

**Andhra Pradesh Land Encroachment
Act, 1905
(Act No.III of 1905)**

**By
B.Ramaiah, I.A.S.(Retired)**

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OBJECTIVES AND BACKGROUND

- **Providing measures for checking unauthorized occupation of Govt. lands.**
- **Before 1869 – Encroachments were dealt with as criminal trespass.**
- **High Court of Madras declared it as a illegal.**
- **Collectors were authorized to evict trespass by charging them high assessment.**

OBJECTIVES AND BACKGROUND

- High Court of Madras declared charging of high assessment is not authorized by law. – L R is due only from the registered pattadar (melvaram rights)
- Statutory provision became necessary .

DEFINITIONS

- **Collector** – Incharge of Revenue Division – Sub-Collector/RDO.
- **Deputy Tahsildar** – DT incharge of a Taluq are sub-taluq, Headquarters DT.
- **Tahsildar** – incharge of Taluq / Mandal.
- **District Collector** – incharge of the District.

GOVT. LANDS COVERED BY THE ACT

- **Public Roads, Streets, Lanes and Paths** -- **Sec.2**
- **The bridges, fences, dishes**
- **Bed of sea, harbours, creeks below high water mark**
- **Rivers, Streams, Nalas, Lakes, Tanks, Canals**
- **Public roads and streets vested in local authority.**
- **Only the exception is rights of way, natural and easement rights of other land owners.**
- **All lands classified as Govt. Lands**
- **Lands leased out - the occupation after expiry/termination of lease** -- **Sec.15 A**

NORMAL COURSE OF ACTION

- The Tahsildar can levy land assessment -- **Sec.3**
- Assessment of the land in the entire survey number in case of assessed land.
- If un-assessed - as per highest dry rate / wet rate.
- Land given to lease – lease rent as well as assessment are collected.
- However, payment of assessment shall not confer any right of occupancy. ---contd.

NORMAL COURSE OF ACTION --- contd

- The assessment / rent fixed by Tahsildar shall not be questioned in any civil court.

-- **Sec.4**

- **Penalty** can be imposed – after issue of notice - upto 10 times of assessment of the land in the entire survey number in case of assessed land – 20 times in case of un-assessed land.
- **Seasonal remission** can be granted if the land is unobjectionable and the encroacher is eligible.

STATUTORY PROCESS TO BE FOLLOWED FOR EVICTION OF ENCROACHMENTS – NORMAL PROCESS

- **Notice shall be issued to the encroacher. -- Sec.7**
- **The Collector or the Tahsildar or Deputy Tahsildar issues the notice.**
- **The details of land encroached be specified in the notice.**
- **Date by which the reply will be filed be indicated.**
- **Be indicated that the structures etc., existing will be forfeited if not removed.**

- It shall be served on the encroacher or any male adult member of the family and if not possible by substitute method.
- The reply filed is considered and a speaking order is passed
– Sec.6(1)
- The order to be passed considering – whether the land is objectionable / unobjectionable – whether the encroacher is eligible or not – whether land is not required for other purposes.

- **Encroachment may be regularized - land is unobjectionable, the encroacher is eligible and not required for other purposes.**
- **Eviction order is passed - land is objectionable or the encroacher is ineligible or required for other purposes.**
- **The order is passed after holding a summary enquiry.**
- **The order of eviction passed is served on the encroacher.**

MODE OF EVICTION - SEC.6(2)

- If not obeyed, a **sub-ordinate** to the officer passed the orders is deputed to remove the person resisting the removal of the encroachment and to take possession.
- If resistance continuous, the Collector shall hold a summary enquiry and issue **warrant** for taking the obstructor into custody and placed in civil jail till the eviction is completed.
- The order of warrant is issued in the schedule to the Act.
- One can be placed in civil jail not for more than **30 days**.
- If the person evicted **re-enters** the land – liable for imprisonment upto six months or with fine upto Rs.1000 or both on conviction -- **Sec.6(3)**

STATUTORY PROCESS TO BE FOLLOWED FOR EVICTION OF ENCROACHMENTS – SPECIAL CASES

- When group of persons without any entitlement attempt to encroach / encroached the land.
- When refuse to vacate themselves when informed.
- The District Collector shall order for immediate eviction without issue of any notice. ---Sec.7A(1) - introduced by Act 23 of 1980.
- The officer authorized by the District Collector shall evict the encroachers.
- The land covered by the orders of the District Collector presumed to be Govt. land until the contrary is proved. --- Sec.7A(2)
- The order passed by the District Collector shall be final and not questioned in any court. --- Sec.7A(3)

APPEALS

- Appeal lies to the Collector against the orders passed by Tahsildar/Deputy Tahsildar. **Sec.10(1)(a)**
- Appeal lies to the District Collector against the orders passed by the Collector other than the orders passed in appeals. **Sec.10(1)(b)**
- Appeal lies to the CCLA (Commissioner of Inquiries) against the orders passed by the District Collector other than the orders passed in appeals. **Sec.10(1)©**
- The District Collector may revise the orders passed by Tahsildar or collector under the Act **SUO**
MOTO ?

- The CCLA (Commissioner of Inquiries) may revise the ¹⁴

- Pending the appeal the authority may suspend the execution of the order appealed against. **Sec.10(2)**
- Appeal to be filed within **60 days** from the date of order. **Sec.11**
- Appeal may be admitted if filed after expiry of the time, provided the appellant satisfies the authority for the delay.
- The Govt. can call for records related to orders passed by any authority. **Sec.12-A**
- Verifies the legality / propriety of such decision or order.
- Passes appropriate orders.
- Govt. may stay the execution of orders of the authorities, pending verification of the orders.

OTHER IMPORTANT FACTORS

- **The encroachments are recorded in Village Account No.4C**

- **Civil courts have no jurisdiction to interfere with the orders passed under the Act – except affecting the title of the land of a person**

Thank You