

2. Extract of MHADA Act 1976 Chapter V, Related to Land procurement, U/s 41 to 52 only

CHAPTER V

ACQUISITION OF LAND AND DISPOSAL OF PROPERTY OF THE AUTHORITY

41. (1) Where, on any representation from the Authority or any Board it appears to the State Government that, in order to enable the Authority to discharge any of its functions or to exercise any of its powers or to carry out any of its proposals plans, or projects, it is necessary that any land should be acquired, the state Government may acquire the land by publishing in the Official Gazette, a notification to the effect that the State Government has decided to acquire the land in pursuance of this section :

Provided that, before publishing such notification, the State Government shall by notice published in the Official Gazette, and served in the prescribed manner, call upon the owner of, or any other person who, in the opinion of that Government, may be interested in, such land to show cause, why it should not be acquired and after considering the cause, if any, shown by the owner or any other person interested in the land, the State Government may pass such order as it thinks fit.

(2) The acquisition of land for any purpose mentioned in sub-section (1) shall be deemed to be a public purpose.

(3) Where notification aforesaid is published in the Official Gazettee, the land shall, on and from the date on which the notification is so published, vest absolutely in the State Government free from all encumbrances.

42. (1) Subject to the provisions of section 51, where any land is vested in the State Government under sub-section (3) of section 41, the State Government may, by notice in writing, order any person who may be in possession of the land to surrender or deliver possession thereof to the State Government or any person duly authorised by it in this behalf within thirty days of the date of service of the notice.

(2) If any person fails or refuses to comply with an order under sub-section (1) the State Government may take possession of the land, and may, for that purpose use or cause to be used such force as may be reasonably necessary.

(3) Where any land is taken possession of as aforesaid, the State Government shall make that land available to the Authority for the purpose for which the land has been acquired and for discharging its functions, performing its duties and exercising its powers.

43. Right to receive amount for acquisition. Every person having any interest in any land acquire under this Chapter shall be entitled to receive from the State Government an amount as provided hereafter in this chapter.

44. (1) Where any land including any building thereon is acquired and vested in the State Government under this Chapter and such land is situated in any area within the jurisdiction of any Municipal Corporation or Municipal Council, the State Government shall pay for such acquisition an amount which shall be determined in accordance with the provisions of this section.

(2) Where the amount has been determined with the concurrence of the authority by agreement between the State Government and the persons to whom it is payable, it shall be determined and paid in accordance with such agreement.

(3) Where no such agreement can be reached, the amount payable in respect of any land acquired shall be an amount equal to one hundred times the net average monthly income actually derived from such land, during the period of five consecutive years immediately preceding the date of publication of the notification referred to in section 41 as may be determined by the Land Acquisition Officer.

(4) The net average monthly income referred to in sub-section (3) shall be calculated in the manner and in accordance with the principles set out in the First Schedule.

(5) The Land Acquisition Officer shall, after holding an inquiry in the prescribed manner, determine in accordance with the provisions of sub-section (4) the net average monthly income actually derived from the land. The Land acquisition Officer shall then publish a notice in conspicuous place on the land and serve it in the prescribed manner calling upon the owner of the land and every person interested therein to intimate to him, before a date specified in the notice, whether such owner or person agree to the net average monthly income actually derived from the land as determined by the Land Acquisition Officer. If such owner or person does not agree, he may intimate to the Land Acquisition Officer before the specified date what amount he claims to be such net average monthly income.

(6) Any person, who does not agree to the net average monthly income as determined by the Land Acquisition Officer under sub-section (5) and the amount for acquisition to be paid on that basis and claims a sum in excess of that amount may prefer an appeal to the Tribunal, within thirty days from the date specified in the notice referred to in sub-section (5).

(7) On appeal, the Tribunal shall, after hearing the appellant, determine the net average monthly income and the amount to be paid on that basis and its determination shall be final and shall not be questioned in any court.

45. (1) Where the owner of the land and the owner of the building thereon are different persons, or several persons claim to be interested in the amount for acquisition determined under the last preceding section, the Land Acquisition Officer shall determine the persons who in his opinion are entitled to receive the same and the sum payable to each of them.

2) If any dispute arises as to the apportionment of the amount or any part thereof or as to the persons to whom the same or any part thereof is payable, the Land Acquisition Officer may refer the dispute to the decision of the Tribunal; and the Tribunal in deciding any such dispute shall follow the provisions of Part III of the Land Acquisition Act, 1894.

46. (1) After the amount for acquisition has been determined, the Land Acquisition Officer shall, on behalf of the State Government, tender payment of and pay the amount to the persons entitled thereto.

(2) If the persons entitled to the amount do not consent to receive it, or if there be any dispute as to the title to receive the same or as to the apportionment of it, the Land Acquisition Officer shall deposit the amount in Greater Bombay, in the Bombay City Civil Court, and in any other municipal area in the Court of the District Judge, and that Court shall deal with the amount so deposited in the manner laid down in section 32 and 33 of the Land Acquisition Act, 1894.

47. (1) The Land Acquisition Officer may, for the purpose of determining the amount for acquisition or apportionment thereof, by order require any person to furnish such relevant information in his possession as may be specified in the order.

(2) The Land Acquisition Officer shall, while holding an inquiry under sub-section (5) of section 44 of this Act have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, 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 any document;

(c) receiving evidence on affidavit;

(d) requisitioning any public record from any court or office;

(e) issuing commissions for examination of witnesses.

48. When the amount for acquisition is not paid or deposited on or before taking possession of the land, the Land Acquisition Officer on behalf of the State Government shall pay the amount determined with interest thereon, from the date of taking possession until the amount is paid or deposited, at the rate of 4 per cent per annum for the first six months, and thereafter at the rate of 9 percent per annum.

49. The State government may, by notification in the Official Gazette, appoint an officer who is holding or has held an office, which in its opinion is not lower in rank than that of Deputy Collector or Assistant Director of Town Planning to be a Land Acquisition Officer for the purposes of this Act, and one or more such officers may be appointed as may be necessary.

Lands in Rural Areas

50. (1) Where any land (including any building thereon) is acquired and vested in the State Government under this Chapter and such land is situated in any area outside the jurisdiction of any Municipal Corporation or Municipal Council (in this Chapter referred to as " a rural area "), the State Government shall pay for such acquisition an amount, which shall be determined in accordance with the provision of this section.

(2) Where the amount has been determined, with the concurrence of the Authority, by agreement between the State Government and the person to whom it is payable, it shall be determined and paid in accordance with such agreement.

(3) Where no such agreement can be reached, the State Government shall refer the case to the Collector, who shall determine the amount for acquisition in accordance with the principles for determining compensation laid down in the Land Acquisition Act, 1894, and the provisions of that Act (including provisions for reference to Court and appeal) shall apply thereto mutatis mutandis as if the land has been acquired and compensation had to be determined, apportioned and paid under the provisions of that Act, to the date publication of the notification under subject to the modifications that reference in sections 23 and 24 of that Act, subject to the modifications that reference to section 4, sub-section (1) were references to the date on which the notice under the proviso to sub-section (1) of section 41 of this Act is published, and the reference to the time or date of the publication of the declaration under section 6 of that Act were references to the date of publication of the notification referred to in sub-section (3) of section 41 of this Act in the official Gazette.

Explanation:- In this section, "Collector " means the Collector or of a District and includes any officer specially appointed by the State Government or by the Commissioner to perform the functions of a Collector or under the Land Acquisition Act, 1894.

Alternative Accommodation

51. Whereas any building acquired under this Chapter which is vested in the Authority is proposed to be demolished, it shall be the duty of the Authority before evicting the occupiers, to allot such alternative accommodation, at such place and of such nature and size, as the Authority may determine, only to those persons who are occupiers of residential premises in the building, either as owner or tenant, and who are actually residing in the building at the time of their eviction. If any occupier fails to accept and occupy the alternative accommodation allotted to him within 45 days from the date of allotment the responsibility of the Authority to provide him with such accommodation shall cease. The decision of the Authority as regards any matter contained in this section shall be final and shall not be questioned in any Court.

Explanation - In this section "building" means house or a tenement or tenements let or intended to be let or occupied separately, but does not include any building which is unauthorized or which is a temporary building as defined in clause (sb) of section 3 of the Mumbai Municipal Corporation Act } with this modification that the expression "Commissioner"

in that clause shall include an officer or authority which is competent to allow a temporary building to be built within his or its jurisdiction.

52. The Authority may also enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which is needed for the purpose of any proposal, plan or project of the Authority or any interest in such land or for compensating the owners of any such right in property in respect of any deprivation thereof or interference therewith.

- Power of State Government to acquire land.
- Power of State Government to acquire land.
- Power of State Government to require person in possession of Land to surrender or deliver possession thereof to State Government.
- Power of land Acquisition Officer in relation to determination of amount for acquisition etc.
- Payment of interest.
- Appointment of Land Acquisition Officer.
- Basis for determination of amount for acquisition of lands in rural areas and other procedure.

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