

Rajasthan Public Premises (Eviction of Unauthorised Occupants) Act, 1964

(Act No. 2 of 1965)

RJ115

Published in Rajasthan Gazette Part 4A, Extraordinary, dated 19.1.1965.

[Received the assent of the President on the 11th day of January, 1965]

[An Act to provide for the eviction of unauthorised occupants from public premises and for certain incidental matters]

Be it enacted by the Rajasthan State Legislature in the Fifteenth Year of the Republic of India as follows-

1. Short title, extent and commencement - (1) This Act may be called the **Rajasthan Public Premises (Eviction of Unauthorised Occupants) Act, 1964**.

(2) It extend to the whole of the State of Rajasthan.

(3) It shall come into force at once.

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

(a) **'estate officer'** means an officer appointed-as such by the State Government under section 3;

(b) **'public premises'** means any premises belonging to, or taken on lease or requisitioned by, or on behalf of the State Government, and includes any premise belonging to-

(i) a **Municipal Board or Municipal Council**, established or deemed to have been established under the Rajasthan Municipalities Act, 1959 (Rajasthan Act 38 of 1959); or

(ii) an **Improvement Trust** established under the Rajasthan Urban Improvement Act, 1959 (Rajasthan Act 35 of 1959; **[or]**

- (iii) the **Rajasthan State Industrial and Mineral Development corporation Limited** or the **Rajasthan State Industrial Development and Investment Corporation Limited** and constructed in an Industrial area developed by any of them; or
- (iv) a **Panchayat** established under the [Rajasthan Panchayat Act, 1953] (Rajasthan Act 21 of 1953); or
- (v) a Panchayat Samiti or a Zila Parishad established under the [Rajasthan Panchayat and Zila Parishad Act, 1959] (Rajasthan Act 37 of 1959); or
- (vi) **Government Company** as defined in Section 617 of the Companies Act, 1956 (Central Act 1 of 1956); or
- (vii) Devasthan Department of the Government of Rajasthan or premises managed or controlled by it; or
- (viii) a **Wakf** as defined in the [Wakfs Act, 1954] (Central Act 29 of 1954) and entered in the register or Wakfs maintained under S. 26 of that Act; or
- (ix) a **market committee** established under the Rajasthan Agricultural Produce Markets Act, 1961 (Rajasthan Act 38 of 1961).
- [x] a body corporate established or constituted by the Central Act or a Rajasthan Act and owned or controlled by the State Government; and]
- [xi] the Durgah Khwaja Saheb, Ajmer administered in accordance with the provisions of the Durgah Khwaja Saheb Act, 1955 (Rajasthan Act No. 13 of 1959); or
- (xii) the Deity of Shri Shrinathji Temple, Nathdwara administered in accordance with the provisions of Nathdwara Temple Act, 1959 (13 of 1959); or
- (xiii) the Deity of Shri Sanwaliaji, Mandphia (District Chittorgarh) administered in accordance with the provisions of Nathdwara Temple Act, 1959 (Rajasthan Act No. 13 of 1959); or
- (xiv) the Deity of Shri Sanwaliaji, Mandphia (District Chittorgarh) administered in accordance with the provisions of Sanwaliaji Temple Act, 1992 (Rajasthan Act No. 8 of 1992); or]

Explanation- For the removal of doubts, it is hereby clarified that the provisions of this Act shall not apply to any immovable property of a Wakf entered as such in the register of Wakfs maintained under Section 26 and transferred without the previous sanction of the Board of Wakfs in contravention of the provisions of Section 63-A of the Wakfs Act, 1954 (Central Act 29 of 1954) and the provisions of 63-B of that Act shall continue to apply for the recovery of the possession of such property;

(c) ***premises'*** means any land or any building or part of a building and includes

- (i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building; and
- (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,

(d) ***rent'*** in relation to any public premises means the consideration payable periodically for the authorised occupation of the premises and includes-

- (i) any charge for electricity, water or any other services in connection with the occupation of the premises;
- (ii) any tax (by whatever name called) payable in respect of the premises, where such charge or tax is payable by the State Government,

(e) ***unauthorised occupation'***, in relation to any public premises means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

3. Appointment of estate officers - The State Government may, by notification in the Official Gazette-

- (a) appoint such officers, being Gazetted Officers of Government, or officers of equivalent rank of the Municipal Board, or Council, or Improvement Trust, referred to in Clause (b) of Section 2, as it thinks fit to be estate officers for the purpose of this Act; and

(b) define the local limits within which or the categories of public premises in respect of which, estate officers shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under this Act.

4. Issue of notice to show cause against order of eviction - (1) If the estate officer is of opinion that any persons are in unauthorised occupation of any public premises and that they should be evicted the estate officer shall issue in the manner herein after provided a notice in writing calling upon all provisions concerned to show cause why an order of eviction should not be made.

(2) The notice shall-

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are, may be, in occupation of or claim interest in, the public premises, to show cause, if any, against the proposed order on or before such date as is specified in the notice being date a not earlier than ten days from the date of issue thereof.

(3) The estate officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.

(4) where the estate officer knows or has reasons to believe that any persons are in occupation, of the public premises, then, without prejudice to the provisions of sub-section (3), he shall cause a copy of the notice to be served on every such person by post or by delivering or tendering it to that person or in such manner as may be prescribed.

5. Eviction of unauthorised occupations - (1) If, after considering the cause, if any, shown by any person in pursuance of a notice under Section 4 and any, evidence he may produce in support of the same and after giving him, a reasonable opportunity of being heard, the estate officer is satisfied that the public premises are in unauthorised occupation the officer may, on a date to be fixed for the purpose, make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises.

(2) If any person refuses or fails to comply with the order of eviction within thirty days of the date of its publication under sub-section (1), the estate officer or any other duly authorised

by the estate officer in this behalf may evict that person from and take possession of, the public premises and may for that purpose, use such force as may be necessary.

6. Disposal of property left on public premises by unauthorised occupants - (1) Where any person has been evicted from any public premises under Section 5, the estate officer may, after giving fourteen days' notice to the persons from whom the possession of the public premises has been taken and after publishing the notice in at least one newspaper having circulation in the locality remove or cause to be removed or disposed of by public auction any property remaining on such premises.

(2) Where any property is sold under sub-section (1), the sale proceeds shall, after deducting the expenses of the sale and the amount, if any, due to the State Government on account of arrears of rent or damages or costs, be paid to such person or persons as may appear to the estate officer to be entitled to the same :

Provided that where the estate officer is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the appointment of the same, he may refer such dispute to the civil court of competent jurisdiction and the decision of the court thereon shall be final.

7. Power to recover rent or damages in respect of public premises as arrears of land revenue - (1) Where any person is in arrears of rent payable in respect of any public premises, the estate officer may by order, require that person to pay the same within such time and in such instalments as may be specified in order.

(2) Where any person is, or has at any time been in unauthorised occupation of any public premises, the estate officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such premises and may order require that person to pay the damages within such time and in such instalments as may be specified in the order.

(3) No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause with in such time as may be specified, in the notice why such order should not be made, and until his objections, if any, and evidence he may produce in support of the same have been considered by the estate officer.

8. Power of Estate Officers - An estate officer shall, for the purpose of holding any inquiry under this Act, have the same powers as are vested in a Civil Court under the Code of Civil

Procedures, 1908 (Central Act 5 of 1908) when trying a suit in respect of 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 document;
- (c) any other matter which may be prescribed.

9. Appeal - (1) An appeal shall lie from every order of the estate officer made in respect of any public premises under Section 5 or Section 7 to an appellate officer who shall be the District Judge of the district in which the public premises are situated or such other Judicial Officer in that district of not less than ten years standing, as the District Judge may designate in this behalf.

(2) An appeal under sub-section (1), shall be preferred-

- (a) in the case of an appeal from an order under Section 5, within 15 days from the date of the Publication of the order under sub-section (1) of that section; and
- (b) in the case of an appeal from an order under Section 7 within fifteen days from the date on which the order is communicated to the appellant : Provided that the appellate officer may entertain the appeal after the expiry of the said period of fifteen days , if he is satisfied that the appellant was prevented sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred from an order of the estate officer the appellate officer may stay the enforcement of that order for such period and on such conditions as he deems fit.

(4) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

(5) The costs of any appeal under this section shall be in the discretion of the appellate officer.

10. Finality of orders - Save as otherwise expressly provided in this Act, every order made by an estate officer or appellate officer under this Act, shall be final and shall not be called in question in any original suit, application or execution proceeding and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any powers conferred by or under this Act

[10A. Bar of Jurisdiction - No Civil court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorised occupation of any

public premises or the recovery of the arrears of the rent payable under sub-section (1) of Section 7 or the damage payable under sub-section (2) of that section or costs awarded to the State Government under sub-section (5) of Section 9 or any person of such rent, damages or cost.]

11. Offences and penalty - (1) If any person who has evicted from any public premises under this Act again occupies the premises without authority for such occupation, he shall be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees, or with both.

(2) Any Magistrate convicting a person under sub-section (1) may make an order for evicting that person summarily and he shall be liable to such eviction without prejudice to any action that may be taken against him under this Act.

12. Powers to obtain information - If the estate officer has reason to believe that any persons are in unauthorised occupation of any public premises, the estate officer or any other officer authorised by him in this behalf may require those persons or any other person to furnish information relating to the names and other particulars of the persons in occupation of the public premises and every person so required shall be bound to furnish the information in his possession.

13. Liability of heirs and legal representatives - (1) Where any person against whom any proceeding for the determination of arrears of rent or for the assessment of damages is to be or has been taken dies before the proceeding is taken or during the pendency thereof, the proceeding may be taken or, as the case may be, continued against the heirs or legal representatives of that person.

(2) Any amount due to the State Government from any person whether by way of arrears of rent or damages or costs shall, after the death of the person, be payable by his heirs or legal representatives, but their liability shall be limited to the extent of the assets of the deceased in their hands.

14. Recovery of rent, etc. as an arrear of land revenue - If any person refuses or fails to pay arrears of rent payable under sub-section (1) of Section 7 or the damages payable under sub-section (2) of that section or costs awarded to the State Government under sub-section (5) of Section 9 or any portion of such rent, damages or costs, within the time, if any specified therefor in the order relating thereto, the estate officer may issue a certificate for the amount due to the Collector who shall proceed to recover the same as an arrear of land revenue.

15. Protection of action taken in good faith - No suit, prosecution or other legal proceedings shall lie against the State Government or the appellate officer or the estate officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

16. Delegation of powers - The State Government may by notification in the Official Gazette, direct that any powers exercisable by it under this Act shall subject to such conditions, if any, as may be specified in the notification, be exercisable also by an officer of the State Government.

17. Powers to make rules - (1) The State 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 matters, namely-

- (a) the form of any notice required or authorised to be given under this Act and the manner in which it may be served;
- (b) the holding of inquiries under this Act;
- (c) the distribution and allocation of work to estate officers and the transfer of any proceeding before an estate officer to another estate officer;
- (d) the procedure to be followed in taking possession of public premises;
- (e) the manner in which damages for unauthorised occupation may be assessed and the principle, which may be taken into account in assessing such damages;
- (f) the manner in which appeals may be preferred and the procedure to be followed in appeals; and
- (g) any other matter which has to be, or may be, prescribed.

(3) All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of the session immediately following, the House of State Legislature makes any modification in any of such rules or resolves that any such rules should not be made, such 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 without prejudice to the validity of anything previously done thereunder.

18. Repeat - In the Rajasthan Premises (Requisition and Eviction) Ordinance, 1949 (Rajasthan Ordinance No. 11 or 1949)-

(a) Section 11 shall be deleted; and

(b) in Section 13, in sub-section (2)-

(i) in Clause (a), the words figures and brackets "or in appeals under sub-section (2) of Section 11", and

(ii) in Clause (d), the words, figures and brackets "of the Government premises as defined in sub-section (5) of Section 11" shall be deleted.