

**THE REQUISITIONING AND ACQUISITION OF
IMMOVABLE PROPERTY ACT,
1952**

(NO. XXX OF 1952)

[14th March, 1952]

An Act to provide for the requisitioning and acquisition of immovable property for the purposes of the Union.

Be it enacted by Parliament as follows:

1. Short title, extent and duration-(1) This act may be called the Requisitioning and Acquisition of Immovable Property Act, 1952.

(2) It extends to the whole of India except the state of Jammu and Kashmir.

(3) ¹[* * * * *].

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

(a) "award" means any award of an arbitrator made under Section 8;

(b) "competent authority" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification;

(c) "landlord" means any person who for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account, or on account or on behalf or for the benefit, of any other person, or as a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant;

(d) the expression "person interested", in relation to any property, includes all persons claiming or entitled to claim, an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act;

(e) "premises" means any building or part of a building and includes

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building;

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "property" means immovable property of every kind and includes any rights in or over such property;

(h) "tenant" means any person by whom or on whose account rent is payable for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force.

3. Power to requisition immovable property-(1) Where the competent authority is of opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the Union, and that the property should be requisitioned, the competent authority

- (a) shall call upon the owner or any other person who may be in possession of the property by notice in writing (specifying therein the purpose of the requisition) to show cause, within fifteen days of the date of the service' of such notice on him, why the property should not be requisitioned; and
 - (b) may, by order, direct that neither the owner of the property nor any other person, shall, without permission of the competent authority, dispose of, or structurally alter, the property or let it out to a tenant until the expiry of such period not exceeding two months, as may be specified in the order.
- (2) If, after considering the. cause, if any, shown by any person interested in the property or in possession thereof, the competent authority is satisfied that it is necessary or. expedient so to do, it may, by order in writing requisition the property and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no property or part thereof

- (a) which is bona-fide used by the owner thereof as the residence of himself or his family, or
- (b) which is exclusively used either for religious worship by the public or as a school, hospital, public library or an orphanage or for the purpose of accommodation of persons connected with the management of such place of worship or such school, hospital, library or orphanage,

Shall be requisitioned:

Provided further that where the requisitioned property consists of premises which are being used as date of the service of notice under sub-section (1), the competent authority shall provide such tenant with alternative accommodation which, "in its opinion, is suitable.

COMMENTS

(1) S. 3, 6 (1), *Proviso and 24-Prop~rty requisitioned under R 75-A Defence of India Rules, continuing to be subject to requisition. under Act of 1952 came into force-effect-property not used for purpose for which it was requisitioned-owner entitle to de-requisition of property under Proviso to S.6(1).*

[AIR 1962 SC 247]

(2) S. 3-Power to requisition under two Acts-exercise under one is not malafide.

[AIR 1955 NUC (Born) 4829]

(3) S. 3-Evidence showing that lease of premises was under. active consideration of owner-finding that the premises was not required for the bonafide use of owners cannot be regarded as perverse or unreasonable.

[AIR1962 Punj 387]

(4). S. 3-Notice stating that house was required for public purpose, namely accommodation for public. offices" purpose stated is in compliance with legal requirement-omission to mention the particular office cannot conceivably cause any prejudice to the owner.

[AIR 1955 SC 41, AIR 1962 Punj 387]

(5) S. 3 Minor's property-power of Government to requisition is not affected by Ss. 27,29 and 30 of Guardians and Wards Act-under the section Govt. requisitions the property under its powers of eminent domain and no question of transfer by a guardian arises.

[AIR 1962 Punj 387]

(6) S. 3 (I)(c)-notice to whom to be issued-notice is to be issued to person actually in possession-possession means physical possession-no -notice necessary to constructive possessor-real tenant can come before requisitioning authority and put forward. his objection.

[AIR 1955 NUC (Punj) 4017]

(7) S. 3-Malafide order-landlady unsuccessful in obtaining possession-effort renewed after arrival of her son-finding that son required accommodation-fact that landlady also profits by order to requisition does not render order malafide.

[AIR 1955 NUC (Punj) 4017]

(8) S. 3-Proviso-object-alternative accommodation available to occupier-it is not necessary to offer alternative accommodation to him.

[AIR 1955 NUC(Punj) 4017]

(9) S. 3,4 and 7-Requisitioning of house for benefit of a person who' is already in possession thereof as a tenant-where. premises which are lying vacant or are in possession of anyone can be requisitioned under the Act and handed over to a Govt. servant or such other person whose business is concerned with the purpose of the Union, then a fortiori if such a person is already in possession, his possession can be continued.

[AIR 1954 Punj 251]

(10) (A) S. 3 (1) (a) and -to show cause-meaning of-objection to requisition dismissed without giving hearing-effect-requisitioning authority must be deemed to have acted without jurisdiction.

[AIR 1955 Punj 69,80, Mad U 566]

(B) Rules of natural justice also not followed.

[AIR 1954 Punj 251]

(11) S. 3 (1) CI (a) of first proviso to sub-section (2)-property used by owner for commercial purpose is not excepted under the proviso-premises used by owner for commercial purpose-order requisitioning premises for accommodating Govt. servant cannot be quashed.

[AIR 1970 Delhi 66]

(12) S. 3-claim by owners that they were bonafidely using premises as residence for themselves and their families on date on which notice was served-burden is on owners to prove requirements of clause (a) of 1st Proviso -to Section 3 (2)-mere fact that rations were drawn on the, card issued in favour of the owner does not necessarily establish by itself that the owners were actually residing in the premises at .the material time.

[AIR 1970 Delhi 66]

(13) S. 3-Expression "purpose of the Union "-scope-accommodating office or officer of State Govt. cannot per se be a purpose of Union.

[72 Punj LR (D) 61]

(14) S. 3-Requisition of plot for defence purpose-period of requisition .not required to be mentioned in requisition order-purpose still existing- requisition would be deemed tl' be under Section 3 of 1952 Act and all provisions of that Act would apply-proviso to Section 6 of 1952 not attracted. See Defence of India Act 1962, Section 29(1),

[AIR 1970 Goa 80]

(15) S. 3-public purpose-property is not derequisitioned if such use does not cease to exist. See Defence of India Rules (1939) Rules 75-A.

[AIR 1967 Orissa 142]

(16) S. 3-Notice mentioning that requisitioned property was required for accommodating Govt. Officers. Notice not invalid for not stating also that the purpose is of the Union.

[ILR (1977) 1 Delhi 411]

(17) S.s 3, 5 and 6-Partial cessation of public purpose-effect-Gov,t. is bound to release whole property.

[AIR 1981 Del i62]

(18) S. 3-*public purpose-formation of opinion by Govt. about public purpose not ordinarily justifiable-omission to state specific public purpose would not make order bad.*

[AIR 1988 Cal (NOC) 31]

4. Power to take possession of requisitioned property-(I) Where any property has been requisitioned under Section 3, the competent authority may, by notice in writing, order the owner as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the competent authority or any person duly authorized by it in this behalf within thirty days of the service of the notice.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the property and may, for that purpose, use such force as may be necessary.

COMMENTS

(1) *Provision of notice of 30 days under-provision is mandatory.*

[AIR 1966 Guj 37,J]

(2) S. 4-*notice to vacate requisitioned premises-requisition of premises with furniture and occupied by "darwan" for owner company-owner was entitled to notice before possession was taken-for notice, actual physical possession of owner was not necessary.*

[AIR 1988 Cal (NOC) 31J]

5. Right over requisitioned property-(I) All property requisitioned under Section 3, shall be used for such purpose as may be mentioned in the notice of requisition.

(2) Where any premises are requisitioned under Section 3, the competent authority may order the landlord to execute such repairs as may be necessary and are usually made by landlords in that locality and as may be specified in the notice within such reasonable time as may be mentioned therein, and if the landlord fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.

COMMENTS

(1) S. 5 (2)-*Amount spent on repairs-person for whom the premises was requisitioned not obtaining permission of repairs from the appropriate authority-held-not entitled to adjustment of amount spent by him on repairs from the amount of compensation payable to the landlord.*

[(1994) 6 SCC 720 J]

6. Release from requisitioning-(I) The Central Government may at any time release from requisition any property requisitioned under this Act and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force:

Provided that where the purposes for which any requisitioned property was being used cease to exist, the Central Government shall, unless the property is acquired under Section 7, release that property, as soon as may be, from requisition.

¹*[(I-A) Notwithstanding anything contained in sub-section (1), the Central Government shall release from requisition,*

- (a) any property requisitioned or deemed to be requisitioned under this Act before the commencement of the Requisitioning and Acquisition of Immovable Property Amendment Act, 1970 on or before the expiry of a period of *17* years from such commencement;

- (b) any property requisitioned under this Act after such commencement, on or before the expiry of a period of ¹[Seventeen] years from the date on which possession of such property was surrendered or delivered to, or taken by the competent authority under Section 4, unless such property is acquired under Section 7 within the period of ¹[Seventeen years aforesaid].

(2) Where any property is to be released from requisition ²[under sub-section (1) or sub-section (I-A)] the competent authority may, after such inquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the requisition or to the successors-in-interest of such person.

(3) The delivery of possession of the property to the person specified in an order under sub-section (2) shall be a full discharge of the Central Government from all liability in respect of the property, but shall not prejudice any rights in respect of the property which any person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and shall also publish the notice in the official Gazette.

(5) When a notice referred to in sub-section (4) is published in the Official Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Central Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(6) Where any property requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of any army or of a mob or other irresistible force, the requisition shall, at the option of the Central Government, be void:

Provided that the benefit of this sub-section shall not be available to the Central Government where the injury to such property is caused by any wrongful act or default of the Government.

COMMENTS

(1) S. 6 (1)-*de-requisition of part of requisitioned property is valid if portion is severable. [AIR 1955 NUC (Bom) 4829]*

(2) S.6- *de-requisitioning is not an idle formality.*

[AIR 1966 Cal 348]

(3) S. 6-*original purpose of requisition under Rule 75-A of Defence of India Rules (1939) ceasing to exist. It is mandatory "duty of Govt. to release land.*

[AIR 1966 Cal.348]

(4) S. 6 (1)-*scope-It is manifest from the plain wording of Section 6 (1) that the Central Government is under a legal obligation to release the requisitioned property and restore it in its original condition as far as possible, when the purposes for which it was requisitioned and was being used cease to exist.*

(1967) 1 Mys U 268]

1. Subs. By Act No. 20 of 1985 w.e.f. 8-3-1985
2. Ins. by Act No. 1 of 1970

(5) S. 6 (1)-public purpose-meaning-expression must be construed to include, the actual use as such use relates to any of the general purposes mentioned-property is not derequisitioned if such use does not cease to exist.

[AIR 1967 Orissa 142]

(6) S. 6 (2)-competent authority jurisdiction of-power to adjudicate on rival claims-all that the competent authority is empowered to do in the enquiry under this sub-section is to ascertain the person from whom possession was taken at the time of requisition or his successors-in-interest. It cannot go beyond this: It has no jurisdiction to adjudicate on the rights of any person claiming interest against the tenant or his successor-in-interest. Even procedure for enquiry pre-scribed under R.7 too would not enlarge the limited jurisdiction conferred by S. 6 (2).

[AIR 1972 Delhi 20]

(7) S. 6 (2)-de-requisition order made without jurisdiction or affected by an error apparent is not simply a wrong decision, but a decision which has to be quashed under Art 226 of the Constitution.

[AIR 1972 Delhi 20]

(8) S. 6 (2)-competent authority-function and duty of-if quasi judicial-the function assigned to the Tribunal and the duty enjoined on it u/s 6 (2) is obviously not a purely administrative matter. The function that the competent authority has to discharge while acting u/s 6 (2) is quasi judicial.

[AIR 1972 Delhi 20]

(9) S. 6 (2)-Order passed under not in the proper form-effect-held they the competent authority acting under S. 6 (2) of the Act should pass the order in the prescribed Form G. This Form is nothing more than the Form of the decree prescribed in the Code of Civil Procedure in which decision of the court in the judgment had to be expressed. By the fact that it has not been formally cast in der does not cease to be a {mal order. Therefore, the order rejecting the objection of the petitioner was a final order u/s 6 (2) and could be attacked in writ proceedings.

[AIR 1972 Delhi 20]

(10) S. 6 (2)-procedure-possession-to whom to be given-possession should be given to. landlord in a case where the tenant or his successor-in-interest was not found at the time of de-requisition.

[AIR 1972 Delhi 20]

(11) S. 6 (1)-Proviso-requisition for public purpose-original use for office purpose-subsequently premises put to different use-no ground for derequisition when subsequent use is also for public purpose. [(1980) 1 Cal. HN 97]

(12) Partial cessation of public purpose-effect"Govrenment bound .t!) release whole property.

[AIR 1981 Delhi 162]

(13) S. 6-Expiry.of period of requisition-allotted would not be entitled to hold possession of disputed property-possession be given back to owner.

[AIR 1989 Delhi 238]

7. Power to acquire requisitioned property-(I) Where any property is subject to requisition, the Central Government may, if it is of opinion that it is necessary to acquire the property for a public purpose, at any time acquire such property by publishing. in the Official Gazette a notice to the effect that the Central Government has decided to acquire the property in pursuance of this section:

. Provided that before issuing such notice, the Central Government shall call upon the owner of, or any other person who, in the opinion of the Central Government, may be interested in such property to show cause why the property should not be acquired; and after considering' the cause, if any, shown by any person interested in the property and after giving

the parties an.-opportunity of being heard, the Central Government may pass such orders as it deems fit.

- (2) When a notice as aforesaid is published in the Official Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Central Government free from all encumbrances and the period of requisition of such property shall end.
- (3) No property shall be acquired under this section except in the following circumstances, namely--
 - (a) Where any works have during the period of requisition, been constructed on in or over, the property wholly or partially at the expense of the Central Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of Government; or
 - (b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the Central Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.
- (4) Any decision or determination of the Central Govt. under sub-section (3) shall be final and shall not be called in question in any court.
- (5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

COMMENTS

(1) S. 7 and 8-Award under-Appeal against quantum of compensation stamp Reporter or taxing officer need not go into question. whether the acquisition itself was for a public purpose.

[AIR 1959 CaL 609]

(2) S. 7 (2)-Compulsory acquisition of property by notification under Party dispossessed is entitled to interest on compensation.

[(1970) 1 Mys. L. 1 319, AIR 1987 Gau.1]

(3) S. 7 (1)-Owner of land acquired-owner entitled to solatium at 15% and also interest at 6% per annum.

[(1975) RLR 6]

Note- Please also see 81. No. 45 of Comments u/s 8.
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(4) S. 3 (4)-Requisition and Acquisition-distinction between-property requisitioned u/s 3 of 1952 Act-can be acquired under L. A. Act, 1894.

[AIR 1989 Delhi 116]

(5) S. 7 (3) (a)-Land was vacant-land continued to be vacant except putting of wire fencing-Acquisition not justified-Expression "work'-meaning limited to building, structures and such like-.merely fencing vacant plot is not within expression "work'

[AIR 1990 Bam. 98]

8. Principles and method of determining compensation-(I) Where any property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be 'determined in the manner and in accordance' with the principles herein-after set out, that is to say,

- (a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
- (b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment. as a Judge of a High Court;

- (c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired. to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;
- (d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state' what in their respective opinion is a fair amount of compensation;
- (e) the arbitrator shall, after hearing the dispute~ make an award. determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and ~e provisions of sub-sections (2) and (3), so far as they are applicable;
- (f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;
- (g) nothing in the Arbitration Act, 1940 (X of 1940) shall apply to arbitrations under this section.

(2) ¹[The amount of compensation payable for the requisitioning of any property shall, subject to the provisions of sub-sections (2-A) and (2-B), _consist of- .

- (a) a recurring payment, in respect of the period of requisition, of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period; and
- (b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely,
 - (I) pecuniary loss due to requisitioning;
 - (Ii) expenses on account of vacating the requisitioned premises,
 - (Iii) Expenses on account of re-occupying the premises upon release from requisition; and
 - (Iv) damages (other than normal wear and tear) caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition.

¹[(2-A) The recurring payment, referred to in clause (a) of sub-section (2), in respect of any property shall, unless the property is sooner released from requisition under Section 6 or acquired under Section 7, be revised in accordance with the provisions o(sub-section (2-B).

- (a) in a case where such property has been subject to requisition under this Act for the period of five years or a longer period immediately preceding the commencement of the Requisitioning and Acquisition of Immovable Property (Amendment) Act 1975
 - (I) first with effect from the date of such commencement; and
 - ¹[(ii) Secondly with effect from expiry of five years and thirdly with effect from the expiry of ten years, from such commencement;]
- (b) in a case where such property has been subject to requisition under this Act immediately before such commencement for a period shorter than five years and the maximum period within which such property shall in accordance with the provisions of sub-section (I-A) of Section 6, be released from requisition or acquired, extends beyond five years from such commencement,

1. *Ins. by Act No.2 of 1975.*

1. *Subs, by Act No. 35 of 1980.*

- (i) first with effect from the date of expiry of five years from the date on which possession of such property has been surrendered or delivered to, or taken by, the competent authority under Section 4, and
- ¹[(ii) Secondly with effect from the date of expiry of five -years and thirdly with effect from the date of expiry of ten years, from the date on which the revision .made under sub-clause (i) takes effect] .

¹[(c) in any other case,

- (i) first with effect from the date of expiry of .five years from the date on which possession of such property has been surrendered or delivered to, or taken by, the competent authority under section 4 : and
- ²[(ii) Secondly with effect from the date of expiry of five years and thirdly with effect from the date of expiry of ten years, from the date on which the revision under sub clause (1) takes effect.]

(2-B) The recurring payment in respect of any property shall be revised by re-determining such payment in the manner and in accordance with the principles set out in sub-section (1), read with clause (a) of sub-section (2), as if such property had been requisitioned under this Act on the date with effect from which the revision has to be made under sub-section (2-A);]

³[(3) The compensation payable for the acquisition of any property under Section 7 shall be the price which the requisitioned property would have fetched in the open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition.]

COMMENTS

(1) S. 8 (1) (e); Construction of-words of Cl (e) of sub-section (1)-the provision of sub-section (2) and (3) are not controlled by Cl. (e) of sub-section (1).

[AIR 1966 Born. 36]

(2) S. 8 (3)-Acquired land already under requisition for nearly twelve years and round' about being developed as building land-compensation for acquired land-building and development potentiality of acquired land would also increase resulting in rise in market value-This is not some distant building potentiality but will be a factor to be taken into account in determining market value of land on date of acquisition for purposes of compensation.

[AIR 1970 Born 18]

(3) Award under Section 8 of 1952 Act-appeal against-Court fee payable is under Schedule I Article. 3 read with Section 7 (2) and not under Schedule II Article 13.

[(1969)70 Bom LR 407]

(4) Section 8 (1) (e)-Award or compensation for acquisition-Interest pendente lite can be granted though Section 34, C. R Code does not apply to proceedings before arbitrator.

[AIR 1993 SC 2521] [(1966)70 Cal. WN 363]

(5) S. 8 (3)-Compensation for acquisition of orchard-determination of market value in absence of evidence-Held-certain years of net profit represented by payment of compensation paid by State for loss of income would be sound basis for arriving at market value-held further, in instant case 15 years' net profit would represent market value on date of requisition.

1. Subs, by Act No. 35 of 1980.
 2. Subs, by Act No. 20 of 1985.
 3. Subs. by Act No. 31 of 1968.

{(1966) 70 WN 363}

(6) *Compensation for acquisition-Interest can be allowed on compensation awarded- There is no specific provision in the Act for giving interest on compensation awarded nor is there any provision on the strength of which it can be said that the claimant would dis-entitle to interest. It is quite within the competence of the Arbitrator to award interest on compensation assessed.*

[(1~66) 70 Cal WN 363, AIR 1987 SC 2177]

(7) S. 8 (2) (a)-*Sum equal to rent-Determination-held-Evidence of witness about rent paid could not form basis for fixing rent which could be fetched by the requisitioned premises as the evidence of witnesses, did not relate to premises similar to or comparable to the requisitioned property.*

[AIR 1970 Delhi 232]

(8) S. 8 (2). (a)-*Compensation-Determination-Allowance for electrical installations-bigger the building the' lesser will be the percentage for electric installation.*

[AIR 1970 Delhi 232]

(9) S 8 (2) (a)-*Compensation-determination-value of land-the value of land will be the value on the date on which possession of the requisitioned premises 'was taken. The best evidence to prove the value of the land would be the evidence of genuine sales effected at about the time of requisition either in respect of the same land or of land similarly situated with similar advantage. Value of large area not to be assessed on the basis of sale prices of small plots.*

[AIR 1970 Delhi 232]

(10) S. 8 (2)-*Compensation-Owners not estopped from claiming just compensation merely because they had given low figure of annual rent for .purposes of taxation.*

[AIR 1970 Delhi 232]

(11) S. 8-*Jurisdiction of arbitrator-Arbitrator appointed to determine compensation for requisitioned premises-Arbitrator has no jurisdiction to direct that cost of annual repairs may be deducted from amount of compensation.*

[AIR 1970 Delhi 232]

(12) S. 8-*Compensation-owner claiming interest on recurring payment from date on which possession of requisitioned property was taken-Held principle applicable to cases of acquisition cannot be applied and owner is not entitled to such interest as he gets compensation from date of dispossession and cannot be said to have been deprived of income of property from date of dispossession. Contention that clai1:nant should be awarded interest at least from date of arbitration proceedings-Held that interest could not be allowed as dispute not referred to arbitrator.*

[AIR 1970 Delhi 232]

(13) S. 8 Costs-*Award of costs is in the discretion of arbitrator.*

[AIR 1970 Delhi 232]

(14) S. 8-*Requisition of plot for defence purpose-Extraction of metals from quarry for defence work-remedy for acts of waste is by way of damages, but requisition will not be affected.*

[AIR 1970 Goa 80]

(15) S.' 8 '(i)-*Determination of compensation-Principles-claim for higher compensation before arbitrator-Not barred on ground of claim for lower compensation before competent authority-Competent authority is in position of a litigant before arbitrator-claim made before competent authority is in nature ,of bargain and nott binding on the land owner.*

[(1970) 1Mys U 319]

(16) S. 8 (i) (f)-Bar of jurisdiction of civil court-Suit for declaration that plaintiffs are entitled to 112 of compensation money allowed in land acquisition proceeding in respect of. land acquired under section 9 of Defence of India Act (1939)-Civil court is not competent to entertain such suit.

[AIR 1968 Pat 500]

(17) S. 8 (i) (b)-Requisition was. made under the Defence of India Act, 1962 which ceased to be in force. Later appointment of arbitrator to determine compensation is valid and regulate by virtue of S. 25.

[AIR 1973 Goa 122]

(18) S. 8 (i) (c) Scope-Award of compensation-Principles for determination-An arbitrator appointed under Cl (c) of S. 8 (1) has to award compensation under Cl (e) of that sub-section of an amount which may appear to him to be just. S. 8 (1) (e) of the Act providing for determination of just compensation would not be hit by Art 14 of the Constitution as the principles for determination of such compensation are readily available in S. 23 of the' . Land Acquisition Act and the same should be adopted by the Arbitrator for determining the amount.,

[(1974) 76 PLR 658} .

(19 S. 8 (2) (a)-Under S. 8 (2) (a) where a particular amount has never been fixed as just and proper compensation per month by any arbitrator earlier, the law does not preclude the claimant from claiming different amounts of c0711pensation for different periods when his property is requisitioned under the provisions or-the Act.

(20) S. 8 (2) of the Act itself gives a right to the claimant to state before the arbitrator at the commencement of the proceedings as to what in his opinion is the fair amount of compensation. The Act does not. preclude him from claiming before the arbitrator an amount of compensation higher than what he had claimed before the Govt.

[(1970) I Mys LJ 319 applied. AIR 1975 KElrn]

(21) The annual letting value of the building as assessed by the corporation authorities is sufficient to establish .that, that amount is the just and. proper compensation. The fact that the tax was reduced in revision on the basis of the actual rent the building was then fetching does not mean that the rent of the building was something less than that de/ermined by the corporation .authorities.

[AIR 1975 Kizrn]

(22)'S, 8.-(I)(1t)-Procedure Under-Duty of officer 10 offer compensation to person concerned and to enter into agreement in Form K. In case there is no agreement and the land owner has accepted the compensation without protest it will not make any difference. It is enjoined by the Act on the Central Govt. to appoint arbitrator in case there is no agreement between the parties regarding the compensation.

[1975 R L R 6]

(23) S. 8 (2) (a)-Determination of compensation-statutory restrictions under the relevant Rent Control legislation cannot be ignored.

[AIR 1976 Bom 354]

(24) S. 8 (3) (b)-Section does not provide for solatium.

[(1979) 84 Cal W N 532]

(25) S. 8 (2) and (3)-Quantum of compensation-Determination of certain building and structures were requisitioned and taken possession of by the Govt. on 23-1-1943. Soon after the requisition they were demolished. The owner was being paid monthly rental till 15-4-57. On 15/5/57, the Govt. offered certain sum to the owner as replacement costs of the demolished building. The question was whether compensation was payable at the 'valuation prevalent in 1943 or that in 1957.

Held-that the compensation must be paid on the basis of the value of the (Demolished structure when the offer of compensation was made after allowing depreciation for the period the building was in existence since its construction. [AIR 1978 Cal 130 (DB)]

(26) S. 8 (1) (g) and 25-Provision of section 8 apply only to requisition by Central Government under Defence of India. Act, 1962 and not by the State Government.

[AIR 1977 Ca1182]

(27) S. 8 (3)-Acquisition of requisitioned property-compensation for-Determination-Principles-Simply because certain. land happened to be situated on the outskirts of a town, it cannot be said that they acquired potential value for building purposes only for that reason itself despite the aforesaid location of the lands, claimants will have to establish various other aspects for persuading the court or tribunal to determine compensation, by treating the lands as having potential value, 'various questions whether there was pressure on land for buildings activity, whether the extension of the said activity, even if any, was towards the lands acquired, what was the pace of progress i.e. how far the said activity has extended and within what time, and whether buildings have been put up on the lands purchased for building purposes in the vicinity? If the answers are in affirmative and the said circumstances are established by sufficient cogent evidence, then alone a case for claiming compensation on the consideration of potential value for building purposes will be made out. Mere closeness to the town is in itself not sufficient to give the agricultural lands the potential value as building sites. [AIR 1980 NOC 59]

(28) S. 8 and 22-Requisition of land-Award by arbitrator-interest awarded from the date of taking over possession of the land till final payment-held-interest should have been awarded from the date of making award till-the date of payment.

[AIR 1984 Gur 25, (1970) 1 Mys L. 1 319, AIR 1987 Gau 1, AIR 1987 SC 2177]

(29) s. 8 (1) (e)-Interest on compensation-helds permissible.

[AIR 1987 Gau 1, AIR 1987 SC 2177]

(30) S. 8 (1) (e)-Market price of adjacent comparable lands in neighbour hood-Advisability to refer to.

[AIR 1987 Gau 1]

(31) s. 8 (1) (e)-Same rate for arable and home stead land-Held justified.

[AIR 1987 Gau I]

(32) S. 8 (1) (e)-Review of award of arbitrator-correction of clerical mistake-permissibility of.

[AIR 1987 Gau-I]

(33) S. 8-Claim by person on ground that he was protected tenant of land acquired-Arbitrator appointed under Central Act can decide question of protected tenancy

[AIR 1987 SC 1965]

(34) S. 8-Same compensation be awarded as awarded for adjoining land acquired under LA. 1894 when date of acquisition. notification practically same. [AIR 1988 A.P. 208]

(35). S. 8-Principles enumerated in S. 23 of L.A. Act, 1894 are relevant-solatium can be awarded on ground of equality.

[AIR 1988 A.P. 208]

(36) S. II-Appeal by State Govt.-Question of solatium-solatium denied by Arbitrator-Failure of claimant to [de appeal or cross objections against-Question of solatium cannot be raised by claimants in an appeal by State Government.

[AIR 1988 A.P. 208]

(37) S. 8-Solatium determined u/s 8 at 15%-Application by claimants for extension of benefit of enhanced rate under amended LA. Act,-Not liable to be rejected by raising technical pleas.

[AIR 1988 P8H 248]

(38-A) S. 8-Section 30 (2) of L. A. Act, 1894-Benefit under-Appeal pending at instance of Govt. and not at instance of claimant at relevant time-claimant can take advantage of provision u/s 30 (2)-He is entitled to enhanced solatium and interest in terms of S. 30 (2)

[AIR 1988 P&H 257]

(38-B) Acquisition of land under Defence of India Act-Solatium not payable on compensation.

[AIR 1989 All 150]

(39) S. 8 (1) (b)-Writ seeking direction to concerned authorities for appointment of an arbitrator, filed after 18 years delay not explained-Petition dismissed on grounds of laches.

[AIR 1990 P&H 53]

(40) S. 8 (1)-(9-Compensation-Civil court has no jurisdiction to decide-It is the exclusive function of the Arbitrator.

[AIR 1992 Kant 287]

(40) S. 8-Sale deeds produced relating to land situated in populous area in city-land acquired situated at place further away from city-Sale deeds cannot be considered to be of comparable land.

[AIR 1993SC .1557]

(41) Prices fetched under sale deeds of small bits ought not to be made basis for determination of large extent of acquired land.

[AIR 1993 SC 1557]

(42) Sale deed forming part of acquired land earlier-other sale deed relating to land in close vicinity of acquired land being much higher-Neither vendor nor witness giving evidence supporting aforesaid higher claim-court relying upon sale deed relating to land forming part of land-No fault could be found for doing that.

[AIR 1993 se 1557]

(43) Acquisition of house property-Estimate prepared by PWD-No fault can be found except items left in estimate for which price was added by supreme court.

[AIR 1993 SC 1577]

(44) S. 23 (2)-Market value-Enhancement of lands acquired for purpose of widening road-upward rise in prices from 1939 onwards-Acquired land situated on main roads and between roads acquired potency for future development-Market. value enhanced from Rs. 6/- to Rs. 8/- per Sq Yd-113 rd from same, however, deducted as development charges. since land had potential value for house-solatium, on considering equity granted at 15% on the market-value though not provided for by the provisions of the Act.

[AIR 1994 SC 1451]

(45) S. 8 (3) (a)-Constitutionality-Held-Amount of compensation~ arbitrator has to [IX just compensation having regard to sub-section (2) & (3) of S-8-Absence of provision of solatium and interest on acquisition of requisitioned land unlike S. 23 and 34 of L.A. Act does not render S.8 '(3) (a) violative of Art 14-Award of 15% solatium and 6% interest on compensation set aside.

[(1995 I SCC 292, 1993 Supp (2) SCC 149]

(46) S. 8 (3) (a), J&K RAIP Act, 1968-Solatium and interest not payable.

[(1994) 4 sce 737]

(47) S. 8 (3) & 2 (a) J&K RAIP Act-where requisition or acquisition effected for Central Govt.-that Govt. held, a person interested within the meaning of S. 2 (d) and a necessary party hence has locus stand to object to compensation fixed u/s 8 (3).

[(1994) 4 SCC 737]

(48) S. 8 (3)-Compensation-comparable sale method for determining Building potentiality of the land at the time of acquisition not significant.

[(1993) 3 SCC 60, AIR 1993 SC 1557]

(49) S. 8 (1) (d) & (e)-Interest-Duty to award just a~ fair compensation-No interest payable under Act-Time lag since taking possession there of-compensation found unjust and unfair-held-interest could be awarded u/s 8(1)(e)-compensation-interest on.

[(1994) 6 SCC 720]

(50) S. 8 (2) (a)-Recurring payment-Being an agricultural land, recurring payment should be a sum equal to annual rental of the whole estate as a single set which it would have fetched if it had been on lease for the requisitioned period-Rental value can be assessed on the basis of evidence of comparable leases-in absence of such evidence, net annual income can be derived from the income from the' very estate got by the owner or occupier during 3 to 5 years prior. to its requisitioning and out on the basis that not more than 2/3rd of the income could be paid by any lessee as annual rent-Income can be ascertained on the ~basis of profit and loss account of the estate-In absence of evidence regarding net income market value of the estate can be assessed by finding out the purchase price of the same or similar estate and on that basis determining percentage of such market value which could be regarded as net annual income for the purpose of fixing annual rental-Any increase or decrease of net annual income changing passage of years should also be taken into account.

[(1994) 4 SCC 746]

(51) S. 8-Held-Provisions of 1894 Act cannot be read into this Act.

[(1995) 1 SCC 292, 1993.suppl (2) SCC 149]

(52) S. 8-Act does not contain provision for payment of solatium or interest-However, the same can be awarded in the interest of justice in special circumstances

[(1993) 6 SCC 323]

(53) S. 28-A of L. A. Act does not apply to RAIP Act, 1952.

[(1996) 1 SCC 477]

(54) S. 8 (1) (b) and R 9 (5) (i)-Non appointment of arbitrator under claimants failing to communicate the objections for not accepting the award within the time prescribed-Held, must be deemed as their acceptance of the award-Hence omission to appoint arbitrator not vitiated by any error of law.

[(1996) 7 SCC 740]

(55) S. 8-Arbitrator has no jurisdiction to award solatium and interest Act provides for determination of just compensation with reference to the value of the land acquired under the Act-solatium and interest are not part of compensation.

[(1996) 4 SCC 549,(1996) 9 SCC 638]

9. Payment of Compensation-The amount of compensation payable under an award shall, subject to any rules made under this Act, be paid by the competent authority to the person or persons entitled thereto in such manner and within such time as may be specified in the award.

10. Appeals from orders of requisitioning-(I) Any person aggrieved by an order of requisition made by the competent authority under sub-section (2). of Section 3 -may, within twenty-one days from the date of service of the order, prefer an appeal to the Central Government:

Provided that the Central Government may entertain the appeal after the expiry of the said period of twenty-one days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Central Government may, after calling for a report from the competent authority and giving an opportunity to the parties of being heard and after making such further inquiry, if any, as may be necessary, pass .such orders as it thinks fit and the order of the Central Government shall be final.

(3) Where an appeal is preferred under sub-section (1), the Central Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

COMMENTS

(1) S.10-*To show cause-meaning of objection to requisition dismissed without giving hearing-effect-Requisitioning authority may be deemed to have acted without jurisdiction AIR 1952 Punj 69, 80 Mad L.J. 566. Rules of natural justice also not followed.*

[AIR 1954 Punj 251]

(2) S. 10 (2)-*Department already in possession of property as tenant. Tenant can seek services of competent authority for requisitioning property Resort to Central Act-Proceedings is not mal fide-Personal hearing to owner must be given before decision on requisitioned property is taken.*

[(1967) 2 MLJ 291]

11. Appeal from awards in respect of compensation-Any person aggrieved by an award of the arbitrator made under Section 8 may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the requisitioned or acquired property is situate:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

COMMENTS

(1) S. II-*Appeal under-court fee payable on memo of appeal-Fee payable is ad valorem on difference between amount claimed and amount awarded.*

[AIR 1967 Cal 617]

(2) S. II-*Appeal against award of compensation for acquisition- Interest not specifically claimed-Interest can still be allowed over and above the amount claimed.*

[(1966) 1() Cal WN 363]

(3) S. II-*and Proviso-Appeal under-cross objection by respondent is not competent-Remedy of respondent, lies in requesting court to treat cross-objection as appeal and to condone delay-Act and Rules "there under do not provide for filing of cross-objection-provisions of order 41 Rule 22 stand on different footing.*

[(1970) 1 Mys LJ 319]

(4) S. II-*If the award is adverse to the Central Government, the Government has a right of appeal to the High Court u/.v 11.*

[AIR 1981, Delhi-366]

(5) S. 11-*Acquisition of land-Award by arbitrator-Appeal by Deputy Commissioner-High Court arriving at conclusions that Arbitrator did not award just compensation-No cross appeal by claimants against award Award is not liable to be interfered with.*

[AIR 1984 Gau 25]

(6) S. -11, 25-*Land acquired by UQL u/s 36 of Defence of India Act, compensation of such acquisition enhanced by arbitrator on application to that effect by person whose land was acquired Appeal by U QL u/s 11 of RAIP Act, 1952 against such award not maintainable. in view of provision of Section 25.*

[AIR 1981 AllI2I]

(7) S. 11-*Memo of appeal must be accompanied by certified copy of award.*

[AIR 1988 Delhi 27I]

12. Competent authority and arbitrator to have certain powers of civil courts-The competent authority and the arbitrator appointed under Section 8, while holding an inquiry or, as the case may be, arbitration proceedings under this Act, shall have all the powers' of a civil court, while trying a- suit, under. the Code of Civil Procedure, 1908 (Act V of 1908) in respect 9f 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 any court or office;
- (e) issuing commissions for examination of witnesses.

13. Power to obtain information- The Central Government or the competent authority may, with a view to carrying out the- purposes of Sections 3,6,7 or 8, by order, require any person to furnish to such officer, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired under this Act.

14. Power to enter and inspect-The competent authority or my officer, empowered in this behalf by such authority by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner, an order under' this Act should be made in relation to such property or with a view to securing compliance with an order made under this Act.

15. Service of notice and orders-(I) Subject to the provisions of this Section and any rules that may be made under this Act, every notice or order issued or 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 Official Gazette; and
- (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 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (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

- (i) by delivering or tendering it to that person; or
- (ii) if it cannot be delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous pan of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;
- (iii) by post.

(2) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served without undue, delay, the notice or order may be served 'by publishing it in the official Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

16. Easement not to be disturbed-No person interested in any property requisitioned or acquired under this Act shall, without the previous written consent of the competent, authority or except for the purposes of affecting repairs or complying with a municipal requirement, willfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

17. Delegation of powers-(I) The Central Government may, by notification in the Official Gazette, direct that the powers exercisable by it by or under this Act shall, in such

circumstances and under such contentions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to that Government or by the State Government or by an officer subordinate to the State Government.

(2) All notifications issued under sub-section (1) shall be laid, as soon as may be, before Parliament.

18. Protection of action taken in good faith-(I) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made there under.

(2) No suit or other legal proceeding shall lie against the Central Government or the competent 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 any order made there under.

19. 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 competent authority or arbitrator is empowered by or under this Act to determine, and no' injunction shall be granted by any court or other authority in respect of arty action taken or to be taken in pursuance of any power conferred by or under this Act.

COMMENTS

S. 19-Bar of Suit-*Suit for declaration of title to half the compensation in respect of land acquired-Civil court not competent to entertain such a suit-fact that arbitrator in his award kept open question of title of Plaintiff's ancestors to be decided in title suit cannot confer jurisdiction on civil court-see Civil Procedure code (1908) Section 9.*

[AIR 1968 Pat 500J

20. Penalty for Offences- Whoever contravenes any provision of this Act, or any rule made there under, or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine which may extend to one thousand rupees.

21. Certain persons to be public servants-The competent authority, every arbitrator and every officer empowered by the Central Government or the competent .authority, while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (Act XLV of 1860).

22. Powers to make rules-(I) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of .the foregoing power, such rules may provide for all or any of the following 31atters, namely :

- (a) the procedure to be followed by the competent authority in making inquiries under Section 3 or Section 6;
- (b) the procedure to be followed in arbitration proceedings and appeals under this Act; ,
- (c) the principles to be followed in determining the amount of compensation and method of payment of such compensation;
- (d) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act;
- (e) the manner of service of notices and orders; (I) any other matter which has to be, or may be, prescribed.

(3) ¹[Every rule made under this Act shall. be laid as soon as may be after it is made before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or, more successive sessions and if, before the expertly of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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 with out prejudice to the validity of anything previously done under that rule].

23. Validation of certain requisitions and acquisitions-(I) All immovable property which purports to have been requisitioned by Ii State Government for any purpose, being a, purpose of the Union, under any Provincial or State Act, and which, immediately before the 25th day of January, 1952 was, used or occupied by the Central Government or by an officer or authority subordinate to that Government shall, as from that date, be deemed to be property duly requisitioned under Section 3 of this Act, and every such requisition shall, notwithstanding any judgement, decree or order of any court, be deemed always to have been valid as if this Act had been in force on and from the date of requisition and the requisition had been duly made by a competent authority under this Act, and all the provisions of the Act shall apply ,accordingly:

Provided that all agreement and awards for the payment of compensation in respect of any such property for any period of requisition before the 25 the day of January, 1952 and in force immediately before that date, shall be valid and shall be deemed always to have been valid and shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after that date.

(2) Every acquisition of immovable property purporting to have been made before the commencement of this Act by a State Government for any public purpose being a purpose of the Union, under any enactment for the time being in force in that State and which immediately before such commencement, was used or occupied by the Central Government or by an officer or authority, subordinate to that Government shall, notwithstanding any defect, in, or invalidity of, the enactment or order under which the acquisition was made, be deemed for all purposes to have been validly made as if the provisions of the said enactment or order had been included and enacted in this section and this section had been in force on and from the date of the acquisition.

COMMENTS

(1) S. 23 (I)-*Requisition of property made under Provincial or State enactments- Requisition is validated by section only if requisitioned property was used .or occupied by Central Government or officer or authority subordinate to it immediately before 25th January 1952.*

((1967) 1 Mys, Lj 268]

24. Repeals and Saving-(I) The Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947), the Delhi Premises (Requisition and Eviction) Act, 1947 (XLIX of 1947) and the Requisition and Acquisition of Immovable property Ordinance, 1952 (III of 1952) are hereby repealed.

(2) For the removal of doubts, it is hereby declared that any property which immediately before such repeal was subject to requisition under the provisions of either of the said Acts or the said Ordinance shall, on the commencement of this Act, be deemed to be property requisitioned under Section 3 of this Act, and all the provisions of this Act shall apply accordingly:

Provided that :

(a) all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement;

(b) anything done or any action taken (including any orders, notifications or rules made or issued) in exercise of the powers conferred by or under "either of the said Acts or the said Ordinance shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or action was taken.

COMMENTS

(1) S. 24-*Property requisitioned under Rule 75-A, Defence of India Rules, continuing to be subject to requisition under Act of 1952 came into force-Effect-Property not used for purpose for which it was requisitioned owner entitled to de-requisition of property under Proviso to Section 6 (1).*

[AIR 1962 SC 247]

(2) S. 24 (2), 8 (3) (b)-*Property requisitioned under Rule 75-A of the Defence of India Rules-It is requisitioned property within meaning of Section 8 (3)(b).*

[AIR 1961 Pat 463]

(3) S. 24-*Public Purpose-meaning-Expression must be constructed to include the actual use as such use relates to any of the general purposes mentioned-Property is not de-requisitioned if such use does not cease to exist.*

[AIR 1967 Orissa 142]

(4) S. 2 Scope-*Requisitioning of land (continuance of power) Act (XVII of 1947) S. 3 and Defence of India Act, 1939 and Defence of India Rules R 75-A-Requisitioning of land under R 75-A for securing efficient prosecution of war-termination of war-land to be released to the owner-No right to put land for a different use.*

[(1971) 2 M.L.I. 343]

25. ¹[Special provision as to certain requisitions under Act 51 of 1962-(1) Notwithstanding anything contained in this Act, any immovable property requisitioned by the Central Government or by any officer or authority to whom powers in this behalf have been delegated by that Government, under the Defence of India Act, 1962 and the rules made there under (including any immovable property deemed to have been requisitioned under the said Act)¹ which has not been released from such requisition before the 10 January, 1968, shall, as from that date, be deemed to have been requisitioned by the competent authority under the provisions of this Act for the purpose for which such property was held immediately before the said date and all the provisions of this Act shall apply accordingly:

Provided that

(a) all determinations, agreements and awards for the payment of compensation in respect of any such property for any period- of requisition before the said date and in force immediately before the said date, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition as from the said date:

1. Ins by Act No. 31 of 1968.

- (b) anything done or any action taken (including any orders, notifications or rules made or issued) by the Central Government or by any officer or authority to whom powers in this behalf have been delegated by that Government, in exercise of the powers conferred by or under Chapter VI of the Defence of India Act, 1962, shall in so far as it is not inconsistent with the provisions of this 'Act, be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this section was in force on the date on which such thing was done or action was taken.

(2) Save as otherwise provided in sub-section (1), the provisions of the Defence of India Act, 1962, and the rules made there under, in so far as those provisions relate to the requisitioning of any such immovable property as is referred to in sub-section (1), shall as from the 10th January, 1968, cease to operate except as respects things done or omitted to be done before such cesser and Section 6 of the General Clauses Act 1897, (10 of 1897), shall apply upon such cesser of operation as if such cesser were a repeal of an enactment by a Central Act.

COMMENTS

(1) S. 2S-Applicability-Requisition of plot for defence purpose- Period of requisition not mentioned-Purpose still existing-Requisition deemed to be under Section 3 of 1952 Act by applying legal fiction u/s 25. See Defence of India Act (1962) Section 29 (1).

[AIR 1970 Goa 80]

(2) Provision of S.8 apply only to requisition by Central Government under Defence of India Act, 1962 and not by the State Govt.

[AIR 1977 Cal 182 (DB)]

(3) S. 25 and II-(A) Land Acquired by U.O.I u/s 36 of Defence of India Act-compensation of such acquisition by arbitrator on application to that effect by person whose land was acquired-Appeal by U.O.I.u/s 11 of RAIP Act, 1952 against such award not maintainable in view of provision of section 25. Section 25 of RAIP Act, 1952 does not deal with acquisition at all. It's application was con{med to case of requisition of land which had not been released and does not apply to case of acquisition.

[AIR 1981 All 121]

26. [Special provision as to certain requisitions under Act 42 of 1971- Notwithstanding anything contained in this Act, any immovable property requisitioned or purported to have been requisitioned by the Central Govt. or by any officer or authority to whom powers in this behalf have been delegated by that Government, under the Defence of India Act, 1971, and the rules made there under (including any immovable property deemed to have been requisitioned under the said Act), which has not been released from such requisition before the appointed day, shall

- (i) if such property was requisitioned on or before the 21st day of March, 1977, as from that date, and
- (ii) if such property was requisitioned at any time after such date, as from the date of its requisition, .

be deemed to have been requisitioned by the competent authority under the provisions of this Act for the purpose for which such property was held immediately before the appointed day and all the provisions of this Act shall apply accordingly:

Provided that in determining the compensation payable under this Act in respect of any property so deemed to have been requisitioned under this Act, the sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the matters specified in clause (b) of sub-section (2) of Section 8 shall be reduced by the sum or sums, if any, paid or payable in respect of such matter or matters as compensation in respect of such property under the Defence of India Act, 1971, and the rules made there under.

(2) Save as otherwise provided in sub-section(I), the provisions of the Defence of India Act, 1971, and the rules made there under, in so far as those provisions relate to the requisitioning of any such immovable property as is referred to in sub-section (1) shall, as from the 21st March, 1977, cease to operate except as respects things done or omitted to be done

before such cesser and Section 8 of the General Clauses Act, 1897 (10 of 1897), shall apply upon such cesser of operation as if such cesser were a repeal of an enactment by a Central Act.

Explanation-In this section "appointed day" means the 23rd September, 1977]

**THE REQUISITIONING AND ACQUISITION OF
IMMOVABLE PROPERTY RULES,
1953.**

(GAZETTE OF INDIA 1953, PT.II SEC. 3 P. 733)

S.R.O. 948 dated the 18th May, 1953. In exercise of the powers conferred by Section 22 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952), the Central Government hereby makes the following rules, viz:

1. Short title-These rules may be called the Requisitioning and Acquisition of Immovable Property Rules, 1953.

2. Definitions-In these rules;

(a) "Act" means the Requisitioning and Acquisition of Immovable property Act, 1952.

¹[(aa) "Court" means a principal Civil Court of original jurisdiction in the district in which the property requisitioned or acquired is situated)]

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

(c) "Section" "sub-section" mean respectively a Section or sub-section of the Act.

3. Procedure to be followed .by competent authority for purposes of Section 3

(1)-A notice under clause (a) of sub-section (1) and order under clause (b) of sub-section (1) of Section 3 of the Act shall be in Form A.

4. Order of requisitioning-The order of requisition under sub-section (2) of Section 3 of the Act and the notice under sub-section (1) of Section 4 of the Act shall be issued in Form 'E'.

5. Breaking open of locks on requisitioned property-Where the possession of a requisitioned property is not handed over in compliance with an order issued under sub-section (1) of Section 4 of the Act and the premises are found locked, the competent authority or any other person authorized by it in writing in this behalf may break open the lock in the presence of two witnesses and take possession of the property :

Provided that

- (i) before any such action is taken the competent authority shall satisfy itself that the order under sub-section (1) of Section 4 has been duly served on the party concerned and that the party is evading compliance with the order;
- (ii) the powers under this rule shall not be exercised at any time after sunset or before sunrise; and
- (iii) where possession is taken in pursuance of the powers conferred by this rule, an inventory of the articles found in the premises shall be made in the presence of two witnesses and such articles shall be stored in safe custody.

6. Repairs to requisitioned .premises-A notice under sub-section (2) of Section 5 of the Act shall be in Form (IF'. The time for execution of repairs to be specified in the notice shall be such as the competent authority may deem reasonable having regard to the nature of repairs and other circumstances of the case.

7. Procedure to be followed in releasing the property-(I) For the purpose of sub-section (2) of Section 6 the competent authority may, if it considers it necessary so to do, make or cause to be made by an officer empowered in this behalf by it, an enquiry to obtain information in respect of the following matters, namely--

- (i) the name and address. of the person from whom the property was requisitioned;
- (ii) the name and address of the person in possession of the. property at the time the property was requisitioned;
- (ii) the name of the person who has been receiving compensation;
- (iv) whether any alternative accommodation was provided to the occupant when the property was requisitioned or whether any compensation was paid to him for vacating the property, OT whether the occupant~, if. any, relinquished their claims for re-occupation of the property;
- (v) whether the!' occupant was a bonfire tenant of the property or was an unauthorized occupant or has no claim in law for the restitution/ of the property;
- (vi) whether the owner of the property on whom the requisitioning order was first served, had sold the property and if so to whom;
- (vii) in case the. property has been sold whether the owner has sold all `rights in respect of the property;
- (viii) whether there is any objection to the. property being de-requisitioned in favors of the owner from whom the property was requisitioned;
- (ix) the state of repairs of property at the time of enquiry;
- (x) whether any structure or articles belonging to Government has been erected or inst3U.ed in the property and their value;
- (xi) the condition of the property at the time of requisition and whether the property is in as good a condition as it was when possession thereof was taken subject to change caused by reasonable wear and tear or irresistible force;
- (xii) the estimated cost of restoration; and
- (xiii) any other matter that the competent authority may consider necessary for the purpose of specifying the person to whom possession of the property may be given.

(2) Before issuing an order of release under sub-section (1) of Section 6 of the Act, the authority to whom the powers of the Central Government have been delegated for this purpose, -shall obtain the approval of the Central Government in the administrative ministry concerned. '

(3) An order under sub-section (2) of Section 6 shall be issued in Form 'G'.

(4) A notice under sub-section (4) of Section 6 shall be in Form 'H'.

8. Acquisition of requisitioned property-A notice under sub-section (1) of Section 7 of the Act calling upon the owner or any other person interested in a requisitioned property to show cause why the property should not be acquired shall be in Form I. A notice of actual' acquisition shall be in Form 'J'.

9. Compensation-(I) An authority to whom the powers of the Central Government have been delegated shall, as far as may be, associate with itself the local officer of the Central Government concerned with the property in fixing compensation under clause (a) of sub-section (1) of Section 8, and obtain the approval of the Central Government in the administrative ministry concerned l[or of any officer authorized by the Government in this behalf.] .

(2) Compensation for requisitioned property, other than agricultural land, shall be paid by the competent authority quarterly in arrears. In the case of agricultural' . land, the compensation shall be paid either annually or on release of the ;and whichever is earlier. The compensation shall be paid either in cash or by cheque at the discretion of the competent authority.

²[(3) The competent authority shall, as soon as may be practicable after the making of a requisitioning order or the service of a notice of acquisition, communicate to each person interested an offer of what, in the opinion of the competent authority, is a fair amount of compensation payable to such person in respect of the property requisitioned or acquired.

(4) if the owner of the property is not readily traceable or if there be no person competent to alienate the' property or if the ownership of the property is in dispute or if there be any dispute as to the title to receive the compensation or as to the apportionment of the amount offered as compensation, the competent authority shall deposit in court the amount of the compensation as determined by him under clause (a) of sub-section (1) of Sec. 8.

The competent authority shall at the same time submit to the Central Govt. a report setting forth the fully facts of the case with all connected papers and apply for the appointment of an arbitrator. Where the compensation is recurring, the competent authority shall, in case covered by this sub-rule, deposit the amount in Court from time to time in arrear as it falls due.

(5) (i) Every person interested to whom an offer is made under sub-rule (3) shall, within fifteen days of the receipt of the offer, communicate in writing to the competent' authority his acceptance or otherwise of the offer. If he accepts the offer, the competent authority shall enter into an agreement with him on behalf of the Central Government in Form 'K'.

(ii) In the following circumstances the competent authority may, at his discretion, make to ¹[all eligible claimants], on account payment up to 80 per cent of the amount which, in his opinion, is likely to be assessed as compensation or recurring compensation as the case may be :

(a) when there is likely to be delay in assessing compensation;'

(b) where the competent authority has made an assessment but there is delay in reaching an agreement though there is a reasonable prospect of agreement being reached; or

(c) where it is clear that an agreement cannot be reached.

(iii) If the competent authority makes an 'on account' payment under clause (ii), he shall enter into an agreement with the person to whom payment is made on behalf of the Central Government in Form 'I.: with such modification as the nature of the case may require.

(6) If any person to whom an offer is made under sub-rule (3) does not accept the offer or does not within fifteen days of the receipt of the offer.. communicate in writing to the competent authority his acceptance or otherwise pf the offer, the competent authority shall, as soon as may be, submit to the Central Govt. a report setting forth the full facts of the case particularly as regards the nature and extent of disagreement between himself on the one hand and the said person on the other hand and he shall also forward with the report all connected papers. The competent authority shall at the same time deposit in Court the amount offered by him to the said person under sub rule (3)].

2. Ins. by SRO 3252 dated 30-9-1957.

1. Subs. by SRO 502 dated 23-4-1960.

COMMENTS

(1) R. 9 (1)-J&K RAIP Rules, 1969-when requisition or acquisition effected for Central Govt., approval of the Administrative Deptt of that Govt. condition precedent.

[(1994) 4 see 737]

(2) R. 9(1)-J&K RAIP Rules, 1969-Notification for defence purpose-local officer of the Govt. of India and not the State Govt. to be associated.

[(1994) 4 see 737]

(3) R. 9 (5) -J&K RAIP Rules, 1969-Requirement of communication in writing within 15 days to the competent authority-acceptance of offer of compensation by the person interested-held-mandatory.

[(1994) 4 see 737]

(4) S.8 (1) (b) and Rule 9 (5) (i)-Non appointment of arbitrator under-claimant's failure to communicate the objections for not accepting the award within the time prescribed-Held, must be deemed as their acceptance of the award-Hence omission to appoint arbitrator not vitiated by any error of law,

[(1996) 7 see 740]

¹**[10. Arbitration-(I)** An arbitrator appointed under clause (b) of sub-section (1) of Section 8 shall ordinarily complete the arbitration proceedings and give his award within four months. If for any reason he is unable to give his award within that period ²[the Central Government or the authority to which the power of the Central Government under clause (b) of sub-section (1) of Section 8 has been delegated, may, if it thinks fit, whether the time of making the award, has expired or not and whether the award has been made or not, enlarge from time to time, the time for making the award] -

(2) An arbitrator shall take down the evidence of each witness not ordinarily in the form of question and answers, but in that of narrative and shall sign it.

(3) Where before an arbitrator is able to finish the arbitration proceedings and make his award, a new arbitrator is appointed, the new arbitrator may deal with the evidence taken down by his predecessor as if such evidence had been taken down by him and may proceed with the arbitration proceedings from the stage at which his predecessor left it.

(4) The costs of arbitration and award shall be in the discretion of the arbitrator who may direct to, and by whom, and in what manner, they or any part thereof shall be paid, and in case an appeal is preferred to the High Court, such costs and the costs of the appeal shall be in the discretion of the High Court, who may direct to, and by whom and in what manner, they or any part thereof shall be paid]

¹[(5) When arbitrator has made his award he shall sign it and shall give notice in writing to the parties to the reference of the making and signing thereof. He shall also send to the competent authority as well as to the person or persons to be compensated a copy of the award with a note appended thereto setting forth the grounds on which the award is based and ²[shall also forward the award in original together with the records of the proceedings;

- (a) to the proper court if an appeal is preferred against the award within the period of limitation prescribed for preferring such appeal;
- (b) to the competent authority if no such appeal is preferred within the said period]

(6) On receipt of a copy of the award, the competent authority shall pay the amount awarded by the arbitrator to the persons entitled thereto]

[3* * *]

1. Subs. by SRO 3224 dated 4.10.1954.
1. Ins by SRO 3252 dt 30-9-1957

2. Subs. by SRO 708 dated 25.3.1955.

¹**[10-A. Moneys deposited in Court-**If any money is deposited in Court under Rule' 9(4) or Rule 9(6), the Court shall deal with it in the manner laid down in Sections 32 and 33 of the Land Acquisition Act, 1894]

11. Appeals-(I) Appeals under Section 10 shall be addressed to the Secretary to the Government of India in the administrative ministry concerned with the requisitioned property. 4[Where the appeal relates to a property requisitioned in the Union territory, the appeal shall be addressed

. to the Administrator or if there is no administrator, to the chief Secretary to the territory concerned or if there is no Chief Secretary, to the Central Government. If, however, a party addresses an appeal in respect of any such property to the .Central Government, the Central Government may, if it thinks fit, hear the appeal itself and dispose it of or may direct the party to file it before the Administrator or the Chief Secretary or may send the appeal to the Administrator or the Chief Secretary, as the case may be, for disposal]

(2) Every appeal shall contain the grounds of appeal and shall be accompanied by a copy of the order against which the appeal is preferred.

12. Summoning of persons and witnesses and production of documents-An order under Section 12 of the Act summoning and enforcing the attendance of any person and examining him on oath or requiring the discovery and production of any document shall be issued in Form 'B'. An order requisitioning public records from any court or office shall be issued in Form 'C' while an order issuing commissions for examination of witnesses shall be in Form 'D'.

13. Inspection of premises-The competent authority or any officer empowered in this behalf by such authority by general or special order, shall not, in exercise of the powers conferred by Section 14, enter upon any property after sunset or before sunrise.

1. Ins by SRO 3252 dt 30-9-1957
3. Omitted by G.S.R. 654 dated 25-7-1958.

2. Subs. by G.S.R 1212 dated 10-12-1958.
4. Subs. by GSR 758 dated 15-4-1968.

FORM 'A'
(See Rule 3)
Notice and order

Whereas I..... being the competent
(Name and Designation)
authority under the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952), am of opinion that the property described in the Schedule hereto annexed is needed/or likely to be needed for a public purpose, to wit *..... being a purpose of the Union and that the said property should be requisitioned.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the said Act, I, as the competent authority, hereby, call upon.....,being the +(owner of the property.....

(person in possession)

to show cause within fifteen days of the date of service of this instrument upon him why the said property should not be requisitioned and I further direct that neither the owner of the said property nor any other person shall .without my permission dispose of or structurally alter the said property or let it out to a tenant until the expiry of two months from the date of service of this instrument upon him.

Schedule

Competent Authority

Signature

Designation

To

.....

.....

*here mention the purposes for which the property shall be requisitioned.

+Strike off the irrelevant words.

FORM 'B'
(See Rule -12)
Summon to Witness

Case Noof 19.
In the office of the.....
Proposed requisition/acquisition/fixation of compensation in respect
of.....

To
.....
.....

Whereas your attendance is required to give evidence/produce the documents described in the list enclosed in the above case, you are here by required (personally) to appear before the undersigned on the.....day of.....19, at.....O'clock in the forenoon/afternoon and to bring with you (or to send to this office) the said documents.

In case you fail to comply with this order without lawful excuse you will be subject to the consequence of non-attendance laid down in Rule 12 of Order XVI of the C.P.C.

Given under my hand and seal of this office this.....day of.....19.

Competent Authority/Arbitrator

SEAL

FORM 'C'
(See Rule 12)
Requisition for Public Record

To
.....
.....

Please arrange to send per bearer/through your clerk on.....the public record (s) mentioned below for my examination in connection with. the purpose of requisitioning/acquisition/fixation of compensation in respect of.....

Given under my hand and the seal of this office this.....day of.....19.

Details of record

1.....

2.....

Competent Authority/Arbitrator.

SEAL

FORM 'D'

(See Rule 12)

FORM OF COMMISSION

IN THE MATIER OR.....

It is ordered as followed

1. A Commission may issue direction to.....of.....for the examination upon interrogatories or viva voice before the aforesaid commissioner of the following witnesses.

2. In the event of any witness on his examination, cross-examination, or re-examination producing any book, document, letter, paper or writing and refusing for good cause to be stated in his deposition, to part with the original thereof, then a copy thereof or extract there form certified by the Commissioner to be a true and correct copy or extract shall be annexed to the witness's deposition.

3. Each witness to be examined under the commission shall be examined on oath, affirmation or otherwise in accordance with his religion: by or before the said Commissioner..

4. The depositions to be taken under and by virtue of the said commission shall be subscribed by the witness or witnesses and by the Commissioner.

5. The interrogatories, cross-interrogatories and deposition, together with any documents referred Ito therein or certified copies thereof or extracts there from shall be sent to the competent authority/arbitrator on or before the day.....of.....or such further or other day as may be ordered by registered post.

Dated this.....day of.....19.

Competent Authority/Arbitrator

FORM 'E'

(See Rule .4)

ORDER AND NOTICE

Whereas by a notice issued or deemed to be issued under sub-section (1) of Section 3 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952) (enter the name of person) was called upon to show cause within the period specified therein why the property specified in the Schedule hereto annexed should not be requisitioned;

And whereas the said period has expired and no cause has been shown against the said notice or the cause shown against the said notice has been considered;

Now, therefore, in exercise of the powers conferred by sub-section. (2) of Section 3 and by Section 4 of the said Act, I, (Name)(Designation) being a competent authority under the said Act, having been satisfied that it is necessary or expedient so to do, do hereby requisition the said property and I hereby order the said (enter the name) to surrender or deliver possession thereof to (enter designation of officer) within thirty days of the service, of this notice.

If the said (enter the name) refuses or fails to comply with the above order, it shall be lawful for me to take possession of the property and for the purpose to use such force as may be necessary.

SCHEDULE

Signature

Designation

To

.....
.....

FORM 'F'
(See Rule 6)

ORDER

Whereas the premises known as.....have been requisitioned under Section 3 of the Requisitioning and Acquisition of Immovable Property Act, 1952(30 of 1952) or are deemed to have been requisitioned under that Section by virtue of the provision of Section 24 of the said Act; And whereas the said premises are in need for repairs specified in the Schedule hereto appended;

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 5 of the said Act, I, (enter name and designation), being the competent authority under the said Act, do hereby order....., the landlord of the said premises to execute the repairs, specified in the Schedule, being repairs which are necessary and are usually made by landlords in the locality in which the premises are situated within a period of.....from the date of service of this notice.

If the said landlord fails to execute the repairs specified in this order within the aforesaid period, I shall cause the same to be executed at his expense and the cost thereof shall, without prejudice to any other mode of recovery, be deducted from the compensation payable to him.

SCHEDULE

Signature
Designation

To
.....
.....

FORM 'G'
See Rule 7 (3)
ORDER

Whereas the property specified in the Schedule hereto annexed was requisitioned by the order of the....., No.....dated.....with effect from the until further orders of the Central Government;

And whereas the Central Government have now decided that the .said property shall be released from requisition with effect from.....;

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 6 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (No.30 of 1952), I (enter the name and designation), being the competent authority, hereby specify (Mr./Messrs.) as the person/persons to whom possession of the said property shall be given.

SCHEDULE

Signature
Designation

To
.....
.....

FORM 'H'
(See Rule '7(4))

NOTICE

Whereas the property specified in the. Schedule hereto annexed was requisitioned by the order of the.....No.....dated.....with effect from.....until further orders of the Central Government;

And whereas the Central Government have decided that the said property shall be released from requisition;

And whereas, in exercise of. the powers conferred by sub-section (2) of Section 6 of the Requisitioning and Acquisition of Immovable Property Act 1952 (No. 30 of 1952) I,....., being a competent authority under the said Act have specified Shri.....as the person to whom possession of the said property shall be given; .

And whereas the said Shri.....cannot be found and has no agent or other person empowered. to accept delivery on his behalf;

No, therefore, in exercise. of the powers conferred by sub-section (4) of Section 6 of the said Act, I (name and designation), do hereby declare that the said property is released from requisition.

SCHEDULE

Signature
Designation

To
.....
.....

FORM 'I'
(See Rule 8)

NOTICE

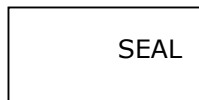
Whereas the Central Government is of opinion that the property described in the Schedule hereto annexed which is subject to requisition should. be acquired for a public purpose, namely.,- .

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 7 of the said Act, the Central Government do hereby call upon Shri.....being the owner of the said property to show cause within fifteen

days of the date of the service of this notice upon him why the said property should not be acquired.

SCHEDULE

Signature
Designation



To
.....
.....

FORM 'J'
(See Rule 8)

NOTICE

Whereas a notice under the proviso to sub-section (1) of Section 7 of the Requisitioning- and Acquisition of Immovable Property Act, 1952 (No. 30 of 1952), was issued by the Central Government to Shri....., being the owner of the said property~ calling upon him to show cause within the period specified therein why the said property should not be acquired;

And whereas the said period has expire<,l and no cause has been shown against the said notice/the cause shown against the said notice has been considered;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 7 of the said Act, the Central Government having been satisfied that it is necessary so to do, do hereby acquire the said property.

SCHEDULE

Signature
Designation

To
.....
.....

'[FORM 'K']
(See Rule 9 (5) (i))

Form of Agreement to be made on behalf of the Central Government with owners of immovable property requisitioned when payment is made in full.

Memorandum of Agreement made this.....day of one thousand nine hundred and.....between.....son of.....by. occupation.....at present residing at hereinafter referred to as the owner/owners (which expression shall unless excluded by.. or repugnant to the context be deemed to include his heirs/their respective executors, administrators and assigns) of the one part and the President of India hereinafter referred to as the Government(which expression shall mean and include his successors-in office and assigns) of the other part.

Whereas the immovable property particulars whereof are set out in the Schedule hereunder written (hereinafter called the said property); has been requisitioned under the Requisitioning and Acquisition of Immovable Property Act, 1952, and the rules framed there under and on the.....day of.....19.....taken possession. of by or on behalf of or under the authority of the Government; And whereas the owner has/owners have represented and stated to the Government that the owner/owners alone, is/ are entitled to all compensation payable in respect of the said property and no other person has any right to such compensation or any part thereof; .

And whereas the said property consists, interalia, of land and structures and the Government has dismantled the said structures; And whereas the owner/owners and the Government have mutually agreed to settle the amount of compensation payable by the Government to the owner/owners in connection with the said requisition in the manner' hereinafter appearing;

Now it is hereby agreed by and between the parties as follows--

(1) The Government. shall pay and the owner/owners shall accept and receive a sum of Rs..... in full settlement of the compensation for the structures, (omit if the owner has no' structures).

(2) The Government shall pay and the owner/owners shall accept and receive a payment of Rs.....per month/quarter/year in arrear for the said property with effect from the said day of 19 so long as the Government shall remain in possession thereof and the requisition continues.

(3) The owner/owners shall not claim or be entitled to any other compensation whatsoever in connection with' the said requisition:

(Provided that the owner/owners may claim variation of compensation if the rent of the premises considered as on lease to the Government is variable by reason of any statutory provision).

(4) The owner/owners shall meet and pay the revenue, rent, municipal taxes and all other outgoings relating to the said property whether payable by the owner/owners or the occupier thereof.

(5) If it hereafter transpires that the owner/owners is/are not entitled or exclusively entitled to the compensation payable in respect of the said property or if the Government have to pay any compensation to any other person, the owner/owners shall refund to the Government the compensation paid or such part thereof as the owner/owners is(are not entitled to and shall otherwise indemnify the Government against any loss. or damage suffered by the Government by reason of any fault or defect in title as represented by the owner/owners, without prejudice to any other remedies for the enforcement of such refund and indemnity, the Government may recover any sum payable by way of refund and/or indemnify as arrears of land revenue.

(6) Should any "dispute or difference arise out of or concerning the subject matter of these presents or any covenant clause or thing herein contained or otherwise arising out of the requisition aforesaid the same shall be referred to an arbitrator to be appointed by the Government and the decision of such arbitrator shall be conclusive and binding on the parties hereto. The provisions of the Arbitration Act, 1940, shall apply to such arbitration.

Schedule Above Referred To.

(particulars and description of property requisitioned)

In witness whereof these presents have been executed the day and year first above written.

Signed and delivered by the above named owner/owners in presence Of.....,

Signed and delivered for and on behalf of the President in the presence of.....

1.....

2.....

¹[FORM 'L']

(See Rule 9 (5) (iii))

Form of Agreement to be made on behalf of the Central Government with owners of immovable property requisitioned when the persons to be compensated are known but for want of agreement as to the amount of compensation certain sums are. paid on Account

Memorandum of agreement.....made this.....day of.....one thousand and nine hundred and.....between.....son of.....by occupation.....at *present residing at.....hereinafter referred to as the owner/owners (which expression shall unless excluded by or repugnant to the context be deemed to include his/their respective heirs, executors, administrators and assigns) of the one part and the President of India (hereinafter referred to as the Govt. which expression shall mean and include his successors-in-office and assigns) of the other part.

Whereas the immovable property particulars whereof are set out in the Schedule hereunder written (hereinafter called the said property) has been requisitioned under the Requisitioning and Acquisition of Immovable Property Act, 1952 and the rules framed there under and on the day.....of.....19.....taken possession of ~y or on behalf of or under the authority. of the Central Government;

And whereas the said owner/owners ha./have represented and stated to the Government that the owner/owners alone is/are entitled to all compensation payable in respect of the said property and no other person has any right to such compensation or any part thereof;

And whereas no agreement having been arrived at between the. parties as to the amount of compensation payable to the owner/owners and the Government has at the request of the owner/owners agreed to make payment to the owner/owners on account pending an agreement between the parties as to the amount of compensation payable or the final determination of such amount under the law. Now this agreement witnesses as follows

(1) The Government shall pay and the owner/owners shall accept and receive payment of Rs.....per month/quarter/year for the said property with effect from the said day of.....19.....pending agreement as to or determination of the amount payable as compensation to the owner/owners.

(2) Upon such agreement or determination of the amount payable as compensation as aforesaid an account shall be prepared crediting the Government with the payments made by the Government as aforesaid .and debiting the Government with the amount payable as compensation. If on such account being prepared there is a balance in favour of the Government the amount of such balance shall be forthwith refunded by the owner/owners t9 the Government. If there is balance payable to the owner/owners the Govt. shall pay the amount thereof to the owner/owners. .

(3) If it hereafter transpires that the owner/owners is/are not entitled or exclusively entitled to the compensation payable in respect of the said property or if the Government have to pay any compensation to any other person the owner/owners shall refund to the Government the payments made hereunder and shall otherwise indemnify the Government against any loss or damage suffered by the Govt. by reason of any fault or defect in his/their title as represented by him/them and without prejudice to any other remedies for the enforcement of any refund and/or indemnity, the Government may recover any sum payable by way of refund and/or indemnity as arrears of land revenue.

(4) Should any dispute or difference arise out of or concerning the subject-matter of these presents or any covenant clause or thing herein contained or otherwise arising out of the requisition aforesaid the same shall be referred to an arbitrator to be appointed by the Central Government and the decision of such arbitrator shall be conclusive and binding on the parties hereto. The provisions of the Arbitration Act, 1940, shall apply to such arbitration.

Schedule Above Referred To

In witness whereof these presents have been executed the day year first above written.

Signed and delivered by the above named owner/owners in the presence of.....

Signed and delivered for and on behalf of the President in the presence of.....

THE NOTIFICATIONS

Under the Requisitioning and Acquisition of Immovable Property Act,

1952

**1. Notification Published in the Gazette of India Extraordinary
Part II, Section 3
Ministry of Works, Production and Supply
New Delhi, the 28th January, .1952**

S.R.O. 152-In-t pursuance of clause (b) of Section 2 of the Requisitioning and Acquisition of Immovable Property Ordinance, 1952, the Central Government hereby authorize each of the persons mentioned in column 1 of the sub-joined Table to perform the functions of a competent authority under the said Ordinance for the area specified in the corresponding entry in column 2 of the said Table. .

THE TABLE

SI. No	Persons	Area
	(1)	(2)
1.	Estates Officer, New Delhi.	The whole of the State of Delhi.
2.	Joint Estates Officer, New Delhi.	The whole of the State of Delhi.
3.	Collector of Delhi.	The whole of the State of Delhi.
4.	Estate Manager, Government of India Estates, Bombay.	The area within the jurisdiction of the Corporation of Bombay.
5.	Estate Manager, Government of India Estates, Calcutta.	The area within the jurisdiction of the Corporation of Calcutta and so much area in the District of 24 Parganas, in the State of West Bengal as is not within the Jurisdiction of the said Corporation.

**2. Notification No. SRO 1454 Dated 23-8-1952
Published in the Gazette of India,
August 23, 1952.**

S.R.O. 1454-In .pursuance of clause (b) of Section 2 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952), the Central Government hereby authorises each of the persons mentioned in column 1 of the. Table hereto annexed to perform the functions of a competent authority under the said Act for the area specified in the corresponding entry in column 2 of the said Table

THE TABLE

	Persons	Area
	(1)	(2)
1.	All District Magistrates in the State of Punjab.	The area falling within their respective jurisdictions.
2.	All District Magistrates in the State of Orissa.	The area falling within their respective jurisdictions.
3.	All Collectors in the State of Bihar.	The area falling within their respective jurisdictions.

Notification No. 3872-W 11/52, dated the 16th May 1952; No.5793-W 11/52 dated the 23rd July 1952; and No. 5985-W 11/52 dated the 26th July 1952, are hereby cancelled.

3. Notification No SRO 1501 dated 20th August 1952 Published in the Gazette of India, August 30, 1952.

S.R.O. 150I-In pursuance of clause (b) of Section 2 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1952), the Central Government hereby authorises the Special Land Acquisition officer, Nasik to perform the functions of a competent authority under the said Act for the area within his jurisdiction.

4. Notification No. SRO 2112 dated 19th Dec, 1952 Published in the Gazette of India, December 27, 1952

S.R.O. 2112-In pursuance of clause (b) of Section 2 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1952), the Central Government hereby authorises all the Collectors in the States of Bhopal, Bilaspur, Cooch-Bihar, Coorg, Kutch, Manipur, Tripura and Vindhya Pradesh and all the Deputy Commissioners in the States of Himachal Pradesh and Patiala and East Punjab States Union to perform the functions of a competent authority under the said Act for the area within their respective jurisdictions.

5. Notification No. SRO 1930 dated 9th Oct, 1953.

S.R.O. 1930-In pursuance of clause (b) of Section 2 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1952), and in suppression of the notification of the Government of India in the Ministry of Works, Housing and Supply No. 9313-W-II/52 dated 18th November 1952 and No 927-E-II/53, dated 18th April, 1953, the Central Government hereby authorises each of the officers mentioned in Column 1 of the Table hereby annexed to perform the function of a "competent authority" under the said Act for the areas specified in the corresponding entry in column 2 of the said Table

TABLE

Officers		Area
(1)		(2)
1.	All Collectors in the State of Madhya Bharat	The areas falling within their respective jurisdictions.
2.	All District Magistrate in the State of Uttar Pradesh	-do-
3.	All Deputy Commissioners in the State of Madhya Pradesh.	-do-
4.	All Deputy Commissioners in the State of Mysore.	-do-
5.	Deputy Commissioners of Jalpaiguri, Darjeeling and Cooch Behar in the State of West Bengal.	-do-

6. Notification Published in. the Gazette of India June 1, 1957 Ministry of Works, Housing and Supply New Delhi, the 24th May, 1957

S.R.O.1810-In exercise of the powers conferred by sub-section (1) of Section 17 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952), and in suppression of existing notifications on the subject noted below * , the Central Government hereby directs that the powers exercisable by it by or under the provisions of the said Act specified in column (3) of the Schedule hereto annexed shall also be exercisable by each of the authorities mentioned in the corresponding entry in column (2) of the said Schedule within its jurisdiction subject to the conditions, if any, specified in the corresponding entry in column (4)

SCHEDULE

St. No.	Authorities	Provision of the Act	Condition
(1)	(2)	(3)	(4)
1.	Chief Commissioner, Delhi	Section 7, 8 and 10.	The powers under Section 7 are to be exercised only in respect of the properties 'requisitioned by the Collector of Delhi
2.	Chief Commissioner Tripura	Section 7, 8 and 10	
3.	Chief Commissioner Manipur	Section 7, 8, 10 and 13.	
4.	Chief Secretary, Himachal Pradesh Administration	Section 7, 8 and 10	

*Ministry of WH.&S. Notification No. 3696-W II/52 dated 9th May 1952; No 665-W II/53 dated 16th January 1953; No. 2208-W II/53 dated June 1953; No. 3166-W II/53 dated 29th June 1953 and No. 3167-W II/53 dated 29th June 1953.

[No. S.V. 11 (1)67]

**7. Notification No SRO 2519 Dated 24th May, 1957
Published in Gazette of India August 3, 1957**

S.R.O 2519-In exercise of the powers conferred by sub-section (1) of Section 17 of the Requisitioning and Acquisition of Immovable Property Act 1952 (30 of 1952), and of all other powers enabling it in this behalf and in suppression of existing notifications on the subject noted below* and in partial modification of the notification of the government of India in the Ministry of Home Affairs No. S.R.O. 89 dated the 8th January, 1957, the Central Government here by directs that the powers exercisable by it by or under the provisions of the said Act specified in column (3) of the Schedule hereto annexed shall also be exercisable by each of the authorities mentioned in the corresponding entry in column (2) of the said Schedule in respect of any property situated within its jurisdiction subject to the condition, if any, specified in the corresponding entry in column (4) thereof.

SCHEDULE

S. No.	Authorities	Provision of the Act	Condition
1	2	3	4
1. (a)	The First Land Acquisition Collector Calcutta; all Land Acquisition Officers of Calcutta and of other districts in the State of West Bengal who are functioning as Collector under Act I of 1894, the Collector in the district of 24 Parganas and all other Collectors in the State of West Bengal and the Deputy Commissioners of Jalpaiguri, Darjeeling and Coach Behar in the State Of West Bengal.	Section 6, 7, 8 No [except clause (b) of sub-section (1)] and Section 13.	No power under Section 8 in so far as it relates to the fixing of the amount off compensation by agreement shall be exercisable except with the previous approval of the Central Government
(b)	All collectors, District Magistrates and Deputy Commissioners in the other States of India except the State of Jammu and Kashmir.		
(c)	Sub-Divisional Officer (Civil), Kulu Sub-Division, in the State of Punjab.		
(d)	Special Land Acquisition Officer Nasik in the State of Bombay.		
2.	The. State Government of all State except the State of Jammu and Kashmir	Clause (b) of sub-section (1) of Section 8.	

Ministry of w'H.&S. notifications No. 10739 WII/52, dated 29th Dec 1952; 1526.WII/53 dated 5th February 1953; 1608-EII/53, dated May 1953; 5998-EII/53, dated 9th October 1953; 2521-EII/54, dated 31st rch 1954, 8064-EII/54, dated 24th September 1954, 1085-EII/55, dated February 1955 and EV-II(8)/56, dated 12th December 1956.

8. Notification No S.O. 510 dated 26th Feb., 1959.

Published in Gazette of India March, 7, 1959

S.O. 510-1n pursuance of clause (b) of Section 2 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952), the Central Government hereby authorises the Special Land Acquisition Officer, Ahmednagar. in the State of Bombay to perform the functions of the competent authority under the said Act for the areas falling within his jurisdiction.

9. Notification No. S.O 511 Dated 26th Feb., 1959

Published in Gazette of India March 7, 1959

S.O.511-In exercise of the powers conferred by sub-section (1) of Section 17 of the Requisitioning and Acquisition. of Immovable Property Act, 1952 (30 of 1952) the Central Government hereby directs that the powers exercisable by it under Section 6, Section 7, Section 8 [Except clause (b) of sub-section (1)] and Section 13 of the said Act, shall be exercisable also by the Special Land Acquisition Officer, Ahmednagar, in the State of Bombay in respect of any property situated within his jurisdiction:

Provided that the power under the said Section 8 in so far as it relates to the fixing of the amount of compensation by agreement shall not be exercised except with the previous concurrence of the Central Government.

10. Notification No. S.O. 953 Dated 20th April, 1961

Published in Gazette of India April 29, 1961

S.O. No. 953-In exercise of the powers conferred by sub-section (1) of Section 17 of the Requisitioning and Acquisition of Immovable Property Act 1952 (30 of 1952) the Central. Govt. hereby directs that the powers exercisable by it under the provisions of the said Act Specified in column (3) of the schedule below, shall also be exercisable by each of the authorities mentioned in the corresponding entry in column (2) of the said Schedule in respect of any property situated within its jurisdiction subject to the conditions specified in the corresponding entry in column (4) thereof.

SCHEDULE

S. No.	Authorities	Provision of the Act	Condition
1	2	3	4
1.	The State Govts, of all Section 11 States except the State of Jammu & Kashmir.	Section 11	In cases where any State Govt. or any of the Officers specified in column (2) decides not to file an appeal they should promptly and immediately intimate the facts of the cases and their decision to the local officer of the Administrative Ministry concerned. No appeals be filed in cases where the awarded amount of compensation is less than Rs. 5000/- (initial/terminal and acquisition cost), or Rs. 250/- per month recurring compensation.
2.	All Collectors, Distt. Magistrates and Deputy Commissioners in all the States of India except the State of Jammu and Kashmir.		
3.	The 1st Land Acquisition Collector, Calcutta, all Land Acquisition Officers of Calcutta and of other Distt. in the State of West Bengal who are functioning as Collectors under Act I of 1894; the Collectors in the Distt. of 24 Parganas and all other Collectors in the State of West Bengal and the Deputy Commissioners of Jalpaiguri, Darjeeling and Coach Bihar in the State of West Bengal.		

11. Notification No. SO 1927 Dated 19th May, 1970

Published in the Gazette of India, 30-5-1970

S.O. 1927-In pursuance of clause (b) of Section 2 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952), the Central Government hereby authorises each of the persons mentioned in column 1 of the Table hereto annexed to perform the functions of a competent authority under the said Act for the area specified in the corresponding entry in column 2 of the said Table,

THE TABLE

Authotrity		Area
(1)		(2)
1.	All District Revenue Officers in the State of Andhra Pradesh. (S.O. 2684 dated 5.8.1975)	The area falling within their respective jurisdiction.
2.	All Land Acquisition Officers or Collectors, Special Land Acquisition officers or Collector, Military Land Acquisition COllectors or Officer who are functioning as Collectors under Act I of 1894 in the States of Haryana, Uttar Pradesh, Rajasthan, Maharashtra (Excepting in District of Nasik & Ahmednagar where.. Special Land Acquisition. Officers have been so authorized vide SRO No 1501 dated the 20th August 1952 and S ".O. No. 510 dated the' 26 th February 1959 respectively) Goa, Mysore, Tamil Nadu, Bihar, Madhya Pradesh and Union territories of Himachal Pradesh, NEFA and Manipur.	The area falling within their respective jurisdiction.

Note-For SRO 1501 and S.O. 510 please see SI. Nos 3 and 8.

12. Notification No S.O. 1928 dated 19th May, 1970

Published in the Gazette of India, May 30, 1970

S.O. 1928-In exercise of the powers conferred by sub-section (1) of Section 17 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952), the Central Government hereby directs that the powers exercisable by it by or under the provisions of the said Act specified in column (3) of the Schedule hereto annexed shall also be exercisable by each of the authorities mentioned in the corresponding entry in. column (2) .of the said Schedule in respect of any property situated within its jurisdiction subject to the conditions specified in the corresponding entry in column (4) thereof.

SCHEDULE

S. No.	Authorities	Provision of the Act	Condition
1	2	3	4
1.	All District Revenue Officers in the State of Andhra Pradesh (S.O. 2685 Officers dated 5-8-1975)	section 6,7,8 [except clause (b) of sub-section (1)] and Section 13.	No power under Section State of 8 in so far as it relates to the fixing of the amount of compensation by agreement shall be exercisable except with the previous approval of
2.	All Land Acquisition Officers or Collectors, Special Land Acquisition Officers or Collectors or Military Land Acquisition Collectors or Officers functioning as Collectors under A...t I of 1894 in the States of Haryana, Uttar Pradesh, .Rajasthan, Maharashtra (Excepting the Districts of Nasik and Ahmednagar where special Land Acquisition officers have been so authorised vide S. R. O. 2519 dated 24th May, 1957 & S. O. 511 dated the 26 th February 1959 respectively). Goa, Mysore, Tamil Nadu, Bihar, Madhya Pradesh and Union Thrritories of Hima chal pradesh, NEFA and Manipur.		

Note-For SRO 2519 and S.O.511 please see SI. Nos 7 and 9.

