



THE JAMMU AND KASHMIR (ADMINISTRATION OF PROPERTY) ORDINANCE, 1961



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THE JAMMU AND KASHMIR (ADMINISTRATION OF PROPERTY) ORDINANCE, 1961.

ORDINANCE No. III OF 1961

[13th February, 1961]

An Ordinance to vest in the Central Government certain immovable properties which vested in the State of Jammu and Kashmir on the fifteenth day of August, 1947, and to provide for matters connected therewith.

WHEREAS there are several immovable properties, situated in the territory of Pakistan, the title to which vested in the State of Jammu and Kashmir ¹[, or the Maharaja of Jammu and Kashmir or the Maharaja of Poonch,] on the fifteenth day of August, 1947 ;

AND WHEREAS the constitutional position in the State of Jammu and Kashmir has altered since that date giving rise to an international dispute as to its legality;

AND WHEREAS the said properties are suffering for want of care;

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, extent and commencement.— (1) This Ordinance may be called the Jammu and Kashmir (Administration of Property) Ordinance, 1961.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

¹Ins. by the Jammu and Kashmir (Administration of Property) (Amdt.) Ordinance, 1961 (43 of 1961), s. 2.

¹**[2. Vesting of properties in the Federal Government.]**— All immovable properties, situated in the territory of Pakistan the title to which vested in the State of Jammu and Kashmir, or the Maharaja of Jammu and Kashmir or the Maharaja of Poonch, on the fifteenth day of August, 1947, shall vest, free from all encumbrances, in the ²[Federal Government], and shall be deemed to have so vested on that date.]

³**[3. Management, sale or lease of properties etc.]**—(1) The ²[Federal Government], may make arrangements for the management, sale, lease or disposal otherwise of the properties vested in it under section 2.

⁴[(1A) For the purpose of advising the Federal Government in the exercise of its powers under this Ordinance, the Federal Government may constitute a Management Committee consisting of such persons as the Federal Government may deem fit.] ;

(2) ⁵[The] ²[Federal Government] may appoint a person, to be called the ⁶[Administrator of State Properties of Jammu and Kashmir (hereinafter referred to as the ⁷[Administrator], who shall take possession of and hold, and, subject to the previous approval in writing of the ²[Federal Government], have the power to deal with and dispose of, all or any of the aforesaid properties, and shall exercise such other powers in relation thereto as may be prescribed by rules made under section 6.

(3) Without prejudice to the generality of the provisions of sub-section (2), and notwithstanding anything contained in any other law for the time being in force, the ⁷[Administrator] after giving to the person or persons affected not less than fifteen days notice, may, in such manner as may be provided by rules, and with the use of such force as may be necessary,—

(a) take possession and assume control of any property referred to in this section ;

⁸[(aa) raise the rent of any property, if considered necessary;]

(b) evict summarily any person ⁸[who is in default in the payment of rent of any such property for not less than three months or is] in unauthorized occupation or wrongful possession of any such property ; and

¹Subs. and shall be deemed always to have been so subs. by the Jammu and Kashmir (Administration of Property) (Amdt.) Ordinance, 1961 (43 of 1961) s. 3, for the original section.

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

³Subs. by Ord. 43 of 1961, s. 4, for the original section.

⁴Ins. by the Jammu and Kashmir (Administration of Property) (Amdt.) Act, 1977 (18 of 1977), ss.2 and 3.

⁵Subs. *ibid.*, s. 2, for " For the purpose aforesaid, the ".

⁶Subs. *ibid.*, for " Manager of state Properties of Jammu and Kashmir ".

⁷Subs. *ibid.*, for " Manager ".

⁸Ins. by the Jammu and Kashmir (Administration of Property) (Amdt.) Ordinance, 1979 (41 of 1979), s. 2.

(c) demolish or dismantle any unauthorized construction on any such property, and recover from the person responsible for such construction any expenses incurred in connection with such demolition or dismantling.].

¹**3A. Adjudication of disputes.** If any person to whom a notice has been given under sub-section (3) of section 3 files with the Administrator, within the time specified in the notice, his objection to the action proposed being taken, stating the grounds of the objection, the Administrator may, after affording such person an opportunity of being heard personally or through counsel or a duly authorised agent, pass such orders as he may deem fit.

3B. Appeal.—(1) Any person aggrieved by an order of the Administrator under section 3A may, within three months of the date of such order, prefer an appeal to such authority as the Federal Government may, by notification in the official Gazette, specify in this behalf.

(2) The authority specified under sub-section (1) may make such further inquiry as it may consider necessary and, after giving the appellant an opportunity of being heard if he so desires, pass such orders as it thinks fit confirming, altering or annulling the order appealed against.

(3) The authority specified under sub-section (1) shall, for the purpose of deciding an appeal, be deemed to be a civil court and shall have the same powers as are vested in such court under the Code of Civil Procedure, 1908 (Act V of 1908), including the powers of—

- (a) summoning and enforcing the attendance of any persons and examining him on oath ;
- (b) compelling the discovery and production of any document ; and
- (c) issuing commissions for the examination of witnesses and documents.

3C. Revision. The Federal Government may, on the application of any person aggrieved by an order passed by the authority under section 3B if the application is made within thirty days of the communication of such order to him, pass such order in relation thereto as it thinks fit :

Provided that no order under this section shall be passed unless the person likely to be affected thereby has been given an opportunity of showing cause against it or of being heard personally or through counsel or a duly authorised agent.]

¹Ins. by the Jammu and Kashmir (Administration of Property) (Amdt.) Act, 1977 (18 of 1977) s. 2 and 3.

4. Deposit of sale proceeds etc.—(1) The proceeds of any sale effected under section 3 shall be deposited in a special account to be called “The Sale Proceeds Account of Immovable Property of Jammu and Kashmir State”.

¹[(2) The amount deposited in the account mentioned in sub-section (1) and the income from that amount, shall be utilized for such purposes including the rehabilitation of refugees from the State of Jammu and Kashmir, as may be prescribed by rules made under section 6 or as may be determined by the Federal Government.]

5. Certification of sale.— (1) The sale to the purchaser shall be certified by the ²[Federal Government] in the manner prescribed by rules made under section 6.

(2) A certificate granted under sub-section (1) shall be conclusive proof of full title acquired by the purchaser.

³**5A. Manager and certain other persons to be public servants.** The ⁴[Administrator], and every other person duly appointed or authorised to perform any function under this Ordinance, shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

5B. Bar of legal proceedings, etc.— (1) No suit, prosecution or other legal proceeding shall lie against Government, the ⁴[Administrator] or any other person for anything which is in good faith done or intended to be done under this Ordinance.

(2) Properties vested in the ²[Federal Government] under section 2 shall be exempt from all legal processes, including seizure, distress, ejection, attachment or sale by any officer of a Court or any other authority, and ⁵[no Court shall have jurisdiction, or entertain any proceedings, in respect of any such property or of any matter within the competence of the Federal Government, the Administrator or other authority and no injunction or other order of whatever kind shall be passed or made by any Court or other authority in respect of any such property or of any action taken or to be taken in exercise of any power conferred by or under this Ordinance].

5C. Recovery of arrears.— Any sum due, whether as rent or otherwise, in respect of any of the aforesaid properties, if not paid within the time specified by the ⁴[Administrator] shall be recoverable as arrears of land revenue.]

¹Subs. by the Jammu and Kashmir (Administration of Property) (Amdt.) Act, 1977 (18 of 1977), s. 4, for “sub-section (2)”.

²Subs. by F.A.O., 1975, Art. 2 and Table, for “Central Government”.

³Sections 5A, 5B and 5C ins. by the Jammu and Kashmir (Administration of Property) (Amdt.) Ordinance, 1961 (43 of 1961), s.5.

⁴Subs. by Act, (18 of 1977), ss. 5, 6, and 7, for “Manager”.

⁵Subs. *ibid.*, s. 6, for certain words.

6. Power to make rules.— (1) The ¹[Federal Government] may make rules, not inconsistent with the provisions of this Ordinance, to carry into effect any of its purposes.

²[(2) Without prejudice to the provisions of sub-section (1), such rules may provide—

(a) The manner in which any notice under this Ordinance may be served ;

³[(aa) the functions, powers and procedure of the Management Committee constituted under sub-section (IA) of section 3 ;]

(b) the manner in which the ⁴[Administrator] or any person authorized by him in this behalf, may take possession of any property ;

(c) the manner in which any person in unauthorized occupation or wrongful possession of any property may be summarily evicted ;

(d) the manner in which any unauthorized construction or any property may be demolished or dismantled ;

(e) the manner in which the amount in the account mentioned in sub-section (1) of section 4 may be invested ;

(f) the purposes for which the income from the amount invested under clause (e) may be utilized;

(g) the purposes for which any portion of the amounts deposited in the said account may be utilized; and

(h) the purposes for which the rents received from the lease of any property may be utilized.]

7. Final adjustment of the account. The account mentioned in sub-section (1) of section 4 shall be adjusted after the status of Jammu and Kashmir has been finally determined.

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

²Subs. by the Jammu and Kashmir (Administration of Property) (Amdt.) Ordinance 1961, (43 of 1961), s. 6, for the original sub-section (2).

³Ins. by the Jammu and Kashmir (Administration of Property) (Amdt.) Act, 1977 (18 of 1977), s. 8.

⁴Subs. *ibid.*, s. 8, for "Manager".

