

THE PORT AUTHORITIES LANDS AND BUILDINGS
(RECOVERY OF POSSESSION) ORDINANCE, 1962

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THE PORT AUTHORITIES LANDS AND BUILDINGS (RECOVERY OF POSSESSION) ORDINANCE, 1962

ORDINANCE NO. IX OF 1962

[17th February, 1962]

An Ordinance to provide for the speedy recovery of possession of certain lands and buildings.

WHEREAS it is expedient to provide for the speedy recovery of possession from unauthorized occupants of lands or buildings belonging to Port Authorities within the limits of major ports, and for matters ancillary thereto;

NOW, THEREFORE, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

1. Short title, application and commencement.—(1) This Ordinance may be called the Port Authorities Lands and Buildings (Recovery of Possession) Ordinance, 1962.

(2) It applies to all major ports.

(3) It shall come into force at once.

2. Definition. In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "allotment" means permission to occupy temporarily any premises either free of rent or on an agreed rental, without conferring any right or interest in respect thereof on the person to whom such permission has been granted;

(b) "Authorized Officer" means a Magistrate of the First Class appointed by the [Federal Government], by notification in the official Gazette, to exercise all or any of the powers of an Authorized Officer under this Ordinance;

(c) "land or building" means land or building, or part thereof, which vests in, or is in the possession or under the management or control of a Port Authority, and is used or held for purposes connected with the administration and working of the port;

(d) "lease" has the same meaning as in the Transfer of Property Act, 1882 (IV of 1882), and includes an allotment; and "lessee", which includes his heirs, assigns, legal representatives and all persons inducted by him into the demised land, shall be construed accordingly;

(e) "major port" means a port to which the Ports Act, 1908 (XV of 1908), for the time being extends;

(f) "port authority" means an authority vested by or under any law for the time being in force with the administration of a major port;

¹ Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government".

(g) "prescribed" means prescribed by rules made under this Ordinance ; and

(h) "unauthorized occupant" means a person who is in occupation of any land or building without the permission of the Port Authority, and includes:

(i) a person inducted into any land or building by the original lessee of such land or building ; and

(ii) a person who remains in occupation of any land or building after the determination of the lease in respect of such land or building.

3. Eviction of out-going lessees and unauthorized occupants from land.—(1) If, on the expiry, whether before or after the commencement of this Ordinance, of the period of any lease in respect of any land or building of which a Port Authority is the lessor, or on the determination of such lease on the ground of breach of any covenant or in pursuance of a condition in the lease imposing any obligation on the lessee to give up possession of the demised land or building in the event of such land or building being required for the purposes of a Port Authority, the lessee refused or failed, or refuses or fails, to vacate and deliver vacant possession of such land or building to the Port Authority, then, notwithstanding anything contained in any other law for the time being in force or in any contract, such Port Authority may, by notice in writing, require such lessee to vacate and deliver vacant possession of such land or building, and to remove structures, if any, erected or built thereon by him, within such time as may be specified in the notice.

(2) If the Port Authority is satisfied, after making such enquiry as it may think fit, that a person is an unauthorised occupant of any land or building, it may, by notice in writing, require such person to vacate such land or building, and deliver vacant possession thereof to it, and to remove structures, if any, erected or built thereon by him, within such time as may be specified in the notice.

(3) If any person to whom a notice is issued under sub-section (1) or sub-section (2)—

(a) fails to comply with the notice, the Port Authority shall make a complaint in writing to that effect to the Authorized Officer ; or

(b) vacates the land or building, but does not remove the structures thereon, the Port Authority may take possession of such land or building and demolish such structures.

4. Proceedings before Authorized Officer.—(1) Upon receipt of complaint under section 3, the Authorized Officer shall forthwith issue notice to the person against whom the complaint has been made calling upon him to show cause why he should not be evicted from the land or building occupied by him, and after giving such person an opportunity of being heard, and if necessary, after making such further enquiry as he may think fit, the Authorized Officer, shall, by an order in writing, either—

(a) permit such person to continue in occupation of the land or building, subject to such conditions as may be specified in the order ; or

(b) direct such person to vacate and deliver to the Port Authority vacant

possession of the land or building, and to remove structures, if any, erected or built thereon by him, within the period specified in the order.

(2) If any person fails to comply with a direction under clause (b) of sub-section (1), the Authorized Officer may, notwithstanding anything contained in any other law for the time being in force, but subject to any order [on appeal] under section 5, enter upon the land or building to which the direction relates, and evict such person by such force as he may consider necessary, and demolish any or all of the said structures.

(3) No person shall be evicted under sub-section (2) between sunset and sunrise.

5. Appeal.—(1) Any person aggrieved by an order under sub-section (1) of section 4 may, within fifteen days from the date of such order, appeal, in such manner and on payment of such fee as may be prescribed, to the District Magistrate *[or an Additional District Magistrate], who may, pending the disposal of such appeal, make such orders as he thinks fit.

(2) The decision of the District Magistrate *[or an Additional District Magistrate] on an appeal under sub-section (1) shall be final and shall not be called in question in any court or by any authority [:]°

4[Provided that no decision on an appeal shall be taken unless both the parties thereto have been afforded an opportunity of being heard.]

6. Service of notice and order. A notice or an order under section 3 or section 4 shall be served in such manner as may be prescribed.

7. Recovery of cost of demolition of structures.—(1) The cost of demolition of structures under section 3 or section 4, thereafter in this section referred to as the cost, shall be payable to the Port Authority by the lessee or the unauthorized occupant evicted.

(2) If the cost is not paid on demand, the Authorized Officer may, on an application made in this behalf by the Port Authority, and after giving the lessee or the unauthorized occupant an opportunity of being heard, cause the materials of the structures demolished to be sold in auction in such manner as may be prescribed.

(3) If the proceeds of the sale under sub-section (2) are not sufficient to cover the cost, the balance shall be recoverable as arrears of land revenue and, if such proceeds exceed the cost, the excess shall be paid to the lessee or the unauthorized occupant.

8. Recovery of arrears of rent. If any rent payable in respect of any land or building has been in arrears on the day of recovery of possession of such land or building, the amount due on account of such arrears, with interest, if any, accrued thereon, shall be recoverable as arrears of land revenue.

9. Jurisdiction of courts barred. Save as provided by this Ordinance no court shall question anything done under this Ordinance by or at the instance of a Port Authority, or to grant an injunction, or to make any other order, in relation to any notice or complaint issued or made by a Port Authority under this Ordinance, or in relation to any proceedings before an Authorized Officer.

' Subs. by the Port Authorities Lands and Buildings (Recovery of Possession) (Amdt.) Act, 1968 (6 of 1968) ? Ins. ibid,s.3.

3 Subs. by the Port Authorities Lands and Buildings (Recovery of Possession) (Amdt.) Ordinance, 1984 (

* Proviso added ibid.

10. Indemnity. No suit, prosecution or other legal proceeding shall lie against a Port Authority or any person in respect of anything which is in good faith done or intended to be done under this Ordinance.

11. Rules. A Port Authority may, with the previous approval in writing of the [Federal Government], make rules for carrying out the purposes of this Ordinance.

' Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government"

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