

*THE KERALA LAND ACQUISITION ACT, 1961

(Act 21 of 1962)

Amended by Acts 4 of 1966, 29 of 1968 and 3 of 1981

An Act to unify and amend the law for acquisition of land for public purposes in the State of Kerala

Preamble.— WHEREAS it is expedient to unify and amend the law for the acquisition of land needed for public purposes and for determining the amount of compensation to be given on account of such acquisition in the State of Kerala;

BE it enacted in the Twelfth Year of the Republic of India as follows:—

PART I PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be called the Kerala Land Acquisition Act, 1961.

(2) It extends to the whole of the State of Kerala.

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

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

(1) "Land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(2) "Person interested" includes all persons claiming or entitled to claim an interest in compensation payable on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

(3) "Collector" means the Collector of the district and includes any officer appointed by the Government to perform the function of a Collector under this Act;

(4) "Company" means a company as defined in Section 3 of the Companies Act, 1956 (Central Act 1 of 1956) and includes a foreign company within the meaning of Section 591 of that Act, a society registered under the Societies Registration Act, 1860 (Central Act 21 of 1860) as in force in the Malabar district referred to in sub-section (2) of

* Received the assent of the President on the 31/08/1962 and published in the K.G. Ext. dt. 06/09/1962.

Statement of Objects and Reasons Act 21 of 1962

The law relating to compulsory acquisition of land in force in the Travancore and Cochin areas of the State are contained in the Land Acquisition Act, 1089 (Travancore) and the Land Acquisition Act, 1070 (Cochin) respectively. In the Malabar area of the State the law on the subject is contained in the Land Acquisition Act, 1894 (Central Act 1 of 1894). It is considered necessary to have a Uniform legislation on the subject applicable to the whole of the State of Kerala.

The Bill is intended to achieve this object. (Published in K.G. Ext No. 81 dt. 03/08/1960).

Section 5 of the State Reorganisation Act, 1956 or under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 (Act XII of 1955) and a registered society within the meaning of the Co-operative Societies Act for the time being in force;

(5) "Court" means a Land Acquisition Court established or any Civil Court invested with the jurisdiction of a Land Acquisition Court, under Section 58;

(6) "Government" means, in relation to the acquisition of land for the purposes of the Union, the Central Government and in relation to the acquisition of land for any other purposes, the State Government;

(7) the following persons shall be deemed "persons entitled to act" as and to the extent hereinafter provided, that is to say:

(a) trustees for other persons beneficially interested shall be deemed to be the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted, if free from disability; and

(b) the guardians of minors and the managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiot themselves, if free from disability, could have acted:

Provided that:

(i) no person shall be deemed 'entitled to act' whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(iii) the provisions of Order XXXII of the First Schedule to the Code of Civil Procedure, 1908, shall mutatis mutandis, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case in proceedings under this Act; and

(iv) no person 'entitled to act' shall be competent to receive the compensation money, payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase money on a voluntary sale.

Case Laws

SRO. 293/63: Power of the Tahsildar to exercise the powers of the Collector. *X. v. Y* — 1978 KLT SN 81.

Acquisition proceedings: Notification constituting Tahasildar as 'Collector': Only Tahasildar can function for the purpose of S.3, 4 & 5. There cannot be simultaneous functioning by other officers. R.D.O. cannot associate with the acquisition proceedings. *Appu v. State of Kerala* — 1973 KLJ 249 : 1973 KLR 261 : AIR 1974 Ker. 2.

Public purpose: Acquisition for society: The acquisition for a Society registered under the Societies Registration Act, 1860 can be said to be acquisition for public purpose under the Land Acquisition Act. The declaration under S.6 stating that the land is needed for the use of the inmates of the Girls Hostel attached to the Ramakrishna Mission High School is conclusive and final. *Gopalan Nair v. State* — ILR 1968 (2) Ker. 353.