

(3) The prescribed authority shall, after holding an inquiry in the prescribed manner, determine by order the amount payable under sub-section (1). A copy of the said order shall be communicated to the owner of such land and every person interested therein.

8. Matters to be ignored in determining the amount. In determining the amount under section 7, following factors shall not be taken into account, namely:—

(a) the degree of urgency which was 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 publication of the notice under sub-section (1) of section 4, 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 increase to the value of the land by reason of the health of the occupants of the land or to the public the land or to the public health;

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(h) any outlay or improvement, on or disposal of, the land acquired, commenced, made or effected without the sanction of the prescribed without the publication of the notice under sub-section (1) of section 4.

9. Appeal against order of amount determined. Any person who does not agree to the amount determined by the prescribed authority under sub-section (2) of section 7 may prefer an appeal to the Court within such period as may be prescribed.

10.Appointment of amount determined. (1) Where several Persons claim to be interested in the amount determined, the prescribed authority shall determine the persons who, in its opinion, are entitled to receive the amount and the amount payable to each of them.

(2) If any dispute arises as to the apportionment of the amount or any part thereof, or as to the persons to whom the amount 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).

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

(i) in a lump-sum in a case where it does not exceed two thousand rupees, and

(ii) in all other cases, in such number of equal annual instalments not exceeding five as may be determined by the prescribed authority and the amount of each such annual instalment shall not be less than two thousand rupees:

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Provided that where the balance of the amount due in any instalment is less than two thousand rupees, only the actual amount so due shall be paid.

(2) If the persons entitled to the amount do not consent to receive it or if there be no person competent to alienate the land; or if there be any dispute as to the title to receive the amount, or as to the apportionment of it, the prescribed authority shall deposit the amount in the Court , and the Court shall deal with the amount so deposited in the manner laid down in sections 32 and 33 of the Land Acquisition Act, 1894 (Central Act I of 1894).

12. Payment of interest., When the amount is not paid or deposited on or before taking possession of the land, the prescribed authority shall pay the amount with interest thereon a the rate of six per cent 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 provided for the amount.

13. 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 any-thing to the contrary in any enactment for the time being in force, a second appeal shall lie to the High Court from any decision of the Court under this Act, if the amount as determined by the prescribed authority exceeds such sum as may be prescribed.

14. Powers of prescribed authority in relation to determination of amount. (1) The prescribed authority may, for the purpose of carrying out the provisions of this Act, by order require any person to furnish such information in his possession relating to any land which is acquired under this Act:-

(2) The prescribed authority shall, while holding an inquiry under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil

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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 on oath;

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

(c) reception of evidence on affidavits;

(d) requisitioning any public record from many Court or Office;

(e) issuing commission for examination of witnesses.

15. Use of land acquired. (1) Where any land has been acquired under this Act, the Government may undertake or cause to be under taken such measures as may be necessary for carrying out the Harijan Welfare Scheme.

(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 Corporation on such terms and conditions as may be determined by them, or transfer the land to the local authority concerned or the Corporation 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 Corporation, as the case may be, and the local authority or the Corporation shall 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.

16. Delegation of functions. The Government may, by notification in the Tamil Nadu Government Gazette, direct that any power conferred or any duty imposed on them by this Act except the power to make rules, shall, in such

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circumstances and under such conditions, if any, as may be specified in the notification, be exercised or discharged also by the District Collector.

Explanation.—For the purpose of this section, "District Collector" shall include the District Revenue Officer.

17. Bar of jurisdiction of Civil Courts. Save as otherwise expressly provided in this Act, civil Court shall have jurisdiction in respect of any matter which the Government are or the District Collector 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.

18. Prescribed authority, etc., to be servants. The Prescribed authority and any person authorised 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).

19. Protection of action taken in good faith. (1) No suit, prosecution or other legal proceeding 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 District Collector or the prescribed bed authority or any authority or officer subordinate to the Government or the District Collector 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 of any rule or order made thereunder.

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20. Land Acquisition Act not to apply. Save as otherwise provided in this Act, the provision of the Land Acquisition Act 1894 (Central Act I of 1894) shall cease to apply to any land which is require for the purpose specified in sub-section (1) of section 4 and any such land shall be acquired by the Government only in accordance with the provisions of this Act.

21. Act to override other laws. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained any other law for the time being in force, or any custom, usage, or contract or decree or order of a court or other authority.

22. Application of the Act of 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 for the Harijan Welfare Scheme under the Land Acquisition Act, 1894 (Central Act I of 1894) (herein after in this section referred to as the said Act) but no award has been made by the Collector under section 11 of the 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 under sub-section (2) of section 4 of this Act.

(2) Nothing contained in sub-section (1) shall apply in relation to any land unless and until after the District Collector has published a notice in the District Gazette to the effect that the said laud is required for the purpose specified in sub-section (1) of section 4 of this Act.

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23. Power to make rules. (1) The Government may make rules 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; and allowed by

(b) the manner of authentication of orders and other instruments of the prescribed authority

24. Publication rules, the date of the commencement of the rules and notifications and placing of rules and notifications on the tables 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.

(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 in which it is so placed or the next 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.

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