

SINDH ACT NO. V OF 1975

THE SINDH PUBLIC PROPERTY (REMOVAL OF ENCROACHMENT) ACT, 1975.

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[8° April 1975]

An Act to provide measure for removal of encroachment from public property.

WHEREAS it is expedient to provide measures for removal of encroachment from public property and for matters ancillary thereto;

It is hereby enacted as follows:—

1. (1) This Act may be called the Sind Public Property (Removal of Encroachment) Act, 1975.

(2) It shall come into force at once.

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

(a) “autonomous body” means a board,

corporation, institution, organization, authority or body established, by Government or, by or under law, with the aid, wholly or partly, of the revenues of the Province;

(b) “building” means a building or part thereof and includes plinth, wall, steps, platform, covered area of any kind, tent, Jnuggi, enclosure and the land appurtenant thereto;

(c) “encroachment” means unauthorized occupation

of or undue interference with public property;

(d) “Government” means the Government of Sind;

(e) “land” includes land under water, well, foot-path, road, tunnel, culvert, nala, bridge and street;

(f) “local council” means a council under the Sind People’s Local Government Ordinance, 1972 (Sind Ordinance II of 1972);

(g) “prescribed” means prescribed by rules made under this Act:

(h) “public property” means a building, land, place or premises vesting in, or under the management or control of, Government, local council, autonomous body, or such other authority;

(i) “Tribunal” means a Tribunal established under section 12.

3. (1) Government — or any authority or officer authorized by Government in this behalf may require the person directly or indirectly responsible for encroachment to remove — such encroachment together with the structure, if any, raised by him on the public property, within the period not less than three days as

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Explanation.—Lessee or licensee who after the expiry of the period of lease or licence or on determination of such lease or licence, continues to retain possession of any public property shall, for the purpose of this sub-section, be deemed to be responsible for encroachment.

(2) The order under sub-section (1) may be served by—

(a) giving or tendering it to the person responsible for the encroachment or any adult male person residing with him; or

(b) affixing it at a Conspicuous place on or near the public property to which it relates.

4. (1) Any person dis-satisfied by the order passed under section 3 may, within seven days from the service thereof, prefer a review petition to Government or any authority or officer who has passed such order.

(2) Government or, as the case may be, the authority or officer as aforesaid may, after perusing the review petition filed under sub-section (1) and giving an opportunity to the petitioner or his duly authorized agent of being heard, confirm, modify or vacate the order.

5. (1) If any person refuses or fails to vacate the public property or, remove the structure raised thereon after seven days from the order under section 3 is duly served on him, or if review petition is filed against such order, after such review petition is dismissed, he shall be evicted by force as may be necessary by an officer authorized by Government in this behalf and the structure, if any, raised by such person on the public property shall vest in Government, Local Council or autonomous body, as the case may be:

(2) If any officer authorized to take action under sub-section (1) requires police assistance he may send such requisition to the officer incharge of a police-station within the local limits of which the public property is situate and such police officer shall on such requisition render the required assistance.

6. Where any structure is demolished or removed on eviction under section 5 the cost of demolition or removal of such structure may be recovered as arrears of land revenue from the person responsible for the encroachment.

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7. If arrears of rent are payable in respect of any public property by the person evicted therefrom, the amount of such arrears with interest, if any, accrued thereon shall be recovered from such person as arrears of land revenue.

8. (1) Any person responsible for encroachment, may be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to three thousand rupees or with both.

(2) The officer appointed for preventing encroachment in any area who directly or indirectly connives at, or assists in, the commission of the offence of encroachment or persistence of such offence or due to whose negligence of duty such offence is committed or persists shall be punished as an abettor.

(3) If the officer-in-charge of police station wilfully fails or avoids to provide the necessary police assistance under sub-section (2) of section 5 he shall be punished as an abettor of the offence of encroachment.

9. (1) No court shall take cognizance of an offence under this Act, except on a complaint made by an officer authorized by Government in this behalf.

(2) Government may by notification direct that an offence under this Act, shall be tried in summary way in accordance with the procedure prescribed by Chapter XXII of the Code of Criminal Procedure, 1898 (Act V of 1898).

10. Government may, by notification in the official Gazette, direct that any power exercisable by it under this Act, may be exercised by any officer subordinate to it or any local council, autonomous body or such other authority.

11. (1) No Civil Court shall have jurisdiction to entertain any proceedings, grant any injunction or make any order in relation to a dispute that any property is not a public property, or that any lease or license in respect of such public property has not been determined, for the purpose of this Act, or anything done or intended to be done under this Act.

(2) All suits, appeals and applications relating to, encroachment and dispute that any property is not a public property or, that any lease or license in respect of such property has not been determined, for the purpose of this Act, shall abate on coming into force of this Act:

Recovery of
arrears of rent.

Punishment.

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Provided that a party to such suit, appeal or application may, within thirty days of the coming into force of this Act, file a suit before a Tribunal in case of a dispute that any property is not a public property or that any lease or license in respect of such public property has not been determined.

12. (1) Government may by notification in the official gazette, establish a Tribunal and specify the area in which such Tribunal shall exercise its jurisdiction.

(2) Government may appoint a_ District Judge, Additional District Judge or District Magistrate or Additional District Magistrate with experience of not less than three years as such Magistrate as a Tribunal.

13. A Tribunal shall have exclusive jurisdiction to adjudicate upon a dispute that any property is not a public property or that any lease or license in respect of such public property has not been determined, for the purpose of this Act.

14. (1) A Tribunal shall decide any suit or application in such manner and in accordance with such procedure as may be prescribed.

(2) Any order made by the Tribunal which conclusively determines the rights of the parties with regard to all or any of the matters in controversy shall be final and binding on the parties;

(3) The Tribunal shall have powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), as to—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(6) receiving evidence on affidavits;

(c) compelling the production of documents;

(d) issuing commission for examination of witnesses or documents.

(4) The proceedings before the Tribunal shall be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860).

Tribunal.

Exclusion
jurisdiction.

Procedure and
Power of the
Tribunal.

15. Government may transfer any case from one Tribunal to Transfer.

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16. No suit or legal proceeding shall lie against Government or any authority or person in respect of anything which is intended to be, or has been, done under this Act.

17. Government may make rules for carrying out the purposes of this Act.

18. The West Pakistan Government Lands and Buildings (Recovery of Possession) Ordinance, 1966 and the West Pakistan Autonomous Bodies Immovable Property (Ejectment of Unauthorized Occupants) Ordinance, 1965, are hereby repealed.

Indemnity

Power to make rules.

Repeal.