



TELANGANA

Judicial Services Exam

CIVIL JUDGE (Junior Division)

High Court of Telangana

Civil Law

Volume - 1



TELANGANA JUDICIARY SERVICES

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Andhra Pradesh Land Encroachment Act

Andhra Pradesh Land Encroachment Act, 1905

Act No. 3 of 1905

1. Short title and extent

This Act may be cited as the Andhra Pradesh Land Encroachment Act, 1905. It extends to the whole of the State of Andhra Pradesh.

1A. Definitions

In this Act, unless the context otherwise requires,-

- (a) "Collector" means any officer In-charge of a revenue division and includes a Deputy Collector, a Sub-Collector and an Assistant Collector ;
- (b) "Deputy Tahsildar" means the Deputy Tahsildar in independent charge of a taluk or Sub-taluk, the dependent Deputy Tahsildar of a Sub-taluk, or the Headquarters Deputy Tahsildar, in whose jurisdiction the land is situated and includes a Special Deputy Tahsildar.
- (c) "Tahsildar" means the Tahsildar in whose jurisdiction the land is situate and includes Special Tahsildar.

2. Right of property in public roads, etc., water and lands

- (1) All public roads, streets, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, the bed of the sea and of harbours and creeks below high water mark, and of rivers, streams, nalas, lakes and tanks and all canals and water-courses, and all standing and flowing water, and all lands, wherever situated, save in so far as the same are the property,-
 - (a) Of any zamindar, poligar, mittadar, jagirdars, shrotriendar or any person claiming through or holding under any of them, or
 - (b) Of any person paying shist, Kattubadi, jodi, poruppu or quit-rent to any of the aforesaid persons, or
 - (c) Of any person holding under ryotwari tenure, or in any way subject to the payment of land-revenue direct to Government; or
 - (d) Of any other registered holder of land in proprietary right, or
 - (e) Of any other person holding land under grant from the Government otherwise than by way of licence, and, as to lands, save also in so far as they are temple sites or owned as house site or backyard. be and are hereby declared to be the property of Government except as may be otherwise provided by any law for the time being in force, subject always to all rights of way and other public rights and to the natural and easement rights of other land owners, and to all customary rights legally subsisting.
 - (2) All public roads and streets vested in any local authority shall, for the purposes of this Act, be deemed to be the property of Government.
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3. Levy of assessment of lands unauthorisedly occupied

- (1) Any person who shall unauthorisedly occupy any land which is the property of Government shall be liable to pay by way of assessment, -
- (i) if the land so occupied forms an assessed survey number or part thereof, the full assessment of such number for the whole period, of his occupation or a part thereof proportionate to the area occupied, as the case may be, provided that, for special reasons, the Collector or subject to his control, the Tahsildar or Deputy Tahsildar may impose the full assessment of such number or any lesser sum irrespective of the area occupied.
 - (ii) If the land so occupied be unassessed, the assessment on the area occupied calculated for the same period at the rate imposed on lands of a similar quality in the neighbourhood, or at the highest dry or wet rate of the village, as the case may be, or when no such rates exist in such manner as may be prescribed in rules or orders under Section 8 : Provided that payment of assessment under this sub-section, shall not confer any right of occupancy.
- (2) In the case of any class of land which is ordinarily granted on lease or licence, the Government may levy, in addition to the assessment imposed under sub-section (1), a further sum equivalent to the annual rent or fee which would normally be realisable thereon.

4. Conclusiveness of decision as to amount of assessment

The decision as to the rate or amount of assessment, rent or fee, payable under Section 3 shall be recorded in writing and shall not be questioned in any Civil Court.

5. Liability of person unauthorisedly occupying land to penalty, after notice

Any person liable to pay assessment under Section 3 shall also be liable at the discretion of the Collector or subject to his control, the Tahsildar or Deputy Tahsildar to pay in addition by way of penalty, -

- (i) If the land be an assessed land, a sum not exceeding five rupees or, when ten times the assessment payable for one year under Section 3 exceeds five rupees, a sum not exceeding ten times, such assessment, provided that no penalty shall ordinarily be imposed in respect of the unauthorised occupation of such land for any period not exceeding one year ;
 - (ii) If the land be unassessed, a sum not exceeding ten rupees, or when twenty times the assessment payable for one year under Section 3 exceeds ten rupees, a sum not exceeding twenty times such assessment.
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6. Liability of person unauthorisedly occupying land to summary eviction, forfeiture of crops, etc.

- (1) Any person unauthorised occupying any land for which he is liable to pay assessment under Section 3 may be summarily evicted by the Collector, Tahsildar or Deputy Tahsildar, and any crop or other product raised on the land shall be liable to forfeiture and any building or other construction erected or anything deposited thereon shall also, if not removed by him after such written notice as the Collector, Tahsildar or Deputy Tahsildar may deem reasonable, be liable to forfeiture. Forfeitures under this section shall be adjudged by the Collector, Tahsildar or Deputy Tahsildar and any property so forfeited shall be disposed of as the Collector, Tahsildar or Deputy Tahsildar may direct - ***.
- (2) Mode of eviction:- An eviction under this section shall be made in the following manner, namely : By serving a notice in the manner provided in Section 7 on the person reputed to be in occupation or his agent requiring him within such time as the Collector, Tahsildar or Deputy Tahsildar may deem reasonable after receipt of the said notice to vacate the land, and if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and if the officer removing any such person shall be resisted or obstruction by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause and that such resistance or obstruction shall continue, may issue a warrant for the arrest of the said person and on his appearance commit him to close custody in the office of the Collector or of any Tahsildar or Deputy Tahsildar for such period not exceeding 30 days as may be necessary to prevent the continuance of such obstruction or resistance or may send him with a warrant in the form of the schedule for imprisonment in the civil jail of the district for the like period : Provided that no person so committed or imprisoned under this section shall be liable to be prosecuted under Section 183, 186 or 188 of the Indian Penal Code in respect of the same facts.
- (3) Any person who unauthorised re-enters and occupies any land from which he was evicted under this Section, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

7. Prior notice to person in occupation

Before taking proceedings under Section 5 or Section 6, the Collector or Tahsildar, or Deputy Tahsildar, as the case may be, shall cause to be served on the person reputed to be in unauthorised occupation of land being the property of Government, a notice specifying the land so occupied and calling on him to show cause before a certain date why he should not be proceeded against under Section 5 or Section 6.

Such notice shall be served in the manner prescribed in Section 25 of the Andhra Pradesh Revenue Recovery Act, 1864 (Act II of 1864) or in such other manner as the State Government by rules or order under Section 8 may direct.

7A. Encroachment by group of persons on Government lands and their eviction

- (1) Where the District Collector knows or has reason to believe that a group or groups of persons without any entitlement and with the common object of occupying any land, which is the property of the Government, are occupying or have occupied any such land, and if such group or groups of persons have not vacated the land on demand by the District Collector or any officer authorised by him in this behalf, the District Collector shall, notwithstanding anything in this Act, order without any notice, the immediate eviction of the encroacher from the land and the taking of possession of the land ; and thereupon it shall be lawful for any officer authorised by the District Collector in this behalf to evict the encroachers from the land by force, taking such police assistance as may be necessary, and take possession of the land.
- (2) Where, in any proceeding taken under this section, or in consequence of anything done under this section, a question arises as to whether any land is the property of the Government, such land shall be presumed to be the property of the Government until the contrary is proved.
- (3) Notwithstanding anything in this Act, but subject to the provisions of Section 12-A, any order of eviction passed by the District Collector under sub-section (1) shall be final and shall not be questioned in any Court.

8. Power to make rules

The State Government may make rules or orders either generally or in any particular instance,-

- (a) Regulating the rates of assessment, rent or fee leviable under Section 3 ;
- (b) Regulating the imposition of penalties under Section 5 ;
- (c) Declaring that any particular land or class of lands which are the property of Government shall not be open to occupation;
- (d) Regulating the service of notices under this Act.

Such general rules or orders shall be made only after previous publication.

9. Recovery of assessment or penalty levied as arrears of land revenue

The amount of assessment, rent, fee and penalty imposed under this Act on any person unauthorisedly occupying any land shall be deemed to be land revenue and may be recovered from him as arrears of land revenue under the provisions of the Andhra Pradesh Revenue Recovery Act, 1864.

10. Appeal

- (1) An appeal shall lie (a) to the Collector from any decision or order passed by a Tahsildar or Deputy Tahsildar under this Act, and (b) to the District Collector from any decision or order of a Collector passed otherwise than on appeal, and (c) to the Board of Revenue from any decision or order of a District Collector passed otherwise than on appeal. There shall be no appeal against a decision or order passed by the Collector or the District Collector on appeal, but the District Collector may revise any decision or order passed by a Deputy Tahsildar or Collector under this Act, and the Board of Revenue may revise any decision or order passed by any officer under this Act.
- (2) Pending the disposal of any appeal or petition for revision under this Act, the District Collector or the Board of Revenue as the case may be, may suspend the execution of the order appealed against or sought to be revised.

11. Limitation of appeal

No appeal shall be brought after the expiration of sixty days from the date of decision or order complained of provided that in computing the period of sixty days, the time required to obtain a copy of the decision or order appealed against shall be excluded, but the appeal may be admitted after the period hereby prescribed when the appellant satisfies the authority to whom he appeals that he had sufficient cause for not preferring the appeal within the prescribed period.

12. Document accompanying petition of appeal

Every petition of appeal under this Act shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

12A. Power of Government to call for records and pass orders

- (1) The State Government may, in their discretion, at any time, either suo motu or an application made to them, call for and examine, the records relating to any decision or order passed or proceeding taken by any authority or officer subordinate to them under this Act for the purpose of satisfying themselves as to the legality or propriety of such decision or order, as to the regularity of such proceeding and pass such order in reference thereto as they think fit.
 - (2) The State Government may stay the execution of any such decision, order or proceeding pending the exercise of their powers under sub-section (1) in respect thereof Inserted by Section 10 of the A.P. Land Encroachment (Extn. and Admt.) Act, 1958 (A.P. Act XXV of 1958).
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13. Saving of operation of other laws in force

Nothing in this Act contained shall be construed as exempting any person unauthorisedly occupying land from liability to be proceeded against under any law for the time being in force : Provided that if any penalty has been levied from any person under Section 5 of this Act, no similar penalty shall be levied from him under any other law in respect of such occupation.

14. Bar of jurisdiction of Civil Courts

No decision made or order passed or proceeding taken by any officer or authority or the State Government under this Act, not being a decision, order or proceeding affecting the title to the land of a person, shall be called in question before a Civil Court in any suit, application or other proceeding and no injunction shall be granted by any Court in respect of any proceeding taken or about to be taken by such officer or authority or State Government in presence of any power conferred by or under this Act.

15. Validation of levy of penal assessment before the passing of Act- Saving of pending suits

Every proceeding taken by a Collector for the recovery of any sum of money by way of penal or prohibitory assessment or charge from any person who has unauthorisedly occupied any land hereby declared to be the property of Government shall, if such sum has been recovered prior to the passing of this Act, be deemed to have been lawfully taken, provided that this section shall not apply to any suits pending when this Act comes into force in a Civil Court of First Instance or in a Court of Appeal or affect the validity and operation of any decree or order already passed by a Court of competent jurisdiction.

15A. Certain persons deemed to be in unauthorised occupation of land

Where a lease of land which is the property of Government expires or is terminated by the Government or any other authority competent in that behalf, the lessee or any other person remaining in possession of the land after such expiry or termination, or where land granted to any person is liable to be resumed by the Government for the breach or non-observance of any of the conditions subject to which the grant is made and the Government or any other authority competent in that behalf have passed orders resuming the land for such breach or non-observance, the grantee or any other person remaining in possession of the land after the passing of those orders, shall for the purposes of Sections 3 to 15, be deemed to be a person unauthorisedly occupying such land - (Inserted as per A.P.Amendment Act XXIX of 1950.)

16. Saving of lands claimed by right of escheat or reversion

Nothing in this Act save as provided in Section 15A, shall apply to any lands claimed by right of escheat or reversion until such lands have been reduced into possession by the State Government.



Andhra Pradesh Buildings (Lease, Rent and Eviction) Control

Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960

(Act No. 15 of 1960)

1. Short title and application

- (1) This Act may be called the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960.
- (2) (a) This Act, except sub-section (2) of Section 3, shall apply to the cities of Hyderabad and Secunderabad Visakhapatnam and Vijayawada and to all Municipal Corporations and Municipalities in the State of Andhra Pradesh.
(b) Sub-section (2) of Section 3 shall apply to the cities of Hyderabad and Secunderabad, "Visakhapatnam and Vijayawada" to any Municipal Corporation or Municipality in the State of Andhra Pradesh, if the State Government, by notification in the Andhra Pradesh Gazette, so direct.
(c) The State Government may, by notification in the Andhra Pradesh Gazette, apply all or any of the provisions of this Act except sub-section (2) of Section 3 to any other area in the State of Andhra Pradesh with effect from such date as may be specified in the notification, and may cancel or modify any such notification.

2. Definitions:

In this Act, unless the context otherwise requires:

- (i) 'Andhra Area' means the territories which immediately before the 1st November, 1956, were comprised in the State of Andhra;
 - (ii) 'Authorised Officer' means any officer authorised by the Government under sub-section (1) of Section 3.
 - (iii) 'Building' means any house or part of a house or hut, let or to be let separately for residential or non-residential purposes and includes:
 - (a) The gardens, grounds, garages and out-houses if any, appurtenant to such house, but or part of such house or but and let or to be let along with such house or but or part of such house or hut;
 - (b) Any furniture supplied or any fittings affixed by the landlord for use in such house or but or part of a house or hut, but does not include a room in a hotel or boarding house;
 - (iv) 'Controller' means any person not below the rank of a Tahsildar appointed by the Government to perform the functions of a Controller under this Act;
 - (v) 'Government' means the State Government;
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- (vi) 'Landlord' means the owner of a building and includes a person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of another person or on behalf of himself 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 building were let to a tenant.
- (vii) 'Prescribed' means prescribed by rules made under this Act;
- (viii) 'Telangana area' means the territories specified in sub-section (1) of Section 3 of the States Re-organisation Act, 1956 (Central Act 37 of 1956);
- (ix) 'Tenant' means any person by whom or on whose account rent is payable for a building and includes the surviving spouse, or any son or daughter, of a deceased tenant who had been living with the tenant in the building as a member of tenant's family up to the death of the tenant and a person continuing in possession after the termination of the tenancy in his favour, but does not include a person placed in occupation of a building, by its tenant or a person to whom the collection of rents or fees in a public market, cart-stand or slaughter-house or of rents for shops has been framed out or leased by a local authority.

3. Notice of vacancy

- (1) (a) Every landlord shall within ten days after the building becomes vacant by his ceasing to occupy it, or by the termination of a tenancy, or by the eviction of the tenant or by release from requisition or otherwise give notice of the vacancy in writing to the officer authorised in that behalf by the Government.
- (b) Every notice given under clause (a) shall contain such particulars as may be prescribed.
- (2) In any Municipal Corporation or in any Municipality (including the cities of Hyderabad and Secunderabad), Visalchapatnam and Vijayawada to which this sub-section has been applied under clause (b) of sub-section (2) of Section 1, where the tenant of a building puts another person in occupation thereof and does not re-occupy it within a period of three months, then, on the expiry of such period, the tenancy shall be deemed to have terminated and it shall be the duty of the tenant, and also of the landlord if he is aware of such termination, to give notice thereof in writing to the authorised officer within seven days of such termination.

Provided that where the tenant obtains written permission from the authorised officer to re-occupy the building within a period of six months, this sub-section shall have effect as if for the period of three months specified therein a period of six months were substituted.

- (3) If, within fifteen days of the receipt by the authorised officer of a notice under sub-section (1) or sub-section (2), the Government or the authorised officer does not intimate to the landlord in writing that the building is required for the purposes of the State Government or the Central Government or of any local authority or of any public institution under the control of any such Government, or for the occupation of any officer of such Government, the landlord shall be at liberty to let out the building to any tenant or to occupy it himself.
- (4) (a) The authorised officer may, on receipt of an application from the landlord, or on receipt of a direction from the Government in pursuance of an application made to them by the landlord, release a building for the occupation of the landlord.
- (b) A landlord who has obtained possession of a building in pursuance of an order under clause (a) shall occupy it himself and if he does not himself occupy it but proposes either to let out or keep vacant the whole or any part of the building for a period exceeding that permitted by the authorised officer by order in writing, he shall give notice as required under sub-section (1) as if the building has fallen vacant.
- (c) Where a landlord fails to give intimation to the authorised officer as required under clause (b), the Government or the authorised officer shall have power, if the building is required for any of the purposes, or for occupation by any of the officers specified in sub-section (3), to give intimation to the landlord that the building is so required and thereupon the provisions of sub-sections (6) and (8) shall apply to the building.
- (5) The landlord shall not let the building to a tenant or occupy it himself, before the expiry of the period of fifteen days specified in sub-section (3), unless in the meantime he has received intimation that the building is not required for the purposes, or for occupation by any of the officers, specified in that sub-section.
- (6) If the building is required for any of the purposes, or for occupation by any of the officers specified in sub-section (3), the landlord shall deliver possession of the building to the authorised officer or to the allottee named by the authorised officer, as the case may be, and the Government shall be deemed to be the tenant of the landlord, with retrospective effect from the date on which the authorised officer received notice under sub-section (1) or sub-section (2), the terms of the tenancy being such as may be agreed upon between the landlord and the tenant and in default of an agreement, as may be determined by the controller:
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Provided that

- (i) Where the landlord fails to deliver possession of the building to the authorised officer within forty-eight hours of the receipt of the intimation that the building is required for any of the purposes, or for occupation by any of the officers specified in sub-section (3) or within such further time as the authorised officer may by order in writing allow, the Government shall be deemed to be the tenant of the landlord only from the date on which he delivers possession;
 - (ii) Where owing to any omission or act or obstructive or preventive tactics on the part of the landlord, there has been delay in coming to a decision whether or not the building is required for any of the purposes, or for occupation by any of the officers specified in sub-section (3) the Government shall be deemed to be the tenant of the landlord only from such later date as may be fixed by the authorised officer having regard to the circumstances of each case;
 - (iii) The rent payable shall be the fair rent, if any, fixed for the building under the provisions of this Act ; and if no fair rent has been so fixed, such reasonable rent as the authorised officer may determine;\
 - (iv) The reasonable rent fixed by the authorised officer under the foregoing proviso, shall be subject to such fair rent as may be determined by the Controller,
 - (v) If the building is a residential building, it shall not be converted into a non-residential building, unless the permission in writing of the Controller is obtained under Section 18;
 - (vi) No structural alterations shall be made in the building unless the consent of the land lord is also obtained therefor.
- (7) In cases not falling under sub-section (6) where the landlord, without having occupied the building himself, lets it to any tenant after a notice is given to the authorised officer under sub-section (1) or sub-section (2), the tenancy shall be deemed to have been ante-dated by the number of days during which the landlord was prohibited from letting the building to any tenant by virtue of sub-section (5) and the tenant shall be liable to pay rent for those days also.
- (8) (a) Any officer empowered by the Government in this behalf may summarily dispossess:
- (i) Any landlord, tenant or other person occupying any building in contravention of the provisions of this Section or any landlord who fails to deliver to the Government possession of any building in respect of which they are deemed to be the tenant by virtue of this Section; or
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- (ii) Any officer, local authority or public institution, continuing to occupy or failing to deliver possession of any building, in respect of which the Government are deemed to be the tenant by virtue of this Section, after the termination of his or its licence to occupy such building, and take possession of the building including any portion thereof which may have been sub-let.
- (b) If free access to the building is not afforded to the officer, empowered under clause (a), he may after giving reasonable warning and facility to withdraw to any woman not appearing in public according to the customs of the country, remove or open any lock or bolt or break open any door or do any other act necessary for effecting such dispossession.
- (c) Any landlord, tenant or other person or any officer, local authority or public institution, liable to be summarily dispossessed under clause (a), shall pay to the Government:
 - (i) The fair rent payable for the building under the provisions of this Act for the period of his or its occupation or possession thereof as described in that clause; and
 - (ii) The expenses, if any, incurred by the Government in effecting such summary dispossession, as determined by them.
- (9) Nothing in this Section shall apply:
 - (a) To a residential building, the monthly rent of which does not exceed twenty-five rupees; or
 - (b) To a non-residential building, the monthly rent of which does not exceed fifty rupees; or
 - (c) To any building or buildings in the same city, town or village, owned by any company, association or firm, whether incorporated or not, and bona fide intended solely for the occupation of its officers, servants or agents.

4. Determination of fair rent

- (1) The Controller shall, on application by the tenant or landlord of a building, fix the fair rent for such building after holding such enquiry as the Controller thinks fit.
 - (2) In fixing the fair rent under this Section, the Controller shall have due regard:
 - (a) to the prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances during the twelve months prior to the 5th April, 1944;
 - (b) to the rental value as entered in the property tax assessment book of the concerned local authority relating to the period mentioned in clause (a);
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- (c) to the circumstances of the case, including any amount paid by the tenant by way of premium or any other like sum in addition to rent after the 5th April, 1944.
- (3) In fixing the fair rent of residential buildings, the Controller may allow:
- (i) If the rate of rent or rental value referred to in sub-section (2) does not exceed twenty-five rupees per mensem, an increase not exceeding $12\frac{1}{2}$ per cent, on such rate or rental value;
 - (ii) If the rate of rent or rental value exceeds twenty-five rupees per mensem, but does not exceed fifty rupees per mensem, an increase not exceeding $18\frac{3}{4}$ per cent, on such rate or rental value;
 - (iii) If the rate of rent or rental value exceeds fifty rupees per mensem, an increase not exceeding $37\frac{1}{2}$ per cent, on such rate or rental value: Provided that in the case of a residential building which has been constructed after 5th April, 1944, the percentage of increase shall not exceed $37\frac{1}{2}$, $56\frac{1}{4}$ and 75 respectively.
- (4) In fixing the fair rent of a non-residential buildings, the Controller may allow:
- (i) If the rate of rent or rental value referred to in sub-section (2) does not exceed fifty rupees per mensem, an increase not exceeding $56\frac{1}{4}$ per cent, on such rate or rental value;
 - (ii) If the rate of rent or rental value exceeds fifty rupees per mensem, an increase not exceeding 75 percent, on such rate or rental value: Provided that in the case of a non-residential building which has been constructed after 5th April, 1944, the percentage of increase shall not exceed 75 and 150 respectively.
- (5) In the case a building for which the fair rent has been fixed before the commencement of this Act, the Controller shall, on the application of the landlord, allow such increase in the fair rent as in the opinion of the Controller, the landlord is entitled to under this Section.

5. Increase in fair rent in what cases admissible

- (1) When the fair rent of a building has been fixed under this Act, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense and if the building is then in the occupation of a tenant, at his request: Provided that the increase shall be calculated at a rate per annum not exceeding six per cent of the cost of such addition, improvement or alteration carried out and the fair rent as increased under this sub-section shall not exceed the fair rent payable under this Act for a similar building in the same locality with such addition, improvement or alteration: Provided further that, any dispute between
-