

**THE JAMMU AND KASHMIR STATE LANDS (VESTING OF OWNERSHIP TO THE OCCUPANTS) ACT, 2001**

**Act No. XII of 2001**

*[Received the assent of the Governor on 9<sup>th</sup> November, 2001 and published in Government Gazette dated 13<sup>th</sup> November, 2001].*

An Act to provide for vesting of ownership rights to occupants of State Land for purposes of generating funds to finance Power Projects in the State.

Be it enacted by the Jammu and Kashmir State Legislature in the Fifty-second Year of the Republic of India as follows :-

**1. Short title, extent and commencement.** – (1) This Act may be called the Jammu and Kashmir State Lands (Vesting of Ownership to Occupants) Act, 2001.

(2) It extends to the whole of the State of Jammu and Kashmir.

<sup>1</sup>[(3) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint and different dates may be appointed for different areas].

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

<sup>2</sup>(a) “authorized occupant” means a person who on the date of the commencement of the Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) (Amendment) Act, 2004 is in actual physical possession of the State land, personally or through an authorized agent, by virtue of an existing valid lease or grant made by the competent authority;

(b) “authorized overstayed occupant” means a person who on the date of the commencement of the Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) (Amendment) Act, 2004 is in actual physical possession of State land, personally or through an authorized agent, but whose lease or grant has expired and respect of whom no notice for eviction or assumption of lease has been issued by the competent authority;

(c) “<sup>3</sup>[available State land]” means any State land, which is not in possession of any person <sup>4</sup>[x x x];

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<sup>1</sup> The Act has been enforced in the State w.e.f. 01-03-2002 vide SRO-94 dated 01-03- 2002 except in Ladakh and Kargil Districts.

<sup>2</sup> Existing clauses (a) and (b) substituted by clauses (a), (b), (c), (d), (e) and (f) vide Act No. XVI of 2004 w.e.f. 21-05-2004, s.2.

<sup>3</sup> Substituted for the words “available land” by Act No. III of 2007, s.2, w.e.f. 20<sup>th</sup> November, 2006

<sup>4</sup> The words “or which has been encroached upon by any person” omitted *ibid*.

- (d) “Committee” means the Committee constituted under sub-section (1) of section 12;
- (e) “Occupant” means a person who is in actual physical possession of any State land on the commencement of the Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) (Amendment) Act, 2004, personally or through an authorized agent;
- (f) “Price” means the value determined for any State land in accordance with the provisions of this Act and the rules made thereunder;]
- <sup>1</sup>[(g) “prescribed” means prescribed by rules made under this Act ;
- (h) “State land” means the land recorded as such in the <sup>2</sup>[Revenue Records] and includes any land which has escheated to the Government under the provisions of any law for the time being in force in the State but does not include any Government or State land mentioned in section 3 of this Act:]

<sup>3</sup>[Provided that for purposes of section 3-A of this Act, the State land shall include Kahcharai and Forest land;]

- <sup>4</sup>[(i) “unauthorized expectant occupant” means a person who on the date of the commencement of the Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) (Amendment) Act, 2004 is in actual physical possession of the State land, personally or through an authorized agent, and in respect of which lease has expired but no notice for resumption of lease has been issued by the competent authority or who pursuant to this Act has applied in terms of section 5 thereof; and
- (j) “vacant land” means any State land which is not occupied by any person and in respect of which there is no existing lease or grant made by any competent authority.]

**3. Act not to apply to certain lands.** – The provisions of this Act shall not apply to such State land as is:–

- (a) recorded or used as pathway, grazing ground, graveyard, cremation ground, camping ground or Kohl (irrigation channel);

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<sup>1</sup> The existing clauses (d) and (e) renumbered as clauses (g) and (h) respectively by Act No. XVI of 2004 w.e.f. 21-05-2004, s.2.

<sup>2</sup> Substituted for the words “Record of Rights” by Act III of 2007, s.2. w.e.f. 20.11.2006.

<sup>3</sup> Proviso added by Act XVI of 2004 w.e.f. 21-05-2004, s.2.

<sup>4</sup> Clauses (i) and (j) added *ibid*.

- (b) held by any Government Department or institution under the control of the Government;
- <sup>1</sup>[(c) earmarked for a specific purpose in any <sup>2</sup>[x x x] Master Plan;
- (d) covered by fields floating over water;
- (e) forest land or wooden waste];
- <sup>3</sup>[(f) held by a person in terms of Government Order No. LB 6/C of 1958 dated 5-6-1958 read with Government Order No.S/432 of 1966 dated 3-6-1966 irrespective of the fact whether mutation in his favour has been attested or not;
- (g) held by a person by virtue of Government Order No. LB 7/C of 1958 dated 5-6-1958;
- (h) held by a displaced person of 1947, 1965 or 1971 by virtue of Cabinet Order No. 578/C of 1954 dated 7-5-1954 read with Cabinet Order No. 254/C of 1965 dated 7-7-1965 and Cabinet Order No. LB – 40 of 1969 dated 1-1-1969;
- (i) held by a person in a Residential Colony which stands regularized by the Housing and Urban Development Department up to 18-3-2005;
- (j) held by a person in pursuance of permission granted or allotment made by the Government under the provisions of Jammu and Kashmir Big Landed Estates Abolition Act, Samvat 2007 (1950 A.D) or Jammu and Kashmir Agrarian Reforms Act, 1976; in respect of land which has escheated to the Government under the provisions of any of the said Acts; or
- (k) held by a person which is barred by the Limitation Act, Samvat1995 (1938 A.D)].

<sup>4</sup>[**3-A. Mapping of State land.** – The mapping of the State land shall be carried out by such authority, in such manner and within such time, as may be prescribed.]

<sup>5</sup>[**4. State land.** – <sup>6</sup>(1) Without prejudice to the powers of the Government to lease out State land under the Jammu and Kashmir Land Grants Act, 1960 or any other law for the time being in force on the subject, the State may, in such manner as may be prescribed, auction the State land in favour of the permanent residents of the State in the following order and subject to the conditions specified hereinafter:-

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<sup>1</sup> Existing clause (c) omitted and clauses (d), (e) and (f) renumbered as clauses (c), (d) and (e) respectively by Act No. XVI of 2004, s.3.

<sup>2</sup> The word “District” omitted *ibid*.

<sup>3</sup> Clauses (f) to (k) inserted by Act III of 2007, s. 3 w.e.f. 20-11-2006.

<sup>4</sup> Section 3-A inserted by Act XVI of 2004, s.4.

<sup>5</sup> Section 4 substituted *ibid*, s.5.

<sup>6</sup> Sub-section (1) substituted by Act III of 2007, s.4, w.e.f. 20-11-2006.

**Vacant land for commercial use:**

- (i) State land for commercial use in the cities of Srinagar and Jammu and tourist resorts;
- (ii) State land for commercial use in such other cities and towns in the State as may be notified by the Government from time to time;
- (iii) State land for commercial use in such rural areas as may be notified by the Government from time to time:

Provided that nothing herein shall take away the power of the Government to lease out land on bid or negotiated basis for development of tourist resorts in such tourist areas as may be notified by the Government, from time to time, under this Act;

- (iv) subject to the directions of the Government, the competent authority to auction such vacant land shall be the Committee;
- (v) the reserve price for such land in any specific area shall not be less than the registered sale price of the migrant property in such area or the market value of land determined for purpose of stamp duty under the Stamps Act, Samvat 1977 and the rules made thereunder or the highest sale deed registered in the area, whichever is higher;
- (vi) the Committee may fix higher reserve price, in respect of any vacant State land, wherever it is of the opinion that the reserve price fixed under sub-clause (v) is lower than the potential value of such land as determined in accordance with sub-section (2) of section 12;

**(1-A) State land in possession of: -**

- (i) an authorized occupant may be converted into freehold rights by the Committee in favour of the occupant unless he opts for exercising his lease hold rights;
- (ii) an occupant at the commencement of the Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) (Amendment) Act, 2004 may be considered for conversion into freehold rights by the Committee in such manner as may be prescribed:

Provided that the State land falling within 50 feet and 75 feet from the centre on either side of any interior road and highway, respectively, shall be considered by the Government only for grant of leasehold rights initially for a period of forty years subject to conversion in the term of lease or resumption of such State land in the public interest on expiry of the initial term of lease.]

(2) The price at which the freehold rights shall be granted under sub-clause (vi) of clause (a) and sub-clauses (i) and (ii) of clause (b) shall be determined by the Committee in the manner prescribed under section 12 <sup>1</sup>[x x x].

(3) Notwithstanding anything to the contrary contained in any other provision of the Act,-

- (i) the vacant State land falling within the territorial limits of Srinagar Development Authority and Jammu Development Authority shall stand transferred to the respective authority; and
- (ii) the Ladakh Autonomous Hill Development Council and the Kargil Autonomous Hill Development Council shall be the competent authority for disposal of the State lands falling within the limits of a Council and the proceeds thereof shall be utilized for development purposes by the concerned Council.]

**5. Application for vesting or transfer of State land.** – (1) Any occupant of the State land may within the period specified in <sup>2</sup>[clause (b) of sub-section (1) of section 8] apply in the prescribed form to the territorial Tehsildar for having such land vested in or transferred to him under the provisions of this Act.

(2) The application under sub-section (1) shall be accompanied by–

- <sup>3</sup>(a) documentary proof to the effect that he is an occupant of a particular category of the State land in question];
- (b) extract of <sup>4</sup>[Girdhawari];
- (c) Shajra Kat (Tatma Shajra) of such land;
- (d) a certificate by an officer not below the rank of Naib-Tehsildar that he has verified the Tatma-Shajra with reference to the position obtaining at the spot; and
- (e) an affidavit to the effect,
  - <sup>5</sup>(i) that he is an occupant of a particular category of the State land in question]; and

<sup>1</sup> The words “which shall be subject to the approval of the Government” omitted by Act III of 2007, s.4, w.e.f. 20-11-2006.

<sup>2</sup> Substituted for “clause (ii) of sub-section (1) of section 4” by Act III of 2007, s.5, w.e.f. 20-11-2006.

<sup>3</sup> Clause (a) substituted by Act No. XVI of 2004, s.6.

<sup>4</sup> Substituted for “Girdhawari Khariief, 1990” *ibid*.

<sup>5</sup> Substituted *ibid*.

- (ii) that he shall neither be entitled to such land nor to refund of the cost paid in case any averment made in is found incorrect or false.

**6. Preliminary action on application.** – (1) On receipt of an application under section 5, the Tehsildar shall make an entry in a register duly numbered and also attest each such entry date-wise.

(2) The Tehsildar shall, after holding such enquiry, as he thinks fit, and after verifying the contents of the application, make a report to the District Collector of the area recommending that the application may be allowed for the whole or any part of the area of land to which it relates or that it may be rejected.

(3) The District Collector shall on receipt of a report under sub-section (2) and after such further enquiry as he may deem fit <sup>1</sup>[forward the application alongwith his report to the Committee] within two months from the date of its receipt in his office.

<sup>2</sup>[(4) The Committee shall pass appropriate orders for disposal of such land within two months from the date of receipt of application under sub-section (3) and also determine the price <sup>3</sup>[x x x], to be deposited by the applicant for vesting of such State land]:

<sup>4</sup>[Provided that the Government may grant such rewards and incentives, and in such manner, as may be prescribed to the officers/officials showing excellent performance in administering the scheme under this Act.]

<sup>5</sup>[**7. Appeal.** – Any person aggrieved of an order passed by the <sup>6</sup>[Committee] relating to the price for vesting of free hold rights in favour of an occupant may file an appeal before the <sup>6</sup>[Government] who shall, as far as practicable, decide the same within 30 days of its filing. The decision of the <sup>6</sup>[Government] shall be final and binding.]

<sup>7</sup>[**8. Vesting of rights.** – (1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of this Act, all rights, title and interest in any State land shall vest in the occupant or head of the family in case of two or more occupants belong to a family subject to the following conditions, namely:-

- (a) that he is a permanent resident of the State;

<sup>1</sup> Substituted for the words “pass appropriate orders on such application” by Act XVI of 2004, s.7.

<sup>2</sup> Sub-section (4) of section 6 substituted *ibid*.

<sup>3</sup> The words “subject to the approval of the Government” omitted by Act III of 2007, s. 6, w.e.f. 20-11-2006.

<sup>4</sup> Proviso to sub-section (4) inserted *ibid*.

<sup>5</sup> Section 7 substituted *ibid*, s.8.

<sup>6</sup> The words “Committee” and “Government” substituted for “Administrative Department of the Government” and “Chief Minister” respectively by Act III of 2007, s. 6, w.e.f. 20-11-2006.

<sup>7</sup> Section 8 substituted by Act XVI of 2004, s.9.

- <sup>1</sup>[(b) that he has applied or applies in the prescribed manner for transfer of vesting of such land within such period as the Government may, from time to time, specify;]
- (c) that he pays the price as is determined in the prescribed manner for such land to the Government; <sup>2</sup>[x x x]
- <sup>3</sup>[(cc) that the land shall be used in conformity with the provisions of the Master Plan, wherever existing, and if there is no Master Plan for any area, it shall be put to prescribed land use, if any; and]
- (d) that the land is not required for any public purpose.

(2) The total land in possession of any person or a family including the land vested in such person or a family under sub-section (1) shall not exceed the limits of <sup>4</sup>[hundred kanals].

Explanation: - The expression “family” and “head of the family” in this section shall have the same meaning as are assigned to these in the Jammu and Kashmir Agrarian Reforms Act, 1976.

<sup>5</sup>[(3) The occupant shall, within such period as may be prescribed, deposit the price as determined and notified, with the District Collector concerned against proper receipt who shall thereupon issue a formal order conferring ownership rights upon the said occupant.]

(4) The Tehsildar shall attest mutation in favour of such occupant, on payment of a mutation fee of rupees twenty per kanal in rural areas and rupees fifty in urban areas, conferring upon him the ownership rights in respect of such land within one month from the date the occupant produces receipt of the money deposited with the District Collector.

(5) Any occupant who fails to deposit the price of land under sub-section (3) shall be evicted from such land by the Assistant Commissioner (Revenue/Nazool) within two months from the date the period for its payment expires and report to the District Collector forthwith.

(6) On receipt of a report under sub-section (5), the District Collector shall cause such land to be put to auction by the Committee].

<sup>6</sup>**[8-A. Restriction on land use. –** (1) The land use in respect of agricultural land which vests in an occupant under this Act shall not be

<sup>1</sup> Clause (b) to sub-section (1) of section 8 substituted by Act III of 2007, s. 8.

<sup>2</sup> The word “and” at the end of clause (b) omitted *ibid*.

<sup>3</sup> Clause (cc) inserted *ibid*.

<sup>4</sup> Substituted *ibid* for “12<sup>1/2</sup> standard acres as provided under the Jammu and Kashmir Agrarian Reforms Act, 1976”.

<sup>5</sup> Sub-section (3) substituted *ibid*.

<sup>6</sup> Section 8-A inserted *ibid*, s.9.

changed after such vesting without permission of the Committee or such other authority as may be prescribed.

(2) Any occupant who desires to use agricultural land for any other purpose after vesting in due process of law may be accorded such permission by the Committee or such other authority as the case may be, on payment of price as per the rates prescribed for vesting of State land for commercial use.]

**9. Power to evict.** – <sup>1</sup>[(1) The <sup>2</sup>[Assistant Commissioner (Revenue/Nazool)] for the purpose of eviction under <sup>3</sup>[sub-section (5)] of section 8 shall be the Estates Officer within his jurisdiction and he shall have all the powers of Estates Officer for the said purpose as are exercised by an Estates Officer appointed under the Jammu and Kashmir Public Premises (Eviction of Unauthorized Occupants) Act, 1988.

<sup>3</sup>[(2) Notwithstanding anything contained in sub-section (1) the concerned Assistant Commissioner (Revenue/Nazool) shall give only five days notice for eviction to the occupant and shall complete eviction proceedings under this Act within fifteen days.

(3) On the eviction of such an occupant from the land in question, the District Collector shall cause such land to be put to auction].

<sup>4</sup>[**10. Creation of Fund.** – Finance Department shall create a separate Fund under a proper account number in the Jammu and Kashmir Bank in each District or allot an account head in which cost of the land realized under this Act shall be deposited.]

<sup>5</sup>[**11.**Omitted].

<sup>6</sup>[**12. Determination of price.** – <sup>7</sup>[(1) The application for vesting of freehold rights on the State land shall be determined by such Committee as may be prescribed:

Provided that different Committees may be prescribed for different areas.]

(2) The Committee shall, for determination of the price for the land in any area, take the following factors into consideration, namely:–

- (a) potential value of the land;
- (b) nearness to the road or urban areas;
- (c) irrigation and transport facilities available; and

<sup>1</sup> Existing section renumbered as sub-section (1) by Act No. XVI of 2004, s.10.

<sup>2</sup> Substituted *ibid*.

<sup>3</sup> Sub-sections (2) and (3) inserted by Act No. XVI of 2004, s.10.

<sup>4</sup> Section 10 substituted by Act III of 2007, s. 10.

<sup>5</sup> Section 11 omitted by Act XVI of 2004, s.11.

<sup>6</sup> Section 12 substituted *ibid*, s.12.

<sup>7</sup> Sub-section (1) of section 12 substituted by Act III of 2007, s.11.

<sup>1</sup>[(d) the market value of land determined for purpose of stamp duty under the Stamps Act, Samvat 1977 and the rules made thereunder.

(3) The Committee shall give the reasons for determining the rate in a particular area or locality:

<sup>2</sup>[x x x].

<sup>3</sup>[(4) Notwithstanding anything contained in any other provision of this Act, an occupant other than an authorized occupant, authorized over-stayed occupant or unauthorized expectant occupant, shall be entitled to vesting of freehold rights on the State land up to 10 kanals, on payment of price determined by the Committee in the prescribed manner:

Provided that the ceiling of 10 kanals shall not apply in respect of –

- (a) Agriculture land; and
- (b) land under institutional use subject to such ceiling as may be prescribed].

**13. Disposal of land.** – Any occupant who fails to apply for vesting of any land in his favour or does not deposit the cost of such land <sup>4</sup>[as determined under the Act and the rules made thereunder] shall be dispossessed of such land by the Tehsildar having jurisdiction in the area and the provisions of section 9 shall apply for such dispossession, mutatis mutandis.

<sup>5</sup>[13 – A. *Transitory provisions.* – The pending cases, if any, on the commencement of the Jammu and Kashmir State Lands (Vesting of ownership to the occupants)(Amendment)Act, 2007 shall be decided in accordance with the provisions of this Act.]

**14. Bar of jurisdiction of Civil Court.** – Notwithstanding anything contained in any law for the time being in force,–

- (a) no civil court shall have jurisdiction to settle/decide or deal with any question or to determination any matter arising under this Act or the rules made thereunder; and
- (b) no order of any officer or authority passed under this Act or the rules made thereunder shall be called in question in any civil court.

**15. Indemnity.** – No suit, presentation, other legal proceedings shall lie against an officer or authority in respect of anything done or to

<sup>1</sup> Clause (d) substituted by Act III of 2007, s. 11.

<sup>2</sup> Proviso to sub-section (3) omitted *ibid*.

<sup>3</sup> Sub-section (4) inserted *ibid*.

<sup>4</sup> Substituted *ibid* for “at its market value under this Act”, s. 12.

<sup>5</sup> Section 13-A inserted *ibid*, s.13.

be done in good faith purported under this Act or the rules made thereunder.

**16. Powers of Revenue Officers.** – Any officer exercising powers under this Act shall have the powers of a civil court to enforce the attendance of a witness, to call for any documents, to take evidence on oath and to issue commissions.

**17. Penalty.** – (1) Any person in any proceedings under this Act who,—

- (a) intentionally makes a false statement during the course of such proceedings; or
- (b) intentionally produces a false document; or
- (c) files a statement which is false or incorrect to his knowledge,

shall be punished by the Tehsildar having jurisdiction in the area with a fine which may extend to twenty thousand rupees but shall not be less than five thousand rupees.

(2) A Revenue Officer or official making any wrong entry or issuing a false or incorrect report or certificate in respect of any State land, shall be liable to punishment which may extend up to five years of imprisonment and fine which may extend up to fifty thousand rupees by the Chief Judicial Magistrate having jurisdiction.

**18. Power to make rules.** – (1) The Government may make rules for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe the manner and form in which application shall be made and disposed of.

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