

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY

भाग II-खण्ड-I

PART II—Section 1

प्रधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 11] नई दिल्ली, शुक्रवार, अप्रैल 29, 1966/ वैशाखा 9, 1888

No. 11] NEW DELHI, FRIDAY, APRIL 29, 1966/VAISAKHA 9, 1888

एक भाग में भिन्न एक संस्करण दी जाती है जिससे कि यह अलग संस्करण के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 29th April, 1966/Vaisakha 9, 1888 (Saka)

The following President's Act is published for general information:—

**THE KERALA LAND ACQUISITION (AMENDMENT)
ACT, 1966**

No. 4 OF 1966

Enacted by the President in the Seventeenth Year of the
Republic of India.

An Act to amend the Kerala Land Acquisition Act, 1961.

In exercise of the powers conferred by section 3 of the Kerala
12 of 1965. State Legislature (Delegation of Powers) Act, 1965, the President
is pleased to enact as follows:—

1. (1) This Act may be called the Kerala Land Acquisition
(Amendment) Act, 1966.

Short title
and
commence-
ment.

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

Amend-
ment of
section 6.

2. In section 6 of the Kerala Land Acquisition Act, 1961 (therein- **Kerala Act 21 of 1962.**
after referred to as the principal Act),—

(i) to sub-section (1), the following proviso shall be added, namely:—

“Provided that no such declaration shall be made in respect of a land after the expiry of a period of two years from the date of the publication of the notification under sub-section (1) of section 3 in respect of such land.”;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Where no declaration under this section is made in respect of a land within the period specified in the proviso to sub-section (1), the notification under sub-section (1) of section 3 in respect of such land shall be deemed to have been cancelled.”

Amend-
ment of
section 43.

3. In sub-section (1) of section 43 of the principal Act, after clause (a), the following clause shall be inserted, namely:

“(aa) that such acquisition is needed for the construction of some building or work for a company which is engaged, or is taking steps for engaging itself, in any industry or work which is for a public purpose, and that the building or work which such company is intending to construct is meant to subserve the public purpose of the industry or work for which it is being constructed, or”.

Amend-
ment of
section 44.

4. In section 44 of the principal Act,—

(a) for the words “the purpose of the proposed acquisition is to obtain land for the erection of dwelling-houses for workmen employed by the company or for the provision of amenities directly connected therewith, or that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, or that the proposed acquisition is for a purpose calculated to promote and develop agriculture, industry or co-operation”, the words, brackets, letters and figures “the proposed acquisition is for any of the purposes referred to in clause (a) or clause (aa) or clause (b) or clause (c) of sub-section (1) of section 43” shall be substituted;

(b) in clause (4), the word "and" occurring at the end shall be omitted, and after that clause, the following clause shall be inserted, namely:—

"(4A) where the acquisition is for the construction of any building or work referred to in clause (aa) of sub-section (1) of section 43, the time within which, and the conditions on which, the building or work shall be constructed or executed; and".

5. In Part VII of the principal Act, after section 45, the following sections shall be inserted, namely:—

Insertion of new sections 45A and 45B.

'45A. No company for which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise, except with the previous sanction of the Government.

Restriction on transfer, etc.

45B. Notwithstanding anything contained in this Act, no land shall be acquired under this Part, except for the purpose mentioned in clause (a) of sub-section (1) of section 43, for a private company which is not a Government company.

Land not to be acquired under this Part except for certain purpose for private companies other than Government companies.

Explanation.—"Private company" and "Government company" shall have the meanings respectively assigned to them in the Companies Act, 1956 (Central Act 1 of 1956)

6. For sections 46 to 48 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 46 to 48.

'46. The provisions of this Part shall apply to the acquisition of land in such project area as may be specified by the Government by notification under section 47A:

Provisions of this Part applicable in the case of specified projects.

Provided that such provisions shall not apply to any acquisition of land in a project area where the notification under sub-section (1) of section 3 in respect of the acquisition is not published within three years from the date of the publication of the notification under section 47A.

47. In this Part, unless the context otherwise requires,—

Definitions.

(i) "project area" means the area covered by one or more revenue villages or survey numbers, the whole or any

portion of which is needed or is likely to be needed for a project purpose;

(ii) "project purpose" means the purpose of execution, expansion or development of a project.

Notifi-
cation de-
claring
projects
to which
the pro-
visions
of this
Part
shall
apply.
Acquisi-
tion of
land in
project
areas.

47A. Where the Government are of opinion that as a result of a project undertaken or proposed to be undertaken by them, there is likelihood of a speculative rise in the land value in the project area, they may, by notification in the Gazette, specify the project area.

48. Whenever land is proposed to be acquired in a project area, the provisions of this Act shall apply subject to the following modifications, namely:—

(1) for section 11, the following section shall be substituted, namely:—

Enquiry
and
award by
Collector.

'11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into—

(a) the objections, if any, which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8;

(b) the value of the land at the date of the publication of the notification under section 47A;

(c) the value of any improvements to the land effected after the date referred to in clause (b) and before the date of the publication of the notification under sub-section (1) of section 3;

(d) where there has been a normal rise in land value in the locality in which the project area lies after the date of the publication of the notification under section 47A and before the date of the publication of the notification under sub-section (1) of section 3, such rise in price;

(e) the value of the land at the date of the publication of the notification under sub-section (1) of section 3; and

(f) the respective interest of the persons claiming the compensation,
and shall make an award under his hand of—

- (i) the true area of the land;
- (ii) the compensation which in his opinion shall be allowed for the land; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Explanation.—For the purposes of this section and clause *first* of sub-section (1) of section 25, the expression “land value” shall mean value of land not including improvements thereon;’

(2) in sub-section (1) of section 25, for clause *first*, the following clause shall be substituted, namely:—

“*first*, (a) the market value of the land at the date of the publication of the notification under section 47A, the value of any improvements to the land effected after that date and before the date of the publication of the notification under sub-section (1) of section 3, and, where there has been a normal rise in land value in the locality in which the project area lies after the date of the publication of the notification under section 47A and before the date of the publication of the notification under sub-section (1) of section 3, such rise in price subject to a maximum of twenty per cent. of the market value of the land at the date of the publication of the notification under section 47A, or

(b) the market value of the land at the date of the publication of the notification under sub-section (1) of section 3,

whichever is less;”.

7. Notwithstanding any judgment, decree or order of any court, every acquisition of land for a company made or purporting to have been made under Part VII of the principal Act or under the corresponding provisions of any of the Acts repealed by the principal Act before the date of the commencement of this Act shall, in

Validation
of certain
acquisitions.

so far as such acquisition is not for any of the purposes mentioned in clause (a) or clause (b) or clause (c) of sub-section (1) of section 43 of the principal Act, or the corresponding provisions of any of the Acts repealed by the principal Act, be deemed to have been made for the purpose mentioned in clause (aa) of the said sub-section, and accordingly every such acquisition and any proceeding, order, agreement or action in connection with such acquisition shall be, and shall be deemed always to have been as valid as if the provisions of sections 43 and 44 of the principal Act, as amended by this Act, were in force at all material times when such acquisition was made or proceeding was held or order was made or agreement was entered into or action was taken.

Explanation.—In this section, “company” has the same meaning as in clause (4) of section 2 of the principal Act.

S. RADHAKRISHNAN,
President.

S. P. SEN-VARMA,
Secy. to the Govt. of India.

Reasons for the enactment

The compensation payable for lands acquired under the provisions of the Kerala Land Acquisition Act, 1961, is determined on the basis of the market value of the land on the date of the publication of the notification under section 3(1). The Act does not fix any maximum period within which the declaration under section 6 about the land being needed for a public purpose should be made by the Government. It frequently happens that there is considerable delay after the preliminary notification, before the declaration under section 6 is issued, during which period the land value may go up but the land owners do not get the benefit of the rise in the land values during the interval. In order to avoid unnecessary time lag between the date of publication of the notification under section 3(1) and the date of publication of the declaration under section 6, it is considered necessary to provide that the declaration shall be made within a period of two years from the date of publication of the notification under section 3(1) and that on failure to do so, the notification shall be deemed to have been cancelled.

2. Under the Kerala Land Acquisition Act, land may be acquired for a public purpose as also for companies. The purposes for which acquisition of land for companies may be made are however restricted and they have been specified in section 43(1) of the Act. According to clause (b) of section 43(1), such acquisition may be made for the construction of some work which is likely to prove useful to the public. The Supreme Court of India in the case of *R. L. Arora vs. State of Uttar Pradesh* (AIR 1962 SC 764) held that land can be acquired for a company under section 40(1) (b) read with section 41 of the Land Acquisition Act, 1894 (Central Act) only when the work to be constructed would be directly useful to the public and the public would be entitled to use the work as of right for its own benefit in accordance with the terms of the agreement. In order to overcome the difficulties created by the Supreme Court judgment, sections 40 and 41 of the Land Acquisition Act, 1894, were suitably amended by the Land Acquisition (Amendment) Act, 1962 (31 of 1962). Act 31 of 1962 also provides for validating all past acquisitions of land for companies. It is considered necessary to make similar amendments in the Kerala Land Acquisition Act and also to validate all past acquisitions of land made in the State for companies.

3. Section 44A of the Land Acquisition Act, 1894, prohibits the sale, mortgage, etc., of lands acquired for companies without the previous sanction of the Government. Section 44B of that Act provides that land shall be acquired for a private company only for the purpose mentioned in clause (a) of sub-section (1) of section 40, namely, construction of dwelling houses for workmen or for the provision of amenities directly connected therewith. It is considered necessary to make similar provisions in the Kerala Land Acquisition Act.

4. Sections 46 to 48 of the Kerala Land Acquisition Act contain special provisions for the acquisition of land for projects. In acquiring lands for project purposes, it is necessary that the project should be made known to the public. It is therefore considered necessary to provide for specifying the project area by notification in the Gazette where in the opinion of the Government speculative rise in the land value takes place due to a project sponsored by the Government, and also to provide that for all acquisitions made in the project area the market value of the land on the date of publication of such notification should be the basis for determining the compensation. It is also considered that provision should be made to

the effect that the notification specifying the project area should be enforced only for a period of three years from such date and that in determining the compensation, an allowance should be made for the normal rise in the land value during the period between such date and the date of publication of the notification under section 3(1), subject to a maximum of 20 per cent. of the land value on the date first mentioned.

5. The present enactment amends the Kerala Land Acquisition Act for the above purposes.

6. The Committee constituted under the proviso to sub-section (2) of section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1965 (12 of 1965), has approved the enactment of this measure as a President's Act.

B. SIVARAMAN,
Secy. to the Govt. of India,
Department of Agriculture.