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(Act No. 35 of 1959)
(1959 का अधिनियम सं. 35)

[Received the assent of the President on 24.07.1959]
(24 जुलाई 1959 को राष्ट्रपति की सहमति प्राप्त हुई)

Preamble.—An Act for the improvement of Urban Areas in Rajasthan.
WHEREAS it is expedient to make provision for the improvement and expansion of Urban area in the State of Rajasthan.
BE it enacted by the Rajasthan State Legislature in the Tenth year of the Republic of India as Follows:

P्रस्तावना.—राजस्थान में नगरीय क्षेत्रों के विकास के लिए एक अधिनियम।
अतः राजस्थान राज्य में नगरीय क्षेत्रों के विकास और विस्तार के लिए प्रावधान बनाया जाना समीचीन हो।

бл.1. Comment of the Act.—The Rajasthan Urban Improvement Bill, 1957 (Bill No. 26 of 1957) having been passed and received the assent of the President on 24.07.1959. It came on the statute book as THE RAJASTHAN URBAN IMPROVEMENT ACT, 1959 (Rajasthan Act No. 35 of 1959) and published in the Rajasthan Gazette, Part IV-A, Extraordinary dated 03.08.1959.

Comments
1. Commencement of the Act.—The Rajasthan Urban Improvement Bill, 1957 (Bill No. 26 of 1957) having been passed and received the assent of the President on 24.07.1959. It came on the statute book as THE RAJASTHAN URBAN IMPROVEMENT ACT, 1959 (Rajasthan Act No. 35 of 1959) and published in the Rajasthan Gazette, Part IV-A, Extraordinary dated 03.08.1959.

2. Preamble — Value of.—It is well settled rule that in interpreting the provisions of a statute the Court will presume that the legislation was intended to the intra vires and also reasonable. The rule followed is that the section ought to be interpreted consistent with the presumption which imputes to the legislature an intention of limiting the direct operation of its enactment to the extent that is permissible. Street on Doctrine of Ultra Vires, 1930 Page 302.

The reading down of a provision of a statute puts into operation the principle that so far as it is reasonably possible to do so, the legislation should be construed as being within its power. It has the principal effect that where an act is expressed in language of a generality which makes it capable, if read literally, of apply to matter beyond the relevant legislative powers, the Court will construe it in a more limited sense so as to keep it within power.—All Saints High School etc. vs. Government of Andhra Pradesh & Ors., etc. etc., AIR 1980 SC 1042 at pp. 1083-1084 = 1980 (2) SCC 478.

3. Statement of objects and reasons.—The facts stated in the preamble and the statement of objects and reasons appended to any legislation are evidence of legislative judgment. They indicate the thought process of the elected

1 Published in Rajasthan Gazette, Extraordinary, Part IV-A, dated 03.08.1959.

[U-1]
representative of the people and their cognizance of the prevalent state of affairs impelling them to enact the law. These, therefore, constitute important factors which amongst others will be taken into consideration by the Courts in judging the reasonableness of any restrictions imposed on the Fundamental Rights of the individuals. The Court would begin with presumption of reasonability of the restrictions, more so when the facts stated in the Statement of Objects and Reasons and the preamble are taken to the correct and they justify the enacement of law for the purpose sought to be achieved.—State of Gujarat vs. Mirzapur Moti Kureshi Kasab Jamat & Ors, AIR 2006 SC 212 at Page 232.

The law is well settled that it is permissible to look into the circumstances which prevailed at the time when the law was passed and which necessitated the passing of that law to determine the purpose or object of the legislation. Ballarpur Industries Ltd. vs. Union of India, AIR 1997 Del. 1 at 9. It was so stated in Shashikant Laxman kale vs. Union of India, AIR 1990 SC 2114 = 1990 (4) SCC 366, Paragraphs 16 and 17 of this judgment may be reproduced under:

"16. For determining the purpose or object of the legislation, it is permissible to look into the circumstances which prevailed at the time when the law was passed and which necessitated the passing of that law. For the limited purpose of appreciating the background and the antecedent factual matrix leading to the legislation, it is permissible to look into the Statement of Objects and Reasons of the Bill which actuated the step to provide a remedy for the then existing malady. In A. Thangal Kunju Musaliar vs. M. Venkatachalam Potti, AIR 1956 SC 246 = 1955 (2) SCR 1196, the Statement of Objects and Reasons was used for judging the reasonableness of classification made in an enactment to see if it infringed or was contrary to the Constitution. In that decision for determining the question, even affidavit on behalf of the State of "the circumstances which prevailed at the time when the law there under consideration had been passed and which necessitated the passing of that law" was relied on. It has reiterated in State of West Bengal vs. Union of India, AIR 1963 SC 1241 = 1964 (1) SCR 371, that the statement of objects and reasons accompanying a Bill, when introduced in Parliament, can be used for 'the limited purpose of understanding the background and the antecedent state of affairs leading up to the legislation'. Similarly, in Pannalal Binjraj vs. Union of India, AIR 1957 SC 397 = 1957 SCR 233, a challenge to the validity of classification was repelled placing reliance on an affidavit filed on behalf of the Central Board of Revenue disclosing the true object of enacting the impugned provision in the Income Tax Act.

"17. Not only this, to sustain the presumption of constitutionality, consideration may be had even to matters of common knowledge; the history of the times; and every conceivable state of facts existing of at the time of legislation which can be assumed. Even though for the purpose of construing the meaning of the enacted provision, it is not permissible to use these aids, yet it is permissible to look into the historical facts and surrounding circumstances for ascertaining the evil sought to be remedied. The distinction between the purpose or object of the legislation and the legislative intention, indicated earlier, is significant in this exercise to emphasise the availability of larger material to the Court for reliance when determining the purpose or object of the legislation as distinguished from the meaning of the enacted provision."

3-A. Statement of objects and reasons—Admissibility in construing a statute.—Be it noted that the Statement of Objects and Reasons is not otherwise
admissible as an aid to the construction of a Statute but the same simply assists
as to the necessity of introduction of such a law and since the decision of this
Court in Aswini Kumar Ghosh & Another vs. Arabinda Bose & Anr., (1953 SCR 1),
the law seems to be well settled without a contra note being sounded till now
that while construing the clear terms of an Act the Court is not required to
ascertain the object of the enactment. Court, however, hasten to add that though,
in case of an urgent need of the situation by reason wherefor the intent of the
legislature is to be assessed, the Statements and Objects can be looked into for the
limited purpose of ascertaining the conditions prevailing at the time which
prompted or actuated the proposer of the Bill to introduce the same and the
extent of remedying the existing evil of the society.—Subhash Ram Kumar Bind @

4. Expressions in an Act.—It is not a sound principle of construction to
interpret expressions used in one Act with reference to their use in another Act.
The decisions rendered with reference to construction of one Act cannot apply to the
provisions of another Act unless the two Acts are pari materia.—Ashok Maniklal Harkut

5. General and Special Laws.—When there is a general law and a special
law dealing with a particular matter, the special excludes the general.—Kedar Lal
The general rule and the special rule should relate to the same subject.—
Bengal Community Co. Ltd. vs. State of Bihar, AIR 1955 SC 661 = 1955 (2) SCR 603 =
1955 SCJ 672.

6. Regulations.—The constitutionality of the impugned regulations has to be
adjudged only by a three-fold test, namely—
(1) whether the provisions of such regulations fall within the scope and
ambit of the power conferred by the statute on the delegate;
(2) whether the rules/regulations, framed by the delegate, are to any extent
inconsistent with the provisions of the parent enactment; and
(3) whether they infringe any of the fundamental rights or other restrictions
or limitations imposed by the Constitution.—Maharashtra State Board of Secondary
and Higher Secondary Education vs. Paritosh Bhupesh Kumar Shethi, AIR 1984 SC

7. Repeal—Meaning and Scope.—It is one of the cardinal principles of
interpretation of statutes that a repeal means a complete obliteration of the Act
repealed unless it is otherwise expressed.—R.P. Jain & Anr. vs. The State of Bihar,
1977 CrLJ 1758 at p. 1761 (Pat.).

Whenever there is a repeal of an enactment, the consequences laid down in
Section 6 of the General Clauses Act though it has been specifically mentioned in
the repealing Act or not, will follow, unless, as the section itself says, a different
intention appears.—T. Barai vs. Henry, AIR 1983 SC 150 at p. 156 = 1983 UJ 132
(SC) = 1983 (1) SCC 177 = 1983 SCC (Cr) 143.

In State of Punjab vs. Mohar Singh, AIR 1955 SC 84, the Supreme Court has
elaborately dealt with the effect of repeal. In the case of a simple repeal, if
followed by fresh legislation on the same subject, the Court would undoubtedly
have to look to the provisions of the new Act, but only for the purpose of
determining whether they indicate a different intention.—T. Barai vs. Henry, AIR

8. Entries in Legislative List.—The Courts must always give the most liberal
construction to the words conferring legislative power.
They must give such meaning so that those words may have effect in their widest amplitude.

None of the legislative items in the List should be read in a narrow restricted sense, and each general word should be held to extend to all ancillary and subsidiary matters which can fairly and reasonably be said to be comprehended.—R.S. Joshi vs. Ajit Mills Ltd., AIR 1977 SC 2279 at p. 2295; H. Puttappa vs. State of Karnataka, AIR 1978 Karn. 148 (FB) = ILR 1978 (1) Karn. 605 = 1978 (1) Ker LJ 302.

The Entries in the Lists should be construed broadly and must be given wide possible interpretation, and not in a narrow pedantic sense.—Waverly Jute Mills Co. Ltd. vs. Raymon & Co. (India) Private Ltd, AIR 1963 SC 90 = 1963 (3) SCR 209; Commissioner of Commercial Taxes vs. Ramkishan, AIR 1968 SC 59 = 1968 (1) SCR 142.—The utility of the preamble diminishes on a conclusion as to clarity of enacting provisions. It is therefore, said that the preamble is not to influence the meaning otherwise ascribable to the enacting parts unless there is a compelling reason for it. If in an Act preamble is general or brief statement of the main purpose, it may well be of little value. Mudholkar J. had observed in Burakar Coal Co. Ltd. vs. Union of India, AIR 1961 SC 954, “It is one of the cardinal principles of construction that where the language of an Act is clear, the preamble must be disregarded though, where the object meaning of an enactment is not clear the preamble may be resorted to explain it. Again where very general language is used in an enactment which, it is clear must be intended to have limited application, the preamble may be used to indicate to what particular instances, the enactment is intended to apply. We cannot, therefore, start with the preamble for construing the provisions of an Act, though we could be justified in resorting to it nay we will be required to do so if we find that the language used by Parliament is ambiguous or is too general though in point of fact Parliament intended that it should have a limited application. In Coal Bearing Areas (Acquisition and Development) Act, 1957 the Court was construing a Notification issued under Section 4 (1) of the said Act and as in the represent case the preamble of that Act was to the effect “An Act to establish in the economic interest of India greater public control over the coal mining industry and its development by providing of the acquisition by the State of unworked land containing or likely to contain coal deposits or of right in or over such land, for the extinguishment or modification of such rights accruing by virtue of any agreement, lease license or otherwise, and for matters connected therewith.” Repelling an argument advanced on behalf of the Mine owners that the Act intended to apply only to virgin land and not on the land which are being worked or were worked in the past because of the use of the words 'unworked land' in the preamble, this Court held that the language of the enacting provisions was clear and therefore not controlled by the preamble. (See : Burrakur Coal Co. vs. Union of India, AIR 1961 SC 954 at p. 957).—Union of India vs. Elphinstone Spinning & Weaving Co. Ltd., AIR 2001 SC 724 = 2001 (4) SCC 139 = 2001 (1) JT 536 = 2001 (1) SCC 537.

9. Principles Interpretation.—A rule as it exists must be construed in the light of the Act, the purpose for which the rule is enacted a serious general inconvenience resulting to persons concerned if it is construed in one way or another are relevant considerations. Of course an alteration in the statute have to the notice of but that be a sole basis of construction of a statutory provision.—Martand Balvant Risaldar vs. Chhaganlal Ambalal Gandhi & Ors., 1978 CrLR (Guj.) 204 at p. 208 = 1978 GLR 487 = 1978 CrLJ 1032.
The cardinal principle of interpretation of statutes is that words should be read in their ordinary, natural and grammatical meaning unless such a reading leads to absurdity. If the words are susceptible of another meaning the Court may adopt the same.—Ajai Singh vs. Nathi Lal & Ors., 1978 CrLJ 629.

10. Rule of Interpretation.—It is well-settled rule of interpretation that a word occurring in the same Act is usually to be given the same meaning unless a different intention is expressed by the provisions of the Act. As such the word “contravention” has been interpreted in Section 6-A and in Section 7 to mean that the provision of any order framed under Section 3 of the Act has been contravened intentionally. On the other hand, if it is found that the contravention was unintentional and the person concerned has taken all reasonable care and was carrying on the business in a bona fide manner, then even for Section-6-A of the Act, it has to be interpreted that in the eye of law there has been no contravention so as to visit the dealer with the consequences of confiscating the articles which has been seized.—Mewalal Kapiladeo Pd. (M/s.) vs. State of Bihar, 1978 CrLJ 873 at p. 876.

Sections of statues calling for construction by Courts are not petrified print but vibrant words with social functions to fulfil. The brooding presence of the constitutional sympathy for the weaker sections like women and children must inform interpretation if it has social relevance. So viewed, it is possible to be selective in picking out that interpretation out of two alternatives which advance the cause of the derelicts.—Ramesh Chander Kaushal [Capt.] vs. Mrs. Veena Kaushal & Ors., 1978 CrLR (SC) 348 at p. 350 = AIR 1978 SC 1807 = 1978 (4) SCC 70 = 1978 SCC (Cr) 508.

The words of the statute, when there is doubt about their meaning, are to be understood in the sense, in which they best harmonise with the aspect of the enactment and the object which the Legislature had in view. The Court has to seek aid from other provisions of the statue in order to arrive at the proper meaning of the words and that interpretation should be accepted, which would result in properly carrying out the intention of the Legislature.—Bhuneshwar Singh & Ors., vs. State of Bihar & Ors., 1978 Bih. LJR 372 at p. 374.

A word occurring in the same Act is usually to be given the same meaning unless a different intention is expressed by the provisions of the Act.—Mewalal Kapiladeo Prasad (M/s) vs. State of Bihar & Ors., 1978 Bih, LJ 206 at p. 212 = 1978 Pat. LJR 315 = 1978 CrLJ 873.

It is a settled rule of interpretation that a statute must be construed as a whole and any interpretation of particular which would render other material provisions nugatory, is to be avoided, if possible,—Gurbaksh Singh Sibia vs. State of Punjab, 1977 CrLJ 322 = 1977 CrLJ 240.

The normal rule of interpretation, of course is that the words of statute should be given their literal and grammatical meaning. But if such a literal interpretation leads to an anomalous and absurd situation and if this literal interpretation leads to a conflict between two provisions of law on the subject the Court has to find out the real intention of the Legislature. If two views are possible, one which results in any anomaly and the other not, the duty of the Court is to adopt the latter and the former.—Ram Adhin vs. Shyama Devi, 1977 All CrC 10 at p. 12 = 1977 All LJ 382 = 1977 CrLJ 453.

11. Intention of Statutory Provision.—In order to arrive at true intendment of a statute, the Court should pose to itself the following questions:—

(1) What was the situation prior to the provisions under consideration;
(2) What mischief or defect was noticed before introducing the provision;  
(3) Whether it was remedial; and  
(4) the reason for the remedy.—Babaji Kondaji Garad vs. Nasik Merchants Co-operative Bank Ltd., AIR 1984 SC 192 (3 Judges) = 1984 UJ 239 (SC) = 1984 (2) sec 50.

12. Interpretation of Constitutional provision—Object oriented approach must be adopted.—The framers of the Constitution did not visualise that a non-legislator can be repeatedly appointed as Minister for a term of six months each time, without getting elected because such a course strikes at the very root of parliamentary democracy. According to learned Counsel for the respondent, there is no bar to this course being adopted on the plain language of the Article, which does not 'expressly' prohibit re-appointment of the Minister, without being elected, even repeatedly, during the term of the same Legislative Assembly. We cannot persuade ourselves to agree.

Constitutional provisions are required to be understood and interpreted with an object oriented approach. A Constitution must not be construed in a narrow and pedantic sense. The words used may be general in terms but, their full import and true meaning, has to be appreciated considering the true context in which the same are used and the purpose which they seek to achieve. Debates in the Constituent Assembly referred to in an earlier part of this judgment clearly indicates that non-member's inclusion in the cabinet was considered to be a 'privilege' that extends only for six months, during which period the member must get elected otherwise he would cease to be a Minister. It is a settled position that debates in the Constituent Assembly may be relied upon as an aid to interpret a constitutional provision because it is the function of the Court to find out the intention of the framers of the Constitution. We must remember that a Constitution is not just a document in solemn form, but a living framework for the Government of the people exhibiting a sufficient degree of cohesion and its successful working depends upon the democratic spirit underlying it being respected in letter and in spirit. The debates clearly indicate the 'privilege' to extend "only" for six months.—S.R. Chaudhuri vs. State of Punjab, AIR 2001 SC 2707 = 2001 (7) SCC 126 (SC) = 2001 (6) JT 446.

13. Interpretation of Flexibility.—The law, howsoever rigid it may be, has to be interpreted in a flexible manner so as to see that the rule of law is not abrogated and merely on technical grounds a party is not deprived of being heard as regards the merits of the case.—Balu Ram vs. Arjun Lal, AIR 1978 All 243 (SJ).

14. Interpretation of Judgments.—Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for Judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes they do not interpret judgment. They interpret words of statues; their words are not to be interpreted as statutes.—Amar Nath vs. State of Punjab, AIR 1985 SC 218 at p. 227 = 1985 (1) SCC 345.

15. Value of History in interpretation—The interpreter of the statute must take note of the well known historical facts. In conventional language the interpreter must put himself in the arm chair of those who were passing the Act i.e. the Member of the Parliament. It is the collective will of the Parliament with which the Supreme Court is concerned.—Doypack System Pvt. Ltd. (M/s.) vs. Union of India, AIR 1988 SC 782 at p. 797 = 1988 (2) UJ 54 (SC) = 1988 (2) SCC 299 = 1988 (1) JT (SC) 304.
16. Central and State Acts.—Article 14 of the Constitution does not authorise the striking down of a law of one State on the ground that, in contrast with a law of another State on the same subject, its provisions are discriminatory.

Nor does it contemplate a law of the Central or of the State dealing with similar subjects being held to be unconstitutional by a process of comparative study of the provisions of the two enactments.

The sources of authority for the two statues being different, Article 14 has no application.—Parbha Karan Nair vs. State of Tamil Nadu, AIR 1987 SC 2117; Chapadgaon Vividh Karyakari Seva Sahakari Society vs. Collector of Ahmednagar, 1989 (3) Bom. CR 641.

17. Courts cannot Legislate.—The function of the Courts is to apply the law as it stands. May be the Courts notices the anomalies. But it is not for the Court to re-write the law even though the Court considers the provisions as they stand to be unreasonable. Of course Courts do resort to the device of reading words into the provisions of the statute purporting to bring it in accord with what is evidently the intention of the legislature. But where it is evident that there is an omission on the part of the legislature to make an amendment which it ought to have made, even if such omission appears to be inadvertant, the Courts cannot supply the omission, for then it would be arrogating to itself legislative functions which it does not possess.—Dakshayini vs. Madhavan, AIR 1982 Kant 126.

18. Inaccurate regulation—Inaccuracies therein—Strict construction not proper.—By a second Resolution dated 24.04.1995 the State Government sanctioned a list of buildings and precincts of historical, aesthetical, architectural or cultural value as per the scheduled annexed to that resolution. The schedule contains in all 633 items as Heritage buildings or precincts with their “location” described in the next column. Many of the items are overlapping. For example item 633 pertains to Fort Precinct which includes 14 sub-precincts. Within those precincts there are several buildings which have been separately listed including the Bombay High Court at item 77. Again item 107 mentions “all buildings at Dadabhai Naoroji Road with a special focus on Fort House” This is followed by items 108 to 127 each of which relate to building/structure on the Dada Bhai Naoroji Road. There is apparently no consistency in the way that the list has been prepared. Not only is there overlapping but there are, at times, inaccuracies. For example against item 442 under the heading, ‘location’ in respect of several buildings within the Mahalaxmi Precinct, the word-appearing is “deleted”. If one were to read the list as it is, one would have to come to the absurd conclusion that the location of the several buildings mentioned in 442 was “deleted”. Therefore a strict or literal construction of the list would be misplaced.

It is true as far as Mahalaxmi Precinct is concerned, although there is a separate map indicating the precinct along with all other precincts. It does not appear under the column “Nature of Monuments Building, Precincts etc.” but in the column headed “location”. Against serial Nos. 441 and 442. But locations have generally been indicated in the list with reference to roads. A precinct cannot be a “location” since it is really an area. In such circumstances it is reasonable to ascertain the intention of the State Government from the map annexed to the list. The fact that no map of any other location has been given coupled with fact that only maps of heritage precincts have been given in our opinion would certainly indicate that Mahalaxmi precinct is indeed a listed heritage precinct against Serial No. 442 as mentioned in the map.

The list also refers to five precincts, namely Banganga Precincts mentioned against Serial No. 384, Opera House Precincts, Serial No. 401, Gamdevi Precinct, Serial No. 432, Mahalaxmi Precinct, Serial No. 442, Khotachiwadi precinct, Serial
No. 508, Matharpakhaadi Precinct, Serial No. 522 and Bandra Precinct Serial No. 612. There is no other precinct which is mentioned as a location.

The MHCC has taken into consideration the nature of the list, particularly the maps annexed thereto, to come to the conclusion that the mentioning the Mahalaxmi Precinct under the heading of “location” was clearly not the intention of the State Government, but the intention was to treat the precinct along with all other precincts of which maps are given as heritage precincts.—Mass Holdings Private Ltd. vs. Municipal Corporation of Greater Mumbai & Anr., AIR 2006 SC 749 at Pages 751-752 (DB).

19. Interpretation of Statutes—Procedural provision should not be allowed to defeat substantive right to cause injustice.—Non-compliance with any procedural requirement relating to a pleading, memorandum of appeal or petition for relief should not entail automatic dismissal or rejection, unless the relevant statute or rule so mandates. Procedural defects and irregularities which are curable should not be allowed to defeat substantive rights or to cause injustice. Procedure, a handmaiden to justice, should never be made a tool to deny justice or perpetuate injustice, by any oppressive or punitive use. The well recognized exceptions to this principle are:—

(i) Where the Statute prescribing the procedure, also prescribes specifically the consequence of non-compliance;

(ii) where the procedural defect is not rectified, even after it is pointed out and due opportunity is given for rectifying it;

(iii) where the non-compliance or violation is proved to be deliberate or mischievous;

(iv) where the rectification of defect would affect the case on merits or will affect the jurisdiction of the Court;

(v) in case of Memorandum of Appeal, there is complete absence of authority and the appeal is presented without the knowledge, consent and authority of the appellant.—Uday Shankar Triyar vs. Ram Kalewar Prasad Singh & Anr., AIR 2006 SC 269 at Page 274 (FB)

20. Precedent—Stare decisis—Not a dogmatic rule allergic to logic and reasons.—The trend of judicial opinion is that stare decisis is not a dogmatic rule allergic to logic and reason, it is a flexible principle of law operating in the province of precedents providing room to collaborate with the demands of changing times dictated by social needs, State policy and judicial conscience.

The doctrine of stare decisis is generally to be adhered to, because well settled principles of law founded on a series of authoritative pronouncements ought to be followed yet, the demands of the changed facts and circumstances dictated by forceful factors supported by logic, amply justify the need for a fresh look.—State of Gujarat vs. Mirzapur Moti Kureshi Kassab Jamat & Ors., AIR 2006 SC 212 at Pages 243-245 (F.B.)

21. Precedents having binding force.—When the allegation is of cheating or deceiving, whether the alleged act is wilful or not depends upon the circumstances of the concerned case and there cannot be any strait jacket formula. The High Court unfortunately did not discuss the factual aspects and by merely placing reliance on earlier decision of the Court held that pre-requisite conditions were absent. Reliance on the decision without looking in to the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving judgment that constitutes a precedent. The only thing in a Judge’s decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and
isolate from it the ratio decided. According to the well-settled theory of precedents, every decision contains three basic postulates – (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. State of Orissa vs. Sudhansu Sekhar Misra & Ors., AIR 1968 SC 647, and Union of India & Ors. vs. Dhanwanti Devi & Ors., 1996 (6) SCC 44.

A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words ill Act of Parliament. In Quinen vs. Leathem, 1901 AC 495 (HL), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides.—State of Orissa & Ors., vs. Mohammad Illiyas, AIR 2006 SC 258 at Pages 261-262 (DB)

22. Requirement of procedure in Foreign Act be fair, reasonable, just does not apply—Procedure in Foreigners Act does not violate Article 21.— It is submitted that in view of the clear mandate of Article 21 that no person shall be deprived of his life or personal liberty except according to procedure established by law, there has to be a fair procedure for expulsion of foreigners. According to the learned Counsel, the IMDT Act lays down a fair procedure, namely determination by a judicial Tribunal of the question of citizenship of a person and his deportation. It has thus been submitted that the IMDT Act which seeks to achieve this object meets the requirements of Article 21 of the Constitution and thus its validity cannot be impugned. The learned Additional Solicitor General and Shri K.K. Venugopal, during the course of their arguments, have also laid great stress on the fact that the IMDT Act has been enacted to give protection to genuine Indian citizens and to save their harassment.

It is not possible to accept the submission made. The view taken by this Court is that in a criminal trial where a person is prosecuted and punished for commission of a crime and may thus be deprived of his life or liberty, it is not enough that he is prosecuted in accordance with the procedure prescribed by law but the procedure should be such which is just, fair and reasonable. This principle can have no application here for the obvious reason that in the matter of identification of a foreigner and his deportation, he is not being deprived of his life or personal liberty. The deportation proceedings are not proceedings for prosecution where a man may be convicted or sentenced. The Foreigners Act and the Foreigners (Tribunals) Order, 1964 are applicable to whole of India and even to the State of Assam for identification of foreigners who have entered Assam between 01.01.1966 and 24.03.1971 in view of the language used in Section 6-A of Citizenship Act. It is, therefore, not open to Union of India or State of Assam or for the matter anyone to contend that the procedure prescribed in the aforesaid enactment is not just, fair and reasonable and thus violative of Article 21 of the Constitution. The procedure under the Foreigners Act and the Foreigners (Tribunals) Order, 1964 is just, fair and reasonable and does not offend any
23. Construction of statutes—Two interpretation possible which interpretation be adopted.—B. Banerjee vs. Smt. Anita Pan, AIR 1975 SC 1146, the Supreme Court in the said decision has held, in the facts and circumstances therein, that where two interpretations are possible which validates the statute and shortens litigation should be preferred to the one which, invalidates or proliferates. Their Lordships therein were satisfied that, as far as possible, Courts must avoid multiplicity of litigation. Any interpretation of a statute which will obviate purposeless proliferation of litigation, without whittling down the effectiveness of the protection for the parties sought to be helped by the Legislation, should be preferred to any literal, pedantic, legalistic or technically correct alternative. Their Lordships were conscious that in shortening litigation, in the manner directed therein they were straining language to the extent of interpreting the expression "institution of the suit" as amounting to filing fresh pleadings. By that construction no violence to the language was done, but, on the other hand, public justice and social gain was promoted. It has further been observed as follows in the said decision:

"Ruinous protraction of litigation, who-ever may temporarily seem to benefit by delay, bankrupts both in the end and inflicts wounds on society by sterile misuse of money. Tenant passengers who prolong their expensive flight on the litigation rocket, are buying tickets for financial crash, dugged though they be by the seeming blessings of law's delays. Courts, by interpreting the expression 'institution of suits' cannot authorize reincarnation, all over again, of litigation for eviction. We save the tenant by applying it to pending cases and save him also from litigative waste".—Shanti Swarup Sarkar vs. Pradip Kumar Sarkar & Ors., AIR 1997 Cal. 197 at Page 201.

24. Court can neither assume role of legislature nor can prescribe procedure different from one prescribed in statute.—It is well settled law that in the course of interpretation of a statutory provision the Courts cannot assume the role of Legislature, nor can it appropriate to itself the legislative powers, nor can, under the guise of interpretation, prescribe a procedure different from the one prescribed under the statute for the conduct of trial in civil proceedings.—Bar Council of Maharashtra and Goa and Ors., vs. Shamrao Vishnu Kmjir arid Ors., AIR 2006 Bom. 167 at Page 169 (DB).

25. Duty of Court—Merely because law causes hardship it cannot be interpreted in a manner so as to defeat the object.—It is well settled law that merely because a law causes hardship, it cannot be interpreted in a manner so as to defeat its object. It is also to be remembered that the Courts are not concerned with the legislative policy or with the result, whether injurious or otherwise, by giving effect to the language used nor it is the function of the Court where the meaning is clear not to give effect to it merely because it would lead to some hardship. It is the duty imposed on the Courts in interpreting a particular provision of law to ascertain the meaning and intendment of the Legislature and in doing so, it should presume that the provision was designed to effectuate a particular object or to meet a particular requirement. (Re : Firm Amar Nath Basheshar Dass vs. Tek Chand [1972 (1) SCC 893]).—M/s Easland Combines, Coimbatore vs. Collector of Central Excise Coimbatore, AIR 2003 SC 843 at Page 850 = 2003 AIR SCW 294 = 2003 (1) ACE 148 = 2003 (1) Supreme 374 = 2003 (1) Scale 123 = 2003 (1) SLT 361 = 2003 (1) SCR 98 = 2003 (3) SCC 410 = 2003 (1) LRI 163 = 2003 (1) JT 106 = 2003 (2) Ind. LD 876 = 2003 (152) ELT 39 (DB).
26. Interpretation of Statutes Deprivation of Legal right.—Such a valuable right, having regard to the legal position as obtaining in common law as also under the provisions of the Transfer of Property Act, must be deemed to have been known to the Parliament. Thus, while enacting the Companies Act, the Parliament cannot be held to have intended to deprive the first charge holder of the said right. Such a valuable right, therefore, must be held to have been kept preserved. [See: Workmen of M/s. Firestone Tyre and Rubber Co. of India (P.) Ltd. vs. Management & Ors. (1973) 1 SCC 813].

If the Parliament while amending the provisions of the Companies Act intended to take away such a valuable right of the first charge holder, we see no reason why it could not have stated so explicitly. Deprivation of legal right existing in favour of a person cannot be presumed in construing the statute. It is in fact the other way round and thus, a contrary presumption shall have to be raised.—ICICI Bank Ltd. vs. SIDCO Leathers Ltd., AIR 2006 SC 2088 at Page 2099.

27. Equality—Theory of guided power explained.—The gravemen of Article 14 is equality of treatment. Article 14 confers a personal right by enacting a prohibition which absolute. By judicial decisions, the doctrine of classification is read into Article 14. Equality of treatment under Article 14 is an objective test. It is not the test of intention. Therefore, the basic principle underlying Article 14 is that the law must operate equally on all persons under like circumstances.

Every discretionary power is not necessarily discriminatory. According to the Constitutional Law of India, by H. M. Seervai, 4th Edn. 546, equality is not violated by mere conferment of discretionary power. It is violated by arbitrary exercise by those on whom it is conferred. This is the theory of 'guided power'. This theory is based on the assumption that in the event of arbitrary exercise by those on whom the power is conferred would be corrected by the Courts. This is the basic principle behind the enabling provisions which are incorporated in Articles 16 (4A) and 16 (4B). Enabling provisions are permissive in nature. They are enacted to balance equality with positive discrimination. The constitutional law is the law of evolving concepts. Some of them are generic others have to be identified and valued. The enabling provisions deal with the concept, which has to be identified and valued as in the case of access vis-a-vis efficiency which depends on the fact-situation only and not abstract principle of equality in Article 14 as spelt out in detail in Articles 15 and 16. Equality before the law, guaranteed by the first part of Article 14, is negative concept while the second part is a positive concept which is enough to validate equalizing measures depending upon the fact-situation.—M. Nagaraj and Ors. vs. Union of India and Ors., AIR 2007 SC 71 at Page 101 (SC) (FB).

28. Internal aid—use of Article "and" "the" and "a"—Effect.—Section 138 provides that where any cheque drawn by a person on an account by him with a 'banker' for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by "the bank" unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence punishable with imprisonment as prescribed therein subject to the conditions mentioned in Clauses (a), (b) and (c) of the proviso. Section 3 of the Act defines the "banker" to include any person acting as a banker and any post office saving bank. Section 72 of the Act provides that a cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relations between the drawer and his banker has been altered to the prejudice of the drawer.
The use of the words "a bank" and "the bank" in the section is indicator of the intention of the Legislature. The former is indirect Article and the latter is prefixed by direct article. If the Legislature intended to have the same meanings for "a bank" and "the bank", there was no cause or occasion for mentioning it distinctly and differently by using two different articles. It is worth noticing that the word "banker" in Section 3 of the Act is pre-fixed by the indefinite article "a" and the word "bank" where the cheque is intended to be presented under Section 138 is pre-fixed by the definite article "the". The same section permits a person to issue a cheque on an account maintained by him with "a bank" and makes him liable for criminal prosecution if it is returned by "the bank" unpaid. The payment of the cheque is contemplated by "the bank" meaning thereby where the person issuing the cheque has an account. "The" is the word used before nouns, with a specifying of particularising effect opposed to the indefinite or generalising force of "a" or "an". It determines what particular thing is meant; that is, what particular thing we are to assume to be meant. "The" is always mentioned to denote particular thing or a person. "The" would, therefore, refer implicitly to a specified bank and not any bank. "The bank" referred to in Clause (a) to the proviso to Section 138 of the Act would mean the drawee-bank on which the cheque is drawn and not all banks where the cheque is presented for collection including the bank of the payee, in whose favour the cheque is issued.

It, however, does not mean that the cheque is always to be presented to the drawer's bank on which the cheque is issued. The payee of the cheque in any bank including the collecting bank where he has his account but to attract the criminal liability of the drawer of the cheque such collecting bank is obliged to present the cheque in the drawee or payee bank on which the cheque is drawn within the period of six months from the date on which it is shown to have been issued. In other words a cheque issued by (A) in favour of (B) drawn in a bank named (C) where the drawer has an account can be presented by the payee to the bank upon which it is drawn i.e. (C) bank within a period of six months or present it to any other bank for collection of the cheque amount provided such other bank including the collecting bank presents the cheque for collection to the (C) bank. The non-presentation of the cheque to the drawee-bank within the period specified in the section would absolve the person issuing the cheque of his criminal liability under Section 138 of the Act, who shall otherwise be liable to pay the cheque amount to the payee in a civil action initiated under the law. A combined reading of Sections 2, 72 and 138 of the Act would leave no doubt in our mind that the law mandates the cheque to be presented at the bank on which it is drawn if the drawer is to be held criminally liable. Such presentation is necessarily to be made within six months at the bank on which the cheque is drawn, whether presented personally or through another bank, namely, the collecting bank of the payee.—Shri Ishar Alloys Steels Ltd. vs. Jayaswals NECO Ltd., AIR 2001 SC 1161 at Pages 1164-1165 = 2001 (2) UJ (SC) 1093 = 2001 (2) Supreme 61 = 2001 (2) Scale 173 = 2001 (3) SRJ 441 = 2001 (1) SCJ 487 = 2001 (3) SCC 609 = 2001 (1) RLIW 161 = 2001 (2) Mah LR 439 = 2001 (2) MPLJ 272 = 2001 (1) LRI 760 = 2001 (2) Kent LT 148 = 2001 (2) JT 114 = 2001 (1) Crimes 284 = 2001 CrLJ 1250.

29. Interpretation of Statute—Inaccuracies in Government regulation strict construction not proper.—Location has been generally Indicated in the list with reference to roads. A precinct cannot be a "location" since it is really an area. In such circumstances it is reasonable to ascertain the intention of the State Government from the map annexed to the list. The fact that no map of any other location has been given coupled with the fact that only maps of heritage
precincts have been given would certainly indicate that Mahalaxmi precinct is indeed a listed heritage precinct against serial No. 442 as mentioned in the map.

The list also refers to five precincts, namely Banganga Precincts mentioned against Sl. No. 384, Opera House Precincts, Sl. No. 401, Gamdevi Precinct, Sl. No. 432, Mahalaxmi Precinct, Sl. No. 442, Khotachiwadi Precinct, Sl. No. 508, Matharpakhadi Precinct, Sl. No. 522 and Bandra precinct Sl. No. 612. There is no other precinct which is mentioned as a location.

The MHCC has taken into consideration the nature of the list, particularly the maps annexed thereto, to the conclusion that the mentioning the Mahalaxmi Precinct under the heading of "location" was clearly not the intention of the State Government, but the intention was to treat the precinct along with all other precincts of which maps are given as heritage precinct.

There is also no question of amendment of the list appended to the Resolution dated 24.04.1995. The intention of the State Government as has been culled out by the MHCC and affirmed by the Bombay High Court and as found by us is that the list as it exists includes Mahalaxmi Precinct as a heritage precinct.—Mass Holdings Pvt. Ltd. vs. Municipal Corporation of Greater Mumbai and Anr., AIR 2006 SC 749 at Page 752.

30. Harmonious construction—Effort be made that each provision in statute will have its play.—While interpreting a statute the Court should try to sustain its validity and give such meaning to the provisions which advance the object sought to be achieved by the enactment. The Court cannot approach the enactment with a view to pick holes or to search for defects of drafting which make its working impossible. It is a cardinal principle of construction of a statute that effort should be made in construing the different provisions so that each provision will have its play and in the event of any conflict a harmonious construction should be given. The well-known principle of harmonious construction is that effect shall be given to all the provisions and for that any provision of the statute should be construed with reference to the other provisions so as to make it workable. A particular provision cannot be picked up and interpreted to defeat another provision made in that behalf under the statute. It is the duty of the Court to make such construction of a statute which shall suppress the mischief and advance the remedy. While interpreting a statute the Courts are required to keep in mind the consequences which are likely to flow upon the intended interpretation.—M/s. British Airways Plc. vs. Union of India and Ors., AIR 2002 SC 391 at Pages 393-394 = 2001 AIR SCW 5197 = 2001 (94) DLT 662 = 2002 (139) ELT 6 = 2001 (9) JT 544 = 2002 (2) SCC 95 = 2001 (8) Scale 73 = 2001 (8) Supreme 138.

31. Intention behind provision cannot be used to defeat express words of provision.—The alleged intention behind a provision, cannot be used to defeat the express words of the provision. Once a statutory rule is made, without providing any exceptions, it is not possible to carve out exceptions to such rule, by judicial interpretation. Nor can an exemption from application of a clear and specific rule be claimed on the ground of hardship or similar reasons. The proviso to Rule 27 (a) of the Rules is categorical and applies to all employees transferred on own request. It does not make distinction between employees whose promotion post is State-wise post and those where the promotion posts are District-wise posts.—K.P. Sudhakaran and Anr. vs. State of Kerala and Ors., AIR 2006 SC 2138 at Page 2144.

32. Narrow and pedantic construction may not always be given effect to.—It is now well settled principle of law that the Court cannot enlarge the scope of legislation or intention when the language of the statute is plain and unambiguous. Narrow and pedantic construction may not always be given effect
to. Courts should avoid a construction, which would reduce the legislation to futility. It is also well settled that every statute is to be interpreted without any violence to its language. It is also trite that when an expression is capable of more than one meaning, the Court would attempt to resolve the ambiguity in a manner consistent with the purpose of the provision, having regard to the great consequences of the alternative constructions.—A.N. Roy, Commissioner of Police and Anr. vs. Suresh Sham Singh, AIR 2006 SC 2677 at page 2681.

33. Applicability of non-obstante clause be considered in consideration of Act and Object and Reasons for which Act is made.—There is no doubt that by non-obstante clause the Legislature devices means which are usually applied to give overriding effect to certain provisions over some contrary provisions that may be found either in the same enactment or some other statute. In other words such a clause is used to avoid the operation and effect of all contrary provisions. The phrase is equivalent to showing that the Act shall be no impediment to measure intended. To attract the applicability of the phrase, the whole of the section, the scheme of the Act and the Objects and Reasons for which such an enactment is made has to be kept in mind.—Vishin N. Khan Chandani and Anr. vs. Vidya Lachman Das Khan Chandani and Anr., AIR 2000 SC 2747 at page 2752 = 2000 AIR SCW 2932 = 2000 (4) Bom. CR 626 = 2000 (3) SCJ 120 = 2000 (2) UJ (SC) 1300 = 2000 (9) JT 321 = 2000 (3) LRI 612 = 2000 (8) SRJ 182 = 2000 (5) Scale 592 = 2000 (5) Supreme 574 = 2000 (6) SCC 724 = 2000 (Ke LJ (Tax.) 507.

34. Non-obstante clause must be given effect to extent Parliament intended and not beyond.—The non-obstante nature of a provision although may be of wide amplitude, the interpretative process thereof must be kept confined to the legislative policy. Only because the dues of the workmen and the debt due to the secured creditors are treated pari passu with each other, the same by itself, in our considered view, would not lead to the conclusion that the concept of inter se priorities amongst the secured creditors had thereby been intended to be given a total go-by.

A non-obstante clause must be given effect to, to the extent the Parliament intended and not beyond the same.—ICICI Bank Ltd. vs. SIDCO Leather Ltd. and Ors., AIR 2006 SC 2088 at Page 2098.

35. Term "Police Station".—Finally, Court, in the case of Gangadharachari, (1975 (2) Kant L J SN No. 91 P. 47), held :

"According to Notification HD 83 PEG. 69, dt 13.02.70, Sub-Inspector of Police, CID; is deemed to be an officer in charge of the police station whenever he investigates at any place in the State an offence within the limits of which such place is situate, ..................

Therefore, for the purpose of investigation of particular crimes on the direction of the State Government or the Superior Competent Police Officer, the aforesaid unquestionable material placed on record makes the position of C.I.D./C.O.D. to be a "Police Station" within the meaning of Section 2 (s) and that every Police Officer attached to this organisation of the rank of Sub-Inspector and above is a 'Police Officer in charge of a Police Station' within the meaning of Section 156 (1), CrPC. Therefore, there is no flaw in the competence of the I.O. (C.W. 75) to act as a Police Officer in charge of a police station within the meaning of Section 2 (s) and 156, and in the investigation carried out by him resulting in submission of the charge-sheet under Section 173, CrPC (See: also State of Bihar vs. J.A.C. Saldanna (1980 CrLJ 98 = (AIR 1980 SC 326) (SC)) and R. P. Kapur vs. Sardar Pratap Singh Kairon, AIR 1961 SC 1117 = 1961 (2) CrLJ 167). Hence, I find no legal force, whatever, in the objection of Mr. C. V. Nagesh raised in this behalf.—Narsinhaiah vs. State of Karnataka and Anr., 2002 CrLJ 4795 at Page 4801 (Kar).
Section 1. Short title and extent.—(1) This Act may be called the *Rajasthan Urban Improvement Act, 1959.*

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

Section 2. Interpretation.—(1) In this Act, unless there is something repugnant in the subject or context,—

(i) "amenity" includes road, water supply, street-lighting, drainage, sewerage, public works and such other convenience as the State Government may, by notification in the Official Gazette, specify to be normally an amenity for all or any of the purposes of this Act;

(ii) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, industrial, commercial or other purpose, whether in actual use or not;

(iii) "building operations" includes rebuilding operations, structural alterations of or additions to buildings and other operations undertaken in connection with the construction of buildings;

(iv) "Chairman" means the Chairman of a Trust;

(iv-a) "Collector" means the Collector of a district and includes an Additional Collector appointed to a district as well as any officer specially appointed by the State Government to perform the functions and exercise the powers of a Collector under this Act;
(iv) "कलक्टर" से जिले का कलक्टर अभिप्रेत है और इसमें जिले के लिए नियुक्त किया गया अतिरिक्त कलक्टर और राज्य सरकार द्वारा इस अधिनियम के अधीन कलक्टर के कार्यों का निर्देशन करने और शिक्षित प्रयुक्त करने के लिए विशेष रूप से नियुक्त किया गया कोई अधिकारी शामिल होता है;
(v) "Engineering operations" includes the formation or laying out of means of access to a road or the laying out of means of water-supply, electricity or drainage;
(vi) "अभियांत्रिकी संक्रियायें" में किसी सड़क तक पहुँचने के साधनों का निर्माण या उनका अभिन्यास करना या जल-आपूर्ति, विद्युत या जल-निकासी के साधनों का अभिन्यास करना शामिल होता है;
(vii) "improvement" with its grammatical variations means the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in any building or land 
(vii) "Sudhara" से इसके व्याखरीय परिवर्तनों सहित भूमि में, उस पर, उसके ऊपर या उसके नीचे भवन, अभियांत्रिकी, खननीय या अन्य संक्रियाएँ करना या किसी भवन अध्यावा भूमि में कोई महत्वपूर्ण परिवर्तन करना या किसी भवन या भूमि में, उस पर, उसके ऊपर या उसके नीचे किसी सुख-सुखिया के लिए प्राप्तान्त करना अभिप्रेत है और इसमें पुनःसुधार शामिल होता है;
(viii) "master plan" means the master plan prepared and approved for any urban area in accordance with the provisions of Chapter II;
(ix) "Gastır Plân" से अध्याय 2 के प्राप्तान्तों की अनुपालना में किसी नगरीय क्षेत्र के लिए तैयार और अनुकूलित किया गया मास्टर प्लान अभिप्रेत है;
(x) "Trustee" means a member of a Trust, including its Chairman, appointed or elected, under and in accordance with the provisions of Section 9;
(x) "न्यासी" से न्यास का सदस्य अभिप्रेत है और इसमें धारा 9 के प्राप्तान्तों की अनुपालना में और उसके अधीन निर्वाचित या नियुक्त किया गया इसका समर्थण शामिल होता है;
(xi) the expression "land" and the expression "person interested" have the meanings respectively assigned to them in Section 3 of the Rajasthan Land Acquisition Act, 1953 (Rajasthan Act 24 of 1953);
(xii) "master plan" से अध्याय 2 के प्राप्तान्तों की अनुपालना में किसी नगरीय क्षेत्र के लिए तैयार और अनुकूलित किया गया मास्टर प्लान अभिप्रेत है;
(xiv) "Urban area" means the urban area notified under Section 3 or, as the case may be, under Section 8;
(xv) "नगरीय क्षेत्र" से धारा 3 के अधीन या धारा 8 के अधीन, यथास्थिति, अधिसूचित किया गया नगरीय क्षेत्र अभिप्रेत है;
(xvi) "zone" means any one of the divisions in which an urban area may be divided for the purposes of improvement under this Act;

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(xi) "joins" से उन प्रमाणों में से ऐसा एक प्रमाण अभिल्प है, जिन प्रमाणों में नगरीय क्षेत्र इस अधिनियम के अधीन सुधार के प्रयोजन के लिए विभाजित किया जा सकेगा,

(xii) all references to any thing done, required, authorised, permitted, forbidden or punishable, or to any power vested under this Act, shall include anything done, required, authorised, permitted, forbidden or punishable or any power vested—

(a) by any provision of this Act; or

(b) by any rule or scheme made under the provision of this Act; or

(c) under any provision of the Municipal law for the time being in force which the Trust has by virtue of this Act power to enforce.

(xii) इस अधिनियम के अधीन की गयी, अपेक्षित, प्राधिकृत, अनुज्ञात, निषिद्ध या दण्डनीय किसी बात के या उसके अधीन निहित किसी शक्ति के सभी निर्देशों में निम्नलिखित द्वारा की गयी, अपेक्षित प्राधिकृत अनुज्ञात निषिद्ध या दण्डनीय कोई बात शामिल होगी—

(क) इस अधिनियम के किसी प्राधिकार द्वारा; या

(ख) इस अधिनियम के प्राधिकार के अधीन बनाये गये किसी नियम या योजना द्वारा; या

(ग) तत्समय प्राप्त म्युनिसिपल विधि के प्राधिकार के अधीन, जिसे इस अधिनियम के प्राधिकार द्वारा प्राप्तित करने की शक्ति है;

1[(xiii) "former trust" means anybody, by whatsoever name designated, whether statutory or non-statutory and whether corporate or otherwise, functioning in any area within the State immediately before the establishment of an Improvement Trust under this Act for such area for the improvement or development thereof.]

(xiii) "सूचीपूर्व न्यास" से इस अधिनियम के अधीन ऐसे क्षेत्र के सुधार या उसके विकास के लिए विकास न्यास की स्थापना से तुरंत पूर्व राज्य के शीर्ष किसी क्षेत्र में कार्यरत ऐसे कोई निकाय अभिल्प है, जो किसी नाम से जाना जाता हो, जो वैधानिक हो या गैर-वैधानिक और चाहे निगमित हो या अन्यथा।

(2) All words and expressions not defined in the Act have, wherever used therein, the same meanings as are assigned to them by the Municipal law for the time being in force:

(2) अधिनियम में परिभाषित नहीं किये गये सभी शब्दों और अभिव्यक्तियों का, चाहे उसमें कहीं भी प्रयुक्त हो, वही अर्थ होगा, जो उन्हें तत्समय प्राप्त म्युनिसिपल विधि द्वारा समनुस्मरित किया गया हो:

Provided that the expression "Municipal Board" wherever used in this Act shall be deemed to include a Municipal Corporation, a Municipal Council or and other Municipal authority:

परिचु अभिव्यक्ति "म्युनिसिपल बोर्ड", जहां कहीं भी अधिनियम में प्रयुक्त किया जाये, में नगर निगम, म्युनिसिपल परिषद या कोई अन्य म्युनिसिपल प्राधिकरण शामिल माना जायेगा।

Definition clause.—A definition clause in a statute is a legislative device with a view to avoid making different provisions of the statute to be cumbersome. Where a word is defined in the statute and that word is used in a provision to which that definition is applicable, the effect is that wherever the word defined as used in that provision, the definition of the word gets substituted. Per H.R. Khanna, J., in the case of Indira Nehru Gandhi (Smt.) vs. Raj Narain, AIR 1975 SC 2299 (5 Judges) = 1975 Supp SCC 1 = 1976 (2) SCR 347.

When the Act defines a particular term, it is that definition which has to be taken for that term wherever it occurs in the Act, and it would not be permissible to construe the said term in any other manner. Vide Maxwell on Interpretation of Statutes, 11th Edition page 290.—Sadashiv Vishnu Nagarkar vs. Maruti Baloba Vyevahare, AIR 1970 Bom 93 (DB) = 1969 Mah LJ 740 = 71 Bom LR 519; Bhaskar Narayan Herdikar vs. S.G. Daithankar, AIR 1971 Bom 188 (DB) = 1970 Mah LJ 953 = 73 Bom LR 851.

A definition which first tells us what a thing meant and then goes on to say what it includes, can use the inclusive device for three entirely different purposes viz.,—

(i) by way of illustration, or of enumeration of the forms the thing defined commonly assumes, by naming things that clearly come within the meaning; given;
(ii) for roping in things that, either partly or in whole, would not come within the meaning;
(iii) by way of abundant caution, so as to put it beyond doubt that certain things do come within the meaning.—Krishnan Nair vs. Perumbalath Kizhakkiniyavakath Manakkal, AIR 1967 Ker 270 (FB) = 1967 Ker LJ 84 = ILR 1967 (1) Ker 262.

It was held in case of Bala Krishna Rao (K) vs. Haji Abdulla Sait, AIR 1980 SC 214 (2 Judges) at P. 224 = 1980 (1) RCJ (SC) 179 at p. 195 = 1980 (1) SCC 321 = 1980 (1) SCJ 104 = 1980 (1) SCR 875 = 1979 Rent LR 412 = 1980 (1) RCR 374, that:—

(a) a definition clause does not necessarily in any statute apply in all possible contexts in which the word which is defined, may be found therein;
(b) the opening clause of the definition section itself suggests that any expression defined in that section should be given the meaning assigned to it therein unless the context otherwise requires.

It was laid down in the Andhra Pradesh case of Commissioner of Income-tax vs. Dredging Corporation of India, 1988 (714) ITR 682 (DB) that—

1. It is a cardinal principle in construction of enactments that, unless the context otherwise requires the definition of an expression contained in the Act should prevail throughout the Act.

2. Therefore, whenever a different meaning is sought to be given to that expression occurring at different places in the Act, it is necessary to point out why the context requires different meanings to be given to the same expression occurring at different places in the Act.

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Chapter II
Master Plans

Section 3. Power of State Government to order preparation of master plan.—

[1(1) The State Government may, by order, direct that in respect of and for any urban area in the State specified in the order, a civil survey shall be carried out and a master plan shall be prepared, by such officer or authority as the State Government may appoint for the purpose].

1 Substituted Sub-section (1) by Section 2 of Rajasthan Act No. 3 of 1964, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 29.03.1963, prior to amendment Sub-section (1) was as follows.

(1) The State Government may, by order notified in the Official Gazette, direct that in respect of and for any urban area in the State specified in the notification, a civil survey shall be carried out; and a master plan shall be prepared, by such officer or authority as the State Government may appoint for the purpose.
Section 4. Contents of master plan.—The master plan shall.—

(a) define the various zones into which the urban area for which the plan has been prepared may be divided for the purposes of its improvement and indicate the manner in which the land in each zone in proposed to be used, and

(b) serve as basic pattern of frame work within which the improvement schemes of the various zones may be prepared.

Section 5. Procedure to be followed.—(1) Before preparing any master plan officially the officer or authority appointed to prepare it shall publish a draft of the master plan by making a copy thereof available for inspection and publishing a notice in such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions from every person with respect to the draft master plan before such date as may be specified in the notice.

(2) Such officer or authority shall also give reasonable opportunity to every local authority within whose local limits any land touched by the master plan is situated to make any representations with respect to the master plan.

(3) After considering all objections, suggestions and representations that may have been received, such officer or authority shall finally prepare the master plan.

(4) Provisions may be made by rules made in this behalf with respect to the form and contents of a master plan and with respect to the procedure to be followed and any other matter in connection with the preparation of the master plan.
Section 6. Submission of master plan to Government.—(1) Every master plan shall, as soon as may be after its preparation, be submitted to the State Government for approval in the prescribed manner.

(2) The State Government may direct the officer or authority appointed for the preparation of a master plan to furnish such information as it may require for the purpose of approving any master plan submitted to it under this section.

(3) The State Government may either approve the master plan without modifications or with such modifications as it may consider necessary or reject it with directions for the preparation for a fresh master plan.

Section 7. Date of operation of master plan.—Immediately after a master plan has been approved by the State Government, it shall publish in the prescribed manner a notice stating that the master plan has been approved and naming a place where a copy of the same may be inspected during office hours; and upon the date of the first publication of the aforesaid notice the master plan shall come into operation.

Chapter III
Constitution of Trusts.

Section 8. Establishment and incorporation of Trusts.—(1) The State Government may, by notification in the Official Gazette, establish, for the purpose of carrying out improvement of any urban area in the State, whether a master plan in respect thereof has or has not been prepared, a Board of Trustees to be called the Improvement Trust of the place where its principal office is situated, hereinafter called 'the Trust'.

* * * * *
Section 9. Constitution of Trusts.—(1) The Trust shall consist of:—

(a) Chairman,

(b) two members of the Municipal Board, if any, having authority in the urban area,

1[Omitted for word "and" by Section 3(a) (i) of Rajasthan Act No. 3 of 1963, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 29.03.1963.]

Comments
Transfer of employees from UIT to Municipal Corporation—Power of Transfer.—As per Section 24A of the Act of 1959, the employees of a Trust can be transferred by the State Government form one Trust to another or to the JDA, but it does not empower the State Government to transfer employees of the Trust to the Municipal Corporation and therefore, in view of thus, the impugned transfer order dated 03.07.2003 issued by the Dy. Secretary, Local Self Government Department, Jaipur transferring the petitioners from Trust to Municipal Corporation, which is not permissible under the provisions of Section 24A of the Act of 1959 is wholly illegal and in violation of the provisions of Section 24A of the Act of 1959 and thus, it cannot be sustained.—Amardeep Dube & Anr. vs. State of Rajasthan & Am., 2003 (3) DNJ 1104 (Raj) = 2004 (1) RLW (Raj) 303 = 2003 (3) CDR 1801 (Raj).
(c) such number of other persons, as may be determined by the State Government for each Trust, of whom one shall be a person belonging to Scheduled Tribe or Scheduled Caste, if no person of such caste or tribe is represented in the Trust by virtue of Clause (a) or Clause (b)]

(2) The Chairman and the persons referred to in Clause (c) of Sub-section (1) shall be appointed by the State Government by notification.

(3) The members of the Municipal Board referred in Clause (b) of Sub-section (1) shall be elected by the said Board.

(4) If the said Board does not, by such date as may be fixed by the State Government, elect two of its members to be Trustees, the State Government shall appoint two members of the said Board to be Trustees and every person so appointed shall be deemed to be a Trustee as if he had been duly elected by the Municipal Board.

(5) If the said Board shall have been superseded or dissolved in accordance with the provisions of the Municipal law for the time being in force, it shall be represented in the Trust by person appointed or elected, as the case may be, by the officer or authority appointed under the said law to discharge the functions and exercise the powers of the Board during the period of its supercession or dissolution.

(6) Of the person referred to in Clause (c) of Sub-section (1) at least one shall be a person in the service of the State Government.

(7) The names of all persons appointed or elected to the Trust shall be notified by the State Government in the Official Gazette.


Substituted Clause (c) by Section 2 of Rajasthan Act No. 8 of 1975, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 15.03.1975.—prior to amendment it was as followings:—

“(c) Other persons not less than two and not exceeding six in number of whom one shall be a person belonging to a Scheduled Caste or Scheduled Tribe.”

Deleted proviso by Section 2(iii) of Rajasthan Act No. 7 of 1972, published in Rajasthan Gazette, Part IV-A, Extraordinary, dated 19.04.1972. Prior to amendment it was as followings:—

“Provided that, where the State Government is of the opinion that it is not expedient to establish a Trust consisting of six or more members for any urban area, it may, by-order, direct that the Trust for such area shall consist of—

(a) a Chairman,

(b) One member of the Municipal Board, if any, having authority in the urban area, and

(c) Not more than three other members of whom one shall be a person belonging to a Scheduled Caste or Scheduled Tribe.

Omitted words “and in Clause (c) of the proviso thereto” by Section 2 (iii) of Raj. Act No. 7 of 1972
--A look at the award will show that it has not been stated that the buildings structures or houses are existing and all that has been stated is that in case any buildings are existing on the land of amount of compensation will be determined separately. There being no material that any such claim was filed under Section 9 of U.I.T. Act, it cannot be say that the award is incomplete.—Sheo Narain & Ors. vs:State of Rajasthan&Ors., 1993(1) WLC 536 (Raj)

Section 10. Resignation of Trustee.—Any Trustee may at any time resign his office, Provided that his resignation shall not take effect until accepted by the State Government.

Section 11. Term of office of Chairman.—The term of office of the Chairman shall ordinarily be three years.

Section 12. Term of office of other Trustees.—Subject to the foregoing provisions, the term of office of every Trustee elected under Clause (b) of Sub-section (1) of Section 9 shall be three years or until he ceases to be a member of the Municipal Board,
whichever period is less, and of every Trustee appointed under Clause (c) of the said subsection shall be three years, or in the case of such Trustee being in the service of the State Government, until he ceases to hold the office by virtue of which he was appointed Trustee, whichever period is less.

Section 13. Commencement of term of office of first Trustees.—(1) The term of office of the first Trustees shall commence on such date as shall be notified in this behalf by the State Government.

(2) A person ceasing to be a Trustee by reason of the expiry of his term of office shall, if otherwise qualified, be eligible for re-appointment or re-election.

Section 14. Remuneration of Trustees.—(1) The Chairman may be paid from out of the trust fund such salary or allowances as may from time to time be proposed by the Trust and approved by the State Government.

(2) Other Trustees may be paid from out of the trust fund such allowance, if any, as may be proposed by the Trust and approved by the State Government.

Comments

Removal of Trustee—Appointment as member of UIT and withdrew the nomination order and cancelled the appointment order.—Challenged on the ground that no opportunity of being heard was given. Violation of principle of natural justice. Complaint against the petitioner with regard to criminal cases pending against him. State Government has power to appoint and remove the trustee. Held, Since the order has been cancelled on complaint the State Government should issue show cause notice to call for explanation with regard to complaint submitted against the petitioner.—Yogesh Saini vs. State of Rajasthan, 2003 (3) CDR 2216 (Raj) = 2003 (2) RLW 1377 (Raj) = 2003 (2) DNJ 959 (Raj) = 2003 (1) RLR 364 (Raj) = 2003 (2) WLC (Raj) 47 = 2003 (2) Civ. Times (Raj) 892.

1 Substituted for words "shall receive" by Section 4 of Rajasthan Act No. 3 of 1963, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 29.03.1963.
Section 14-A Termination of appointment and re-constitution.—Notwithstanding anything contained in Sections 11, 12 or 15, the State Government may, if it thinks fit in public interest so to do, terminate the appointment of Chairman or any Trustee of a Trust or re-constitute the same at the same time.]

Comments
Termination of appointment without giving opportunity of hearing.—Section 14-A does not require an opportunity of hearing. The order by which various persons were removed from the five Trusts also incorporates the name of the officials who have been appointed as Chairman and the Trustees, and they are all Government servants. No member of the Congress Party was appointed. The District Collector, Executive Engineer, P.H.E.D., Executive Engineer, R.S.E.B., and Senior Town Planner Bikaner were already the trustees. The action cannot be considered to be mala fide.—Narain Singh Charan vs. State, 1995 (1) WLC (Raj) 176.


This amendment may be read with Section 4 of the said Act, which quoted as followings:—
"4. Cessation of office by existing trustees.—Notwithstanding anything contained in Sections 11, 12, 13 and 14 of the Rajasthan Urban Improvement Act, 1959 as it stood before the commencement of the Rajasthan Urban Improvement (Amendment) Ordinance, 1972 (Rajasthan Ordinance 1 of 1972), the Chairman and trustees of the existing trusts shall, upon the commencement of the said ordinance cease to hold their respective officers."
Section 15. Removal of Trustees.—(1) The State Government may remove from the Trust any Trustee who—

(a) refuses to act, or becomes incapable of acting or absents himself for more than three consecutive months from the meetings of the Trust or of any committee of which he is a member and is unable to explain such absence to the satisfaction of the Trust, or

(b) is an undischarged insolvent or has compounded with his creditors, or

(c) has been convicted by a criminal Court of an offence involving moral turpitude, such conviction not having subsequently been set aside, or

(d) has knowingly acquired or continued to hold without the permission in writing of the State Government, directly or indirectly or by a partner, any share or interest in any contract or employment with, by or on behalf of the Trust, or

(e) has knowingly acted as a Trustee in a matter other than a matter referred to in Clause (c) of Sub-section (2) in which he or a partner had, directly or indirectly, a personal interest, or in which he was professionally interested on behalf of a client, principal or other person, or

(f) has acted in contravention of Section 23, or

(g) being a legal practitioner, in any suit or other proceedings acts or appears on behalf of any other person against the Trust, or acts or appears on behalf of any other person in any criminal proceeding instituted by or on behalf of the Trust.

(2) A person shall not be deemed for the purpose of Sub-section (1) to acquire, or continue to have, any share or interest in a contract or employment by reason only of his—

(a) having a share or interest in any lease, sale or purchase of land or building or in any agreement for the same provided that such share or interest was acquired before he became a Trustee, or

(b) having a share or interest in a newspaper in which an advertisement relating to the affairs of the Trust is inserted, or

(c) holding a debenture or otherwise being interested in a loan raised by or on behalf of the Trust, or

(d) having a share or interest in the occasional rate of an article, in which he regularly trades, to the Trust to a value not exceeding, in any one year, such amount as the Trust, with the sanction of the State Government, may fix in this behalf.

(3) The State Government may remove from the Trust a Trustee who in its opinion has so flagrantly abused in any manner his position as a Trustee as to render his continuance as a Trustee detrimental to the public interest.

(4) When the State Government propose to take action under the foregoing provisions of this section an opportunity of explanation shall be given to the Trustee concerned, and, when such action is taken, the reasons there for shall be placed on record and communicated to him in writing.
रखता है, जिसका यह सदस्य होता है और न्यास की संस्था तक ऐसी अनुपस्थिति स्पष्ट करने में असमर्थ होता है, या

(ख) जो अनुमोदित दिवालिया होता है या जिसने अपने लेखनारों के साथ समझौता कर लिया, या

(ग) आपराधिक न्यायालय द्वारा ऐसे अदालत से दोषित किया गया, जिसमें नैतिक कदमाचार शामिल है, ऐसी दोषितता को बाद में अपस्थत नहीं किया गया, या

(घ) जिसने न्यास एवं डिविजन के लिखित में प्रत्यक्ष: या अप्रत्यक्ष: अनुमति के भिन्न न्यास के साथ, न्यास द्वारा या न्यास की तरफ से किसी संस्थागत या नियोजन में या किसी भागीदार द्वारा कोई अंश या हिस्सा जानबूझकर प्राप्त कर लिया हो या धारण करता रहा है, या

(ङ) जिसने उप-दायर (२) के खंड (ग) में निर्दिष्ट मामले के अलावा मामले में न्यास के रूप में, जानबूझकर कार्य किया हो, जिसमें उस्का या भागीदार का प्रत्यक्ष: या अप्रत्यक्ष: व्यवस्थित है या जिसमें वह मुद्दिकल, मुख्य या अन्य व्यवस्थित की तरफ से व्यवस्थित के रूप से हत्याबद था, या

(च) जिसने धारा २३ के उल्लंघन में कार्य किया हो, या

(छ) जो विधिक व्यवस्थापी हों, किसी वाद या अन्य कार्यवाहियों में न्यास के विरुद्ध किसी अन्य व्यवस्थापी की तरफ से कार्य करता है या उपस्थित होता है, या न्यास द्वारा अथवा न्यास की तरफ से संस्थीत की गयी किसी आपराधिक कार्यवाही में किसी अन्य व्यवस्थापी की तरफ से कार्य करता है या उपस्थित होता है।

(२) एक व्यवस्थापी को केवल उसके नियितक्षित कार्य से संबंधित-या नियोजन में कोई अंश या हिस्सा अर्जित करने या धारण किया हुआ मानने के लिए उपर-धारा (१ के) प्रयोजन के लिए नहीं माना जाया—

(क) भूमि या भूक्षण के किसी पृथ्वी, विक्रय या क्रेडिट में या उससे कार्यकर्ता अंश या हित रखने के लिए परस्तु ऐसा अंश या हिस्सा उसके न्यास के बनने से पूर्व अर्जित किया गया हो, या

(ख) उस समाचार पत्र में अंश या हिस्सा रखने के लिए जिसमें न्यास के कार्यों से चिंतित विद्वान निवेदित हो, या

(ग) न्यास की तरफ से या न्यास के द्वारा लिखे गए किसी आदेश में अन्यथा हित रखने या अनुपालन धारित करने के लिए, या

(घ) किसी अन्य वस्तु की, जिसमें वह नियमित रूप से व्यवस्थापी करता है, न्यास को समय-समय पर किये जाने वाले विक्रय में, जिसका भूमि किसी एक व्यक्ति या रूप में ऐसी रकम से अनधिक हो, जिससे न्यास राज्य सरकार के संस्थीतक से इस निमित नियम करे, कोई अंश या हित रखने के लिए,

(३) राज्य सरकार न्यास से ऐसी न्यासी को हटा सकेगी, जिसने इसकी राज्य में न्यासी के रूप में अपनी रिहाय्षा का किसी भी तरीके में घोर दुरुपयोग किया हो, जिससे तों दिहत में न्यासी के रूप में उसका बना रहा अधिकार हो गया हो।

(४) जब राज्य सरकार इस धारा के पूर्ववर्ती प्रावधानों के अधीन कार्यवाही करने के प्रस्ताव करे, तो संबंधित न्यासी को स्पष्टीकरण का अवसर प्रदान किया जाएगा और जब ऐसी कार्यवाही की जाती है, तो उससे लिखा कारण अभिलेख पर रखे जायेंगे और लिखित में उसे संभूतित किये जायेंगे।

Comments

Removal of Trustee—Appointment as member of UIT and withdrew the nomination order and cancelled the appointment order.—Challenged on the
ground that no opportunity of being heard was given. Violation of principle of natural justice. Complaint against the petitioner with regard to criminal cases pending against him. State Government has power to appoint and remove the trustee. Held, Since the order has been cancelled on complaint the State Government should issue cause notice to call for explanation with regard to complaint submitted against the petitioner.—Yogesh Saini vs. State of Rajasthan, 2003 (3) CDR 2216 (Raj) = 2003 (2) RLW 1377 (Raj) = 2003 (2) DNJ 959 (Raj) = 2003 (1) RLR 364 (Raj) = 2003 (2) WLC (Raj) 47 = 2003 (2) Civ. Times (Raj) 892.

Section 16. Disabilities of Trustees removed under Section 15.—(1) A Trustee removed under Clause (a) or Clause (c) of Sub-section (1) of Section 15, or under Sub-section (3) of that section, shall not be eligible for further appointment or election for a period of three years from the date of his removal except when removed for continued absence.

(2) A trustee removed under Clause (b) of Sub-section (1) of Section 15 shall not be so eligible until he has obtained his discharge or has paid his creditors in full, as the case may be.

(3) A Trustee removed under any other provisions of Section 15 shall not be so eligible until he is declared to be no longer ineligible, and he may be so declared by an order of the State Government.

Section 17. Filling of casual vacancies.—(1) when the place of a Trustee appointed by the State Government becomes vacant by his resignation, removal, death or otherwise, the State Government shall appoint a person to fill the vacancy.

(2) When the place of a Trustee elected under Clause (b) of Sub-section (1) of Section 9 becomes vacant by his resignation, removal, death or otherwise the vacancy
shall be filled within two months of the existence of such vacancy being notified soon after the occurrence there of to the Municipal Board by the Trust in the manner provided by Sub-section (3) of the said section: provided that if the said Board fails to elect its members to fill the vacancy within the period prescribed above, the provisions of Sub-section (4) of Section 9 shall apply.

(3) The term of office of a Trustee appointed or elected under this section shall be the remainder of the term of office of the Trustee in whose place he has been elected or appointed:

Provided that no person elected or appointed under Sub-section (2) shall continue to be a Trustee after he has ceased to be a member of the Municipal Board.

Comments

—The provisions of Section 17 of the U.I.T. Act are special provisions and whereas under Section 16 the possession of the Act can only be taken after an award has been made under Section 17 even if no award has been made after expiry of the 15 days of publication of notice mentioned in Section 9(1), if the State Government so directs, the Collector may take possession of any land needed for public purposes and such land shall thereupon vest absolutely in the State Government free from all encumbrances and there is no question of reverting or revesting of the land in the owner thereof even if the award may not have been made within two years and all the owner will be entitled in the determination of compensation.—*Sheo Narain & Ors. vs. State of Rajasthan & Ors.*, 1993(1) WLC 536 (Raj)
Chapter IV
Proceedings of the Trust and Committees

Section 18. Conduct of Business by the Trust.—The Trust shall meet as and when necessary and its business shall be conducted in accordance with regulations made under Section 75.

Section 19. Temporary association of members with the Trust for particular purposes.—(1) The Trust may associate with itself, in such manner and for such period as may be prescribed by regulation made under Section 75, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.

(2) A person associated with itself by the Trust under Sub-section (1) for any purpose, shall have a right to take part in the discussions of the Trust relative to the purpose, but shall not have a right to vote at a meeting of the Trust and shall not be a member of the Trust for any other purpose.

Section 20. Constitution of committees.—(1) The Trust may from time to time appoint committees consisting of a Trustee of Trustees and such other person of any of the following classes as it may think fit, namely,—

(i) persons associated with the Trust under Section 19;

(ii) other persons whose assistance or advice the Trust may desire as members of a committee.

Provided that no committee shall consist of less than three persons.

(2) The trustee appointed to a committee or where two or more than two Trustees are so appointed such one of them as may be nominated by the Trust shall be the Chairman of such committee.
Comments

—A look at the award will show that it has not been stated that the buildings structures or houses are existing and all that has been stated is that in case any buildings are existing on the land of amount of compensation will be determined separately. There being no material that any such claim was filed under Section 9 of the U.I.T. Act, it cannot be say that the award is incomplete.—Sheo Narain & Ors. vs. State of Rajasthan & Ors., 1993(1) WLC 536 (Raj)

Section 21. Functions of committees.—(1) The Trust may—
(a) refer to a committee appointed under Section 20, for inquiry and report, any matter relating to any of the purposes of this Act, and
(b) delegate to such committee by specific resolution and subject to any regulation made under this Act any of the functions or duties of the Trust.

(2) Every such committee shall conform to any instructions from time to time given to it by the Trust.

Order of removal — Trust cannot delegate its power.—From the reading of Section 91-A it will be evident that the power to order removal vests in the Trust. The Trust may delegate any of its functions or the duties to any of the committees constituted under Section 21 of the Act. It may further delegate such of the functions as may be permissible under the regulation framed under Section 75 of the Act to the Chairman of the Trust and there is no provision in the Act empowering the Trust to delegate its power in regard to the order of removal of construction in favour of an officer of the Trust. It is true that under Section 27 of the Act the Chairman may be general or special order in writing delegate to any officer of the Trust any of his power, duties or functions under this Act or
under the Rules made thereunder except the power to preside over the resting of the trust. Such delegation by the Chairman is in regard to his own functions only. There is, however, no provision of such delegation in favour of officer so far as the trust is concerned. It, therefore, follows that the functions of the Trust can be delegated either in favour of the committee or in favour of the Chairman. In the case of Chairman delegation will be to the extent the regulation framed under Section 75 of the Act permits. It may be observed here that the delegation of power is permissible with the legislative permission and in absence of such legislative permission there can be no delegation of the functions of the trust in favour of the officer to the Trust or its Secretary. Any delegation may by the Trust under its resolution in regard to the removal of unauthorised construction cannot be said to be in consonance of the provision of the Act. Court is, therefore, firmly of the opinion that the resolution of the UIT as far it delegates power of removal under Section 91 in favour of its Secy. is beyond the competence of the U.I.T. As a naturally corollary thereof the Secretary of the Trust derives no power of ordering removal of unauthorised construction and is therefore wholly incompetent to pass the impugned order under Section 91 of the Act. It may be that the Trust may empower any office-officer for the purpose of Section 91(C) and authorise any officer to stop the unauthorised building operations but from that it cannot be inferred that the Trust can by its resolution authorise its officer under Section 91(C) of the Act to order removal of unauthorised construction—Mohan Lal vs. Urban Improvement Trust, Jodhpur, 1978 RLW 72 (Raj) = AIR 1978 (Raj) 201 = 1978 WLN 38 (Raj).

**टिप्पणी**

हटाये जाने का आदेश — न्यास अपनी शक्ति प्रत्यायोजित नहीं कर सकता—धारा 91—क के पतन से, यह स्पष्ट होगा कि हटाये जाने का आदेश करने की शक्ति न्यास में सिंहित होती है। न्यास अधिनियम की धारा 21 के अधीन गठित समितियों में से किसी को अपने कार्यों या कार्यों में से कोई प्रत्यायोजित कर सकता है। यह ऐसे कार्यों, जो अधिनियम की धारा 75 के अधीन बनाये गये नियम के अधीन स्वीकार हो, का न्यास के चेयरमेंट को प्रत्यायोजित कर सकता है और न्यास के अधिकारी के पक्ष में निर्माण हटाने के आदेश के संबंध में अपनी शक्ति प्रत्यायोजित करने के लिए न्यास को शक्तिकर निर्देश दे सकता है अधिनियम में कोई प्रावधान नहीं है। यह सही है कि अधिनियम की धारा 27 के अधीन चेयरमेंट समाचार या विशेष आदेश द्वारा लिखित में न्यास के किसी अधिकारी को इस अधिनियम के अधीन या उसके अधीन बनाये गये नियमों के अधीन शेष न्यास पर प्रतिस्पर्धी होने की शक्ति के अलावा अपनी शक्ति, कार्यों या कार्यों में से कोई प्रत्यायोजित कर सकता है। चेयरमेंट द्वारा ऐसा प्रत्यायोजन केवल स्वयं उसके कार्यों के संबंध में होता है। हालाँकि अधिकारी के पक्ष में ऐसे प्रत्यायोजन का कोई प्रावधान नहीं है, जहां तक न्यास का संबंध है। अतः यह अनुसरित करता है कि न्यास को कार्य या तो समिति के पक्ष में या चेयरमेंट के पक्ष में प्रत्यायोजित किये जा सकते हैं। चेयरमेंट के मामले में, प्रत्यायोजन अधिनियम की धारा 75 के अधीन बनाये गये विनियम की सीमा तक होगा। यहाँ पर अप्रत्यायित किया जा सकता है कि शक्ति का प्रत्यायोजन वैधानिक अनुमान से स्वीकार होता है और ऐसी वैधानिक अनुमान के आधार पर, न्यास के अधिकारी या उसके संबंध में न्यास के कार्यों का कोई प्रत्यायोजन नहीं किया जा सकता। अन्यथा निर्माण हटाने के संबंध में अपने प्रत्स्ताव के अधीन न्यास द्वारा कोई प्रत्यायोजन अधिनियम के प्रावधानों की अनुपस्तता में नहीं कहा जा सकता। न्यायालय की इसलिए यह राय है कि यू आई टी का प्रत्स्ताव, जहां यह अपने संचार के पक्ष में धारा 91 के अधीन हटाये जाने की शक्ति
Section 21-A. Delegation of powers, duties and functions of the Trust.—Any powers, duties and functions, which may be exercised, or performed by or on behalf of the Trust, may by a specific resolution of the Trust and subject to such restrictions, limitations and conditions as may be prescribed by rules or regulations, be delegated to the Chairman or the Secretary or any other officer of the Trust, without prejudice to any powers conferred on any committee by or under Section 21 of this Act.

Section 22. Conduct of business of Committees.—A committee appointed under Section 20 shall meet as and when necessary and conduct it's business in accordance with regulations made under Section 75.

Section 23. Trustees and associated members of Trust or committee not to take part in proceedings in which they are personally interested.—(1) A Trustee who—
(a) has directly or indirectly, by himself or by any partner, employer or employee, any such share or interest as described in Sub-section (2) of Section 15 in respect of any matter, or
(b) has acted professionally in relation to any matter on behalf of any person having therein any such share or interest as aforesaid shall not vote or take any other part in any proceedings of the Trust or any committee relating to such matter.

(2) If any Trustee or any person associated with the Trust under Section 19 or any other member of a committee appointed under this Act has, directly, or indirectly, any beneficial interest in any land situated in an area comprised in a scheme framed under this Act, or in any area in which it is proposed to acquire land for any of the purposes of this Act.—
(i) he shall, before taking part in any proceeding at a meeting of the Trust or any committee relating to such area, inform the person presiding at the meeting of the nature of such interest.

(ii) he shall not vote at any meeting of the Trust or any committee upon any resolution or question relating to such land, and

(iii) he shall not take any other part in any proceeding at a meeting of the Trust, or any committee relating to such area if the person presiding at the meeting considers it inexpedient that he should do so.

Section 24. Power to fix strength, salaries etc. of staff.—

Subject to any general or special direction issued by the State Government, every Trust shall, from time to time propose for the sanction of the State Government the strength of officers and servants to be appointed, setting forth the conditions of service and emoluments of each officer or servant. The State Government may sanction such proposal with or without amendment and no appointment shall be made otherwise than in accordance with such sanction:

Provided that the Trust may, subject as aforesaid, direct that one person shall be appointed to discharge the duties of any two or more officers.

[Dhāra 23. न्यायिकों और न्याय के सहयोगिता सदस्यों का उन कार्यवाहियों में भाग नहीं लेना, जिनमें वे यौगिकता रूप से हितबद्ध हों— (1) न्यायिक और (क) जिसका प्रत्यक्ष या अप्रत्यक्ष संबंध या अधिनियम के अधीन नियुक्त की गयी समिति के किसी अन्य सदस्य का प्रत्यक्ष या अप्रत्यक्ष संबंध या अधिनियम के अधीन बनायी गयी योजना में शामिल क्षेत्र में, या ऐसे क्षेत्र में, जिसमें न्यायिकों ने प्रयोजनों में से किसी के लिए भूमि अर्जित करना प्रस्तावित है, स्थित किसी भूमि में कोई लाभकारी हित हो—

(i) वह यूज में या ऐसे क्षेत्र में स्थापित किसी समिति की बैठक में किसी कार्यवाही में भाग लेने से पहले ऐसे हित की प्रकृति की बैठक में अध्यक्षता करने वाले यूज को सूचित करेगा,

(ii) वह ऐसी भूमि से स्थापित किसी संकल्प या प्रश्न पर न्याय या किसी समिति की किसी बैठक में मत नहीं देगा, और

(iii) वह ऐसे क्षेत्र में स्थापित न्याय या किसी समिति की बैठक में किसी कार्यवाही में कोई अन्य भाग नहीं लेगा, यदि बैठक में अध्यक्षता करने वाला यूज इसे असमीमि रूप से किसी अन्य स्थायी असमीमि को संबंध नहीं लेगा।

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Transfer of employees from UIT to Municipal Corporation—Power of Transfer.—As per Section 24A of the Act of 1959, the employees of a Trust can be transferred by the State Government from one Trust to another or to the JDA, but it does not empower the State Government to transfer employees of the Trust to the Municipal Corporation and therefore, in view of thus, the impugned transfer order dated 03.07.2003 issued by the Dy. Secretary, Local Self Government Department, Jaipur transferring the petitioners from Trust to Municipal Corporation, which is not permissible under the provisions of Section 24A of the Act of 1959 and thus, it cannot be sustained.—Amardeep Dube & Anr. vs. State of Rajasthan & Ors., 2003 (3) DJN 1104 (Raj) = 2004 (1) RLW (Raj) 303 = 2003 (3) CDR 1801 (Raj).

Section 24-A. Power of transfer.—The officer and employees of a Trust may be transferred, by the State Government from one Trust to another or to the J.D.A. in accordance with the rules made under Section 74.

Section 25. Power of appointment etc.—Subject to the provisions of Section 24 and to any rules for the time being in force, the power of appointing and granting leave to officer and servants of the Trust and censuring, reducing, suspending or dismissing them for misconduct and dispensing with their services for any reason other than misconduct, shall be vested.—

(a) in the case of officers and servants drawing such monthly salary as may be specified by the State Government for each trust, in the Chairman, and

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1 Substituted Sec. 24-A by the Rajasthan Act No. 18 of 1994, Published on 30.04.1994 Page 219. Prior it was added by Act, No. 16 of 1992 published in Rajasthan Gazette Extraordinary Part IV-A, dated 05.05.1992 Page 69.
(b) in other cases, in the Trust:

Provided that, in the case of Government servants whose services are lent to the
Trust, the power of granting leave only will so vest and the other powers specified in this
section will be exercisable by the State Government or by an appropriate authority of the
State Government upon a complaint made by the Trust in that behalf or otherwise:

[Provided further that officer may be appointed to administrative and technical posts
in the Trust by the State Government either from amongst Staff holding posts in the Trust
with nomenclature and duties corresponding to posts in a department of the Government
from which promotions to similar posts are made or from amongst officers posts
encadred in the Rajasthan Municipal Service, or the State services, and the strength of
these services shall stand increased accordingly, if necessary.]

Section 26. Control by Chairman.—The Chairman shall exercise supervision and
control over the acts and proceedings of all officers and servants of the Trust and, subject
to the foregoing sections, shall dispose of all questions relating to the service of the said
officers and servants and their pay, privileges and allowance.

Section 27. Delegation of Chairman's functions.—(1) The Chairman may, by
general or special order in writing delegate to any officer of the Trust any of his powers,
duties or functions under this Act or under the rules made thereunder except the power to
preside over the meetings of the Trust.

Substituted proviso by Section 3 of Rajasthan Act No. 8 of 1975, published in the Rajasthan Gazette,
Extraordinary, Part IV-A, dated 15.03.1975- prior to amendment it was as followings:—

"Provided further the administrative and technical officers of the Trust shall be appointed by the State
Government from amongst the corresponding officers encadred in the Rajasthan Municipal Service and
the strength of that Service shall be increased accordingly."
(2) The exercise or discharge by any officer of any powers, duties or functions delegated under Sub-section (1) shall be subject to such conditions and limitations, if any, may be specified in the said order and also to control and revision by the Chairman.

**Section 28. Supply of information and documents to the State Government.**—(1) The Chairman shall forward to the State Government a copy of the minutes of the proceedings of each meeting of the Trust within ten days from the date on which the minutes of the proceedings of such meeting were signed as prescribed.

(2) If the State Government so directs in any case, the Chairman shall forward to it a copy of all papers, which were laid before the Trust for consideration at any meeting.

(3) The State Government may require the Chairman to furnish it with—
   (a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Trust, or
   (b) a report on any such matter, or
   (c) a copy of any document in the charge of the Chairman.

(4) The Chairman shall comply with every such requisition without unreasonable delay.

**Chapter V**

Framing of Schemes

**Section 29. Schemes: matters to be provided therein.**—(1) The Trust shall, on the orders of the State Government or on its own initiative or on a representation made by the Municipal Board and subject to availability of financial resources, frame schemes for the improvement of the urban area for which the Trust is constituted.
(2) Such schemes may provide for all or any of the following matters, namely.—
(a) the acquisition of any land or other property necessary for, or effected by, the execution of the scheme;
(b) the re-laying out of any land comprised in the scheme;
(c) the construction and re-construction of buildings;
(d) the formation, construction and alteration of streets;
(e) the closure or demolition of dwellings or portions of dwellings unfit for human habitation;
(f) the demolition of obstructive building or portions of buildings;
(g) the draining, water supply and lighting of streets;
(h) the raising or levelling of any land which the Trust may deem expedient to raise or level;
(i) the forming of open spaces for the benefit of the area comprised in the scheme or any adjoining area.
(j) all or any of the sanitary arrangements required for the area comprised in the scheme;
(k) the establishment and construction of markets and other places of public requirement or convenience;
(l) the limitation of areas within which special trades or industries may or may not be carried on or which are reserved exclusively for residential or other purposes;
(m) the division of any land into plots for the erection of buildings for residential purposes;
(n) the erection of buildings on any site, the restrictions and conditions in regard to the open spaces to be maintained in or around such buildings, the height and character of such buildings and the architectural features of the elevation or frontage thereof;
(o) the amenities to be provided in relation to any site or building or buildings on such site whether before or after the erection of such buildings and the person or authority by whom or at whose expense such amenities are to be provided;
(p) the construction of buildings for the accommodation (including shops) of the poor and the working classes or of any other class of the inhabitant of the area comprised in the scheme including such classes as are likely to be displaced by the execution of the scheme;
(q) the provision of facilities for communications;
(r) the reclamation or reservation of land for gardens, afforestation and the provision of fuel and gas supply and other needs of the population;
(s) the planting and preservation of trees and plantations;
(t) the sale, letting or exchange of any property or land comprised in the scheme; and
(u) any other matter for which in the opinion of the State Government it is expedient to make provision with a view to the general efficiency thereof.

1 Inserted by Section 5(a) of Rajasthan Act No. 3 of 1963, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 19.03.1963.
2 Inserted by Section 5(b) ibid.
धारा 29. योजनाएं: उनमें उपबंधित किये जाने वाले मामले — (1) न्यास राज्य सरकार के आदेशों पर या स्वप्रेमण पर या म्युनिसिपल मन्डल द्वारा किये गये आयातवन पर और विभिन्न साधनों की उपबंधित के अनुसार, उस नगरीय क्षेत्र, जिसके लिए न्यास गठित किया गया, के सुधार के लिए योजनाएं बनायेंगा।
(2) ऐसी योजनाएं निम्नलिखित मामलों में से सभी या किसी के लिए उपबंध कर सकतीं, अथवा—
(k) योजना के निपादन के लिए आवश्यक या उसके द्वारा प्रभावित किसी भूमि या अन्य सम्पत्ति का अर्जन;
(l) योजना में शामिल किसी भूमि का पुनःअभिन्यास;
(n) भवनों का निर्माण और पुनर्निर्माण;
(p) गतिविधियों का रचना, निर्माण और परिवर्तन;
(q) मनोर्भव निवास के लिए अनुपयुक्त निवास स्थानों या निवास स्थानों के भागों को बन्द करना या गिराना;
(r) बाधक भवनों या भवनों के भागों को गिराना;
(s) जल-विकास, जल आपूर्ति और गलियों की रोशनी;
(t) किसी भूमि को उठाया करना या समतल करना, जिसे न्यास ऊंचा करना या समतल करने के लिए समीचित समझे,
(u) योजना में शामिल क्षेत्र या किसी सहार्ती क्षेत्र के हित के लिए खुले स्थानों की व्यवस्था करना,
(व) योजना के शामिल क्षेत्र के लिए अपेक्षित रचछता की सभी या कोई व्यवस्था;
(घ) बाजारों और सार्वजनिक अपेक्षा या सुविधा के अन्य स्थानों की स्थापना और निर्माण;
(ङ) ऐसे क्षेत्रों का परिशीलन, जिसके भीतर विशेष व्यापार या उद्योग किये जा सकते या नहीं किये जा सकते या जिन्हें केवल निवासीय या अन्य प्रयोजनों के लिए आवश्यक किया जाता है,
(च) निवासीय प्रयोजनों के लिए भवनों के परिनिर्माण के लिए प्लांटों में किसी भूमि का विभाजन;
(छ) किसी स्थल पर भवनों का परिनिर्माण, ऐसे भवनों में या उनके आस-पास रखे जाने वाले खुले स्थानों के संबंध में निर्धारण और शर्त, ऐसे भवनों की ऊंचाई और स्रोत और उनके ब्राह्म स्वरूप या उनके अन्य बाह्यक स्वरूप की योजना की विशेषताएँ;
(ड) किसी स्थल या ऐसे स्थल पर भवन या भवनों के संबंध में प्रदान की जाने वाली सुच-सुविधाएं, जाने ऐसे भवन के परिनिर्माण से पहले हो या पश्चात, और व्यक्ति या प्राधिकृत जिसके द्वारा या जिसके व्यय पर ऐसी सुच-सुविधाएं प्रदान की जानी है।
(त) योजना में शामिल क्षेत्र के गरीब और मजदूर वर्गों या निवासियों के किसी अन्य वर्ग के निवास (जिसमें दुकानें शामिल हैं) के लिए भवनों का निर्माण, जिसमें ऐसे वर्ग भी शामिल है, जिनकी योजना के निपादन द्वारा विश्लेषित होने की संभावना हो;
(थ) संसूचनाओं के लिए सुविधाओं का प्राधिक;
(ट) उद्योगों, वनों के लिए भूमि को ठीक करना या आक्षण, और ईदून और धारा आपूर्ति और जनता की अन्य आवश्यकताओं का प्राधिक;
(घ) पौधों का रोपण और वृक्षों तथा पौधों का परिष्करण,
Comments

1. Applicability of Section 29. (धारा 29 का लागू होना.)

2. Resolution to resolve land for educational institutions. (सैक्षणिक संस्थाओं के लिए मूल्य प्रस्तावित करने के लिए प्रस्ताव)

3. Power of UIT.—Framing a scheme without master plan. (यूईटी—यादृच्छिक योजना की रचना)

4. Allotment of land to hospital for public care. (सर्वजनिक देखरेख के लिए अस्पताल को मूल्य का आवंटन)

1. Applicability of Section 29.—Construction for purpose other than covered by Section 29. No scheme framed under Section 29, nor any pre-existing scheme in operation—Sections have no application since distinguishing features contemplated in Section 73-B not attracted.

In respect of authority to levy conversion charges in the cases of free old lands, use of which is not restricted by the title, under which such land is held, no conversion charges are leviable and in view of the fact that though under non-obstante provision of Section 73B the State Government has necessary authority to permit the use of the land for purposes other than for purposes restricted under the Scheme framed under Section 29 inspite of the provision of Section 72, but there being no scheme framed under Section 29 or deemed to be framed under Section 41A under which the user of the land in question for commercial purposes was restricted, no demand for change in user could be made on that basis also, and in view of the fact that Trust itself in resolution approving the plan referred to the fact that land in question was permitted to be put to commercial use way-back in 1995, when the permission was sought no change in user of the land for any restrictive purpose was to happen, which could entail levy of charges, and taking into consideration that land abutting on the road from Paota to Mahamandir was factually used for commercial purposes is not sustainable under the provisions of the Urban Improvement Act, 1958 in the present case.—Jawahar Sons Enterprises Pvt. Ltd. (Ms.) vs. State & Ors., 2002 (4) RLW (Raj) 2362 = 2002(1) DNJ (Raj.) 194 = 2002 (1) RRT 459 (Raj) = 2002 (1) CDR 766 (Raj) = 2002 (2) RLR 465 (Raj) = 2002 (2) WLC (Raj) 627 = 2002 (2) WLN 565 (Raj) = AIR 2002 (Raj) 206. 

1. धारा 29 का लागू होना.—धारा 29 द्वारा आवृत्ति के अलावा प्रयोजन के लिए निर्माण। धारा 29 के अधीन कोई योजना का निर्माण नहीं है, न ही कोई पूर्व-विद्यमान योजना प्रभाव - धाराएं लागू नहीं होती हैं, चूंकि धारा 73-ख में निर्दिष्ट विशेषताएं आकर्षित नहीं होती हैं।

मुख्तु पुरातीत भूमियाँ के मामलों में संपरिवर्तन प्रभाव अधिग्रहित करने के प्राथमिक संबंध में, जिसका प्रयोग हक द्वारा सीमित नहीं है, जिसके अधीन ऐसी भूमि धारा की जाती है, कोई संपरिवर्तन प्रभाव उद्गमणीय नहीं है और इस तथ्य के अनुसार कि यदापि धारा 73-ख के स्वाभाविक प्रयोजन के अधीन, राज्य सरकार के पास धारा 72 के प्रावधानों के बाक्यांश धारा 29 के अधीन बनायी गई योजना के अधीन सीमित प्रावधानों के लिए के अलावा प्रावधानों के लिए भूमि का प्रयोग स्वीकृत करने का प्राथिकार है, लेकिन धारा 29 के अधीन कोई योजना नहीं बनाई गई है, या धारा 41-क के अधीन बनायी जानी नहीं मानी गई है, जिसके अधीन वाणिज्यिक प्रयोजनों के लिए प्रर्णन भूमि का प्रयोगकार
2. Resolution to resolve land for educational institutions.—Land reserved for educational institutions but UIT allotted half of plot to appellant and subsequent allotment made of rest of the plot in favour of respondent educational institution. Same was not invalid. Petition against such allotment by appellant belatedly. Not maintainable since appellant could not claim monopoly of allotment over entire plot—Besides since allotment was made and possession already given and entire amount was deposited by respondent. He could not be removed from said land.—St. Anne’s School Society vs. Urban Improvement Trust, Jodhpur Raj. & Am. AIR 2000 Raj 422 = 2000 (3) RLW 1552 = 2000 (3) WLC 520 = 2000 (3) RLR 404 = 2000 (3) WLN 7.

3. Power of UIT.—Framing a scheme without master plan.—Under Section 29 of the UIT Act the Trust on the orders of the State Government or its on initiate or on a representative made by the Municipal Board and subject to availability of financial resources, may frame scheme for the improvement of the urban area for which the Trust is constituted. It can frame more than one scheme and there appears to be on bar to frame a scheme for a part of urban area.

For framing a scheme under Chapter V of the UIT Act existence of a master plan is not a condition precedent. A look at Section 8(1) of the UIT Act will show that the State Government has power by notification in the Official Gazette to establish for the purpose of carrying improvement whether a master plan has or has not been prepared.—Bishambhar Dayal vs. State of Rajasthan & Ors., 1991 (1) WLC 709 (Raj).

3. नगर सुधार न्यास की शक्ति — मास्टर प्लान के बिना योजना बनाना.—नगर सुधार न्यास अधिनियम की धारा 29 के अंतर्गत, राज्य सरकार के आदेश पर इसके प्रारम्भ करने या प्लांटिंग बॉर्ड द्वारा किये गये प्रतिवेदन पर और विभिन्न संस्थाओं की उपलब्धता के अनुसार, नगरीय क्षेत्र के सुधार के लिए योजना बना सकती है, जिसके लिए न्यास गठित किया गया है। यह एक से अधिक योजना बना सकता है और नगरीय क्षेत्र के भाग के लिए योजना बनाने पर कोई वर्तमान प्रतिस्पर्धा नहीं होता है।
4. Allotment of land to hospital for public care.—UIT has power to prepare a scheme and to notify the various purposes for which the land let-out could be used. There is no scheme which shows the left out land to be used for park. It was described as open land. An open land cannot be treated as a park.

The allotment of the land to the Trust was eminently just and perfectly suited to the public cause. To interfere with that allotment order at the stage when construction worth lacs have already been made would result in doing injustice. The land measuring 956 sq. yards is still available for the purpose for which the appellant intends using it.

The hospital has already started functioning. In such a situation, to interfere with the allotment of the land made in favour of the Trust and directing the demolition of the building would harm the public interest instead of serving it.

To interfere in such matter under the guise of the public interest litigation would result in great injustice and that no principles of law could justify the same.—Suresh Mehta vs. State & Ors., 1992 (2) WLN 81 = 1992 (1) RLW 468 = 1992 (1) RLR 185 = 1992 (3) WLC 267 = AIR 1993 Raj 61.

4. *Section 30. Matters to be considered when framing schemes.*—When framing scheme in respect of any area, regard shall be had to.—

(a) the nature and the conditions of such area and of neighbouring areas as a whole;
(b) the several directions in which its expansion appears likely to take place";
(c) the likelihood of schemes being framed for other parts of the area; and
(d) such other matters as may be prescribed.
Section 31. Scheme to conform to master plan.—(1) If for and in respect of the urban area for which the Trust is constituted a master plan has been prepared and approved and is in operation, every scheme framed by the Trust in accordance with the provisions of this Chapter shall conform to such master plan and shall not be framed so as to affect an alteration in the different zones by the master plan.

Section 32. Previous notification of area for which scheme is framed.—Duration and effect of such notification—(1) Whenever the Trust decides to frame a scheme for any urban area, the State Government may, at the request of the Trust, issue a notification specifying such area and declaring that the Trust has decided to frame a scheme for such area.

(2) A notification under Sub-section (1) shall remain in force for six months from the publication thereof:

Provided that the State Government may, for sufficient reasons extend the said period by a further period not exceeding six months.

(2-A) Where in the opinion of the State Government, it is necessary so to do in public interest, it may, by order published in the Official Gazette extend the period of the notification issued under Sub-section (1) for such further period as it thinks fit, notwithstanding that the period of the notification or the extended period thereof under the provisions of Sub-section (2) has expired. An order under this section may be made so as to be retrospective with effect on and from a date next following the expiration of the period of the notification or the extended period thereof under Sub-section (2).]

(3) If the sanction of a scheme is notified in accordance with Section 38 in respect of such area before the expiry of the notification under this section, such notification shall continue in force until the scheme is carried out.

(4) During the period that a notification under this section remains in force in respect of any urban area, no building shall be erected, re-erected, altered or added within that area without the written sanction of Trust.

(2) Acquisition proceedings in absence of scheme framed.—Validity.—In the case of Pratap & Anr. vs. State, 1996 (2) Supreme 533, the Apex Court, after considering the law on the point, held that “even if there is no Scheme prepared or finalised under a Housing Board or Urban Improvement Act, acquisition could be validly made under the provisions of the Land Acquisition Act for a public purpose or under the Rajasthan Urban Improvement Act for the purpose of improvement or for any other purpose under the Act. The decision relating to Rajasthan Act is directly on the point.—UIIT, Udaipur vs. Rama Shanker, 1996 DJN (Raj) 366 = 1996 WLC (UC) 721.

1. Acquisition proceedings in absence of scheme framed. (Banayi Gargi Yojana के अभाव में अर्जन कार्यवाहियां — विधिमान्यता) .................................................. 44
2. Acquisition for Public Purpose. (सार्वजनिक प्रयोजन के लिए अर्जन) .................................................................... 44
3. Duration of notification. (अधिसूचना की अवधि) .................................................................................. 45

2. Acquisition for Public Purpose.—The purpose for which the acquisition of land was intended to be made or had been made was a public purpose. The public purpose is a purpose for the good of the public. That means that it is opposed to private purpose.

The purpose of acquisition was for establishment of Sub City Centre. The purpose by itself indicates that it is a public purpose.
The State Government irrespective of the Improvement Act could acquire the land for public purpose. For such acquisition the procedure provided by the Improvement Act is not necessary.—Himmat Jain vs. State & Ors., 1993 (2) WLN 717.

2. Sarvajnik Prayojan to the extent of Arjan.—Prayojan, which is for the benefit of public is subject to the Improvement Act. Sarvajnik Prayojan, which is for the benefit of public is subject to the Improvement Act.

Himmat Jain vs. State & Ors., 1993 (2) WLN 717.

3. Duration of notification—Government is competent to extend duration of six months of notification.—Bishambhar Dayal & Ors., vs. State of Rajasthan, 1991 (1) WLC 686.

It would be in the interest of justice to permit the U.I.T. to produce the scheme because the planned development of City of Jaipur which is Capital of Rajasthan, is of great public importance and omission and commissions by haphazard development and unauthorized constructions should not be ignored lightly.—Kanhaiya Lal vs. U.I.T., Jaipur, 1987(1) RLR 830 (Raj) = 1987 RLW 638 (Raj) = 1987 WLN 699 (UC)

3. Abhistavan to the extent of Arjan.—Sarvajnik Abhistavan of the extent of Arjan is subject to the Improvement Act.


It would be in the interest of justice to permit the U.I.T. to produce the scheme because the planned development of City of Jaipur which is Capital of Rajasthan, is of great public importance and omission and commissions by haphazard development and unauthorized constructions should not be ignored lightly.—Kanhaiya Lal vs. U.I.T., Jaipur, 1987(1) RLR 830 (Raj) = 1987 RLW 638 (Raj) = 1987 WLN 699 (UC).

Section 33. Preparation, publication and transmission of notice as to schemes and supply of documents to applicants.—(1) When any scheme has been framed, the Trust shall prepare a notice stating—

(a) the fact that the scheme has been framed,
(b) the boundaries of the area comprised in the scheme, and
(c) the place at which particulars of the scheme, a map of the area comprised in the scheme, and a statement of the land which it is proposed to acquire may be seen at reasonable hours.

(2) The Trust shall—

(a) Publish the said notice in such manner as may be prescribed, inviting objections and suggestions from all persons with respect to the draft scheme before such date as may be specified in the notice, and
(b) send a copy of the said notice to the Chairman of the Municipal Board.

(3) The Chairman shall also cause copies of all documents referred to in Clause (c) of Sub-section (1) to be delivered to any applicant on payment of such fees as may be prescribed by regulations.

Section 33. Yojana to the extent of Notti to the extent of Arjan, Prakasan of Arjan and Sarvajn, which is for the benefit of public, is subject to the Improvement Act.

—Himmat Jain vs. State & Ors., 1993 (2) WLN 717.


It would be in the interest of justice to permit the U.I.T. to produce the scheme because the planned development of City of Jaipur which is Capital of Rajasthan, is of great public importance and omission and commissions by haphazard development and unauthorized constructions should not be ignored lightly.—Kanhaiya Lal vs. U.I.T., Jaipur, 1987(1) RLR 830 (Raj) = 1987 RLW 638 (Raj) = 1987 WLN 699 (UC).
(क) तथ्य कि योजना बना ली गयी है,
(ख) योजना में शामिल क्षेत्र की चारदीवारी, और
(ग) स्थान, जहां पर योजना के विवरण, योजना में शामिल क्षेत्र का नक्शा और उस भूमि का विवरण, जिसे अर्जित किया जाना प्रस्तावित है, युक्तियुक्त समय पर देखा जा सकेगा।

(2) न्यास—
(क) ऐसी लिधि से पहले, जिसे नोटिस में विहित किया जाये, प्रश्न को योजना के संबंध में सभी व्यक्तियों से आपत्तियां और सुझाव आमंत्रित करते हुए ऐसे तरीके में, जिसे विहित किया जाये, उद्भव नोटिस प्रकाशित करेगा, और
(ख) न्युनिसिपल मंडल के सम्बन्ध में उल्लेख नोटिस की एक प्रति भेजेगा।
(3) सम्बन्धित उप-धारा (1) के खण्ड (ग) में निर्दिष्ट सभी व्यक्तियों की प्रतियां ऐसी फीस, जिसे विनियमों द्वारा विहित किया जाये, के भुगतान पर किसी आवेदक को परिवेश करायेगा।

Comments

Trust empowered to take decision before sanction of scheme by Government Under Section 36.—Under Annexure 31 dated April 5, 1969, a decision was taken that the scheme shall not be executed. A reading of Section 40 of the Act will show that it relates to alteration of the scheme after sanction and it does not relate to abandonment or cancellation of the Scheme which has been sanctioned by the State Government. In Annexure R/3 it has been mentioned that the period of execution of the scheme was extended upto March 31, 1985 in exercise of the powers of the State Government under Section 39(1) of the Act. Though it cannot be said whether Annexure 31 dated April 5, 1969 was made by the Trust after the scheme had been sanctioned under Section 38(1) of the Act, but even if it may be assumed that it was made after the sanction of the Scheme under Section 38(1) of the Act, a decision was taken not to execute the scheme, but later on the period of execution of the scheme was extended under Section 39 of the Act. Therefore resolution of the Trust dated April 5,1969 (Annexure 31) firstly will have no relevance to the present case and secondly the Trust having taken a decision not to execute the scheme and it was well within its power to extend the period of execution of the scheme and the State Government was again within its rights to issue a notification under Section 39(1) of the Act to extend the period of execution of the scheme.—Hari Ram M. Dhanwani vs. State of Raj. & Ors., 1988 (1) RLR 371.

टिप्पणी

सरकार द्वारा योजना की संस्थीकृति से पहले विनियम लेने के लिए न्यास संशोधन धारा 36 के अंतर्गत—परिषद 31 दिनाकर 05.04.1969 के अंतर्गत, विनियम लिया गया कि योजना नियामित नहीं की जाएगी। अधिनियम की धारा 40 का प्रत्येक दशरायंग कि यह संस्थीकृति को पश्चात योजना के परिवर्तन से संबंधित है और यह योजना के परिवर्तन या निर्दिष्टकरण से संबंधित नहीं हैं, जिसे राज्य सरकार द्वारा संस्थीकृत किया गया। संलग्न आर/3 में, यह उल्लेखित किया गया कि योजना के नियामक की अवधि अधिनियम की धारा 39(1) के अंतर्गत राज्य सरकार की शक्तियों के प्रयोग में 31.03.1985 तक बढ़ायी गयी थी। यद्यपि यह नहीं कहा जा सकता कि व्या संलग्न 31 दिनाकर 05.04.1969 न्यास द्वारा अधिनियम की धारा 38(1) के अंतर्गत योजना संस्थीकृत करने के पश्चात बनाया गया, लेकिन उसे यदि यह नहीं जाना जाये कि इसे अधिनियम की धारा 38(1) के अंतर्गत योजना की संस्थीकृति के पश्चात बनाया गया था, योजना नियामित नहीं करने का विनियम लिया गया, लेकिन बाद में योजना के
Section 34. Transmission to Trust of representation by Municipal Board as to schemes.—The Chairman of any Municipal Board to whom a copy of a notice has been sent under Clause (b) of Sub-section (2) of Section 33 shall within a period of sixty days from the receipt of the said copy, forward to the Trust any representation which the Municipal Board may think fit to make with regard to the scheme.

Section 35. Furnishing of copies of extracts from the assessment book of a local body.—The Chairman of the Municipal Board shall furnish the Chairman of the Trust, at his request, with a copy of, or extracts from, the assessment list on payment of such fees as may be prescribed.

Section 36. Abandonment of scheme or application to Government to sanction it.—(1) After the expiry of the date referred to in Clause (a) of Sub-section (2) of Section 33 and of the period prescribed by Section 34 in respect of any scheme the Trust shall consider any objections, suggestions and representations received thereunder and after affording to all persons making such objections, suggestions or representations a reasonable opportunity of being heard, the Trust may either abandon the scheme or apply to State Government for sanction of the scheme with such modifications, if any, as the Trust may consider necessary.

(2) Every application submitted under Sub-section (1) shall be accompanied by—
(a) a description of, and full particulars relating to the scheme, and complete plans and estimates of the cost of executing the scheme;
(b) a statement of the reasons for any modification made in the scheme as originally framed,
(c) a statement of objections, if any, received under Section 33;
(d) any representation received under Section 34; and
(e) a statement of the arrangements made or proposed by the Trust for the re-housing of persons likely to be displaced by the execution of the scheme, for whose re-housing provision is required.

(3) When any application has been submitted to the State Government under Sub-section (1) the Trust shall cause notice of the fact to be published for two consecutive weeks in the Official Gazette and in a local newspaper.
धारा 36. योजना का परित्याग या इसे संस्कीर्त करने के लिए सरकार को आवेदन—(1) धारा 33 की उप-धारा (2) के खण्ड (क) में निरिष्ट तिथि या किसी योजना के संबंध में धारा 34 द्वारा बिखर्त अवधि की समाप्ति के पश्चात न्यास उसके अधीन प्राप्त किन्हीं आपत्तियों, और सुझावों और अथावेदनों को विचारित कराए और ऐसी आपत्तियां, सुझाव या अथावेदन करने वाले सभी व्यक्तियों को न्यासवाद कर युक्तियुक्त अवसर प्रदान करने के पश्चात न्यास या तो योजना का परित्याग कर सकेगा या ऐसे उपायों के साथ, यदि कोई हो, जिन्हें न्यास आवश्यक विचारित करें, योजना की संस्कीर्त के लिए राज्य सरकार को आवेदन कर सकेगा।

(2) उप-धारा (1) के अधीन प्रस्तुत किये गये प्रत्येक आवेदन के साथ निम्नलिखित लगा होगा—
(अ) योजना का वर्णन और योजना से संबंधित पूर्ण विवरण, और योजना के पूर्ण प्लान और योजना निष्पादित करने के व्यवस्था के अनुसार,
(ब) आरोप में बनायी गयी योजना में किये गये किसी उपायों के लिए कारणों का विवरण,
(ग) धारा 33 के अधीन प्राप्त आपत्तियों, यदि कोई हो, का विवरण,
(घ) धारा 34 के अधीन प्राप्त कोई अथावेदन, और
(ङ) योजना के निष्पादन द्वारा विस्थापित होने से समाप्ति व्यक्तियों के पुनर्आवस्था के लिए न्यास द्वारा की गयी और प्रस्तावित व्यवस्थाओं का विवरण।

(3) जब उप-धारा (1) के अधीन राज्य सरकार को कोई आवेदन प्रस्तुत किया गया हो, तो न्यास राज-पत्र में और राजनीतिक समाचार-पत्र में दो लगातार सत्रह तक तथ्य का नोटिस प्रकाशित करायेगा।

Comments
1. Trust empowered to take decision before sanction of scheme by Government Under Section 36. (सरकार द्वारा योजना की संस्कीर्त से पहले विनिश्चय लेने के लिए न्यास संशोधक धारा 36 के अधीन) .................................................. 48
2. Acquisition of Land without prior sanction of scheme and no publication. (योजना की पूर्व संस्कीर्त के बिना मूल्य का अर्जन और कोई प्रकाशन नहीं) .................................................................................................................. 49

1. Trust empowered to take decision before sanction of scheme by Government Under Section 36.—Under Annexure 31 dated April 5, 1969, a decision was taken that the scheme shall not be executed. A reading of Section 40 of the Act will show that it relates to alteration of the scheme after sanction and it does not relate to abandonment or cancellation of the Scheme which has been sanctioned by the State Government. In Annexure R/3 it has been mentioned that the period of execution of the scheme was extended upto March 31, 1985 in exercise of the powers of the State Government under Section 39(1) of the Act. Though it cannot be said whether Annexure 31 dated April 5, 1969 was made by the Trust after the scheme had been sanctioned under Section 38(1) of the Act, but even if it may be assumed that it was made after the sanction of the Scheme under Section 38(1) of the Act, a decision was taken not to execute the scheme, but later on the period of execution of the scheme was extended under Section 39 of the Act. Therefore resolution of the Trust dated April 5,1969 (Annexure 31) firstly will have no relevance to the present case and secondly the Trust having taken a decision not to execute the scheme and it was well within its power to
extend the period of execution of the scheme and the State Government was again within its rights to issue a notification under Section 39(1) of the Act to extend the period of execution of the scheme.—Hari Ram M. Dhanwani vs. State of Raj. & Ors., 1988 (1) RLR 371.


2. Acquaintance of Land without prior sanction of scheme and no publication.—The acquisition of the land is not being made under the Indian Improvement Trust Act, but under the Land Acquisition Act and there is no bar in the Land Acquisition Act that the land cannot be acquired by the State Government for the development of residential colonies without prior sanction of any scheme and no publication. Then, acquisition of the land precedes the development and in the absence of any scheme, the acquisition can be made under the Act.—Sunder Lai & Ors., vs. State and Ors., 1991 (2) RLR 61 = 1992 (1) WLC 716.

Residential houses or places of business should be provided house site, of shop site at reserve or reasonable price—Sunder Lai & Ors., vs: State of Rajasthan, 1991 (2) RLR 62.


Section 37. Power to sanction, reject or return scheme.—(1) The State Government may sanction, or may refuse to sanction or may return for reconsideration any scheme submitted to it under Section 36.
(2) If a scheme returned for reconsideration under Sub-section (1) modified by the Trust it shall be re-published in accordance with Section 33.—

(a) in every case in which the modification affects the boundaries of the area comprised in the scheme or involves the acquisition of any land not previously proposed to be acquired, and

(b) in every other case, unless the modification is, in the opinion of the State Government, not of sufficient importance to require re-publication.

1(3) Notwithstanding anything in Section 29 or in any other provision of this Chapter,—

(a) it shall be lawful for the State Government to sanction any scheme framed by any Trust before the commencement of the Rajasthan Urban Improvement (Amendment) Act, 1963 composing in part, any area lying beyond the area for which such Trust was established;

(b) upon such sanction being given, all previous notification issued, notices as to scheme prepared, published and transmitted, objections, suggestions or representations, if any considered, application for sanction submitted and the notices regarding such submission published in respect of such scheme shall be deemed to have been duly issued, prepared, published and transmitted, considered and submitted and such area shall, notwithstanding anything in Section 8, be deemed to have been included in the area for which such Trust was established.]
Section 38. Notification of sanction of scheme.—(1) Whenever the State Government sanction a scheme it shall announce the fact by notification, and the Trust shall forthwith proceed to execute the same.

(2) The publication of a notification under Sub-section (1) in respect of any scheme shall be conclusive evidence that the scheme has been duly framed and sanctioned.

Comments

1. Trust empowered to take decision before sanction of scheme by Government Under Section 36.—Under Annexure 31 dated April 5, 1969, a decision was taken that the scheme shall not be executed. A reading of Section 40 of the Act will show that it relates to alteration of the scheme after sanction and it does not relate to abandonment or cancellation of the Scheme which has been sanctioned by the State Government. In Annexure R/3 it has been mentioned that the period of execution of the scheme was extended upto March 31, 1985, in exercise of the powers of the State Government under Section 39(1) of the Act. Though it cannot be said whether Annexure 31 dated April 5, 1969 was made by the Trust after the scheme had been sanctioned under Section 38(1) of the Act, but even if it may be assumed that it was made after the sanction of the Scheme under Section 38(1) of the Act, a decision was taken not to execute the scheme, but later on the period of execution of the scheme was extended under Section 39 of the Act. Therefore resolution of the Trust dated April 5, 1969 (Annexure 31) firstly will have no relevance to the present case and secondly the Trust having taken a decision not to execute the scheme and it was well within its power to extend the period of execution of the scheme and the State Government was again within its rights to issue a notification under Section 39(1) of the Act to extend the period of execution of the scheme.—Hari Ram M. Dhanwani vs. State of Raj. & Ors., 1988 (1) RLR 371.

2. Acquisition of Land without prior sanction of scheme and no publication. (योजना की पूर्व संस्थीकृति के बिना भूमि का अर्जन और कोई प्रकाशन नहीं).
2. Acquisition of Land without prior sanction of scheme and no publication.—The acquisition of the land is not being made under the Urban Improvement Trust Act, but under the Land Acquisition Act and there is no bar in the Land Acquisition Act that the land cannot be acquired by the State Government for the development of residential colonies without prior sanction of any scheme and no publication. Then, acquisition of the land precedes the development and in the absence of any scheme, the acquisition can be made under the Act.—Sunder Lal & Ors., vs. State and Ors., 1991 (2) RLR 61 = 1992 (1) WLC 716.

Residential houses or places of business should be provided house site of shop site at reserve or reasonable price—Sunder Lal & Ors., vs. State of Rajasthan, 1991 (2) RLR 62.

Section 39. Period for execution of a scheme.—(1) While notifying the sanction of a scheme under Section 38, the State Government shall also specify in such notification the period within which the scheme so sanctioned is required to be executed by the Trust.

(2) If the Trust fails to complete the execution of the scheme within the period specified under Sub-section (1), it shall make an application to the State Government setting forth the reasons for which the scheme could not be executed within the specified period and praying for its extension.

(3) The State Government, may in consultation with the Municipal Board concerned, either refuse to extend or may extend the period and the fact of such refusal or extension shall be notified in the Official Gazette.
Trust empowered to take decision before sanction of scheme by Government Under Section 36.—Under Annexure 31 dated April 5, 1969, a decision was taken that the scheme shall not be executed. A reading of Section 40 of the Act will show that it relates to alteration of the scheme after sanction and it does not relate to abandonment or cancellation of the Scheme which has been sanctioned by the State Government. In Annexure R/3 it has been mentioned that the period of execution of the scheme was extended upto March 31, 1985 in exercise of the powers of the State Government under Section 39(1) of the Act. Though it cannot be said whether Annexure 31 dated April 5, 1969 was made by the Trust after the scheme had been sanctioned under Section 38(1) of the Act, but even if it may be assumed that it was made after the sanction of the Scheme under Section 38(1) of the Act, a decision was taken not to execute the scheme, but later on the period of execution of the scheme was extended under Section 39 of the Act. Therefore resolution of the Trust dated April 5, 1969 (Annexure 31)

firstly will have no relevance to the present case and secondly the Trust having taken a decision not to execute the scheme and it was well within its power to extend the period of execution of the scheme and the State Government was again within its rights to issue a notification under Section 39(1) of the Act to extend the period of execution of the scheme.—Hari Ram M. Dhanwani vs. State of Raj. & Ors., 1988 (1) RLR 371.

Section 40. Alteration of Scheme after sanction.—At any time after a scheme has been sanctioned by the State Government and before it has been carried into execution, the Trust may alter it:
Provided that if any alteration is estimated to increase the estimated net cost of executing a scheme by more than Rs. 50,000/- or 5 percent of such cost, whichever is less, the alteration shall not be made without the previous sanction of the State Government.

**Section 40. Combination of schemes.**—Any number of areas in respect of which schemes have been or are proposed to be framed may, at any time, be included in one combined scheme.

**Section 41-A. Provision for previously sanctioned scheme.**—Notwithstanding anything contained in this Chapter, all improvement and development schemes falling within the purview of this Act, framed by a former Trust or otherwise and sanctioned by the State Government in relation to any area within the State prior to the establishment of an Improvement Trust under this Act for that area, shall be deemed to be the schemes duly sanctioned and notified under and in accordance with the provisions of this Chapter.

**Comments**

Applicability of Section 29.—Construction for purpose other than covered by Section 29. No scheme framed under Section 29, nor any pre-existing scheme in operation—Sections have no application since distinguishing features contemplated in Section 73-B not attracted.

In respect of authority to levy conversion charges in the cases of free old lands, use of which is not restricted by the title, under which such land is held, no conversion charges are leviable and in view of the fact that though under non-obstante provision of Section 73B the State Government has necessary authority to permit the use of the land for purposes other than for purposes restricted under the Scheme framed under Section 29 inspite of the provision of Section 72, but there being no scheme framed under Section 29 or deemed to be framed under Section 41A under which the user of the land in question for commercial purposes was restricted, no demand for change in user could be made on that
basis also, and in view of the fact that Trust itself in resolution approving the plan as referred to the fact that land in question was permitted to be put to commercial use way-back in 1995, when the permission was sought no change in user of the land for any restrictive purpose was to happen, which could entail levy of charges, and taking into consideration that land abutting on the road from Paota to Mahamandir was factually used for commercial purposes is not sustainable under the provisions of the Urban Improvement Act, 1958 in the present case.—Jawahar Sons Enterprises Pvt. Ltd. (Ms.) vs. State & Ors., 2002 (4) RLW (Raj) 2362 = 2002(1) DNJ (Raj.) 194 = 2002 (1) RRT 459 (Raj) = 2002 (1) CDR 766 (Raj) = 2002 (2) RLR 465 (Raj) = 2002 (2) WLC (Raj) 627 = 2002 (2) WLN 565 (Raj) = AIR 2002 (Raj) 206.

**Chapter VI**

Powers and duties of the Trust where a scheme has been sanctioned

Section 42. Transfer to Trust for purpose of scheme of building or land vested in Municipal Board.—Whenever any building, or any street, square or other land or any part thereof which is vested in the Municipal Board is required for executing any scheme, the Trust shall give notice accordingly to the Chairman of such Board, and such building, street, square, land or part shall thereupon vest in the Trust, subject, in the case of any building to the payment of the said Board of such sum as may be required to compensate it for actual loss resulting from the transfer thereof to the Trust.

**Adhaya—6**

न्यास की शक्तियाँ और कर्त्तव्य, जब योजना संस्थीकृत की जाये

धारा 42. मुनिसिपल मण्डल में निहित भवन या भूमि की योजना के प्रयोजन के लिए न्यास की अन्तर्गत— जब कभी कोई भवन या कोई मार्ग, चौक या अन्य भूमि या उसका
Section 43. Nazul lands.—(1) The State Government may by notification in the
Official Gazette and upon such terms and conditions as may be agreed upon between it
and the Trust, place at the disposal of the Trust all or any improved and unimproved
lands in the urban area for which the Trust has been constituted and which may be vested
in the State (known and hereinafter referred to as Nazul lands) for the purposes of
improvement in accordance with a scheme framed and sanctioned under this Act.

(2) No improvement of any Nazul land shall be undertaken or carried out except by,
or under the control and supervision of the Trust after such land has been placed at the
disposall of the Trust under Sub-section (1).

(3) After any such Nazul land has been improved by, or under the control and
supervision of the Trust, it shall be dealt with by the Trust in accordance with the rules
made and directions given by the State Government in this behalf.

(4) If any Nazul land placed at the disposal of the Trust under Sub-section (1) is
required at any time thereafter by the State Government the Trust shall, by notification in
the Official Gazette, replace it at the disposal of the State Government upon such terms
and conditions as may be agreed upon between that Government and the Trust.

Comments
Altering the status of open space.—Petitioners filing writ petitions
challenging the settlement entered into by the State Government by which it was
decided that the land of Rambagh Complex, which was acquired for the
purposes of UIT (now JDA) for constructing administrative, commercial and
residential building, will be used as city level park, golf course (including club-
house) and polo ground. Petitioner and interveners that the State praying should
use the land either for commercial complex (as envisaged earlier) or, if not, then the entire area should be used as a city level part. *Mala fide* or bias not alleged. No factual foundation laid in writ petitions as regards legality or validity of impugned decision/settlement. Settlement arrived at was valid. Public interest litigation can be withdrawn in the interest of the public with leave of the court only. Petitioners, who were not parties to the earlier proceedings at any stage, have no locus standi to approach the Court in appeal even in public interest litigations. The State Government may utilize the acquired land for the purpose of Golf Course, Polo Ground and City level park in public interest. Authority has power to dispose of land by way of allotment, regularisation or auction.—*Rajasthan Polo Club vs. State of Rajasthan & Ors., State of Rajasthan & Am. vs. S.C. Kabra, Ms. Rambagh Gold Club, K.K. Sharma & Ved Prakash Bishnoi vs. State of Rajasthan & Ors.; Jitendra Shrimlali & Am. vs. State of Rajasthan & Ors., 2001 (3) RLR 389 (Raj)*

**Section 44. Transfer of private street or square to Trust for purposes of scheme.—** (1) Whenever any street or square or part thereof which is not vested in the Municipal Board is required for executing any scheme, the Trust shall cause to be affixed in a conspicuous place in or near such street, square or part, a notice signed by the Chairman.—

(a) stating the purpose for which the street, square or part is required, and

(b) declaring that the Trust will, on or after a date to be specified in the notice, such date being not less than thirty days after the date of the notice, take over charge of such street, square or part from the owner thereof; and

shall simultaneously send a copy of such notice to the owner of such street, square or part.

(2) After considering and deciding all objection, if any, received in writing before the date so specified, the Trust may take over charge of such street, square or part from the owner thereof and the same shall thereupon vest in the Trust.
(3) When the Trust alters or closes any street or square or part thereof which has vested in it under Sub-section (2), it shall pay reasonable compensation to the previous owner for the loss of his rights therein.

(4) If the alteration or closing of any such street, square or part causes damage or substantial inconvenience to owners of property adjacent thereto or to residents in the neighbourhood, the Trust—

(i) shall forthwith provide some other reasonable means of access for the use of persons who were entitled to use street, square or part as a means of access to any property or place, and

(ii) if the provision of such means of access does not sufficiently compensate any such owner or resident for such damage or inconvenience, shall also pay him reasonable compensation in money.

Section 45. Provisions of drain or waterwork to replace another situated on land vested in the Trust under Section 42 or Section 43 or Section 44.—(1) When any building or any street, square or other land, or any part thereof, has vested in the Trust under Section 42 or Section 43 or Section 44, no drain or waterwork therein shall vest in the Trust until another drain or waterwork, as the case may be, required, has been provided by the Trust, to the satisfaction of the Municipal Board in place of the former drain or waterwork.
(2) If any question or dispute arises as to whether another drain or water work is required or as to the sufficiency of any drain or water work provided by the Trust under Sub-section (1) the matter shall be referred to the State Government whose decision shall be final.

Section 46. Power of Trust to turn or close street or square vested in it.—(1) The Trust may—

(a) turn, divert, discontinue the public use of, or permanently close, any public street vested in it or any part thereof, or

(b) discontinue the public use of, or permanently close, any public square vested in it any part, thereof.

(2) Whenever the Trust discontinues the public use of, or permanently closes any public street vested in it or any part thereof, it shall by reasonable compensation to every person who was entitled otherwise than as a mere licensee, to use such or part as a means of access and his suffered damage from such discontinuance or closing.

(3) Whenever the Trust discontinues the public use of, or permanently closes, any public street vested in it or any part thereof, it shall pay reasonable compensation to every person—

(a) who was entitled, otherwise than as a mere licensee, to use such square or part as a means of access, or

(b) whose immovable property was ventilated by such square or part, and who has suffered damage—

(i) in case (a), from such discontinuance or closing, and

(ii) in case (b), from the use of which the Trust has put such square or part.

(4) In determining the compensation payable to any person under Sub-section (2) or Sub-section (3), the Trust shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street or square at or about the same time that the public street or square or part thereof, on account of which the compensation is paid, is discontinued or closed.

(5) When any public street or square vested in the Trust, or any part thereof, is permanently closed under Sub-section (1), the Trust may sell or lease so much of the same as is no longer required.

(2) यदि इस संबंध में कि क्या दूसरी नाली या जलसंकर्म की आवश्यकता है या न्यास द्वारा उप-धारा (1) के अंतर्गत उपबंधित किसी नाली या जलसंकर्म की पर्याप्तता के संबंध में कोई प्रश्न या विवाद उत्पन्न होता है, तो मामला राज्य सरकार को निर्देश किया जायेगा, जिसका विनिमय अंततः होगा।
Section 47. Power under the Municipal laws vested in the Trust.—(1) Such provisions of the Municipal law for the time being in force in any part of the State as may be prescribed in the case of each Trust, shall so far as may be consistent with the tenor of this Act, apply to the urban area for which the Trust is established under this Act and all references in the said provisions to the Municipal Board, Council or Corporation shall be construed as references to the Trust which, in respect of any such urban area may alone exercise and perform all or any of the powers and functions which under any of the said provisions might have been exercised and performed by the Municipal Board, Council or Corporation or by the Chairman or President or by any officer thereof:

Provided that the Trust may delegate to the Chairman or to any officer of the Trust all or any of the powers conferred under this section.

[(2) to (5) Omitted by Rajasthan Act No. 26 of 1976.]

1 Substituted for words, “all areas, in respect of which a scheme is in force, and for the period during which such scheme remains in force,” by Section 3(i)(a) of Rajasthan Act No. 26 of 1976, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 17.04.1976. (w.e.f. 28.02.1976).


3 Omitted by Section 3(i) of ibid, prior to amendment it was as followings:—

"Sub-section 47(2) The Trust may make by-laws for any areas comprised in a scheme which is outside the limits of the Municipality generally for carrying out the purpose of the scheme.

Sub-section 47(3) The power of the Trust to make bye-laws shall be subject to the condition of the bye-laws being made after previous publication and of their not taking effect until they have been confirmed by the State Government; and the State Government may—

(a) in confirming a bye-law, make any change in its form that appears necessary, and
Section 48. Transfer of duties etc. of Municipal Board to Trust.—The State Government may by notification in the Official Gazette transfer to the Trust any of the duties, powers, functions and responsibilities of the Municipal Board and thereupon the Trust shall carry out, exercise, perform and discharge such duties, powers, functions and responsibilities.

Section 49. Power to make surveys or contribute towards their cost.—The Trust may—
(a) cause a survey of any land to be made whenever it considers that a survey is necessary or expedient for carrying out any of the purposes of this Act, or
(b) contribute towards the cost or any such survey made by any other local authority.

Section 50. Vesting in Municipal Board of street laid out or altered and open space provided by the Trust under Scheme.—(1) Whenever the Municipal Board is satisfied—
(a) that any street laid out or altered by the Trust has been duly levelled, paved, metalled, flagged channelled, sewered and drained in the manner provided in the scheme sanctioned by the State Government under this Act,
(b) after previous publication of its intention, rescind any bye-laws which it has confirmed whereupon such bye-laws shall cease to have effect.

Sub-section 47(4) No alteration or rescission of a bye-law by the Trust shall have effect unless and until it has been confirmed by the State Government.

Sub-section 47(5) In making a bye-law the Trust may direct that a breach of it shall be punishable with fine which may extend to five hundred rupees, and when the breach is a continuing one, with a further fine which may extend to five rupees for every day after the day of the first conviction during which the offender is proved to have persisted in the offence.
(b) that such lamps, lamp-posts and other apparatus for the lighting of such street as ought to be provided by the Trust have been so provided, and

c) that water and other sanitary conveniences have been duly provided in each street.

the Municipal Board, after obtaining the assent of the Trust, or failing such assent, the assent of the State Government under Sub-section (3), shall, by a written notice affixed in some conspicuous position in such street, declare the street to be a public street; and the street shall thereupon vest in the Municipal Board and shall thenceforth be maintained, kept in repair, lighted and cleansed by the said Board.

(2) When any open space for purposes of ventilation or recreation has been provided by the Trust in executing any scheme, it shall, on completion, be transferred to be Municipal Board by resolution of the Trust and thereupon vest in, and be maintained at the expense of the said Board:

Provided that the said Board may require the Trust, before any such open space is so transferred, to enclose, level, turf, drain and lay out such space and provide footpaths therein, and if necessary, to provide lamps and other apparatus for lighting it.

(3) If any difference of opinion arises between the Trust and the Municipal Board in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the State Government; whose decision shall be final.

§50. योजना के अधीन न्यास द्वारा बनाये गये या परिवर्तित मार्ग और व्यवस्था किये गये खुले स्थानों का मुनिशिपल मण्डल में निहित होना—(क) जब कभी मुनिशिपल मण्डल सन्तुष्ट हो—

(क) किन न्यास द्वारा बनाये या परिवर्तित किये गये मार्ग को इस अधिनियम के अधीन राज्य सरकार द्वारा संस्कृति योजना में उपबंधित तरीके में सम्मिक्र रूप से समतल कर दिया, उस पर पत्थर लगा दिये, पक्का कर दिया, खारिजा बंदी कर दिया, जल-वाहिका, नल-प्रणा और नालियाँ बना दी गयी हैं,

(ख) किन न्यास द्वारा उपबंधित किये अनुसार ऐसे मार्ग की रोशनी के लिए ऐसे लैंपों, खंभों और अन्य कार्यक्रमों की ऐसी व्यवस्था कर दी गयी, और

(ग) कि जल और अन्य स्वच्छता संबंधी सुविधाओं की प्रत्येक मार्ग में सम्मिक्र रूप से व्यवस्था कर दी गयी,

तो मुनिशिपल मण्डल, न्यास की अनुमति प्राप्त करने के पश्चात् या ऐसी अनुमति नहीं मिलने पर, उप-शास्त्र (3) के अधीन राज्य सरकार की अनुमति प्राप्त करने के पश्चात्, ऐसे मार्ग में किसी सहजज्ञात्व स्थान पर लिखित नोटिस चिपकाते हुए उस मार्ग को सार्वजनिक मार्ग घोषित करेगा, और उस पर मार्ग मुनिशिपल मण्डल में निहित हो जायेगा और उक्त मण्डल द्वारा अनुरक्षित, मस्मत्यूक्त हालत में, रोशनीयुक्त और साफ-सुधार रखा जायेगा।

(2) जब संशोधन या संस्करण के प्रयोजनों के लिए कोई खुले स्थान की व्यवस्था किसी योजना को नियुक्तित करने में न्यास द्वारा की गयी हो तो, योजना पूर्ण हो जाने पर वह न्यास के संकल्प द्वारा मुनिशिपल मण्डल को अन्तर्गत की जायेगी और उस पर उक्त मण्डल में निहित हो जायेगी, और उक्त मण्डल के यथा पर अनुरक्षित की जायेगी—

परमुख उक्त मण्डल किसी ऐसे खुले स्थान को ऐसे अन्तर्गत करने से पहले ऐसे स्थान का अहाता बने करने, उसे समतल करने, उस पर दूब लगाने और उसमें नालियाँ बनाने और ऐसे स्थान का अभियास करने और उस पर फूटपथ की व्यवस्था करने, और यदि आवश्यक हो, इसे
Chapter VII
Acquisition and disposal of Land

Section 51. Power to purchase or lease by agreement.—The Trust may enter into an agreement with any person for the purchase, leasing or exchange by the Trust from such person, of any land which the Trust is authorised to acquire or any interest in such land.

Section 52. Compulsory acquisition of land.—(1) Where on a representation from the Trust [or otherwise] it appears to the State Government that any land is required for the purpose of improvement or for any other purpose under this Act, the State Government may acquire such land [under and in accordance with the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894)].

(2) to (6) Omitted by Rajasthan Act No. 29 of 1987

2 Substituted for words, “by publishing in the Official Gazette a notice specifying the particular purpose for which such land is required and stating that the State Government has decided to acquire the land in pursuance of this section,” by Section 2(a) of Rajasthan Act No. 29 of 1987, Published in the Rajasthan Gazette, Extraordinary, 4 (Ka) dated 04.11.1987. (w.e.f. 01.08.1987).
3 [ (2) to (6) Omitted by Rajasthan Act No. 29 of 1987 ]

"Sub-section 52(2) Before publishing a notice under Sub-section (1), the State Government shall by another notice call upon the owner of the land and any other person who in the opinion of the State Government may be interested therein to show cause, within such time as may be specified in the notice, why the land should not be acquired. Such notice shall be individually served upon the owner of the land and any other person who in the opinion of the State Government may be interested therein. It shall also be published in the Official Gazette at least 30 days, in advance and shall be posted on some conspicuous place in the locality, where the land to be acquired is situate. Such publication and pasting of notice shall be deemed as sufficient and proper service of notice upon the owner of the land and upon all other persons who may be interested therein."

"Sub-Section 52 (3) Within the time specified in the notice, the owner of the land or any other person interested therein may show cause and make objections, why the land should not be acquired. Every such objection to the notice given under Sub-section (2) shall be made in writing to the officer on special duty, or any other officer appointed by the State Government for the purpose. Such officer shall give the objector an opportunity of being heard, either in person or by pleader, and after hearing all
(2) After the Land has been acquired and its possession taken, the State Government shall, on payment of the amount of compensation as determined under [Section 11 of the Land Acquisition Act, 1894 (Central Act 1 of 1894)], the amount of interest thereon and of all other charges incurred by the State Government in this connection, transfer it to the Trust or to any other prescribed authority or department for the purpose for which it is acquired.

Provided that such transfer of the land may be made to the Trust or to any other prescribed authority or the department of the Government without recovering any amount,—

(i) Where the State Government is satisfied that any such land is urgently needed by the trust, prescribed authority or department of the Government for carrying out improvement under Act immediately, or

(ii) Where any such land is intended to be allotted free of charge to the Scheduled Castes, Scheduled Tribes or to person entitled under Section 31 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955) to possess a site for residential house in the 'abadi' of the urban area free of charge.

(3) After considering the cause, if any, shown by the owner of the land and by any other person interested therein and after giving such owner and person an opportunity of being heard, the State Government may pass such orders as it deems fit.
1894 (1894 का केंद्रीय अधिनियम सं. 1) के प्रावधानों के अधीन और उसकी अनुपालन में ऐसी भूमि अर्जित कर सकती है।

(2) XXX
(3) XXX
(4) XXX
(5) XXX
(6) XXX

(2) भूमि अर्जित करने और इसका आरोपित लेने के पश्चात् राज्य सरकार भूमि अर्जन अधिनियम, 1894 (1894 का केंद्रीय अधिनियम सं. 1) की धारा 11 के अधीन निर्धारित किये अनुसार प्रतिकर की राशि के भुगतान पर, उस पर व्याज की राशि और इस संबंध में राज्य सरकार द्वारा उपग्रह सभी अन्य प्रभारों के भुगतान पर, इस न्याय को या किसी अन्य विहित प्राधिकारी को या विवाद को उस प्रयोजन के लिए अन्तर्गत करेंगे, जिसके लिए इसे अर्जित किया गया:

परन्तु भूमि का ऐसा अंतर्गत न्याय को या किसी अन्य विहित प्राधिकारी को या सरकार के विवाद को कोई राशि वसूल करे तो इसे किया जा सकता है।

(i) जहां राज्य सरकार सन 1955 में ऐसी कोई भूमि न्याय, विहित प्राधिकारी या सरकार के विवाद द्वारा अधिनियम के अधीन तुरंत सुधार कायमचित्त करने के लिए अवश्यक रूप से आवश्यक हो, तो जा।

(ii) जहां ऐसी कोई भूमि राजस्थान काश्तकारी अधिनियम, 1955 (1955 के राज. अधि. सं. 3) की धारा 31 के अधीन हकदार व्यवस्था को या अनुसूचित जनजातियों या अनुसूचित जनजातियों को निःशुल्क नगरीय क्षेत्र की आबादी में आवासीय मकान के लिए स्थान का कब्जा प्राप्त करने के लिए निःशुल्क आवंटन किया जाना आवश्यक हो।

Comments

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1. Amendment—Applicability.—Where the proceedings were pending before the date of the introduction of the Amendment Act and the date of the commencement of the Amendment Act before the Land Acquisition Officer or before the reference Court enhanced solatium would be payable.—Umed Industries & Land Development Co. and Ors. vs. State of Rajasthan & Ors., 1995 (1) RLW 112 (SC).
1. Objection—Interest on Compensation.—The use of the word “therein” after the expression “person interested” indicates that only a person having an interest in the land is entitled to raise objections against the acquisition of land under Section 52 of the Act and a person who only claims interest in the compensation but has not interest in the land, cannot be said to be a person who is entitled to raise any objection to the acquisition proceedings.

In the absence of acquisition of title by prescription, possession, by itself, does not confer and title on the person in possession over the property in his possession.—Grace Harris vs. State of Rajasthan, 1981 RLW 620 (Raj).

2. After the award Amendment came into force—Applicability.—Payment of additional amount is independent of the compensation determined for the value of the land. They are not part of the component of the compensation for value of the acquired land. They are in addition to and independent of the component of the compensation under Section 23(1) of Central Land Acquisition Act for Section 52 of the Act. The payment of solatium, interest and additional amount under Sections 23(2), 28 and 23(1A) is in addition to the payment of the compensation in terms of the provisions of the Act under which the property came to be acquired. Admittedly, the Act does not provide for payment of solatium and additional benefits except interest @ 6% per annum from the date of taking possession. The Amendment Act 68 of 1984 would be applicable prospectively from August 1, 1987 to the land acquired thereafter Act, 68 of 1984 would be applicable under Section 60A to the pending cases as on August 1, 1960 to determine compensation.

It would be seen that under the Central Amendment Act payment of additional amount under Section 23(1-A) and of solatium under Section 23(2) cannot be applied to the award made prior to coming into force of the Rajasthan Amendment Act, 29 of 1987. Section 60A provides that notwithstanding anything contained in sub-section (1) of Section 52 of the Act, where any matter relating to acquisition of land is pending on the date of the commencement of the Amendment Ordinance, viz., August 1, 1987 such matters being conducted or action taken, shall be subject to the provisions of the Central LA Act.—Urban Improvement Trust Jodhpur vs. Gokul Narain & Anr., 1996 (2) RLW 122 SC.
3. Pursuant to the provisions of the preamble, the allotment certificate of the plots was not issued to the Housing Cooperative Society. The society, therefore, approached the court for an interim order to maintain status quo. The court, after hearing the arguments, ordered the status quo to be maintained.

4. Acquisition Proceedings.—Chaturvedi Digest 2002-2003—Land under agreement of sale by Khatedars to Housing Cooperative Society. Land sought to be acquired by UIT. Acquisition proceedings coming to end and Members of society depositing conversion charges. Regulation of allotment to Members pending with JDA. Subsequent Notification by State under Section 6 but under further policy decision. Circular issued for regularisation of land in consequence of which society finalising Agreement by partial deposit of conversion charges. Court ordered status quo to be maintained.

JDA approving scheme for construction, and construction of bypass declared to be free of cost following which petitioner society depositing conversion charges.

After having duly executed the agreement between the parties vide the sale-deed, it was not open either to the Housing Board or to JDA to take a contrary stand and in view of this agreement having arrived at between the parties, no intermeddling or any unauthorised activity can be permitted over the land in question which already stood allotted to the petitioners.—Indu Bala Jain & Ors., State of Rajasthan, 2002 (2) RLW Raj. 1047 = 2002 (1) RLR 527 (Raj) = 2002 (2) WLC (Raj) 407 = 2002 AIHC 3537 (Raj).

4. अर्जन कार्यवाहियां—हाउसिंग को—आपौंडित सोसाइटी को खालीलों द्वारा विक्रय के करार के अनुसार भूमि। भूमि को नया सुधार न्यास द्वारा अर्जित करना चाहिए। अर्जन कार्यवाहिया समाप्त हुई और सोसाइटी के सदस्यों ने संपरिवर्तन प्राप्त करना चाहिए। सदस्यों को आवंटन का विनियम जयपुर विक्रास प्रार्थना से लिखित। धारां 6 के अनुसार राज्य द्वारा अनुमान अधिकृत, लेकिन अन्य नीति विनियम के अनुसार। भूमि के विनियमितकरण के लिए परिपत्र जारी, जिसके परिणाम से सोसाइटी ने संपरिवर्तन प्राधिकृत में आशीर्वाद द्वारा दर्ज करार अल्पम किया। न्यायाधीश ने यथार्थता बनाये रखने का आदेश दिया।

जयपुर विक्रास प्रार्थना ने निर्णय के लिए योजना अनुसूचित की और बाई-पारा का निर्माण निश्चित किया, जिसका अनुमोदन करते हुए प्राधिक सोसाइटी ने संपरिवर्तन प्राप्त करना चाहिए।

विरोध—विलेख के हांस पारस्कारों के लेख करार संपर्क रूप से निष्पादित करते हुए, हाउसिंग बोर्ड या जयपुर विक्रास प्रार्थना के लिए विशेष मत लेना खुला नहीं था और पारस्कारों के लेख दिये गये
5. Constitutional validity of Section 52 and 53.—The provisions of Sections 52 and 53 of the Act do not offend Articles 14, 19 and 31A of the Constitution and the powers are not unfettered or unguided. A look at Section 52(2) of the Act will show that before publishing a notice under Sub-section (1), the State Government shall by another notice call upon the owner of the land and any other person who in the opinion of the State Government may be interested therein to show cause, within such time as may be specified in the notice why the land should not be acquired. The said notice has to be individually served upon the owner of the land and any other person who in the opinion of the State Government may be interested therein. It shall be published in the Official Gazette at least 30 days in advance and shall be pasted on some conspicuous place in the locality, where the land to be acquired is situate. Under Section 52(3) of the Act the owner of the land or any other person interested therein may show cause and make objections, why the land should not be acquired. The objector has to be given an opportunity of being heard and has a right to be presented by a pleader and only after hearing the objections and after making such inquiry as deemed necessary, he has to submit the case for decision to the State Government and thereafter the State Government has to pass the orders as it deem fit. Therefore, sufficient safeguards are contained in Sub sections (2) and (3) of Section 52 of the Act and it cannot be said that no guide lines are provided.—Hari Ram M. Dhanwani vs. State of Raj. & Ors., 1988 (1) RLR 371.

6. Notice to be served individually.—Notices under Sub-section (2) of Section 52 required to be served individually on the owners. It is only when the owners are served individually then the ownership would be in a position to show
cause against the intended acquisition. If notices are not served individually, then the owners would be deprived of their valuable right to raise objections against the acquisition.—Jit Singh vs. State, 1988 WLN (UC) 258.

6. व्यक्तिगत रूप से नोटिस लाभित कराया जाना.—धारा 52 की उप-धारा-(2) के अंतर्गत नोटिस व्यक्तिगत रूप से मालिकों पर हमील करने की अवस्थायता होती है। यह नियम तब होता है जब मालिकों को व्यक्तिगत रूप से तामिल करायी जाती है तो मालिक आश्वित अर्जन के विरुद्ध कारण दर्शाने की सीमिति में होते हैं। यदि नोटिस व्यक्तिगत रूप से तामिल नहीं कराये जाते हैं तो मालिक अर्जन के विरुद्ध आपत्तियाँ करने के अपने बहुभुख अधिकार से विरुद्ध होगे—जीतसिंह बनाम राज्य, 1988 WLN (UC) 258.

7. Notice—Territorial jurisdiction.—Notice issued under Section 52(2) by Spl. Officer, Town Planning Deptt. against respondents at Calcutta. Held, no cause of action arose within territorial jurisdiction of Calcutta High Court and it could not issue rule nisi or ex-parte interim stay order.—State of Raj. & Ors. vs. Ms. Swaica Properties & Anr., 1985 (1) WLN 560 (Raj).

8. Altering the status of open space.—Petitioners filing writ petitions challenging the settlement entered into by the State Government by which it was decided that the land of Rambagh Complex, which was acquired for the purposes of UIT (now JDA) for constructing administrative, commercial and residential building, will be used as city level park, golf course (including club-house) and polo ground. Petitioner and interveners that the State praying should use the land either for commercial complex (as envisaged earlier) or, if not, then the entire area should be used as a city level part. Mala fide or bias not alleged. No factual foundation laid in writ petitions as regards legality or validity of impugned decision/settlement. Settlement arrived at was valid. Public interest litigation can be withdrawn in the interest of the public with leave of the court only. Petitioners, who were not parties to the earlier proceedings at any stage, have no locus standi to approach the Court in appeal even in public interest litigations. The State Government may utilize the aquired land for the purpose of Golf Course, Polo Ground and City level park in public interest. Authority has power to dispose of land by way of allotment, regularisation or auction.—Rajasthan Polo Club vs. State of Rajasthan & Ors.; State of Rajasthan & Anr. vs. S.C. Kabra, Ms. Rambagh Gold Club, K.K. Sharma & Ved Prakash Bishnoi vs. State of Rajasthan & Ors.; Jitendra Shrimali & Anr. vs. State of Rajasthan & Ors., 2001 (3) RLR 389 (Raj).

8. खुले स्थान का स्तर परिवर्तित करना.—प्राधिकरणों ने राज्य सरकार द्वारा किये गये निपटाओं को कुचनी देते हुए रिट यादिका फाइल की, जिसके द्वारा यह बिनतिकृत किया गया कि राज्य सरकार कम्प्लेक्स की भूमि, जिसे प्रशासनिक, वाणिज्यिक और रहायशी भवन निम्नलिखित करने के लिए नगर सुधार न्यास (अब जयपुर विकास प्राधिकरण) के प्रयोजनों के लिए प्रतिष्ठित किया गया था, सहरीय स्तर पार, गोलक कोर्स (जिसमें क्लब—हाइस शामिल हैं) और पौलो ग्राउंड के रूप में प्रयुक्त की जायेंगी। प्राधिकरण और हस्तक्षेपकों ने प्राधिकरण की कि भूमि को वाणिज्यिक कम्प्लेक्स के रूप में प्रयुक्त किया जाना चाहिए, या यदि नहीं, तो
9. **Right of allottee of alternative land.**—Notification dated 08.07.1987 issued under Section 52 of the Urban Improvement Trust Act was quashed by the Court. Fresh notification issued by the Government under Section 4 of the Land Acquisition Act. Question of any revival of proceedings under Section 60A Urban Improvement Trust Act could not arise. Allottee of alternative land qua earlier acquisition proceedings has no right to enforce the allotment. Moreover, when the date on which the writ petition was filed a civil suit was barred by limitation.—Sudharshana Devi (Smt.) & Ors. vs. State of Rajasthan & Ors., 2001 (2) WLN (Raj) 352 = 2000 (4) RLW 688 (Raj) = 2001 (1) WLC (Raj) 730 = 2001 (2) RLR 302 (Raj) = 2001 (1) RRT 620 (Raj) = 2001 RRD 268 (Raj) = 2001 AIHC 251 (Raj).


11. **Notice.**—Notices containing wrong particulars of owners and issued against dead persons—Held, it is sufficient to quash notice.—Bishambhar Dayal & Ors., vs. State & Ors., 1991 (1) WLC 686.
12. Vesting of land.—State Government cannot be said to be divested of land.—Bishambhar Dayal & Ors., vs. State & Ors., 1991 (1) WLC 686.

—If the land had vested in the State Government free from all encumbrances after the publication of the notification under Sub-section (1) of Section 32 of the U.I.T. Act, by virtue of that section there can be no divesting of the land.—Sheo Narain & Ors. vs. State of Rajasthan & Ors., 1993 (1) WLC 536 (Raj)

—If the Society allots the plots to its members, the petitioners even after the award cannot be said to have acted fairly and bona fide. The petitioners have no locus standi and they have no case for interference by this Court.—Sheo Narain & Ors. vs. State of Rajasthan & Ors., 1993 (1) WLC 536 (Raj)

—Even if the conversion charges have been deposited or some contructions have been raised, this cannot be a ground to hold that State Government can be divested of the land which vested in it under Sub-section (4) of Section 52 of the U.I.T. Act.—Sheo Narain & Ors. vs. State of Rajasthan & Ors., 1993 (1) WLC 536 (Raj)

—In a case where the land has absolutely vested in the State Government free from all encumbrances by virtue of Sub-section (4) of Section 52 of the U.I.T. Act after publication of the notification under Sub-section (1) of Section 52 of the U.I.T., if the amount of compensation has not been determined within two years of the extension of the Act to this State, the State Government will be divested of the land and possession has to be re-delivered to the owners of the land.—Sheo Narain & Ors. vs. State of Rajasthan & Ors., 1993 (1) WLC 536 (Raj).

—Notification under Section 52(2) of the Urban Improvement Act was issued on 30.04.1987 and was published in the Rajasthan Gazette dated 09.07.1987. With the coming into force of the Rajasthan Urban Improvement Amendment Act, 1987 the provisions of the Land Acquisition Act, 1894 became applicable to those proceedings. Report was submitted by the competent officer to the Government on 11.07.1988 and a Notification was published on 30.07.1988. It is, thus, clear that the Notification under Section 6 was published after the expiry of the period of one year counted from the date of publication of the notice.—Damodar Lal Sharma & Ors. vs. State of Rajasthan & Ors., 1994 (1) WLC 294 (Raj)

—There is delay of about two years in challenging the award and in view of the notification under Sub-section (2) of Section 52 of U.I.T. Act, it cannot be said that the petitioner had no knowledge of the acquisition proceedings. He shall be deemed to have the knowledge of acquisition proceedings.—Sheo Narain & Ors. vs. State of Rajasthan & Ors., 1993 (1) WLC 536 (Raj)

—When transfer could not taken place, even agreements to sell could not be executed as in all such cases they had to be followed by the execution of sales deeds. Therefore, also such transfer of lands in relation to which acquisition proceedings had been initiated by issuing notification under Section 52(2) of the U.I.T. Act was not permissible as it was against the provisions of 1976 Act and
agreement to sell will not confer any right on the purchasers.—*Sheo Narain & Ors. vs. State of Rajasthan & Ors.*, 1993(1) WLC 536 (Raj)

—If the land had vested in the State Government free from all encumbrances after the publication of the notification under Sub-section (1) of Section 52 of the U.I.T. Act, by virtue of that section there can be no divesting of the land.—*Sheo Narain & Ors. vs. State of Rajasthan & Ors.*, 1993(1) WLC 536 (Raj)

—Even if the conversion charges have been deposited or some constructions have been raised, this cannot be a ground to hold that the State Government can be divested of the land which vested in it under Sub-section (4) of Section 52 of the U.I.T. Act.—*Sheo Narain & Ors. vs. State of Rajasthan & Ors.*, 1993(1) WLC 536 (Raj)

—in a case where the land has absolutely vested in the State Government free from all encumbrances by virtue of Sub-section (4) of Section 52 of the U.I.T. Act, after publication of the notification under Sub-section (1) of Section 52 of the U.I.T., if the amount of compensation has not been determined within two years of the extension of the Act to this State, the State Government will be divested of the land and possession has to be re-delivered to the owners of the land.—*Sheo Narain vs. State of Rajasthan*, 1993(1) WLC 536 (Raj).

—Such persons, who not come to this Court with clean hands, do not deserve any interference in the equitable jurisdiction of this Court, the exercise of which jurisdiction should be confined to honest, *bona fide* and law abiding citizens.—*Sheo Narain & Ors. vs. State of Rajasthan & Ors.*, 1993 (1) WLC 536 (Raj).

12. भूमि निहित होना.—राज्य सरकार भूमि निहित होने के रूप में नहीं कही जा सकती—विशेष द्वारा और अन्य बनाम राजस्थान राज्य, 1991 (1) WLC 686.

—यदि भूमि यू.आई.टी. अधिनियम की धारा 52 की उप-धारा (1) के अधीन अविभव्यक्त के प्रकाशन के पश्चात सभी अरण्यवासी से मुक्त होकर राज्य सरकार में निहित थी, तो उस धारा के प्रभाव से भूमि का कोई वंचन नहीं किया जा सकता.—शिव नारायण और अन्य बनाम राजस्थान राज्य और अन्य, 1993 (1) WLC 536 (Raj).

—यदि सीनासीटी अपने सदस्यों को प्लाट अविभित करती है, तो पंचायत के पवित्र भाव प्रार्थिण निर्देश रूप से और सदस्यवाद से कार्य करते हुए नहीं कही जा सकते। प्रार्थिण के पास चुने जाने का कोई अविभित नहीं है और इस प्रार्थिण द्वारा हस्तक्षेप का उपकार कोई मामला नहीं है—शिव नारायण और अन्य बनाम राजस्थान राज्य और अन्य, 1993 (1) WLC 536 (Raj).

—वाहे यदि सप्तपिंतन प्रभाव जना कर दिये गये हो या कुछ निर्माण कर दिया गया हो, अंतः यह निर्मित करने का यह आधार नहीं हो सकता कि राज्य सरकार, उस भूमि का वंचन कर सकती है, जिसे यू.आई.टी. अधिनियम की धारा 52 की उप-धारा (4) के अधीन इससे निहित किया गया—शिव नारायण और अन्य बनाम राजस्थान राज्य और अन्य, 1993 (1) WLC 536 (Raj).

—ऐसे मामले में जहाँ भूमि यू.आई.टी. अधिनियम की धारा 52 की उप-धारा (1) के अधीन अविभव्यक्त के प्रकाशन के पश्चात यू.आई.टी. अधिनियम की धारा 52 की उप-धारा (4) के प्रभाव से सभी अरण्यवासी से मुक्त होकर राज्य सरकार में निहित रूप से निहित हो, यदि प्रतिकूल की साथि इस राज्य में अधिनियम के विस्तार से दो वर्षों के भीतर निर्मित किये नहीं किये गये, तो राज्य सरकार भूमि संरक्षित करेगा और भूमि के मालिक को आपिकान्त पुनर्ग्रहण कर दिया जायेगा.—शिव नारायण और अन्य बनाम राजस्थान राज्य और अन्य, 1993 (1) WLC 536 (Raj).

—नगर जूलूच अधिनियम की धारा 52 (2) के अधीन अविभव्यक्त 30.04.1987 को जारी की गयी और राज. राजपर दिनांकित 09.07.1987 में प्रकाशित की गयी थी। राजस्थान नगर सुधार संशोधन अधिनियम, 1987 के प्रमुख में आने से, भूमि जूलूच अधिनियम, 1894 के प्रकाशन उन कार्यवाहियों को लापूर होते हैं।

रक्षम अधिकारी द्वारा 11.07.1988 को सरकार को सिर्फ़ प्रस्तुत की गयी और अविभव्यक्त 30.07.1988 को
53. Compensation of compulsory acquisition of land.—(1) Where any land is acquired by the State Government under this Act, the State Government shall pay for such acquisition compensation the amount of which shall be determined in accordance with the provisions of this Section.

(2) Compensation payable under Sub-section (1) shall be deemed to be due as from the date of absolutely vesting of the land in the State Government under Sub-section (4) of Section 52 and shall carry simple interest at the rate of six percent per annum from that day up to the date of payment: Provided that no interest shall be payable on any amount of compensation which remains unpaid for any default of the person entitled to receive it or his agent or representative-in-interest or for any of the reasons specified in Sub-section (3) of Section 57.

(3) Where the amount of compensation can be determined by agreement between the State Government and the person to be compensated, it shall be determined in accordance with such agreement.

(4) Where no such agreement can be reached, the State Government shall refer the case to the Collector for determination of the amount of compensation to be paid for such acquisition as also the person or persons to whom such compensation shall be paid.

[Section 53 Omitted by Rajasthan Act No. 29 of 1987]
Contd. . .

(5) Before finally determining the amount of compensation, the Collector shall give an opportunity to every person to be compensated to state his case as to the amount of compensation.

(6) In determining the amount of compensation, the Collector shall be guided by the following principles, namely—

(a) no allowance shall be made on account of the acquisition being compulsory;

(b) the value of the land shall be taken to be the market value of the land on the date on which the notice calling upon the owner to show cause why the land should not be acquired is issued under Sub-section (2) of Section 52 hereinafter referred to as “the date of notice” such market value being determined on the basis of the use of the land on that date;

(c) the special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it would be applied only in pursuance of statutory powers, or for which it would be applied only in pursuance of statutory powers, or for which there is not a market apart from the special needs of a particular purchaser or the requirements of any Department of Government or any local or public authority;

(d) Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any Court, or is contrary to law, or is detrimental to the health of the inmates of the premises, or to public health, the amount of that increase shall not be taken into account.

(7) For the purpose of determining the amount of compensation—

(a) the Collector shall have the power to require any person to deliver to him such returns and assessments as he considers necessary;

(b) the Collector shall also have the power to require any person known or believed to be interested in the land to deliver to him a statement containing, as far as may be practicable, the name of every other person having any interest in the land as co-owner, mortgagee, tenant or otherwise, and the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of the statement.

(8) Every person required to deliver a return, assessment or statement under Sub-section (7) shall be deemed to be legally bound to do so within the meaning of Section 175 and Section 176 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

(9) The Collector may hear expert witnesses if it be necessary to do so in any particular case.

(10) The Collector shall be entitled to enter on and inspect any land which is the subject of proceedings before him.

(11) The Collector shall dispose of every case referred to him under Sub-section (4) for determination of compensation as expeditiously as possible and in any case within such time as may be prescribed. 45 of 1860)

176 of the Indian Penal Code, 1860 (Central Act 45 of 1860) under Sub-section (7) shall be deemed to be legally bound

(12) The Collector shall determine the amount of costs incurred in any case disposed of by him under this section, and by what parties and in what proportions they are to be paid.

(13) In determining the amount of costs under Sub-section (12) the Collector shall also decide what portion, if any, of the costs so determined shall be paid by the State Government.

Omitted by Section 3 of Rajasthan Act No. 29 of 1987, published in the Rajasthan Gazette Extraordinary IV (Ka) dated 04.11.1987, prior to Amendment it was as following:

“54. Appeal to the District Judge against decision of the Collector.—Any party aggrieved by the decision of the Collector determining the amount of compensation may within sixty days from the date of such decision appeal to the Court of the District Judge having jurisdiction.

“55. Disputes as to apportionment of compensation.—If any dispute arises as to the apportionment of compensation among persons claiming to be entitled thereto the State Government shall refer such dispute for the decision of the Court of the District Judge having jurisdiction.”

“56. Appeals to the High Court.—An appeal shall lie to the High Court from the decision of the District Judge under Section 55 and the provisions of the Code of Civil Procedure, 1908 (Central Act V of
57. Payment of compensation or deposit of the same in Court. — (1) Where the amount of compensation is determined by agreement, the State Government shall pay such amount together with interest thereon to the persons entitled thereto.

(2) Where the amount of compensation is determined by the Collector under the provisions of Section 53 the State Government shall tender payment of the compensation determined together with interest thereon to the persons entitled thereto according to such determination and shall pay to them unless prevented by someone or more of the contingencies mentioned in the next sub-section.

(3) If the persons entitled to compensation according to the decision of the Collector do not consent to received it, or if there be no person competent to alienate the land or if there be any dispute as to the title to receive the compensation, the State Government shall deposit the amount of the compensation, in the Court of the District Judge having jurisdiction:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount of compensation:

Provided further that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation determined under this Act to pay the same to the person lawfully entitled thereto.

58. Investment of the amount of compensation deposited in Court. — Where any amount of compensation has been deposited in Court under Section 57 the Court may either of its own motion or on the application made by or on behalf of any party interested or claiming to be interested in such amount, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such amount has been deposited or as near thereto as may be.

59. Reference of disputes as to sufficiency or otherwise of compensation payable by the Trust under other provisions. — (1) If any question of disputes arises as to the sufficiency of the compensation paid or proposed to be paid under any provision of this Act otherwise than under the foregoing provisions of this Chapter, the matter shall be determined by the District Judge having jurisdiction upon a reference made to him either by the date on which the said person was informed of the decision of the Trust fixing the amount of compensation to be paid to him or of the rejection of his claim to compensation by the Trust:

Provided that the District Judge shall not entertain the application of any claimant who has not applied to the Trust for compensation within three months of the date on which his claim for compensation accrued.

(2) If a reference to the District Judge be not made within the period prescribed by Sub-section (1), the decision of the Trust shall be final.

Omitted Section 59-A by Section 3 of Rajasthan Act No. 29 of 1987, published in the Rajasthan Gazette Extraordinary IV (Ka) dated 04.11.1987, prior to Amendment it was as follows:

"[59. A. Provisions of the Rajasthan Land Acquisition Act not to apply to acquisition under this Act. — (1) Notwithstanding anything contained in the Rajasthan Land Acquisition Act, 1953 (Rajasthan Act, XXIV of 1953), hereinafter referred to as the Acquisition Act, no proceedings shall be taken thereunder for the acquisition of land required for the purpose of improvement or for any other purpose under this Act:

Provided that nothing herein contained shall apply to any proceeding for the acquisition of land for purposes of improvement or for any other purpose under this Act instituted under the Acquisition Act on or after the 02.12.1972 and pending on the date of the commencement of the Rajasthan Urban Improvement (Amendment) Act, 1976, and all such proceedings shall be continued and completed under and in accordance with the Acquisition Act subject to the condition that references to the word "compensation", wherever occurring in the Acquisition Act shall as from 20.04.1972, be construed as references to the word "amount" as if for the word "compensation" the word "amount" were substituted.

59-B. Construction of certain references in the Act. — In the Chapter VII, in Section 51 to 59 both inclusive, and in all other provisions of this Act, references to the word "compensation" wherever occurring shall as from the 20.04.1972, be construed as references to the word "amount" as if for the word "compensation", the word "amount" were substituted."
Section 60. Disposal of land by the Trust.—(1) The Trust may—

(a) with the sanction of the State Government, dispose of [by way of allotment, regularization or auction] any land acquired by the State Government, and transferred to the Trust without undertaking or carrying on any improvement thereon, or

(b) Subject to any directions given by the State Government dispose of any such land after undertaking, or carrying on such improvement as it thinks fit,

to such persons, in such manner and subject to such terms and conditions as it considers expedient for securing the improvement of the urban area concerned according to the [master plan or the scheme or both].

(2) The power of the Trust with respect to the disposal of land under Sub-section (1) shall be so exercised as to secure, so far as practicable, that persons who are living or carrying on business or other activities on the land shall, if they desire to obtain accommodation on land belonging to the Trust and are willing to comply with any requirements of the Trust as to its improvement and use have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them:

Provided that where the Trust proposes to dispose of by sale any land without any improvement having been undertaken or carried out thereon, it shall offer the land in the first instance to the persons from whom it was required, if they desire to purchase it, subject to such requirements as to its improvement and use as the Trust, may think fit to impose.

[(3) Nothing in this Act shall be construed as enabling the Trust to dispose of land by way of gift but subject as aforesaid references in this Act to the disposal of land shall be construed as references to the disposal thereof in any manner, whether by way of sale, exchange, mortgage or lease or by the creation of any easement, right or privilege or otherwise.]

[(4) All lands which are deemed to have been placed at the disposal of the Trust under Section 90-B of the Rajasthan Land Revenue Act, 1956 (Act, No. 15 of 1956) upon resumption or surrender of tenancy rights and interest of khetadars thereof, as the case may be, shall be available for allotment or regularization preferably to the persons having possession over such land or part thereof, as the case may be, on the basis of allotment made or Patta given to them by the Housing Co-operative Society or on the basis of any other document of transfer of land to them either by tenant or any other person claiming through the tenant, whose tenancy right have been resumed or surrendered, under the said provision, on such terms and conditions and subject to payment to the Trust of such charges or premium or both, as the case may be, and at such rates as may be prescribed by the State Government in this behalf:

Provided that no allotment or regularization of any land be shall be made which has been duly earmarked for public utilities/services such as park, nursery, civil or military aviation, bus stand, transport terminal, railways, public roads, highways, footpath,

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1 Inserted by Act No. 21 of 1999.
3 Subs. Sub-section (3) of Section 60 by Rajasthan Act No. 11 of 2004.
4 Inserted New Sub-section (4) & (5) of Section 60 by Rajasthan, Act No. 21 of 1999.
(3) यह केवल इस प्रकार के सामाजिक, सार्वजनिक या राज्य सरकार के हित के लिए गरीब लोगों के लिए अपेक्षाकृत अधिक सेवाएँ करने के लिए है। इसलिए यह नया नियम के अनुसार, ऐसे व्यक्तियों को ऐसे समय और ऐसे आयु के प्रकार के लिए ऐसे अनुवंशियों के समान अनुपालन और सर्वदल संबंधित गरीब लोगों के लिए उस पर उपयुक्त आवार प्राप्त करने का अधिकार होगा।

(4) इस अनुच्छेद का अंतिम वाक्य इस प्रकार होगा: यह नया नियम के अनुसार, ऐसे व्यक्तियों के लिए अनुपालन और सर्वदल संबंधित गरीब लोगों के लिए उस पर उपयुक्त आवार प्राप्त करने का अधिकार होगा।
1. Acquisition Proceedings.—Conversion charges in respect of land deposited and accepted without demur. No justification after accepting regularisation charges not to consider application for regularisation.

Held, once regularisation charges accepted in pursuance of the compromise arrived at between the parties, respondents are bound to regularise the land in accordance with law and rules—Directed to regularise the land within 8 weeks.—Akha Ram & Anr. vs. State of Rajasthan, 2001 (4) RLW 292 (Raj) = 2002 (5) WLC 663 (Raj) = 2001 (2) RLR 470 (Raj).

2. Cancellation of allotment of plot.—Plot allotted to Ex-serviceman on recommendation of Government to Development Authority. Particulars regarding rate of land, handing over possession, etc. was also given. Allottee kept pressing for allotment. However allotment was cancelled by Development Authority without stating any reasons. Persons lower in priority list allotted plot. Order cancelling allotment is illegal in favour of allottee. Government saddled with costs of Rs. 5,000/-.—Major Suraj Bhan Singh Jodha vs. State of Rajasthan & Anr., AIR 1999 Raj 35.

3. Regularisation and conversion of land when once ordered.—Once the regularisation charges deposited by the petitioner have been accepted by
respondent (UIT/State Government) in pursuance of compromise arrived at between parties, there is no justification for the respondents in not passing necessary orders regularising land of the petitioner. Directions given to regularise the land by passing necessary orders.—Akha Ram & Anr. vs. State & Ors., 2001 (2) RLR (Raj) 470 = 2001 (4) RLW 292 (Raj) = 2002 (5) WLC 663 CRP (Raj).

3. भूमि का विनियमितीकरण और संपरिवर्तन, तब एक बार आदेश किया जाये—एक बार प्राप्ति द्वारा निश्चित विनियमितीकरण प्राप्त वस्तुओं को म दायिये गये समझौते की अनुसार में प्रत्यक्ष (नगर सुधार न्याय/राज्य सरकार) द्वारा स्वीकार किये गये हो, तो प्राप्ति की भूमि विनियमित करने के आवश्यक आदेश पारित नहीं करने में प्रत्येक के लिए कोई आवश्यकता नहीं है। आवश्यक आदेश पारित करते हुए भूमि विनियमित करने के निर्देश दिये गये—अखेला राम और अन्य बनाम राज्य और अन्य, 2001 (2) RLR 470 (Raj) = 2001 (4) RLW 292 (Raj) = 2002 (5) WLC 663 CRP (Raj).

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1[Section 60-A. Transitory provisions for pending matters relating to acquisition of land.—(1) Notwithstanding anything otherwise contained in Sub-section (1) of Section 52, where, in any matter relating to the acquisition of land pending on the date of commencement of the Rajasthan Urban Improvement (Amendment) Act, 1987 (Act No. 29 of 1987) (hereinafter in this section referred to as the date of Commencement), an action, thing or order has been taken, done or made under and in accordance with the provisions of this Act as it stood before the date of commencement, such action, thing or order shall not be re-opened or reviewed or be liable to be challenged on the ground that such action, thing or order was at variance with that provided in the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter in this section referred to as the Land Acquisition Act) subject, however, that any further proceeding, action or order in such matter conducted, taken or made on or after the date of commencement shall, subject to the other provisions of this section, be made under and in accordance with the Land Acquisition Act.

(2) The amount of compensation or interest or that payable for any other reason shall, in a matter pending on the date of commencement, be payable under and in accordance with the provisions of the Land Acquisition Act and the money paid prior to the date of commencement shall be deducted from or adjusted against the said amount.

(3) Where in a matter pending on the date of commencement, a notice under Sub-section (2) of Section 52 or a notice under Sub-section (1) thereof has been issued or, as the case may be, published, such notice shall be deemed to be the notification or declaration published or made respectively under Sub-section (1) of Section 4 or, as the case may be, under Sub-section (1) of Section 6 of the Land Acquisition Act and the declaration or award in such a matter shall be made respectively within a period of one year or, as the case may be, two years from the date of commencement.

(4) Where any land has, prior to the date of commencement, vested in the State Government or its possession has been taken in accordance with the provisions of this Act as it stood before the date of commencement, such vesting or possession of land shall not be liable to be challenged on the ground that no amount of compensation was tendered and paid in accordance with Sub-section (3-A) of Section 17 of the Land Acquisition Act subject, however, the such amount shall be tendered and paid within a period of six months from the date of commencement.

1 Inserted New Section 60-A by Rajasthan Act No. 29 of 1987, (w.e.f. 01.08.1987).
(5) In determining the amount of compensation to be awarded in a matter pending on
the date of commencement, the market value of the land of the date of which the notice
was published in the Official Gazette under Clause (b) of Sub-section (6) of Section 53;
as it stood before the date of commencement, shall be taken into consideration.

(6) An appeal filed under Section 54 or Section 56 or a dispute referred under
Section 55 or Section 59 and pending on the date of commencement shall be decided
having regard to the provisions of the Land Acquisition Act.

राजस्थान नगर सुधार अधिनियम, 1959
dhara 60–क

(5) In determining the amount of compensation to be awarded in a matter pending on
the date of commencement, the market value of the land of the date of which the notice
was published in the Official Gazette under Clause (b) of Sub-section (6) of Section 53;
as it stood before the date of commencement, shall be taken into consideration.

(6) An appeal filed under Section 54 or Section 56 or a dispute referred under
Section 55 or Section 59 and pending on the date of commencement shall be decided
having regard to the provisions of the Land Acquisition Act.

राजस्थान नगर सुधार अधिनियम, 1959
dhara 60–क

(5) In determining the amount of compensation to be awarded in a matter pending on
the date of commencement, the market value of the land of the date of which the notice
was published in the Official Gazette under Clause (b) of Sub-section (6) of Section 53;
as it stood before the date of commencement, shall be taken into consideration.

(6) An appeal filed under Section 54 or Section 56 or a dispute referred under
Section 55 or Section 59 and pending on the date of commencement shall be decided
having regard to the provisions of the Land Acquisition Act.
Comments
—Such persons, who do not come to this Court with clean hands, do not
deserve any interference in the equitable jurisdiction of this Court, the exercise of
which jurisdiction should be confined to honest, bona fide and law abiding
citizens.—Sheo Narain & Ors. vs. State of Rajasthan & Ors., 1993(1) WLC 536 (Raj.)

दियागयी
—ऐसे व्यक्ति जो इस न्यायालय के पास स्वच्छ हाथों से नहीं आते, इस न्यायालय की अधिकारिता में
किसी हस्तक्षेप योग्य नहीं होते हैं, जिसकी अधिकारिता का प्रयोग ईमानदार, सद्भावी और विधि मानने
वाले नागरिकों तक सीमित होना चाहिए—सिद्ध नामयण और अन्य बनाम राजस्थान राज्य और अन्य,
1993 (1) WLC 536 (Raj).

Chapter VIII
Finance

Section 61. Improvement Fund.—(1) A fund to be called the "Improvement Fund",
of the place where the principal office of a Trust is situated shall be constituted for each
Trust as soon as it is formed.
(2) There shall be created to this Fund.—
(i) such sums as may be placed by the State Government at the disposal of the
Trust, from time to time, either by way of loan or as subside;
(ii) such contribution from the Municipal Board as may, from time to time, be
ordered by the State Government to be made, after considering the relief or
addition to the resources of such Board accruing or likely to accrue from the
schemes undertaken by the Trust;
(iii) the rents, profits and sale proceeds of all lands, buildings, and other property
vested or vesting in, or acquired by the Trust under this Act;
(iv) sums borrowed by the Trust with the previous sanction of the State
Government subject to the prescribed conditions, for any of the purposes of the
Trust; and
(v) all fees and charges payable to or received by the Trust under this Act.

अध्याय—8
वित्त

धारा 61. सुधार निधि—(1) किसी न्यास का गठन होते ही प्रत्येक न्यास के लिए निधि का
गठन किया जायगा, जिसे उस स्थान जहां न्यास का प्रधान कार्यालय स्थित है, कि "सुधार निधि"
कहा जायेगा।
(2) इस निधि में निम्नलिखित क्रेडेट किया जायेगा—
(i) ऐसी राशियां जिन्हें न्यास के निर्माण पर राज्य सरकार द्वारा समय—समय पर या तो
वृत्त के जरिये या सहायक के जरिये रखा जाये,
(ii) स्थुनिषिपल मंडल से ऐसा अंशदान, जिसे न्यास द्वारा प्रारूप की गयी योजनाओं से
उपार्जित या उपार्जित होने वाले सम्पर्कित ऐसे मंडल के स्वामित्व के रहत या परिवर्धन
को विवाहित करने के पश्चात् किये जाने हेतु राज्य सरकार द्वारा समय—समय पर
आदेश दिया जाये,
(iii) इस अधिनियम के अधीन न्यास में निहित या न्यास द्वारा अर्जित सभी भूमियां, भवनों
और अन्य सम्पत्ति के किराये, लाभ और विक्रय आगम,
Section 62. Power of Trust to levy betterment charges.—(1) Where as a consequence of any scheme having been executed by the Trust in any area, the value of any property in that area, in the opinion of the Trust, has increased or will increase, the Trust shall, with the sanction of the State Government, be entitled to levy upon the owner of the property or any person having interest therein a betterment charge in respect of the increase in the market value of the property resulting from the execution of the scheme.

(2) Such betterment charge shall be an amount equal to one-forth of the amount by which the market value of the property on the completion of the execution of the scheme, estimated as if the property were clear of buildings, exceeds the market value of the property prior to such execution estimated in like manner.

Section 63. Assessment of betterment charge.—(1) Where it appears to the Trust that any particular scheme is sufficiently advanced to enable the amount of the betterment charge to be determined, the Trust may, by an order made in this behalf, declare that, for the purpose of determining the betterment charge the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to the owner of the property or any person having an interest therein that the Trust proposes to assess the amount of the betterment charge in respect of the property under Section 62.

(2) The Trust shall then assess the amount of the betterment charge payable by the person concerned after giving such person an opportunity to be heard and such person shall, within three months from the date of receipt of the notice in writing of such assessment from the Trust, inform the Trust by a declaration in writing that he accepts the assessment or dissents from it.

(3) When the assessment proposed by the Trust is accepted by the person concerned within the period specified in Sub-section (2), such assessment shall be final.

(4) If the person concerned dissents from the assessment or fails to give the Trust the information required by Sub-section (2) within the period specified therein, the matter shall be determined by arbitrators in the manner provided in Section 64.
Section 64. Settlement of betterment charge by arbitrators.—(1) For the determination of the matter referred to in Sub-section (4) of Section 63, the State Government shall appoint three arbitrators of whom one at least shall have special knowledge of the valuation of land.

(2) Arbitrator shall follow such procedure as may be prescribed.

(3) In the event of any difference of opinion among the arbitrators, the decision of the majority shall prevail and that decision shall be the award of the arbitrators.

(4) If any arbitrator dies, resigns, or is removed under Sub-section (5) or refuses or neglects, in the opinion of the State Government to perform his duties or becomes incapable of performing the same, then the State Government shall forthwith appoint another fit person to take the place of such arbitrator.

(5) If the State Government is satisfied after such inquiry as it thinks fit,—
(a) that an arbitrator has misconducted himself, the State Government may remove him from his office; or
(b) that the award of the arbitrator has been improperly procured or that any arbitrator has misconducted himself in connection with such award, the State Government may set aside the award.

(6) An award which has not been set aside by the State Government under Clause (b) of Sub-section (5) shall be final and shall not be questioned in any Court.

(7) The provisions of the Arbitration Act, 1940 (Central Act 10 of 1940), shall not apply to the arbitration under this section.
Section 65. Payment of betterment charge.—(1) The betterment charge levied under this Act shall be payable in such number of instalments and each instalment shall be payable at such time and in such manner as may be fixed by regulations made in this behalf.

(2) Any arrear of betterment charge shall be recoverable in the manner laid down in the Municipal law for the time being in force for the recovery of municipal claims.

Section 66. Custody, investment and application of Trust Fund.—(1) All the moneys of the Trust shall be kept in a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over.

(2) Nothing in the foregoing sub-section shall be deemed to preclude a Trust from investing, with the previous sanction of the State Government, any such moneys which are not required for immediate expenditure, in any of the securities described in Section 20 of the Indian Trusts Act, 1882 (Central Act 2 of 1882) or placing them in fixed deposit with a bank approved by the State Government.

(3) The Trust Fund shall be applied towards meeting the expenses incurred by the Trust in the carrying out of schemes framed and sanctioned under this Act, and in the administration of the other provisions of this Act and for no other purpose.

Section 66-A. Power of the Trust to borrow.—The Trust may, with the previous approval of the State Government, borrow any money for carrying out the purposes of this Act or for servicing any loan obtained by it, at such rates and on such conditions as the State Government may determine at the time money is borrowed.  

1[Section 66-A. Power of the Trust to borrow.—The Trust may, with the previous approval of the State Government, borrow any money for carrying out the purposes of this Act or for servicing any loan obtained by it, at such rates and on such conditions as the State Government may determine at the time money is borrowed].
Section 67. Budget of the Trust.—The Trust shall prepare in such form and at such time every year as may be prescribed a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the Trust and shall forward to the State Government such number of copies thereof as may be prescribed.

Section 68. Accounts and Audit.—(1) The Trust shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as the State Government may prescribe.

(2) The accounts of the Trust shall be subject to audit annually by the Examiner of Local Fund Audit and the provisions of the Rajasthan Local Fund Audit Act, 1954 (Rajasthan Act 38 of 1954) shall apply.

Section 69. Annual Report.—The Trust shall prepare for every year a report of its activities during that year and submit the report to the State Government in such form and on or before such date as may be prescribed.

Section 70. Pension and Provident Funds.—(1) The Trust shall constitute for the benefit of its officers and other employees, in such manner and subject to such conditions as may be prescribed, such pension and provident funds as it may deem fit.

(2) Where any such pension or provident fund has been constituted, the State Government may declare that the provisions of the Provident Funds Act, 1925 (Central Act 19 of 1925) shall apply to such fund as if it were a Government Provident Fund.

Section 71. Failure to repay loans or other dues.—If the Trust fails to repay any loan or any interest or costs in respect thereof, according to the conditions of the loan, the State Government will attach the rents and other income of the Trust and apply the same in satisfaction of such loan and other dues.
Chapter IX
General provisions as to improvement

Section 72. Restriction on improvement in urban areas.—(1) In an urban area, no improvement shall be undertaken or carried out by any person or department of the Government unless—

(i) it is in accordance with the master plan where it is in operation; or
(ii) it is in accordance with the scheme sanctioned and notified under Section 38; or
(iii) where neither any master plan nor any scheme is in force, it is according to the general approval of the Trust,

and unless permission for undertaking or carrying out such improvement has been obtained in writing under the provisions of Section 73.

(2) No person or department of Government shall use or permit to be used any land or building in any urban area otherwise than in conformity with the master plan where it is in operation or with the scheme sanctioned and notified under Section 38 or with the general approval of the Trust, and unless the permission of the Trust for such use has been obtained under Section 73:

Provided that subject to the provisions of Section 73-B, it shall be lawful for any person or department to continue to use, upon such terms and conditions, as may be prescribed by regulations made in this behalf, any land or building for the purpose and to the extent for and to which, it is being used upon the date on which such plan or scheme comes into force or as the case may be, the area is declared as an urban area under this Act.

Substituted by Section 7 of Rajasthan Act No. 26 of 1976, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 17.04.1976. (w.e.f. 28.02.1976)—Prior to Amendment it was as follows:—

72. restrictions on improvement in certain areas.—

(1) After the coming into operation in any area of a master plan as provided in Section 7 or the notifications of the sanction of a scheme as provided in Section 38—

(i) no improvement shall be undertaken or carried out in that area unless it is in accordance with the master plan or the scheme, as the case may be, and
(ii) no improvement shall be undertaken or carried out in such area by any person or department of Government unless permission for the same has been obtained in writing in accordance with the provisions of Section 73—

(a) from the Trust in case a scheme relating thereto has been notified, or
(b) in case a master plan relating thereto is in operation, from the Municipal Board exercising jurisdiction therein or if no such Board exercises jurisdiction, from the Collector or such other officer or authority as may be authorised in this behalf by the State Government.

(2) After the coming into operation of master plan or scheme, no person shall use or permit to be used any land or building in the area to which the plan or scheme related otherwise than in conformity with that plan or scheme:

Provided that it shall be lawful to continue to use, upon such terms and conditions as may be prescribed by regulations made in this behalf, any land or buildings for the purpose and to the extent for and to which it is being used upon the date on which such plan or scheme comes into force.”
(i) यह मार्ग प्लान की अनुमानलित में नहीं हो, जहां यह प्रवतन में हो, या
(ii) यह धारा 38 के अधिन संस्कृत और अधिसूचित योजना की अनुमानलित में नहीं हो, या
(iii) जहां न तो कोई मार्ग प्लान न हो कोई योजना प्रृवत हो, तो यह न्यास के सामान्य
अनुमोदन के अनुसार नहीं हो।

और जब तक कि ऐसा सुझाव करने की अनुमति धारा 73 के प्राधिकारों के अधीन सूचित में
प्राप्त नहीं की जाए।

(2) कोई भी व्यक्ति या सरकार का विभाग मार्ग प्लान की अनुमूलक में, जहां यह प्रवतन
में हो, या धारा 38 के अधिन संस्कृत और अधिसूचित योजना की आयुश में या न्यास के
सामान्य अनुमोदन की अनुमूलक में के अलावा अन्यथा किसी नगरीय क्षेत्र में किसी नगरीय क्षेत्र
में किसी रूप में यह कोई योजना को प्रृवत नहीं करेगा या प्रृवत करने की अनुमति नहीं देगा, और जब
tक कि ऐसे प्रयोग के लाई न्यास की अनुमति धारा 73 के अधीन प्राप्त नहीं की जाए।

परन्तु धारा 73-ख के प्राधिकारों के अनुसार, उस प्रयोजन के लाई और उस सीमा तक,
जिसके लाई और जिस तक इस विवेक पर प्रृवत किया जा रहा हो, जिस पर ऐसा प्लान
या योजना प्रृवत होता है, किसी रूप में यह भावन, या इतिहास, क्षेत्र इसे दोनों अधिनियम के
अधीन नगरीय क्षेत्र के लाई धोखा दिया जाता है, को ऐसे विविधों और शर्तों पर, जिन्हें इस
निमित्त बनाये गये निमित्तवयानों हाला विविध किया जाये, लगातार प्रयोग करना किसी व्यक्ति या
विभाग के लाई विविध निर्देश होगा।

Comments
1. Permission to raise construction—Renewal of permission. (निमित्त करने की अनुमति —
अनुमूलक का नवीनीकरण) .................................................. 87
2. Permission for raising constructions granted. (स्वीकृत निमित्त करने के लाई अनुमूलक) .................. 88

1. Permission to raise construction—Renewal of permission.—Grant of
permission to continue construction work of hotel in “No construction Zone”
even after expiry of the extended period granted by the respondent UIT for
completion of its second phase. Collector ordered to stop the work. Grant of
permission is a statutory document. No provision of extension of time but such
power is inherent in the authority granting permission. The case falls within
exception carved in Para 23(vii) of the order of this Court.—E.I.H. Limited vs. State
of Rajasthan & Ors., 2001 (2) RLW (Raj) = 2001 (1) DNY 364 (Raj) = 2001 (1) RLR
839 (Raj) = 2001 (2) WLC 249 (Raj) = AIR 2001 Raj 236 = 2001 (4) WLN 99 (Raj).

Prohibition in Sub-sections (1) and (2) of Section 72 stands overridden by
Section 73-B. Land originally granted without restriction as to its user. Mere
change of current use to commercial use cannot entail conversion charge.

Section 72(2) only permits any alteration in continued use permitted under
Section 72(2) whereas change in purpose of use of land can be permitted under
Section 73-B—Ms. Jawahar Sons Enterprises Pvt. Ltd. vs. State & Ors., 2002 (2) WLC
(Raj) 627 = 2002 (2) RLR 465 (Raj) = 2002 (4) RLW 2362 (Raj) = 2002 (2) WLN 565
(Raj) = AIR 2002 (Raj) 206.

1. निमित्त करने की अनुमति — अनुमूलक का नवीनीकरण.—इसके हितीय फेस की पूर्तित के
लाई प्रयास नगर युक्त या न्यास द्वारा स्वीकृत व्यक्ति की सामर्थ्य के प्रवतन भी “निमित्त नहीं क्षेत्र” जो
होता है निमित्त करने का जारी स्वामी की अनुमति प्रदान करता। कलकार ने कार्य रोकने का आदेश दिया।
अनुमति प्रदान करना वैधानिक उसावेज्ज है। समय बढ़ने के कोई प्राधिकार नहीं लेकिन ऐसे शर्त के
अनुमति प्रदान करने वाले प्राधिकारी में अंतर्निहित है। मामला इस न्यायालय के आदेश के पूर्व 23(vii) में
2. Permission for raising constructions granted.—Subsequent order passed by Trust suspending permission in view of Government Order for enquiry. Owner filing suit against order of Trust but not against Government Order and on refusal of injunction in said suit, petitioner-owner, filing writ petition. For lack of *bona fides* and fact that owner having not sued against Order of Govt., writ petition is barred in view of Order 2, Rule 2 of CPC. Principle of constructive *res judicata* would also be attracted.—*Sumer Mal vs. State of Rajasthan & Ors.*, AIR 2000 Raj 1. = 1999 (3) RLW 1666 = 1999 (2) RLR 229 = 1999 (1) WLN 407 (Raj) = 2000 (1) WLC 217.

—It is in evidence that sanctioned plan for the constructions of the building was available in the office of the Trust but whosoever submitted the complaint and appeared for the Trust in the Court of the learned Magistrate acted finally, no efforts were made either to produce a copy of the scheme or of the plan which was finally adopted by the Trust. Under these circumstances in a criminal case, the liability cannot be fastened on the accused petitioner.—*Jitendra Kumar Rastogi vs. Urban Improvement Trust*, 1980 RCC 353 (Raj).

2. *स्वीकृति निर्माण करने के लिए अनुमति.—*जांच के लिए सरकारी आदेश के अनुसार अनुमति निलंबित करते हुए न्याय द्वारा अनुमानी आदेश पारित किया गया। मालिक ने न्याय के आदेश के विरुध्द वाद दाखिल किया, लेकिन सरकारी आदेश के विरुध्द नहीं, और उक्त वाद में विशेष दाखिल किया। प्रारंभिक मालिक ने रिट याचिका फाइल की। सदभावना की कमी के लिए और तथा कि मालिक ने सरकार के आदेश के विरुद्ध वाद नहीं किया, रिट याचिका हिस्से प्रक्रिया संहिता के आदेश 2 नियम 2 के अनुसार विरद्ध है।—पूर्व—न्याय के सिद्धांत भी लागू होंगे—*रूपरेखा मंत्र राजस्थान राज्य और अन्य, AIR 2000 Raj 1. = 1999 (3) RLW 1666 = 1999 (2) RLR 229 = 1999 (1) WLN 407 (Raj) = 2000 (1) WLC 217.

—यह साधू मैं है कि भवन के निर्माण के लिए संवेदित योजना न्याय के कार्यालय में उपलब्ध थी, लेकिन जिस किसी ने शिकायत प्रस्तुत की हो और विधान विज्ञान के न्यायालय में न्याय के लिए उपलब्ध हुआ हो, अंतर रूप से कार्य किया हो, योजना या न्याय की प्रति प्रस्तुत करने के कोई प्रयास नहीं किए गये थे, जिसमें न्याय द्वारा अतिम रूप से अपनाया गया था। दाखिल नामांकन में इन परिस्थितियों के अंतिम, अधिनियम आपराधिक मदद नहीं थी जा सकता।—*जितेन्द्र कुमार स्टाली मनसा नगर युवास्थिता न्याय और अन्य, 1980 RCC 353 (Raj).*

*Section 73. Application for permission.—* (1) Every person or department of the Government desiring to obtain the permission referred to in Section 72 shall make an application in writing in such form and containing such particulars in respect of the improvement to which the application relates as may be prescribed by regulations.

(2) Every application under Sub-section (1) shall be accompanied by such fee as may be prescribed:
Provided that no such fee shall be necessary in the case of an application made by a department of Government.

(3) On the receipt of an application for permission under Sub-section (1), the officer or authority competent under Section 72 to grant the permission, after making such inquiry as may be considered necessary in relation to any matter, shall, by order in writing, either grant permission, subject to such conditions, if any, as may be specified in the order to refuse to grant such permission:

Provided that, before making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused.

(4) Where permission is refused the grounds of such refusal shall be recorded in writing and communicated to the applicant in the manner prescribed by regulations.

(5) A register of applications for permission under this section shall be kept in such form as may be prescribed by regulations.

(6) The said register shall contain such particulars including information as to the manner in which applications for permission have been dealt with as may be prescribed by regulations and shall be available for inspection by any member of the public at all reasonable hours on payment of such fee not exceeding rupees five as may be prescribed by regulations.

(7) Where permission is refused under this section, the applicant or any person claiming through him shall not be entitled to get refund of the fee paid on the application for permission but, on an application for refund being made within three months of the communication of the grounds of the refusal under Sub-section (4), such portion of the fee as may seem proper in the circumstances, of the case may be refunded.

[(8) Where in any urban area, an application for undertaking or carrying out an improvement is made to the Trust in the prescribed form and with the prescribed fees and after the receipt of the application the Trust neglects or omits for one month to grant permission or to reject the application for reasons to be recorded by it, the applicant may, by a written communication, call the attention of the Trust to the omission or neglect, and if such omission or neglect continues for a further period of fifteen days from the date of such communication, the Trust shall be deemed to have permitted the proposed work absolutely and such work may be proceeded within the manner specified in the notice:

Provided that nothing herein contained shall be construed to authorise any person to act in contravention of any other provision of this Act or the rules and regulations made thereunder, relating to any matter other than the requirement of obtaining permission of the Trust before undertaking or carrying out improvement under this Act.

(9) Any person aggrieved by an order of the Trust giving permission subject to conditions imposed by it or refusing to give permission under this Act, may appeal to the Collector, within thirty days from the date of the order giving refusing such permission, exclusive of the time requisite for obtaining a copy thereof. No such order shall be called in question otherwise than by such appeal.

(10) The appellate authority may, if it thinks fit for reasons to be recorded, extend the period allowed for appeal. The order of the appellate authority shall be final:

Provided that no order under appeal shall be modified or set aside by the appellate authority until the appellant and the Trust have had a reasonable opportunity of being heard.]

1 Inserted Sub-Section 8 & 9 and 10 by Section 8 of Rajasthan Act No. 26 of 1976, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 17.04.1976 (w.e.f. 28.02.1976).
धारा 73. अनुमति के लिए आवेदन—(1) धारा 72 में निर्दिष्ट अनुमति प्राप्त करने की इच्छा करने वाला प्रत्येक व्यक्ति या सरकार का विभाग उस सूचार, जिससे आवेदन संबंधित है, के संबंध में ऐसे विवरण शामिल करते हुए और ऐसे प्रमुख में, जिसे विनियमन द्वारा विहित किया जाये, लिखित में आवेदन करेगा।

(2) उप-धारा (1) के अधीन प्रत्येक आवेदन के साथ ऐसी पृष्ठ लगी होगी, जिसे विहित की जाये:

परवर्ती ऐसी कोई भी पृष्ठ सरकार के विभाग द्वारा किये गये आवेदन के मामले में आवश्यक नहीं होगी।

(3) उप-धारा (1) के अधीन अनुमति के लिए आवेदन की प्रार्थना पर, अनुमति प्रदान करने के लिए धारा 72 के अधीन व्यक्ति विधिकरी या व्यक्तिकरी ऐसी जागरण करने के प्रयास जिसे किसी मामले के संबंध में आवश्यक निर्दिष्ट किया जाये, लिखित में आदेश द्वारा ऐसी शर्तों के अनुसार, यदि कोई हो, जिन्हें आदेश में विनिर्दिष्ट किया जाये, या तो अनुमति प्रदान करना या ऐसी अनुमति प्रदान करने से मना करेगा।

परवर्ती ऐसी अनुमति मना करने का आदेश करने से पहले, आवेदक का कारण दर्शाने का अवसर दिया जाएगा कि क्यों अनुमति मना कर जानी चाहिए।

(4) जहां अनुमति असीमित की जाती है, वहां ऐसी असीमित के आदेश लेखबद्ध किये जायें और विनियमनों द्वारा विहित तरीके में आवेदक को संसूचित किये जायें।

(5) इस धारा के अधीन अनुमति के लिए आवेदनों का रजिस्टर ऐसे प्रमुख में रखा जाना योग्य, जिसे विनियमों द्वारा विहित किया जाय।

(6) उक्त रजिस्टर में उस तरीके के रूप में जिसमें अनुमति के लिए आवेदनों पर कार्यवाही की गई है, के संबंध में सूचना सहित ऐसे विवरण होगे। जिन्हें विनियमनों द्वारा विहित किया जाये, और पांच सप्ताह से अन्यथा ऐसी पृष्ठ, जिन्हें विनियमनों द्वारा विहित किया जाये जिसे भूगोल पर सभी युक्तियुक्त समय पर जनता के लिए भी सदरव्य हर सीधा के लिए उपलब्ध रखें।

(7) जहां इस धारा के अधीन अनुमति मना की जाती है, वहां आवेदक या उसके जारीए दावा करने वाला कोई भी व्यक्ति अनुमति के लिए आवेदन पर भूगोल की गई पृष्ठ का प्रतिपादन प्राप्त करने का हकदार होगा। लेकिन उप-धारा (4) के अधीन असीमित के आदेशों की संभावना के पूर्व में अधिक और पूर्वचन के लिए किये गये आवेदन पर, पृष्ठ का ऐसा भाग, जिसे मामले की परिस्थितियों में उपयुक्त मानना, जाय प्रतिपादन किया जा सकेगा।

(8) जहां किसी नगरीय क्षेत्र में सूचार करने के लिए एक आवेदन विहित प्रमुख में और विहित पृष्ठ के साथ मामलों की किया जाता है और आवेदन की प्रार्थना के परिणाम में न्याय का प्राप्त करने या ऐसे वांछन संपादन किये जाने वाले कार्यों के लिए आवेदन असीमित करने में एक तान तक उपेक्षा या लॉप करना है, तो आवेदक, लिखित सूचना द्वारा, पृष्ठ का ध्यान लो। जिसे अनुमति की लापरवाही कर सकेगा और यदि ऐसा लॉप या उपेक्षा ऐसी सभाजना की तिथि से 15 दिनों की अगली अवधि तक लगातार रहती है, तो न्याय द्वारा प्रतिपादित कार्य पूर्वकः अनुमति किया हुआ माना जाएगा और ऐसा कार्य नोलिस्ट में विनिर्दिष्ट तरीके के भीतर आगे बढ़ाए जा सकेगा।

परवर्ती इसमें अन्तर्दिष्ट किसी भी बात की व्यक्ति इस अधिनियम के अधीन एवं जाने से पहले न्याय की अनुमति प्राप्त करने की अपेक्षा की अवधि का अन्तर्गत तीन सप्ताह और इस अधिनियम के किसी अन्य विधेयक के उल्लंघन में कार्य करने के लिए किसी व्यक्ति को प्राधिकृत करने के लिए जाने का अधिकार है।

(9) इस अधिनियम के अधीन इसके द्वारा अन्तर्दिष्ट कार्यों के अनुसार अनुमति देने या अनुमति देने के साथ न्याय का आदेश द्वारा व्यक्ति कोई भी व्यक्ति ऐसी अनुमति देने या माना करने के आदेश की तिथि से 30 दिनों के भीतर कलक्टर को अपील कर सकेगा, इस अवधि में उसकी प्राप्ति प्राप्त करने के लिए आवश्यक समय अन्तर्गत होगा। ऐसा कोई भी आदेश ऐसी अपील द्वारा और प्रकाश अनुसरण महत्वपूर्ण नहीं किया जाएगा।
Comments

Permission to raise construction—Renewal of permission.—Grant of permission to continue construction work of hotel in “No construction Zone” even after expiry of the extended period granted by the respondent UIT for completion of its second phase. Collector ordered to stop the work. Grant of permission is a statutory document. No provision of extention of time but such power is inherent in the authority granting permission. The case falls within exception carved in Para 23(vii) of the order of this Court.—E.I.H. Limited vs. State of Rajasthan & Ors., 2001 (2) RLW (Raj) = 2001 (1) DNJ 364 (Raj) = 2001 (1) RLR 839 (Raj) = 2001 (2) WLC 249 (Raj) = AIR 2001 Raj 236 = 2001 (4) WLN 99 (Raj).

Section 73-A. Sanction for sub-division or re-constitution of plots.—(1) Any person who intends to sub-divide or re-constitute his plot lying in the area of a Trust established under Section 8 shall submit the lay out plan together with the prescribed particulars to the Trust for sanction.

(2) Subject to any rules that may be made in this behalf, the Trust may, within the prescribed period, sanction such plan either without modification or subject to such modifications and conditions as it considers expedient or may refuse to give sanction, if the Trust is of opinion that such division or re-constitution is not in any way consistent with the proposals of improvement of the urban area of the Trust.

(3) If any person does any work in contravention of Sub-section (1) or in contravention of the modifications and conditions of the sanction granted under Sub-section (2) or despite refusal for the sanction under Sub-section (2), the Trust may direct such person by notice in writing to stop any work in progress and after making an enquiry in the prescribed manner, remove or pull down any work or restore the land to its original condition.

(4) Any expenses incurred by the Trust under Sub-section (3) shall be a sum due to the Trust under this Act from the person in default.

1[Deleted]

1 Inserted Section 73-A by Section 8 of Rajasthan Act No. 3 of 1963, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 29.03.1963.

2 Deleted proviso by Section 3 of Rajasthan Act No. 9 of 1978, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 26.10.1978—prior to Amendment it was as followings:—
Section 73-B. Restriction on change of use of land and power of State Government to allow change in use of land.—(1) Notwithstanding anything contained in Section 72 or 73-A—

(i) no person shall use or permit the use of any land situated in any urban area notified under Section 8, for the purpose other than that for which such land was originally allotted or sold to any person by the State Government, any Urban Improvement Trust, any other local authority or any other body or authority in accordance with any law for the time being in force or, otherwise than as specified under a Master Plan, wherever it is in operation;

(ii) in the case of any land not allotted or sold as aforesaid under Clause (i), no person shall use or permit the use of any such land situated in a Urban Area notified under Section 8, for the purpose other than that for which such land-use was or is permissible, in accordance with the Master Plan, wherever it is in operation, or under any law for the time being in force.

(2) Notwithstanding anything contained in Sub-section (1), the State Government or any authority authorised by it, by notification in the Official Gazette, may allow the owner or holder of any such land, to have change of use thereof, if it is satisfied so to do in public interest, on payment of conversion charges at such rates and in such manner as may be prescribed with respect to the following changes in use—

(i) from residential to commercial or any other purpose; or

(ii) from commercial to any other purpose; or

(iii) from industrial to commercial or any other purpose; or

Provided that the provisions of this section shall not apply to cases in which plots have been allotted by the Trust or Government for residential purposes.

*Inserted Section 73-B by Section 2 of Rajasthan Act No. 20 of 1974 and substituted by Act No. 19 of 2000 w.e.f. 20.11.2000.*
(iv) from cinema to commercial or any other purpose; or
(v) from any existing permissible use of land to any other purposes, as the State
Government may prescribe:
Provided that rates of conversion charges may be different for different areas and for
different purposes.
(3) Any person who has already changed the use of land in violation of the
provisions of this Act in force at the time of change of use, shall apply to the State
Government or any authority authorised by it under Sub-section (2), within such period
as may be prescribed, for regularisation of said use and upon regularisation of the change
of use of land, he shall deposit the amount contemplated under Sub-section (2).
(4) Where the State Government or the authority authorised by it is satisfied that a
person who ought to have applied for permission or regularisation under this section, has
not applied and that such permission can be granted or the use of land can be regularised,
it may be proceed to determine the conversion charges after due notice and hearing the
party/parties and the charges so determined shall become due to the Urban Improvement
Trust and be recoverable under Sub-section (6).
(5) The conversion charges so realised shall be credited to fund of the Urban
Improvement Trust.
(6) Charges under this section shall be the first charge on the interest of the person
liable to pay such charges with respect of the land, the use of which has been changed
and shall be recoverable as arrears of land revenue.]
(iv) सिनेमा से वाणिज्यिक या किसी अन्य प्रयोजन में, या
(v) भूमि के किसी विभिन्न स्वीकार्य प्रयोग से किसी अन्य प्रयोजनों के लिए, जिन्हें राज्य सरकार विहित करे:

यद्यपि परिवर्तन प्रभारों की दरे मिन्न–मिन्न क्षेत्रों के लिए और मिन्न–मिन्न प्रयोजनों के लिए मिन्न–मिन्न हो सकती है।

(3) कोई भी व्यक्ति, जिसने प्रयोग में परिवर्तन के समय प्रवृत्त इस अधिनियम के प्रावधानों के उल्लगान में भूमि का प्रयोग पहले से परिवर्तित कर दिया हो, उक्त भूमि के विनियमितकरण के लिए ऐसी अवधि के भीतर, जिसे विहित किया जाये, राज्य सरकार या उप-धारा (2) के अधीन इसके द्वारा प्राधिकृत किसी प्राधिकारी को आवेदन करेगा और भूमि के प्रयोग का परिवर्तन विनियमितकरण होने पर, वह उप-धारा (2) के अधीन विनिर्दिष्ट राशि निक्षेपित करेगा।

(4) जहां राज्य सरकार या इसके द्वारा प्राधिकृत प्राधिकारी सन्तुष्ट हो कि उस व्यक्ति, जिसे इस धारा के अधीन अनुमति या विनियमितकरण के लिए आवेदन करना चाहिए, ने आवेदन नहीं किया और कि ऐसी अनुमति प्रदान की जा सकती है और भूमि का प्रयोग विनियमित किया जा सकता है, तो यह आपेक्षिक नोटिस के पश्चात और पक्षकार/पक्षकारों की सुनवाई के पश्चात परिवर्तन प्रभारों को निर्धारित करने की कार्यवाही कर सकेगी और निर्धारित किये गये प्रभार नगर सुधार न्यास को देख हो जाएगी और उप-धारा (6) के अधीन वसूल करने योग्य होंगे।

(5) वसूल किये गये सुधार प्रभार नगर सुधार न्यास की निधि में कंडिट किया जाएगा।

(6) इस धारा के अधीन प्रभार उस भूमि, जिसका प्रयोग परिवर्तित किया गया, के संबंध में ऐसे प्रभार भुगतान करने के दायी व्यक्ति के हित पर प्रथम प्रभार होंगे और भू-राजस्व के बकायों के रूप में वसूल करने योग्य होंगे।

**Comments**

1. Applicability of Section 29. (धारा 29 का लागू होना) ........................................................................................................ 94
2. Change of user of Land. (भूमि के प्रयोगकर्ता का परिवर्तन) ........................................................................................................ 95

1. **Applicability of Section 29.—** Construction for purpose other than covered by Section 29. No scheme framed under Section 29, nor any pre-existing scheme in operation—Sections have no application since distinguishing features contemplated in Section 73-B not attracted.

In respect of authority to levy conversion charges in the cases of free old lands, use of which is not restricted by the title, under which such land is held, no conversion charges are leviable and in view of the fact that though under non-obstante provision of Section 73B the State Government has necessary authority to permit the use of the land for purposes other than for purposes restricted under the Scheme framed under Section 29 inspite of the provision of Section 72, but there being no scheme framed under Section 29 or deemed to be framed under Section 41A under which the user of the land in question for commercial purposes was restricted, no demand for change in user could be made on that basis also, and in view of the fact that Trust itself in resolution approving the plan as referred to the fact that land in question was permitted to be put to commercial use way-back in 1995, when the permission was sought no change in user of the land for any restrictive purpose was to happen, which could entail levy of charges, and taking into consideration that land abutting on the road from Paota to Mahamandir was factually used for commercial purposes is not
sustainable under the provisions of the Urban Improvement Act, 1958 in the present case.—Jawahar Sons Enterprises Pvt. Ltd. (Ms.) vs. State & Ors., 2002 (4) RLW (Raj) 2362 = 2002(1) DNJ (Raj.) 194 = 2002 (1) RRT 459 (Raj) = 2002 (1) CDR 766 (Raj) = 2002 (2) RLR 465 (Raj) = 2002 (2) WLC (Raj) 627 = 2002 (2) WLN 565 (Raj) = AIR 2002 (Raj) 206.

Prohibition in Sub-sections (1) and (2) of Section 72 stands overridden by Section 73-B. Land originally granted without restriction as to its user. Mere change of current use to commercial use cannot entail conversion charge.

Section 72(2) only permits any alteration in continued use permitted under Section 72(2) whereas change in purpose of use of land can be permitted under Section 73-B—Ms. Jawahar Sons Enterprises Pvt. Ltd. vs. State & Ors., 2002 (4) RLW 2362 (Raj) = 2002(1) DNJ 194 = 2002 (Raj) 1 RRT 459 (Raj) = 2002 (1) CDR 766 (Raj) = 2002 (2) RLR 465 (Raj) = 2002 (2) WLC 627 (Raj) = 2002 (2) WLN 565 (Raj) = AIR 2002 (Raj) 206.

1. धारा 29 का लागू होना.—धारा 29 द्वारा आकृति के अलावा प्रयोजन के लिए निर्मित। धारा 29 के अंतर्गत कोई योजना का निर्माण नहीं, न ही कोई पूर्व-दिशित योजना प्रवृत्त — धाराएं लागू नहीं होती हैं, यौक्तिक धारा 73-ख में निर्दिष्ट विशेषताएं आकृति नहीं होती है।

मुक्त पुरानी भूमि को मान्यों में संपर्कित प्रभाव अवधिप्राप्त करने के प्राधिकार के संबंध में, जिसका प्रयोग हेक्टर सारी सीमित नहीं है, जिसके अधीन ऐसी भूमि शाली की जाती है, कोई संपर्कित प्रभाव उद्धवत्तीय नहीं है और इस तथ्य के अनुसार कि यदि धारा 73-ख के स्वास्थ्य प्रयोग के अधीन, राज्य सरकार को पास धारा 29 के प्रावधान बनाने वाली योजना के अधीन सीमित प्रयोजनों के लिए अलावा प्रयोजनों के लिए भूमि का प्रयोग स्वीकृत करने का प्राधिकार है, लेकिन धारा 29 के अंतर्गत कोई योजना नहीं बनाई गई है, या धारा 41-क के अधीन बनाई जानी नहीं मानी गई है, जिसके अधीन वाणिज्यिक प्रयोजनों के लिए प्रस्तावित भूमि का प्रयोग कानून सीमित या, प्रयोगकारण के लिए कोई माग उस आधार पर भी नहीं की जा सकी, और इस तथ्य के अनुसार कि स्वयं न्याय ने प्रस्ताव में योजना को इस तथ्य के निर्देश किये अनुसार अनुमोदित किया कि प्रस्तावना भूमि 1995 में वाणिज्यिक प्रयोग के लिए स्वीकृत की गयी, जब अनुसूची मानी गई थी, किसी सीमित प्रयोजन के लिए भूमि के प्रयोगकारण में कोई परिवर्तन नहीं होना था, जिससे प्रयोग का उद्घाटन किया जा सके और वह विचारित करते हुए, कि पावर्टी में महामंडल तंत्र सड़क पर चौड़ी भूमि वाणिज्यिक प्रयोजनों के लिए प्रयुक्त की जा रही थी, इससे समायोजन में नाम उधार अब नहीं है—विभाग संस्कृति एंटरटेनमेंट प्रायोजन प्रातिक (ें) बनाम राज्य और अन्य, 2002 (4) RLW 2362 (Raj) = 2002(1) DNJ (Raj.) 194 = 2002 (1) RRT 459 (Raj) = 2002 (1) CDR 766 (Raj) = 2002 (2) RLR 465 (Raj) = 2002 (2) WLC 627 (Raj) = 2002 (2) WLN 565 (Raj) = AIR 2002 Raj 206.

2. Change of user of Land.—Land in question being used for commercial purpose since before commencement of any Master Plan. No permission required for its continued use for commercial purpose nor such continued use can be subjected to any conversion charge.

Land originally granted without restriction as to its user. Mere change of current use to commercial use cannot entail conversion charge. Demand for conversion charge quashed.—Ms. Jawahar Sons Enterprises Ltd. vs. State, 2002 (2)
A perusal of the Master Plan 1971-91 will show that Sansar Chandra Road has been shown as commercial and even if assuming for the sake of arguments, though not accepting, that the land use from cinema to commercial will change the land use, because in the Master Plan it has been the land use shown was commercial, it cannot be said that there was any deviation of the land use in contravention of the Master Plan. In such a situation, the provisions of Section 25 of Jaipur Development Authority Act, 1982 can hardly be attracted.—Jaipur Cinema Karmchari Union & Ors. vs. Jaipur Development Authority, 1993 (1) WLC 332 (Raj) = 1993 (1) WLN 461 (Raj).

Section 74. Power of Government to make rules.—(1) The State Government may make rules consistent with this Act—

(a) as to the authority on which money may be paid from the Trust fund.

(b) for prescribing the fees payable for a copy of or extracts from the assessment list under Section 35 or Section 73;

1[(bb) for prescribing standards for the sub-division or re-constitution of plots, layout of private streets etc, and, for provision of roads, lanes, water connections, electric connections and other amenities to be provided for the owner at his costs;]

2[(bbb) for prescribing the particulars to be submitted under Sub-section (1) of Section 73-A, and the period during which the plan shall be sanctioned or refused under Sub-section (2) of the same:]

(c) as to the conditions on which officers and servants of the Trust appointed to offices requiring professional skill may be appointed, suspended or dismissed;

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1 Inserted Clause (bb) by Section 9 of Rajasthan Act No. 3 of 1963, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 29.03.1963.

2 Inserted Clause (bbb) by Section 9 of Rajasthan Act No. 3 of 1963—ibid.
(d) as to the intermediate office or offices, if any, through which correspondence between the Trust and the State Government or officers thereof shall pass;

(e) as to the manner and form in which the Trust shall maintain accounts and prepare an annual statement thereof including the balance sheet;

(f) as to the authority by whom, the conditions subject to which and the mode in which contracts may be entered into and executed on behalf of the trust;

(g) as to the form in which and the time at which the Budget shall be prepared;

(h) as to the returns, statements and reports to be submitted by the Trust;

(i) as to the mutual relations to be observed between the Trust and other local authorities in any matter in which they are jointly interested;

(j) for regulating the grant of leave allowances and acting allowances to the officers and servants of the Trust;

(1) for prescribing the conditions under which the officers and employees of a Trust may, under Section 24-A, be transferred from one Trust to another or to the J.D.A.]

(k) for establishing and maintaining a pension, provident or annuity fund, for compelling all or any of the officers in the service of the Trust to contribute to such fund at such rates and subject to such conditions as may be prescribed and for supplementing such contributions out of the funds of the Trust.

Provided that a Government servant employed as an officer or servant of the Trust shall not be entitled to leave or leave allowance otherwise than as may be prescribed by the conditions of his service under the State Government;

(l) for determining the conditions under which the officer and servants of the Trust or any of them shall, on retirement, receive pensions or gratuities or compassionate allowances and the amount of such pensions, gratuities and compassionate allowances;

(m) for regulating every matter which, under this Act, may be or is required to be prescribed;

(n) generally of the guidance of Trusts and public officers in all matters connected with the carrying out of the provisions of this Act

(o) for prescribing the rates of conversion charges; and

(p) as to the authority to which, and the manner in which an application for permission for change of use of land shall be made; and the manner in, and the authority, which conversion charges, payable in respect thereof shall be fixed.)

[(2) No rule made under Sub-section (1) shall take effect until it is published in the Official Gazette, and no such rule shall be made except after previous publication:

1 Inserted Clause (jj) by Act No. 16 of 1992, published in Rajasthan Gazette Extraordinary 4 (Ka) dated 05.05.1992 Page 69 and substituted by Rajasthan Act No. 18 of 1994, Published on 30.04.1994 Pages 219-221.

2 Omitted the word "and" by Section 3(a) of Rajasthan Act, No. 20 of 1974, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 20.09.1974.


4 Inserted Clause (o) and (p) by Section 3 (c) — ibid.

5 Substituted by Section 9 of Rajasthan Act No. 26 of 1976, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 17.04.1976. (w.e.f. 28.02.1976)—prior to Amendment it was as followings.
Provided that any such rule may be made without previous publication if the State
Government considers that it should, in public interest, be brought into force at once.]

अध्याय—10

नियम और विनियमन

धारा 74. नियम बनाने की सरकार की शक्ति—(1) राज्य सरकार इस अधिनियम के
साथ संगत नियम बना सकती है।

(२) ऐसे प्राधिकार के संबंध में, जिस पर धन न्यास निधि से भुगतान किया जाये;

(३) धारा 35 या धारा 73 के अधीन निर्धारण सूची में उसकी प्रति या उद्देश्य के लिए देख
कीसं विचित्र करने के लिए;

(ख) प्लांट के उप-विभाजन या गुणर्थन, प्राइवेट मार्ग इत्यादि के अधिन्यास के लिए
और राज्य कोकों—गलियां जल—कंठकारों, मिट्टी—कंठकारों और गलाल द्वारा अपने ब्यय
पर प्रदान की जाने वाली अन्य सुय—सुविधाओं के लिए तालाब विचित्र करने के लिए;

(खबर) धारा 73—क की उप-धारा (१) के अधीन प्रस्तुत किये जाने वाले विवरण, और
अधि; जिसके दौरान प्लांट उसकी उप-धारा (२) के अधीन संबंधित के देख
कीसं जायेगा, विचित्र करने के लिए;

(४) उन शर्तों के संबंध में, जिन पर व्यक्तिक योग्यता का अपेक्षा करने वाले पदों पर
नियुक्त न्यास के अधिकारियों और लोगों को नियुक्त, नियोजित या ब्यय
किया जाये,

(५) मध्यवर्ती कार्यकार या कार्यलयों के संबंध में, यदि कोई हो, जिसके जरिये न्यास और
राज्य सरकार या उसके अधिकारियों के ब्यय पत्र—व्यवहार किया जायेगा;

(६) उस प्रकार के और प्रलय के संबंध में, जिसमें न्यास लेखे रखेगा और विद्वान
संविदाएं विचित्र विचित्र तैयार करेगा,

(७) ऐसे प्राधिकारी, जिसके द्वारा, उन शर्तों, जिनके अनुसार और उस प्रकार, जिसमें
संविदाएं की जायें और न्यास की तरफ से निष्पादित की जायें, के संबंध में;

(८) उस प्रकार, जिसमें और समय दिन पर बजट तैयार किया जायेगा, के संबंध में;

(९) न्यास द्वारा प्रस्तुत की जाने वाली विवरण, विवरण और रिपोर्ट के संबंध में;

(१०) ऐसे मामले में, जिसमें वे संबंधित रूप से हितबद्ध हैं, न्यास और अन्य राजस्वीय
प्राधिकारियों के ब्यय रखे जाने वाले पारस्परिक संबंध के संबंध में;

(११) न्यास के अधिकारियों और संविदाएं को छूटी भुते और कार्यकारी भुते की स्वीकृति
विनिमयित करने के लिए;

(१२) उन शर्तों को विचित्र करने के लिए, जिनके अधीन न्यास के अधिकारियों, और लोगों को
धारा 24—क के अधीन एक न्यास से दूसरे न्यास में या जयपुर विवाह प्राधिकरण में
स्थानात्मकता किया जा सके।

(१३) पेशावर, भविष्य या वार्षिक निधि स्थापित करने और अनुरक्षित करने के लिए, ऐसी वर्तमान
पर और ऐसी शर्तों के अनुसार, जिन्हें विचित्र किया जाये, ऐसी निधि में अंशधारी करने
के लिए न्यास की सेवा में अधिकारियों में से सभी या किसी को बाह्रा करने के लिए,
और न्यास की निधियों में से ऐसे अंशधारी की अभिपूर्तित करने के लिए;

प्रत्युत्त न्यास के अधिकारी या सेवक के रूप में नियोजित सरकारी सेवक राज्य सरकार के
अधीन उसकी सेवा की शर्तों द्वारा विचित्र अनुसार के अलावा अन्य छूट या छूटी भुते
का हकदार नहीं होगा;

Contd. ...

"(२) The power of the State Government to make rules under this section is subject to the condition of the
rules being made after previous publication and of their to taking effect until they have been published
in the Official Gazette."
Section 75. Power of the Trust to make regulations.—(1) Every Trust may, from
time to time make regulations consistent with this Act and with any rules made under this
Act by the State Government.—
(a) for fixing the amount of security to be furnished by any officer or servant of the
Trust from whom it may be deemed expedient to require security,
(b) for associating members with the Trust under Section 19,
(c) for appointing persons, other than Trustees and persons associated with the
Trust under Section 19, to be members of committees under Section 20.
(d) for regulating the delegation of power or duties of the Trust to committees or to
the Chairman [or to the Secretary or any other officer of the Trust,]

1 Inserted w.e.f. 15.06.1978 by Section 4 of Rajasthan Act No. 9 of 1978 published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 26.10.1978.
(e) for regulating, summoning and holding of meetings of the Trust and the committees appointed by it and the conduct of business thereat,
(f) for the guidance of persons employed by it under this Act.
(g) for prescribing the fees payable for copies of documents delivered under Sub-section (3) of Section 33 or under Section 76.
1[(h) for permitting under Section 73 the improvement in the urban area of the management, use and regulation of any land or building including its erection, re-erection and enlarging of its wall or any projecting portion,
(i) generally for carrying out the purpose of this Act.
(2) All regulations made under Sub-section (1) shall be subject to the sanction of the State Government and shall, when so sanctioned, 2[come into force upon their publication in the Official Gazette.]

राजस्थान नगर सुधार अधिनियम, 1959 धारा 75

विनियम बनाने की न्याय की शक्ति—(1) प्रत्येक न्याय समय—समय पर इस अधिनियम के साथ और राज्य सरकार द्वारा इस अधिनियम के अधीन बनाये गये किसी नियम के साथ संगत विनियम बना सकेगा—

(क) न्याय के किसी अधिकारी या सेवक, जिससे यह प्रतिभूति अपेक्षित करना समीचीन सामग्री, द्वारा अप्रतिभूत की जाने वाली प्रतिभूति की राशि नियंत्र करने के लिए,
(ख) धारा 19 के अधीन न्याय के साथ सदस्यों के जुड़ने के लिए,
(ग) धारा 19 के अधीन न्याय के साथ जुड़े न्यायियों और व्यक्तियों के अलावा धारा 20 के अधीन समितियों के सदस्यों के रूप में व्यक्तियों को नियुक्त करने के लिए,
(घ) समितियों का या सहायकों का या सचिव को या न्याय के किसी अन्य अधिकारी को न्याय की शक्तियों या कर्त्तव्यों को प्रत्यायोजन विनियमित करने के लिए,
(ड) न्याय और इसके द्वारा नियुक्त की गयी समितियों की बैठकों को विनियमित करने, समन करने और आयोजित करने के लिए और उनके कार्य के संचालन के लिए,
(व) इस अधिनियम के अधीन इसके द्वारा नियुक्तियों व्यक्तियों के मार्गदर्शिन के लिए,
(ढ) धारा 33 की उप-धारा (3) के अधीन या धारा 76 के अधीन परिवर्तन किये गये व्यक्तियों की प्रतिभूतियों के लिए देख कीस विनियमित करने के लिए,
(श) धारा 73 के अधीन नगरीय क्षेत्र में सुधार या किसी भूमि या भवन, जिसमें उसका पुनःनिर्माण, पुनःपरिवर्तन और इसकी दीवारों या उसके प्रक्षेप भाग का विस्तार शामिल होता है के प्रबन्ध, प्रयोग और विनियम की अनुमति देने के लिए,
(झ) सामान्यतः इस अधिनियम के प्रयोजनों को कार्यान्वित करने के लिए।
(2) उप-धारा (1) के अधीन बनाये गये सभी विनियम राज्य सरकार की संस्थीकृति के अनुसार होंगे और जब ऐसी संस्थीकृति दी जाएं, तब राजपत्र में अपने प्रकाशन पर प्रदूषण होंगे।

Comments
Order of removal — Trust cannot delegate its power.—From the reading of Section 91-A it will be evident that the power to order removal vests in the Trust. The Trust may delegate any of its functions or the duties to any of the committees constituted under Section 21 of the Act. It may further delegate such

1 Substituted by Section 10(i) of Rajasthan Act No. 26 of 1976, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 17.04.1976. (w.e.f. 18.02.1976)—prior to Amendment it was as followings:—
"(h) for the management, use and regulation of building constructed under any scheme, and"
2 Substituted for words, "be notified in the Official Gazette." by Section 10(ii)—ibid
of the functions as may be permissible under the regulation framed under Section 75 of the Act to the Chairman of the Trust and there is no provision in the Act empowering the Trust to delegate its power in regard to the order of removal of construction in favour of an officer of the Trust. It is true that under Section 27 of the Act the Chairman may be general or special order in writing delegate to any officer of the Trust any of his power, duties or functions under this Act or under the Rules made thereunder except the power to preside over the resting of the trust. Such delegation by the Chairman is in regard to him own functions only. There is, however, no provision of such delegation in favour of officer so far as the trust is concerned. It, therefore, follows that the functions of the Trust can be delegated either in favour of the committee or in favour of the Chairman. In the case of Chairman delegation will be to the extent the regulation framed under Section 75 of the Act permits. It may be observed here that the delegation of power is permissible with the legislative permission and in absence of such legislative permission there can be no delegation of the functions of the trust in favour of the officer to the Trust or its Secretary. Any delegation may by the Trust under its resolution in regard to the removal of unauthorised construction cannot be said to be in consonance of the provision of the Act. Court is, therefore, firmly of the opinion that the resolution of the UIT as far it delegates power of removal under Section 91 in favour of its Secy. is beyond the competence of the U.I.T. As a naturally corollary thereof the Secretary of the Trust derives no power of ordering removal of unauthorised construction and is therefore wholly incompetent to pass the impugned order under Section 91 of the Act. It may be that the Trust may empower any office-officer for the purpose of Section 91(C) and authorise any officer to stop the unauthorised building operations but from that it cannot be inferred that the Trust can by its resolution authorise its officer under Section 91(C) of the Act to order removal of unauthorised construction—


deepana

हटाये जाने का आदेश — न्यास अपनी शक्ति प्रत्यावर्धित नहीं कर सकता.—धारा 91—क के पन्न से, यह स्पष्ट होगा कि हटाये जाने का आदेश करने की शक्ति न्यास में निहित होती है। न्यास अधिनियम की धारा 21 के अधीन गठित समितियों में से किसी को अपने कार्यों या कर्तव्यों में से कोई प्रत्यावर्धित कर सकता है। यह ऐसे कार्य, जो अधिनियम की धारा 75 के अधीन बनाये गये विनियम के अधीन स्थापित हो, को न्यास के चेयरमन को प्रत्यावर्धित कर सकता है और न्यास के अधिकारी के पत्र में निर्माण हटाने के आदेश के संबंध में अपनी शक्ति प्रत्यावर्धित करने के लिए न्यास को सशक्त करते हुए अधिनियम में कोई प्रावधान नहीं है। यह सही है कि अधिनियम की धारा 27 के अधीन चेयरमन समाज के विशेष आदेश द्वारा लिखित में न्यास के किसी अधिकारी को इस अधिनियम के अधीन या उसके अधीन बनाये गये नियमों के अधीन शेष न्यास पर पीछासी होने की शक्ति के अलावा अपनी शक्ति, कर्तव्यों या कार्यों में से कोई प्रत्यावर्धित कर सकता है। चेयरमन द्वारा ऐसा प्रत्यावर्धित करना स्वयं उसके कार्यों के संबंध में होता है। हालाँकि अधिकारी के पत्र में ऐसे प्रत्यावर्धित का कोई प्रावधान नहीं है, जहां तक न्यास का संबंध है। अतः यह अनुसरित करता है कि न्यास के कार्य या तो संशोधित के पत्र में या चेयरमन के पत्र में प्रत्यावर्धित किया जा सकता है। चेयरमन के मामले में, प्रत्यावर्धित अधिनियम की धारा 75 के अधीन बनाये गये विनियम की सीमा तक होगा। यहां पर अवश्यक किया जा सकता है कि शक्ति का प्रत्यावर्धित वैधानिक अनुसूची से स्वीकार होता है और ऐसी वैधानिक अनुसूची के अभाव में, न्यास के अधिकारी या इसके सचिव के पत्र में न्यास के कार्य का कोई प्रत्यावर्धित नहीं किया
Section 76. Printing and sale of copies of rules and regulations.—(1) The Chairman shall cause all rules made under Section 74 and all regulations made under Section 75 and for the time being in force, to be printed and shall cause printed copies thereof to be delivered to any applicant on payment of such fees as may be prescribed by regulations.

(2) Notice of the fact of copies of rules and regulations being obtainable at the said price and of the place where and the persons from whom the same are obtainable shall be given by the Chairman by advertisement in local newspaper.

Section 77. Power of Government to cancel regulations made under Section 75.—The State Government may, after previous publication of its intention, rescind any regulations made by the Trust which it has sanctioned, and thereupon the regulations shall cease to have effect.

Chapter XI
Procedure and Penalties

Section 78. Stamping signature on notices or bills.—Every notice or bill which is required under this Act to bear the signature of the Chairman or of any other Trustee or of any officer or servant of the Trust shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman or of such other Trustee or of such officer or servant as the case may be stamped thereupon.
Section 79. Public notice how to be made known. — Every public notice given under this Act shall be in writing over the signature of any officer of the Trust authorised in this behalf and shall be widely made known in the locality to be affected thereby by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or by advertisement in local newspaper or by any two more of these means, and by any other means that the Trust may think fit.

Section 80. Service of notice, etc. — (1) All notices, orders and other documents required by this Act or any rule or regulation made thereunder to be served upon any person shall, save as otherwise provided in this Act or such rule or regulation, be deemed to be duly served—

(a) where the person to be served is a company, if the document is addressed to the secretary of the company as its registered office or at its principal office or place of business and is either—

(i) sent by registered post, or

(ii) delivered at the registered office or at the principal office or place of business of the company;

(b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either—

(i) sent by registered post, or

(ii) delivered at the said place of business;

(c) where the person to be served is a public body or a corporation or society or other body, if the document is addressed to the secretary, treasurer or other head office of that body, corporation or society at its principal office, and is either—

(i) sent by registered post, or

(ii) delivered at that office;

(d) in any other case, if the document is addressed to the person to be served and—

(i) is given or tendered to him; or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, if within the State or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates, or

(iii) is sent by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed to "the owner" or "the occupier", as the case may be, of that land or building naming that land or building, without further name of description, and shall be deemed to be duly served.—
(a) if the document so addressed is sent or delivered in accordance with Clause (d) of Sub-section (1); or

(b) If the document so addressed or a copy thereof so addressed, is delivered to some person on the land or building or where there is no person on the land or building to whom it can be delivered, is affixed to some conspicuous part of the land or building.

(3) Where a document is served on a partnership in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any property, the Trust may, by notice in writing, require the occupier, if any, of the property to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) A servant is not a member of the family within the meaning of this section.

(1) इस अभिनियम या उसके अभिन बनाये गये किसी निम्न या विनियम द्वारा किसी व्यक्ति पर तामील की जाने हेतु अपेक्षित सभी नोटिस, आदेशों और अन्य दस्तावेजों को इस अभिनियम या ऐसे निम्न या विनियम में अन्यथा उपबोधित होते हुए भी सम्पर्क रूप से तामील किये हुए माने जायेंगे।

(क) जहाँ तामील किये जाने वाला व्यक्ति कम्पनी हो, यदि दर्शावेज कम्पनी के सचिव को इसके पंजीकृत कार्यालय पर या इसके मुख्य कार्यालय पर या कारोबार के स्थान पर संबोधित हो और या तो—

(i) पंजीकृत डाक द्वारा भेजे गए हों, या

(ii) कम्पनी के पंजीकृत कार्यालय पर या मुख्य कार्यालय, पर या कारोबार के स्थान पर परिदृश्य किये गए हों,

(ख) जहाँ तामील किया जाने वाला व्यक्ति भागीदार हो, यदि दर्शावेज भागीदारों को इसके कारोबार के मुख्य स्थान पर उसके नाम या अभिनाम, जिसके अधीन इसका कारोबार किया जाता है, द्वारा इसकी पहचान करते हुए संबोधित किया गया हों और या तो—

(i) पंजीकृत डाक द्वारा भेजे गए हों, या

(ii) कारोबार के उक्त स्थान पर परिदृश्य किये गए हों,

(ग) जहाँ तामील किया जाने वाला व्यक्ति सार्वजनिक निकाय या निम्न या सोसायटी या अन्य निकाय हो, यदि दर्शावेज उस निकाय, निम्न या सोसायटी के सचिव, कोषागार या अन्य मुख्य अधिकारी को इसके स्थान पर संबोधित किया गया हो, और या तो—

(i) पंजीकृत डाक द्वारा भेजा गया हो, या

(ii) उस कार्यालय में परिदृश्य किया गया हो,

(घ) किसी अन्य सामान्य में, यदि दर्शावेज तामील किये जाने वाले व्यक्ति को संबोधित किया गया हो और—

(i) उसे प्रदान या निरविद्य किया गया हो, या

(ii) यदि ऐसा व्यक्ति पाया नहीं जा सके, तो निवास या कारोबार के उसके अवतर हाथ स्थान के किसी सहजदृश्य भाग पर चिपकाये गये हो, यदि राज्य के भीतर हो या उसके परिवार के किसी व्यस्त सदस्य के प्रदान या निरविद्य किये गये हों या उस भूमि का स्वातन्त्र्य के किसी सहजदृश्य भाग पर चिपकाये गये हों। जिससे वह संबोधित हो, या

(iii) उस व्यक्ति को पंजीकृत डाक द्वारा भेजे जाते हैं।
(2) Every dealer, who is a trader, shall keep books of account in such form and manner as may be prescribed by the Central Government.

(3) Any person interested in or in respect of whom any goods which are in transit are seized, detained or detained in any other manner shall be entitled to receive a statement of the nature and extent of the goods seized or detained or detained in any other manner.

(4) Every person who is aggrieved by an order of the Appeals Authority under sub-section (3) of section 50 of the Act may appeal to the Supreme Court against such order.

(5) The Supreme Court shall be the competent authority for the purpose of sub-section (4) of section 50 of the Act.

Comments
1. Notice—Authorisation to service. (नोटिस — तामिल की प्राधिकृतता) 

2. Notice—Service of. (नोटिस — की तामिल) 

1. Notice—Authorisation to service.—The notice under Section 90 of the Act, cannot be said to be document which is required or authorised to be served on the owner or the occupier of any land or building. The notice under Section 90 is to be given to a person who without the permission of the trust erects, or adds to or alters any building, and such the provision of clause (b) of Sub-section (2) of Section 80 cannot be applied in the case in hand.—Urban Improvement Trust vs. Narbada Devi, 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj).

2. Notice—Service of.—There is no provisions under Section 80 for serving such notice on the husband in place of Narbada Devi herself. There is no provision for giving an authority to accept notice on behalf of a person when he or she is present to accept the notice.

There is a clear non-compliance of Section 80 of the Act in the matter of service of notice under Section 90 of the accused.—Urban Improvement Trust vs. Narbada Devi, 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj).
Section 81. Disobedience to act or to notice.—Where, under this Act or a notice given thereunder, the public or any person is required to do or to refrain from doing anything, a person who fails to comply with such requisition, shall, if such failure is not an offence punishable under any other section, be liable, on conviction by a Magistrate to a fine not exceeding five hundred rupees for every such failure and, in the case of a continuing breach to a further fine which may extend to five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the breach.

Section 82. Powers to Trust to execute works on failure to comply with notice.—If a notice has been given under this Act to a person requiring him to execute a work in respect of any property, movable or immovable, public or private, or to provide or do or refrain from doing anything within a time specified in the notice, and if such person fails to comply with such notice, then the Trust may cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account from the said person in the manner provided in the Municipal law for the time being in force for the recovery of municipal claims.

Section 83. Liability of occupier to pay in default of owner.—(1) If the person to whom the notice mentioned in Section 82 has been given is the owner of the property in respect of which it is given, the Trust may, whether any action or other proceeding has been brought or taken against such owner or not require the person, if any, who occupies such property or a part thereof under such owner, to pay to the Trust instead of to the owner, the rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under Section 82; and any such payment made by the occupier to the Trust shall be deemed to have been made to the owner of the property.
(2) For the purpose of deciding whether action should be taken under Sub-section (1) the Trust may require an occupier of property to furnish information as to the sum payable by him as rent on account of such property and as to the name and address of the person to whom it is payable and if the occupier refuses to furnish such information he shall be liable for the whole of the expenses as if he was the owner.

(3) All moneys recoverable by the Trust under this section shall be recoverable in the manner provided in the Municipal law for the time being in force for the recovery of municipal claims.

Section 84. Right of occupier to execute works in default of owner.—Whenever default is made by the owner of a building or land in the execution of a work required under this Act to be executed by him, the occupier of such building or land may, with the approval of the Trust, cause such work to be executed, and the expense thereof shall, in the absence of any contract to the contrary, be paid to him by the owner or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Section 85. Procedure upon opposition of execution by occupier.—(1) If after receiving information of the intention of the owner of any building or land to take any action in respect thereof in compliance with a notice issued under this Act, the occupier refuses to allow such owner to take such action, the owner may apply to a Magistrate of the first class.

(2) The Magistrate upon proof of such refusal may make an order in writing requiring the occupier to allow the owner to execute all such works, with respect to such building or land, as may be necessary for compliance with the notice, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order.
(3) If, after the expiration of eight days from the date of the Magistrate's order, the occupier continues to refuse to allow the owner to execute such work, the occupier shall be liable, upon conviction, to a fine which may extend to twenty-five rupees for every day during which he has so continued to refuse.

(4) Every owner, during the continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such work.

Section 86. Recovery of cost of work by the occupier.—When the occupier of a building or land has, in compliance with a notice given under this Act, executed a work to which the owner of such building or land is responsible either in pursuance of the contract of tenancy or by law he shall be entitled to recover from the owner, by deduction from the rent payable by him or otherwise, the reasonable cost of such work.

Section 87. Relief to agents and trustees.—(1) When a person, by reason of his receiving or being entitled to receive, the rent of immovable property, as trustee or agent of a person or society would, under this Act, be bound to discharge an obligation imposed by this Act on the owner of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default, might have had, in his hands funds belonging to the owner sufficient for the purpose.

(2) When an agent or trustee has claimed and established his right to relief under this section, the trust may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which come to his hands on behalf, or for the owner, and should he fail to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.
**Nepali Text**

**Section 88. Application of provisions relating to recovery of municipal claims.**—Whenever in this Act or in any municipal law for the time being in force made applicable by Section 47 of this Act, it is provided that any sum shall be recoverable in the manner provided for the recovery of municipal claims, then in applying those provisions, all references to the Municipal Board shall be construed as referring to the trust and all references to the Municipal Officer or the Municipal Fund shall be construed as referring to the office of the trust, to an officer of the trust and the funds of the trust respectively.

**Section 89. Penalty for removing fence etc. in street.**—If any person, without lawful authority—

(a) removes any fence, or any timber used for propping or supporting any building, wall or other thing, or extinguishes any light set up at any place; where the surface of street or other ground has been opened or broken up by the Trust for the purpose of carrying out any work, or

(b) infrings any order given or removes any bar, chain or post fixed by the trust for the purpose of closing any street to traffic,

he shall be punishable with fine which may extend to fifty rupees.

**Nepali Text**

**धारा 89. भांड़ इत्यादि हटाने के लिए शासित— यदि कोई चिकित्व विधिपूर्ण प्राधिकारक के विपिन—**

(क) किसी भवन, दीवार या अन्य वस्तु को टिकाने या सहारा देने के लिए प्रयुक्त किसी भांड़ या किसी इमारती लकड़ी को हटाता है, या किसी स्थान पर, जहाँ मार्ग की सतह या अन्य भूमि को किसी कार्य को कार्यान्वित करने के प्रयोजन के लिए न्यास द्वारा खारा का लोड़ा गया, लगायी गयी कोई लाइट बुझा देता है, या

(ख) न्यास द्वारा दिये गये किसी आदेश का अतिरिक्त करता है या किसी मार्ग को यातायात से बन्द करने के प्रयोजन के लिए न्यास द्वारा लगाये गये किसी अवकाश, जंगीर या स्तम्भ को हटा देता है,

to वह जुमाने से दण्डनीय होगा, जो पचास रुपये तक हो सकेगा.
Section 89-A. Penalty for improvements in contravention of the Act.—(1) Any person who whether at his own instance or at the instance of any other person, or any department of Government, undertakes or carries out any improvement of any land in any urban area, in contravention of the provisions of Sub-section (1) of Section 72 or in contravention of any condition subject to which permission for undertaking or carrying on any improvement has been granted under Section 73, shall be, punishable with fine which may extend to five thousand rupees and in the case of a continuing offence, with further fine which may extend to one hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

(2) Any person who uses any land or building in contravention of Sub-section (2) of Section 72, or in contravention of the terms or conditions prescribed by regulations under the proviso to that sub-section, shall be punishable with fine which may extend to two thousand rupees.

Section 90. Power to prevent or demolish building.—If any person without the permission of the Trust erects, adds to or alters any building or wall so as to make the same project beyond the street alignment or building line shown in any plan finally adopted by the Trust, the Trust may, by a written notice—

(a) direct that the erection, alteration or addition be stopped, and

(b) require such building or wall to be altered or demolished, as it may deem necessary.


2 Omitted the words "or erects or alters any building or wall in an area specified in a scheme," by Section 12 of Rajasthan Act No. 26 of 1976, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 17.04.1976. (w.e.f. 28.02.1976).
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1. Notice—Authorisation to service.—The notice under Section 90 of the Act, cannot be said to be document which required or authorised to be served on the owner or the occupier of any land or building. The notice under Section 90 is to be given to a person who without the permission of the trust erects, or adds to or alters any building, and such the provision of clause (b) of Sub-section (2) of Section 80 cannot be applied in the case in hand.—Urban Improvement Trust vs. Narbada Devi, 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj).

2. Notice—Service of.—There is no provisions under Section 80 for serving such notice on the husband in place of Narbada Devi herself. There is no provision for giving an authority to accept notice on behalf of a person when he or she is present to accept the notice.

There is a clear non-compliance of Section 80 of the Act in the matter of service of notice under Section 90 of the accused.—Urban Improvement Trust vs. Narbada Devi, 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj).

3. Notice—Not properly served.—The accused had made constructions in violation of Scheme but took the view that notice issued under Section 90 of the Act, was not properly served on the accused and as such she could not be held guilty under Section 91 of the Act.—Urban Improvement Trust vs. Narbada Devi, 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj).

4. Notice—Mere knowledge is not sufficient.—Court see no force in this contention that mere knowledge is sufficient for the compliance of service of notice under Section 90 of the Act.—Urban Improvement Trust vs. Narbada Devi, 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj).
Section 91. Penalty for non-compliance with notice under Section 90.—If any person after due notice given under Section 90 does not, stop erection, alteration or addition, or does not demolish or alter any building or wall he shall be punishable with fine which may extend to five hundred rupees, or with simple imprisonment, for a period of six months or with both and the said unauthorised construction shall be demolished or altered by the order of the Magistrate dealing with the case if so requested by the Trust.

Comments

1. Service of Notice. (नोटिस की तालिम)

2. Notice—Authorisation to service. (नोटिस के प्राधिकृतता)

3. Notice—Not properly served. (नोटिस—उपयुक्त रूप से तालिम नहीं)

4. Notice—Mere knowledge is not sufficient. (नोटिस—केवल जानकारी पर्याप्त नहीं होती)

1. 4. Noteis — केवल जानकारी पर्याप्त नहीं होती है—न्यायालय ने इस तरह में कोई बल नहीं देखा कि अधिनियम की धारा 90 के अधीन नोटिस की तालिम की अनुपालना के लिए केवल जानकारी पर्याप्त होती है—नगर सुधार न्यास बनाम नवद्वीप देवी, 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj).

2. Service of Notice.—The notice under Section 90 of the Act, cannot be said to be a document which is required or authorised to be served on the owner or occupier of land or building. The notice under Section 90 is to be given to a person who without the permission of the trust erects, or adds to or alters any building, and as such the provision or Clause (b) of Sub-section (2) of Section 80 cannot be applied.—Urban Improvement Trust, vs. Narbada Devi, 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj)

2. Notice—Authorisation to service.—The notice under Section 90 of the Act, cannot be said to be a document which is required or authorised to be served on the owner or the occupier of any land or building. The notice under Section 90 is to be given to a person who without the permission of the trust erects, or adds to or alters any building, and such the provision of clause (b) of Sub-section (2) of Section 80 cannot be applied in the case in hand.—Urban Improvement Trust vs. Narbada Devi, 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj).
बिना किसी भवन में जोड़ता है, या घटाता है, या परिवर्तित करता है, और धारा 80 की उप-धारा (2) के खण्ड (ब) के ऐसे प्रावधान हटाना या भागों में लापू नहीं किये जा सकते—नगर सुधार न्यास बनाया नवबद्ध करें। 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj)

3. Notice—Not properly served.—The accused had made constructions in violation of Scheme but took the view that notice issued under Section 90 of the Act, was not properly served on the accused and as such she could not be held guilty under Section 91 of the Act.—Urban Improvement Trust vs. Narbada Devi, 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj).

3. नोटिस — उपयुक्त रूप से तामिल नहीं—अभियुक्त ने योजना के उल्लंघन में निर्णय किये थे, लेकिन वह बिचार लिया कि अधिनियम की धारा 90 के अधीन जारी सेट्स अभियुक्त पर उपयुक्त रूप से तामिल नहीं किया गया और इसलिए उसे अधिनियम की धारा 91 के अधीन ही निर्णय नहीं किया जा सकता—नगर सुधार न्यास बनाया नवबद्ध करें। 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj).

4. Notice—Mere knowledge is not sufficient.—Court see no force in this contention that mere knowledge is sufficient for the compliance of service of notice under Section 90 of the Act.—Urban Improvement Trust vs. Narbada Devi, 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj).

—From the proceedings of the Urban Improvement Trust is clearly transpires that permission was granted to the petitioner for construction of the first floor, but it was made clear to the petitioner that he shall not be permitted to open the windows in the northern side. Thus, the Urban Improvement Trust can direct the petitioner to close the windows as the same has been opened without permission of the Urban Improvement Trust.—Arjun Ram vs. Additional Collector, Jodhpur, 1987(1) WLN 453 (Raj).

4. नोटिस — केंबल जानकारी परम्परा नहीं होती है—न्यायालय ने इस तरह में कोई बल नहीं देखा कि अधिनियम की धारा 90 के अधीन नोटिस की तामिल की अनुसारना के लिए केंबल जानकारी परम्परा होती है—नगर सुधार न्यास बनाया नवबद्ध करें। 1981 WLN 467 (Raj) = 1981 RLW 276 (Raj).

—नगर सुधार न्यास की कार्यवाहियों से कुछ स्पष्ट रूप से प्रतीत होता है कि पहली मंजिल के निर्माण के लिए प्रार्थी को अनुमति प्रदान की गयी थी लेकिन प्रार्थी को यह स्पष्ट किया गया था कि उसे उससे तरफ खिड़की खोलने की अनुमति नहीं दी जायेगी। अतः नगर सुधार न्यास प्रार्थी को खिड़की बंद करने के लिए निर्देश दे सकता है, क्योंकि उसे नगर सुधार न्यास की अनुमति के बिना खोला गया था।—अरुण राम बनाया अपर कलेक्टर, जोधपुर और अन्य, 1987 (1) WLN 453 (Raj).

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1 [Section 91-A. Order of demolition of buildings etc.—(1) Where the erection of any building in any urban area has been commenced or is being carried on, or has been completed in contravention of the master plan or of any scheme sanctioned and notified by the State Government or of the sanction of the Trust under Sub-section (1) of Section 72 or without the permission obtained under Section 73, or in contravention of any rules or conditions subject to which such permission has been granted, the Trust may, in addition to any prosecution that may be instituted under this Act, make an order directing that such erection shall be demolished by the owner thereof within such period not exceeding one months as may be specified in the order and on the failure of the owner to comply with the order, [the Trust may itself] cause the erection to be demolished and the

1 Inserted Section 91-A, B, C, D, E, F, G by Section 13 of Rajasthan Act No. 26 of 1976, Published on 17.04.1976 (w.e.f. 28.02.1976).

2 Substituted for words "the officer may himself" by Section 5 of Rajasthan Act No. 9 of 1978, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 26.10.1978, (w.e.f. 15.06.1978).
expenses of such demolition shall be recoverable from the owner as arrears of land revenue:

Provided that no such order shall be made unless the owner has been given a reasonable opportunity to show cause why the order should not be made.

(2) Any person aggrieved by an order under Sub-section (1) may appeal to the Divisional Commissioner against the order within 30 days from the date of the order of the Trust and the Divisional Commissioner may after hearing the parties to the appeal either dismiss the appeal or may reverse or vary the whole or any part of the order.

(3) The decision of the Divisional Commissioner in the appeal shall be final and shall not be questioned in any Court.

Comments

Order of removal — Trust cannot delegat its power.—From the reading of Section 91-A it will be evident that the power to order removal vests in the Trust. The Trust may delegate any of its functions or the duties to any of the committees constituted under Section 21 of the Act. It may further delegate such of the functions as may be permissible under the regulation framed under Section 75 of the Act to the Chairman of the Trust and there is no provision in the Act empowering the Trust to delegate its power in regard to the order of removal of construction in favour of an officer of the Trust. It is true that under Section 27 of the Act the Chairman may be general or special order in writing delegate to any officer of the Trust any of his power, duties or functions under this Act or under the Rules made thereunder except the power to preside over the resting of the trust. Such delegation by the Chairman is in regard to him own functions only. There is, however, no provision of such delegation in favour of officer so far as the trust is concerned. It, therefore, follows that the functions of the Trust can be delegated either in favour of the committee or in favour of the Chairman.
In the case of Chairman delegation will be to the extent the regulation framed under Section 75 of the Act permits. It may be observed here that the delegation of power is permissible with the legislative permission and in absence of such legislative permission there can be no delegation of the functions of the trust in favour of the officer to the Trust or its Secretary. Any delegation may by the Trust under its resolution in regard to the removal of unauthorised construction cannot be said to be in consonance of the provision of the Act. Court is, therefore, firmly of the opinion that the resolution of the UIT as far it delegates power of removal under Section 91 in favour of its Secy. is beyond the competence of the U.I.T. As a naturally corollary thereof the Secretary of the Trust derives no power of ordering removal of unauthorised construction and is therefore wholly incompetent to pass the impugned order under Section 91 of the Act. It may be that the Trust may empower any office-officer for the purpose of Section 91(C) and authorise any officer to stop the unauthorised building operations but from that it cannot be inferred that the Trust can by its resolution authorise its officer under Section 91(C) of the Act to order removal of unauthorised construction—Mohan Lal vs. Urban Improvement Trust, Jodhpur, 1978 RLW 72 (Raj) = AIR 1978 (Raj) 201 = 1978 WLN 38 (Raj).

—From the proceedings of the Urban Improvement Trust is clearly transpires that permission was granted to the petitioner for construction of the first floor, but it was made clear to the petitioner that he shall not be permitted to open the windows in the northern side. Thus, the Urban Improvement Trust can direct the petitioner to close the windows as the same has been opened without permission of the Urban Improvement Trust.—Arjun Ram vs. Additional Collector, Jodhpur, 1987(1) WLN 453 (Raj)
Section 91-B. Power to stop improper use of land or buildings in urban areas.—

(1) Whoever uses any land or building in any urban area in contravention of the provisions of Sub-section (2) of Section 72, any officer of the Trust empowered in this behalf may, in addition to any prosecution that may be instituted under the Act for such improper use make an order requiring such person to stop such improper use immediately.

(2) Where such improper use is not discontinued in pursuance of the requisition under Sub-section (1), the Trust or the officer empowered in this behalf may require any police officer to stop such improper use as may be specified in the requisition to the police and to remove from such land or building, any person, other than the owner, making the improper use, and such police officer shall comply with the requisition.

Section 91-C. Power to stop building operations.—(1) Where the erection of any building in an urban area has been commenced in contravention of the master plan or any scheme sanctioned and notified by the State Government or of the general approval of the Trust under Sub-section (1) of Section 72 obtained under Section 73, or without such permission, approval or sanction has been granted but such erection has not been completed, any officer of the Trust empowered in this behalf may, in addition to any prosecution that may be instituted under this Act, make an order requiring the building operations in relation to such erection to be discontinued on and from the date of service of the order.

(2) Where such building operations are not discontinued in pursuance of the requisition under Sub-section (1), the Trust or the Officer empowered in this behalf may require any Police Officer to remove the person by whom the erection of the building
has been commenced and all his assistants and workmen from the place of the building within such time as may be specified in the requisition and such Police Officer shall comply with the requisition accordingly;

(3) After a requisition under Sub-section (2) has been complied with, the officer empowered in this behalf may depute by a written order a Police Officer or an Officer or employee of the Trust to watch the place in order to ensure that the erection of the building referred to in Sub-section (1) is not continued.

(4) Any person failing to comply with an order under Sub-section (1) shall be punishable with fine which may extend to two hundred rupees for every day during which the non-compliance continues after the service of the order.

(5) No compensation shall be claimed by any person for any damage which he may sustain in consequences, of the discontinuation of the erection of any building.

Section 91-D. Offences by Companies.—(1) If the person committing an offence under this Act, is a company, every person, who was responsible to the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence in preventing the commission of such offence.

(2) Notwithstanding anything contained in Sub-section (1) when an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part
of any Director, Manager, Secretary or other Officer shall also be deemed to be guilty of
that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—
(a) 'Company' means a body corporate and includes a firm or other association of
individuals, and
(b) 'director' in relation to a firm means a partner in the firm.

Section 91-E. Fines payable to the Trust.—All fines raised in connection with
the prosecution under this Act shall be paid to the Trust concerned.

Section 91-F. Defaults in providing amenities.—(1) If the Trust after holding a
local enquiry or upon report from any of its officers or other information in its possession
is satisfied that the owner of any land in the urban area under its control has failed to
provide any amenity in relation to the land, which in the opinion of the Trust ought to be
provided, or to carry out any improvement of the land for which permission has been
obtained under this Act, it may serve upon the owner a notice requiring him to provide
the amenity or carry out the improvement within such time as may be specified in the
notice.

(2) If any such amenity is not provide or any such improvement is not carried out
within the time specified in the notice, then the Trust may itself provide the amenity or
carry out the improvement or have it provided or carried out through such agency as it
deems fit:

Provided that before taking any action under this sub-section the Trust shall afford
reasonable opportunity to the owner of the land to show cause as to why such action
should not be taken.

(3) All expenses incurred by the Trust or the agency employed by it in providing the
amenity or carrying out the improvement together with interest at such rate as State
Government may by order fix, from the date on which a demand for the expenses is made till their payment may be recovered by the Trust from the owner as arrears of land revenue.

Section 91-G. Power to require local authority to assume responsibility in certain cases.—Where any urban area has been improved by the Trust, the Trust may require the municipality in whose local limits the area so improved is situated to assume responsibility for the maintenance of the amenities which have been provided by the Trust or the amenities which have not been provided by the Trust but which in its opinion should be provided in the area on terms and conditions agreed upon between the Trust and such municipality, and where such terms and conditions cannot be so agreed upon, on terms and conditions settled by the State Government in consultation with the municipality on a reference of the matter to the State Government by the Trust.

Section 92. Penalty for obstructing contractor or removing mark.—If any person:—

(a) obstructs or molests any person with whom the Trust has entered into of contract in the performance or execution by such person of his duty or anything which he is empowered or required to do under this Act, or
(b) removes any mark set up for the purpose of indicating any level or direction
necessary to the execution of works authorised under this Act,
he shall be punishable with fine which may extend to five hundred rupees or with
imprisonment for a term which may extend to two months.

(2) Whoever—

(a) makes or continues to make any encroachment in any land or space not being
private property, whether such land or space belongs to or vests in the Trust or
not, except steps over drain in any public street, or

(b) having made such encroachment before coming into force of the Rajasthan
Urban Improvement (Second Amendment) Act, 1991, fails to remove such
encroachment within fifteen days from the date of service of a notice in writing
calling upon him to do so by the Trust,
shall on conviction, be punished with simple imprisonment which shall not be less
than one month but which may extend to three years and with fine which may extend to
twenty thousand rupees:
Provided that the Court may for any adequate or special reason to be mentioned in
the judgment impose a sentence of imprisonment for a term of less than one month.

(2) Whoever—

(a) makes or continues to make any obstruction in any land or space not being
private property, whether such land or space belongs to or vests in the Trust or
not, except steps over drain in any public street; or

(b) having made such obstruction before coming into force of the Rajasthan Urban
Improvement (Second Amendment) Act, 1991, fails to remove such obstruction
within fifteen days from the date of service of a notice in writing calling upon
him to do so by the Trust,
shall, on conviction, be punished with simple imprisonment which may extend to
one month or with fine which may extend to two thousand rupees or with both.

(3) The Trust or any officer authorised by it in this behalf shall have power to
remove any such obstruction or encroachment and the expenses of such removal shall be
paid by the person who has caused the said obstruction or encroachment.

(4) Whoever not being duly authorised in that behalf removes earth, sand or other
material from any land or space as aforesaid, shall be punished on conviction with

1 Inserted Section 92-A vide Section 4 of Rajasthan Act No. 18 of 1991, published in Rajasthan Gazette,
imprisonment which may extend to six months or with fine which may extend to ten thousand rupees or with both.

(5) Notwithstanding anything contained in the foregoing provision, the Trust or the officer authorised by it in this behalf shall, in addition to the action taken as provided in this section, also have power to seize or attach any property found on the land or space referred to in this section or, as the case may be, attached to such land or space or permanently fastened to any thing attached to such land or space.

(6) Where any property is seized or attached by an officer authorised by the Trust, he shall immediately make a report of such seizure or attachment to the Trust.

(7) The Trust may make such order as it thinks fit for the proper custody of the property seized or attached, pending the conclusion of confiscation proceedings, and if the property is subject to speedy and natural decay, or it is otherwise expedient so to do, the Trust may order it to be sold or otherwise disposed of.

(8) Where any property is sold, as aforesaid, the sale proceed thereof after deduction of the expenses of any sale or other incidental expenses relating thereto, shall:

(a) where no order of confiscation is ultimately passed by the Trust; or

(b) where an order passed in appeal so requires, be paid to the owner thereof or the person from whom it is seized.

(9) Where any property is seized or attached under Sub-section (5), the Trust may order confiscation of such property.

(10) No order for confiscating a property shall be made under Sub-section (9) unless the owner of such property or the person from whom it is seized or attached is given:

(a) a notice in writing informing him of the grounds on which it is proposed to confiscate the property;

(b) an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation; and

(c) a reasonable opportunity of being heard in the matter.

(11) The order of any confiscation under this section shall not prevent the infliction of any punishment to which the person affected thereby is liable under the Act.

(12) Any person aggrieved by an order made under Sub-section (7) or Sub-section (9), may, within one month from the date of the communication to him of such order, appeal against it to the District Judge of the District in which such property is seized or attached.

(13) On such appeal the District Judge may, after giving an opportunity to the appellant and the respondent to be heard, direct the order to be stayed pending disposal of the appeal, or may modify, alter or amend the order and make any further orders that may be just.

(14) Whenever any property is seized or attached pending confiscation under this section, the Trust or the District Judge shall have, and notwithstanding anything to the contrary contained in any other law for the time being in force, any other Court, Tribunal, other authority shall not have, jurisdiction to make orders with regard to the possession, delivery, disposal, release or distribution of such property.

(15) Where any person is prosecuted of an offence under Sub-section (1) or Sub-section (2), the burden of proving that he has not committed the offence shall be on him.

(16) Whoever, being an employee of the Trust, specifically entrusted by an order of the Trust in writing with the duty to stop or prevent the encroachment or obstruction
punishable under this section, wilfully or knowingly neglects or deliberately omits to stop or prevent such encroachment or obstruction, shall, on conviction, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to one thousand rupees or with both:

Provided that no Court shall take cognizance against such employee for the offence punishable under this sub-section except with the previous sanction of the Trust.

(17) No investigation of an offence under this section shall be made by an officer below the rank of a Deputy Superintendent of Police.

राजस्थान नगर सुधार अधिनियम, 1959

दाने 92—क. सार्वजनिक भूमि पर अतिक्रमण या गाढ़ा—(क) जो कोई भी—

(क) किसी ऐसी भूमि या स्थान, जो प्राइवेट सम्पत्ति नहीं हो, चाहे ऐसी भूमि या स्थान न्यास से संबंधित हो या नहीं, या न्यास में मिलित हो या नहीं, किसी सार्वजनिक मार्ग में नालियों पर सीधियों के अलावा, में कोई अतिक्रमण करता है या अतिक्रमण करना जारी रखता है, या

(ख) राजस्थान नगर विकास (द्वितीय संशोधन) अधिनियम 1991 प्रवृत्त होने से पहले ऐसा अतिक्रमण करते हुए, न्यास द्वारा ऐसा करने के लिए उसे कहते हुए लिखित में नोटिस का तामिल की तिथि से 15 दिनों के भीतर ऐसा अतिक्रमण हटाने में असफल रहता है,

तो दोषित्विद्ध होने पर साधारण कारावास से, जो एक माह से कम नहीं होगा, लेकिन जो तीन वर्ष तक हो सकेगा, और जुर्मने से, जो बीस हजार रुपये तक हो सकेगा, दंडित किया जायगा.

प्रत्येक न्यायालय निर्णय में उल्लेखित किये जाने वाले किसी पर्याय या विशेष कारण के लिए एक माह से कम अवधि के कारावास का दण्डादेश अधिरोपित कर सकेगा।

(2) जो कोई भी—

(क) किसी भूमि या स्थान, जो प्राइवेट सम्पत्ति नहीं हो, चाहे ऐसी भूमि या स्थान न्यास से संबंधित हो या नहीं, या न्यास में मिलित हो या नहीं, किसी सार्वजनिक मार्ग में नालियों पर सीधियों के अलावा, में कोई बाधा करता है या बाधा लगातार उपर्युक्त करता है; या

(ख) राजस्थान नगर सुधार (द्वितीय संशोधन) अधिनियम, 1991 के प्रवृत्त होने से पहले ऐसी बाधा करते हुए, न्यास द्वारा ऐसा करने के लिए उसे कहते हुए लिखित में नोटिस का तामिल की तिथि से 15 दिनों के भीतर ऐसी बाधा हटाने में असफल होता है,

तो दोषित्विद्ध होने पर साधारण कारावास से, जो एक माह तक हो सकेगा या जुर्मने से, दो हजार रुपये तक हो सकेगा, या दोनों से दंडित किया जायगा।

(3) न्यास या इस निमित्त इसके द्वारा प्रभावित किसी भी अधिकारी के पास किसी ऐसी न्यास या अतिक्रमण हटाने की शक्ति होगी और ऐसे हटाने जाने के अधिकार उस अधिकार द्वारा किया जायगा, जिसके आधार पर उसके अधिकार का कार्य किया जायगा।

(4) जो कोई भी, जो इस निमित्त सम्पूर्ण रूप से प्रभावित नहीं हो, उपरोक्त अनुसार किसी भूमि या स्थान से निष्टृ, रेत या अन्य शामिल हटाता है, तो दोषित्विद्ध होने पर कारावास से, जो छ. माह तक हो सकेगा, या जुर्मने से, जो दस हजार रुपये तक हो सकेगा, या दोनों से दंडित किया जायगा।

(5) पूर्वांत प्रावधान में किसी भी बात के अन्तर्गत होते हुए भी, न्यास या इस निमित्त इसके द्वारा प्रभावित अधिकारी के पास इस धारा में उपरोक्त अनुसार की गयी धारावाही के अतिरिक्त इस धारा में निर्देश ऐसी भूमि या स्थान पर पायी गयी या, यथास्थिति, ऐसी भूमि या स्थान से रत्नग्रंह, या ऐसी भूमि या स्थान से रत्नग्रंह किसी वस्तु से स्थायी रूप से जड़कर हुई किसी सम्पत्ति को जबल करने या उसे कुर्किय करने की शक्ति होगी।

(6) जहां न्यास द्वारा प्रभावित अधिकारी द्वारा कोई सम्पत्ति जबल या कुर्किय की जाती है, वहां वह ऐसी जबल या कुर्किय की रिपोर्ट तुरंत न्यास को करेगा।
(7) न्यास अधिग्रहण की कार्यवाहियों का निर्देश लेखित रहने तक जबत या चूर्ण की गयी समस्या की उपयुक्त अनुसरण के लिए ऐसे आदेश कर सकेगा, जिसे वह ठीक समझे, और यदि समस्या शीघ्र और प्राकृतिक क्षयवाण हो, या ऐसा कि जाना अनुसार समुच्छीन हो, तो न्यास इसका विक्रय करने या अन्यथा निर्धारित करने का आदेश दे सकेगा।

(8) जहां उपरोक्तावसर किसी समस्या का विक्रय किया जाता हो, वहां किसी विवरण के व्ययों या उससे संबंधित आकारिक व्ययों की कटोटी के पश्चात उसके विक्रय आगम:

(9) जहां अधिग्रहण का कोई आदेश न्यास द्वारा अन्ततःवापस पार्श्वी नहीं किया गया हो, या

(10) जहां अपील में पार्श्वी किया गया आदेश अपेक्षित हो, उसके माध्यम का या उस व्यक्ति, जिससे इसे जबत किया गया, को मुख्तान किये जायेंगे।

(11) जहां कोई समस्या उप-धारा (5) के अधीन जबत या चूर्ण की जाती है, वहां न्यास ऐसी समस्या के अधिग्रहण का आदेश कर सकेगा।

(12) समस्या अधिग्रहित करने के लिए, कोई भी आदेश उप-धारा (9) के अधीन तब तक नहीं किया जायेगा, जब तक कि ऐसी समस्या के माध्यम या उस व्यक्ति, जिससे इसे जबत या

(13) उन आदर्शों, जिन पर समस्या अधिग्रहित करना प्रस्तावित है, को उस सूचित करते हुए लिखित में नौटिस दी जायेंगे:

(14) ऐसा युक्तियुक्त समय, जिसे अधिग्रहण के आदारों के विरुद्ध नौटिस में विनिर्देश किया

(15) मामले में चुनावकार के युक्तियुक्त आवेदन नहीं दिया जायेंगे।

(16) इस धारा के अधीन किसी अधिग्रहण का आदेश किसी दुःख, जिसके लिए उसके द्वारा

(17) उप-धारा (7) या उप-धारा (9) के अधीन किये गये आदेश द्वारा व्यक्ति कोई भी

(18) न्यास या न्यास के विद्युत अन्तराल होते हुए भी, ऐसी समस्या के आधिपत्य, परिवर्तित या संशोधित कर सकेगा, जिस जिले में ऐसी समस्या जबत या

(19) ऐसी अपील होने पर, जिला न्यायाधीश अपीलार्थी और प्रत्येक को सुनवाई का अवसर

(20) या कभी इस धारा के अधीन अधिग्रहण लंबित रहते हुए कोई समस्या जबत या चूर्ण

(21) जहां किसी व्यक्ति को उप-धारा (1) या उप-धारा (2) के अधीन अप्रवाश से

(22) जो कोई भी न्यास का कर्मचारी होते हुए इस धारा के अधीन दण्डनीय अतिक्रमण या

(23) जहां किसी व्यक्ति को उप-धारा (1) या उप-धारा (2) के अधीन अप्रवाश से

(24) जो कोई भी न्यास का कर्मचारी होते हुए इस धारा के अधीन दण्डनीय अतिक्रमण या

(25) जब कभी इस धारा के अधीन अधिग्रहण लंबित रहते हुए कोई समस्या जबत या चूर्ण

(26) जब कभी इस धारा के अधीन अधिग्रहण लंबित रहते हुए कोई समस्या जबत या चूर्ण

(27) जब कभी इस धारा के अधीन अधिग्रहण लंबित रहते हुए कोई समस्या जबत या

(28) जब कभी इस धारा के अधीन अधिग्रहण लंबित रहते हुए कोई समस्या जबत या

(29) जब कभी इस धारा के अधीन अधिग्रहण लंबित रहते हुए कोई समस्या जबत या

(30) जब कभी इस धारा के अधीन अधिग्रहण लंबित रहते हुए कोई समस्या जबत या
Comments

1. Removal of Tresspasser in exercise of power under Section 92-A. (घारा 92 के अधीन शक्ति के प्रयोग में अतिक्रमक को हटाया जाना) ......................................................... 124

2. Unauthorised occupation—Eviction. (अनाधिकृत अधिभोग —बेदखली) ................................................................. 124

3. Removal of unauthorised occupant. (अनाधिकृत अधिभोगी को हटाया जाना) ......................................................... 125

1. Removal of Tresspasser in exercise of power under Section 92-A.—Competent Authority of U.I.T. can cause removal of unauthorised occupant from public land, public street or public amenities of public use, after adopting a just, fair and reasonable procedure. Unauthorised occupant can not insist to be dispossessed by taking recourse to some other law in force for the time being. Adjudication of such dispute is the procedural right, procedural right is not a vested right.—Mohammed Yunus vs. UIT, Jodhpur & Ors., 1999 (3) RLW 1714 (Raj).

2. Unauthorised occupation—Eviction.—Lease of land granted by UIT to respondent. Respondent induced the petitioner as sub-tenant. Lease of respondent terminated by UIT for violating conditions of lease. Notice by UIT to petitioner under Section 92A of 1959 Act to vacate premises. Right of petitioner, if any, stood extinguished with termination of lease in favour of respondent. Act of 1959 being a special law, Petitioner can-not claim that he can be evicted only by recourse to the provisions of Rajasthan Public Premises (Eviction of Unauthorised Occupants) Act, 1964. Except that petitioner claims no right to protect his possession. Further, a civil suit in the matter was pending before Civil Court in which an injunction had been obtained and the petitioner withdrew his application under Order 39 Rule 2-A CPC. Writ petition was also belated.—Mohd. Yunus vs. Urban Improvement Trust, Jodhpur & Ors., 1999 (3) RLW (Raj) 1633 = 1999 (1) WLN (Raj) 523 = 1999 (3) WLG (Raj) 461.
3. अनाधिकृत अधिवासी को हटाया जाना—विल्लान एकल न्यायाधीश ने यह अवलोकित किया हुए, कि अपीलप्राप्त प्राधिकारियों ने न्यायालय की प्रक्रिया का दूषण अर्थव्यय किया, यह कहा कि वह आपके चाली दिन 04.03.1998 ने अपीलप्राप्त प्राधिकारियों को नया वाद देने का दिया हो, जब सिद्धान्त प्रक्रिया संहिता के आदेश 39 नियम 2–क के अधीन उपचार का इस आवार प्रवेश आकर कर सकता है कि उस आदेश 06.10.1997 को न्यायालय द्वारा पारित अंतर्दर्शिका निवेदन के उल्लंघन में पारित किया गया था। सिद्धान्त प्रक्रिया संहिता के आदेश 39 नियम 2–क के अधीन सिद्धान्त न्यायालय की शक्तियाँ न्यायालय अवमानना अनिलित नै, 1971 के प्रविधियों के अधीन अवमानना को दर्पणार करने की द्वारा अवमानना की प्रकटित धारा साझे उल्लंघन के दो धाराओं बायी क्रिया की समाप्ति करके करने का आदेश करने और सिद्धान्त जेल में ऐसे व्यक्ति को परिलक्षित करने का आदेश करने तथा लागू उल्लंघन या अवमानना के मामले में उन्नी की गायी समाप्ति का विवरण करने और विकार आपने से आहर-पानी कर दिखाती प्रक्रिया करने में संक्षिप्त किया गया है। इस प्रकार, ऐसे परिपत्रितियों में, अपीलप्राप्त प्राधिकारियों को सिद्धान्त प्रक्रिया संहिता के आदेश 39 नियम 2–क के अधीन प्रस्तुत उसका आवेदन दबावत किया जाएगा।

अनाधिकृत अधिवासी को हटाने के लिए, कि 1959 के अनिलित के धाराओं 92–क के अधीन अपनी स्थानिकता के प्रस्तुत में नया उपचार न्याय का स्थान प्रक्रियाकार सावर्तिक भूमि, सावर्तिक मार्ग, सावर्तिक उपयोग की सावर्तिक सुविधाओं से उल्लंघन, निपटना और आवश्यक प्रक्रिया आपने के प्रबंधनात्मक अन्य दिशा को अपनाने हुए अनाधिकृत का विरोध नहीं कर सकता है। ऐसे विवाद का न्यायनिर्णय प्रक्रियात्मक अवधिकार
Chapter XII
Supplemental Provisions

Section 93. Trustees etc. deemed to be public servants.—Every Trustee and every officer and servant of the Trust shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

**Comments**

Satisfaction of two sections.—Satisfaction of two conditions. Accused Chairman of UIT is a public servant and acted in discharge of duty. Held, cognizance of offence cannot be taken without previous sanction of State Government.—Mansingh Deora vs. Daulat Rathi & Ors., 1984 WLN 559 (Raj) = 1984 RLW 661 (Raj).

[Section 93-A. Liability of Trustees and officers and servant of the Trust.—Every Trustee, officer, or servant of the Trust shall be liable for the mis-application of any money or other property owned by or vested in or placed at the disposal of the Trust to which he has been a party or for any loss or waste of such money or property which has been caused or facilitated by his misconduct. The Chairman, secretary or other officer or person to whom executive powers are conferred by or under this Act shall be liable for such loss, waste or mis-application, if it is a direct consequence of his neglect or has been caused or facilitated by his misconduct.]

1[Section 93-A by Section 10 of Rajasthan Act No. 3 of 1963, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 29.03.1963.]
Section 94. Contribution by Trust towards leave allowance and pensions of Government servants.—The Trust shall be liable to pay such contributions for the leave allowance and pension of every Government servant employed as an officer or servant of the Trust as may be required, by the conditions of his service under the Government, to be paid by him or on his behalf.

Section 95. Authority for prosecutions.—Unless otherwise expressly provided, no Court shall take cognizance of any offence punishable under this Act, except on the complaint of or upon information received from the Trust or some person authorised by the Trust by general or special order in this behalf.

Section 95-A. Cognizance of offences.—No Court other than that of a Magistrate of the first class shall try any offence against this Act.

Section 96. Power of the Trust as to legal matters.—(1) The Trust may—
(a) institute, defend or withdraw from any legal proceeding;
(b) compound any offence against this Act;
(c) admit, compromise or withdraw any claim made in any legal proceeding or otherwise; and
(d) obtain such legal advice as may from time to time be considered necessary or expedient, for any of the purposes under this Act or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Trust or any officer or servant of the Trust.

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1 Inserted Section 95-A by Section 11 of Rajasthan Act No. 3 of 1963, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 29.03.1963.
2 Substituted by Section 14 of Rajasthan Act No. 26 of 1976—published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 17.04.1976. (w.e.f. 28.02.1976), prior to Amendment it was as follows:—

"96. Powers to Chairman as to institution, etc. of legal proceedings and obtaining legal advice.—The Chairman may, subject to the control of the Trust:—
(a) institute, defend or withdraw from legal proceedings under this Act,
(b) compound any offence against this Act,
(c) admit, compromise or withdraw any claim made under this Act, and
(d) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain or as he may be desired by the Trust to obtain for any of the purposes referred to in the foregoing clauses of this section or for securing the lawful exercise, or discharge of any power or duty vested in or imposed upon the Trust or any officer or servant of the Trust."

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(2) The Trust may delegate to any of its committees the power conferred on it under Sub-section (1) to be exercised by such committee subject to such conditions and restrictions as may be prescribed.

Section 96. Indemnity to Trust etc.—No suit, prosecution or other legal proceeding shall be maintainable against the Trust or any Trustee, or any officer or servant of the Trust, or any person acting under the direction of the Trust or the Chairman, or any officer or servant of the Trust in respect of anything lawfully and in good faith and with due care and attention done under this Act.

Section 97. Notice of suit against Trust etc.—(1) No suit shall be instituted against the Trust or any Trustee, or any person associated with the Trust under Section 19 or any member of a Committee appointed under Section 20 or any officer or servant of the Trust, or any person acting under the direction of the Trust, or of the Chairman or of any officer or servant of the Trust in respect of an act purporting to be done under this Act, until the expiration of two months next after notice in writing has been left at its office and, in any other case, delivered to or left at the office or place, of the abode of the person to be sued, explicity stating the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the intending plaintiff, and the plaint shall contain a statement that such notice has been so delivered or left.

(2) If the Trust of other person referred in Sub-section (1) shall, before the action is commenced have tendered sufficient amends to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered and shall also pay all costs incurred by the defendant after such tender.

(3) No action such as is described in Sub-section (1) shall, unless it is an action for the recovery of immovable property or of a declaration of title thereon, be commenced otherwise than within six months next after the accrual of the cause of action therefor.

(4) Nothing in Sub-section (1) shall be construed to apply to a suit wherein the only relief claimed is an injunction of which the object would be defeated by the giving of the notice of the postponement of the commencement of the suit or proceeding.
**Comments**

—The purpose of notice is to inform the Government and the concerned public authority about the case of the plaintiff, his cause of action and the relief which he wants to claim. All these things find incorporated in the notice. Therefore, the Court do not agree with the findings of the trial Court that the plaintiff cannot rely upon the notice or that it was not a valid notice.—**Man Mohan Dayal vs. State of Rajasthan,** 1989(2) RLR 755 (Raj) = 1989(2) WLN 646 (Raj)

### Section 99. Mode of proof of Trust records.

—A copy of any receipt, application, plan, notice, order, entry in a register or other document in the possession of the Trust shall, if duly certified by the legal keeper thereof or, the Secretary of the Trust or any person authorised by the Trust in this behalf be received as prima facie evidence of the entry or document and shall be admitted as evidence of the matters and transaction therein recorded in every case where, and to the same extent as, the original entry or document would, if produced, have been admissible prove such matter.
Section 100. Restriction on the summoning of Trust servants to produce documents.—No trustee or officer or servant of the Trust shall in any legal proceeding to which the Trust is not a party be required to produce any register or document the contents of which can be proved under the preceding section by a certified copy, or to appear as a witness to prove the matters and transaction recorded therein unless by order of the Court made for special cause.

Section 101. Validation of acts and proceedings.—(1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—
   (a) the existence of any vacancy in, or any defect in the constitution of, the Trust or any committee; or
   (b) any person having ceased to be a trustee; or
   (c) any trustee, or any person associated with the Trust under Section 19 or any other member of a committee appointed under this Act having voted or taken part in any proceeding in contravention of Section 23; or
   (d) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure; or
   (e) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Trust shall be taken to have been duly convened and to be free from all defect and irregularity.

Section 102. Power of entry.—(1) The Chairman or any other person who may be authorised in that behalf by the State Government may, with or without assistants or workmen, enter into or upon any land in order.—
(a) to make any inspection, survey, measurement, valuation or inquiry,
(b) to take levels,
(c) to dig or bore into the sub-soil,
(d) to set out boundaries and intended lines of work,
(e) to mark such levels, boundaries and lines by marks and cutting trenches, or
(f) to do any other thing.

Whenever it is necessary to do so for any of the purposes of this Act or any rule
make or scheme sanctioned thereunder or any scheme which the Trust intends to frame
thereunder:

Provided as follows—

(a) except when it is otherwise specially provided by rule, on such entry shall be
made between sunset and sunrise;

(b) except when it is otherwise specially provided by rule, no building which is
used as a human dwelling shall be so entered, unless with the consent of the
occupier thereof, without giving the said occupier at least twenty-four hours
previous written notice of the intention to make such entry;

(c) sufficient notices shall in every instance be given, even when any premises
may otherwise be entered without notice, to enable the inmates of any apartment
appropriated to females to remove to some part of the premises where their
privacy need not be disturbed;

(d) due regard shall always be had, so far as may be compatible with the exigencies
of the purpose for which the entry is made to the social and religious usages of
the occupants of the premises entered.

(2) Whenever the Chairman enters into or upon any land in pursuance of Sub-section
(1) he shall at the time of such entry pay or tender payment for all necessary damages to
be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or
tendered, he shall at once refer the dispute to the Trust whose decision shall be final.

(3) It shall be lawful for any person authorised under Sub-section (1) to make an
entry for the purpose of inspection or search to open or cause to be opened a door, gate or
other barrier.—

(a) if he considers the opening thereof necessary for the purpose of such entry,
inspection or search, and
(b) if the owner or occupier is absent or, being present, refuses to open such door,
gate or barrier.

(4) When the Chairman enters into or upon any land in pursuance of Sub-section
(1) he shall at the time of such entry pay or tender payment for all necessary damages to
be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or
tendered, he shall at once refer the dispute to the Trust whose decision shall be final.

(5) It shall be lawful for any person authorised under Sub-section (1) to make an
entry for the purpose of inspection or search to open or cause to be opened a door, gate or
other barrier.—

(a) if he considers the opening thereof necessary for the purpose of such entry,
inspection or search, and
(b) if the owner or occupier is absent or, being present, refuses to open such door,
gate or barrier.
जब कभी यह इस अधिनियम या बनाये गये किसी नियम या उसके अधीन संस्थानों या किसी ऐसी योजना, जिसे म्यास उसके अधीन बनाने के लिए आश्वित हों के प्रयोजनों में से किसी के लिए ऐसा किया जाना आवश्यक हो,

(र) सर्वावस्था जब यह नियम द्वारा विशेष रूप से अन्यथा उपभोगित हो, ऐसे प्रवेश को सूचनित और सूचनाद्य के माध्यम कहीं किया जायेगा,

(स) सर्वावस्था जब यह नियम द्वारा विशेष रूप से अन्यथा उपभोगित हो किसी भी वदन, जिसे मानवीय आवश्यक के रूप में प्रयुक्त किया जाता है, तब तक प्रवेश नहीं किया जायेगा, जब-तक कि ऐसा प्रावेश करने के आधार की स्थिति 24 घंटों की वूंम लिखित सूचना उत्तर अधिमोही को नहीं दी जायें और उसके अधिमोही की सहानूति नहीं हो,

(ग) प्रत्येक अदालतों में पर्याप्त नोटिस दिये जायेंगे, जाहीर किसी परिसर में नोटिस के बिनान्या प्रवेश किया जा सकता है, मुहिलाओं के लिए प्रयुक्त किसी कक्ष के अन्तःवासियों को परिसर के किसी भाग में, जहां उनकी एकांतता में बाधा नहीं पड़े, चले जाने का अवसर देने हेतु,

(घ) प्रवेश किये गये परिसर के अधिमोहीयों की सामाजिक और धार्मिक प्राधिक व हेनेशा आवश्यक धामन रखा जायेगा, जहां तक वे उस प्रयोजन, जिसके लिए प्रवेश किया जाता है, की आवश्यकताओं के अनुरूप हो।

(2) जब कभी संभावित उप-धारा (1) की अनुपालना में किसी भूमि में या डेंस पर प्रवेश करता है, तो वह ऐसे प्रवेश के तत्व या उपरोक्तज्ञस ज्ञात की जाने वाली सभी आवश्यक क्षेत्रों के लिए मुद्दत करेंगे या मुद्दत निविदित करेंगे, और मुद्दत या निविदित की गयी राशि की पर्याप्तता के संबंध में विवाद के मामले में, वह एक बार विवाद म्यास को निर्देश करेंगे, जिसका विनिस्थाप अंतिम होगा।

(3) उप-धारा (1) के अधीन आचरित किसी व्यक्ति के लिए दरवाजे, फाटक या अन्य अवसरों को खोलना या खुलवाना, निरीक्षण या तलाशी के प्रयोजन के लिए, प्रवेश करने के लिए विधिपूर्ण होगा—

(क) यदि वह ऐसे प्रवेश, निरीक्षण या तलाशी के प्रयोजन के लिए उसका खोल जाना आवश्यक विवादित करता है, और

(ख) यदि मालिक या अधिमोही अनुपस्थित हो या उपस्थित होते हुए ऐसा दरवाजा, फाटक या अवसरों खोलने से मना कर देता है।

Section 103. General power of Trust to pay compensation.—In any case not otherwise expressly provided for in this Act, the Trust may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested under this Act in the Trust or the Chairman or any officer or servant of the Trust.

धारा 103. प्रतिकृत मुद्दत करने की न्यास की समान्य शक्ति— किसी ऐसे मामले में, जो इस अधिनियम में अभिव्यक्त रूप से अन्यथा उपभोगित हो, न्यास किसी ऐसे व्यक्ति को, जिसे इस अधिनियम के अधीन न्यास में या न्यास के समाप्ति या किसी अधिकारी या सेवक में निहित सशक्तियों में से किसी के प्रयुक्त करने के कारण से नुकसान होता है, युक्तिपूर्व प्रतिकृत क्रिया के भुगतान कर सकेगा।

Section 104. Compensation to be paid by offenders for damage caused by them.—(1) If, on account of any act or omission, any person has been convicted of an offence under this Act, and by reason of such act or omission, damage has occurred to any property of the Trust, compensation shall be paid by the said person for the said damage notwithstanding any punishment to which he may, been sentenced for the said offence.
Section 105. Ultimate dissolution of Trust and Transfer of its assets and liabilities to the Municipal Board.—(1) When all schemes sanctioned under this Act have been executed or have been so far executed as to render the continued existence of the Trust, in the opinion of the State Government, unnecessary, the State Government may by notification declare that the Trust shall be dissolved from such date as may be specified in this behalf in such notification and the Trust shall be deemed to be dissolved accordingly.

(2) From the said date—
(a) all properties, funds and dues which are vested in or realisable by the Trust shall vest in and be realisable by the Municipal Board;
(b) all liabilities which are enforceable against the Trust shall be enforceable against the Municipal Board;
(c) for the purpose of completing the execution of any scheme sanctioned under this Act, which has not been fully executed by the Trust, and of realising properties, funds and dues referred to in Clause (a) the function of the Trust under this Act shall be discharged by the Municipal Board as if it were the Trust under this Act; and
(d) the Municipal Board shall keep separate accounts of all moneys respectively received and expended by it under this Act, until all loans raised hereunder have been repaid and until all other liabilities to in Clause (b) have been duly met.
(क) सभी सम्पत्तियां, निधियां और देय, जो न्यास में निहित होते हैं या न्यास द्वारा वसूलनीय होते हैं, भुगतान अधिनियम में निहित हो जायेंगे या भुगतान अधिनियम में निहित हो जायेंगे.

(ख) सभी दायित्व, जो न्यास के विरुद्ध प्रवर्तनीय होते हैं, भुगतान अधिनियम के विरुद्ध प्रवर्तनीय हो जायेंगे.

(ग) इस अधिनियम के अधीन संस्सीकृत किसी योजना के निष्पादन को पूर्ण करने के प्रयोजन के लिए, जिसे न्यास द्वारा पूर्णतया निपटाया नहीं किया गया हो, और खंड (क) में निर्दिष्ट सम्पत्तियों, निधियों और देयों की वसूलियां पूर्ण करने के प्रयोजन के लिए, इस अधिनियम के अधीन न्यास के कार्य का निर्वाह भुगतान अधिनियम में ऐसे किया जायेगा, मानों यदि वह इस अधिनियम के अधीन न्यास होता, और

(घ) भुगतान अधिनियम के अधीन इसके द्वारा क्रमशः प्राप्त और व्यय की गयी सभी धनराशियों के अलग लेखे रखेगा, जब तक कि उनके अधीन उत्पन्न सभी ऋणों का पुन: घुमातान नहीं किया जाये और जब तक कि खंड (ञ्च) में सभी अन्य दायित्वों का सम्पक्ष रूप से पूर्ति नहीं हो जाये।

Comments

Municipal Board has to discharge all functions of UTT on abolition of Urban Improvement Trust.—Bishambhar Dayal & Ors. vs. State of Rajasthan, 1991 (1) WLC 686.

Section 106. Repeal and Saving—[(1)] The Alwar State Town and Village Improvement Act, 1947, the City of Kota Improvement Act, 1946 and all other corresponding laws or rules, in force in any part of the State shall stand repealed in any area for which a Trust is constituted under this Act or for which a master plan is ordered to be prepaid thereunder on and from the date on which such Trust is constituted or such order is made:

Provided that such repeal shall not in any way affect anything done or action taken under the Act, law or rule so repealed, previously to such coming into force.

[(2)] As from the date of the establishment of an Improvement Trust under this Act for area within the State, hereinafter referred to as such establishment—

(a) the former Trust, if any, functioning in that area shall stand dissolved;

(b) all lands and buildings (together with all interests of whatsoever nature and kind therein) situated in such area and vested or vesting in such former Trust immediately before such establishment shall pass on to and vest in the Trust so established;

(c) all stores, articles and other movable properties belonging to such former Trust immediately before such establishment and utilised for or in connection with such area shall pass on to and vest in the Trust so established;

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1 Renumbered and be deemed to have been renumbered from 30.12.1961 by Section 4(a) of Rajasthan Act No. 6 of 1992, published in the Rajasthan Gazette, Extraordinary, Part IV-A, dated 21.04.1962.

2 Inserted and be deemed to have been inserted from 30.12.1961 by Section 4(b)—Ibid.
(d) all appointments, notifications, orders, schemes, rules, forms, notices or byelaws made or issued or any licence or permission granted by such former Trust immediately before such establishment in or in connection with such area shall in so far as they are not inconsistent with the provisions of this Act, continue in force and be deemed to have been made, issued or granted under the provisions of this Act unless and until they are superseded by any appointment, notification, order, scheme, rule, form, notice or by-law made or issued or any licence or permission granted under the said provisions;

(e) notwithstanding anything contained in this Act, the validity of any declaration, application, publication, notification, appointment, order proposal, award, proceeding, consultation, inquiry, certification, sanction, agreement, notice, approval, decision, dispute, draft or final scheme or act made, held issued, entered into, given, taken, decided, drawn up or done, or purporting to have been made, held, issued entered into given, taken, decided, drawn up or done; as the case may be, before such establishment in connection with such schemes shall not be liable to be called in question in any Court or before any Tribunal or authority:

(f) all debts, obligations and liabilities, incurred all contracts entered into and all matters and things engaged to be done by, with or for the former Trust immediately before such establishment for or in connection with such area shall be deemed to have been incurred, entered into and engaged to be done by, with or for the Trust so established:

(g) all assessments, valuations, measurements or divisions made by the former Trust immediately before such establishment in or in connection with such area shall, in so far as they are not inconsistent with the provisions of this Act, continue in force and be deemed to have been made under the provisions of this Act unless and until they are superseded by any assessment, valuation, measurement or division made by the Trust so established under the said provisions;

(h) all rates, taxes, fees, rents and other sums of money due to the former Trust in, or in relation to, such area immediately before such establishment shall be deemed to be due to the Trust so established;

(i) all rates, fees, rents and other charges leviable in, or in relation to such area, shall unless and until they are varied by the Trust so established, continue to be levied at the same rate at which they were being levied by the former Trust immediately before such establishment;

(j) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against such former Trust immediately before such establishment for any matter in relation to such area may be continued or instituted by or against the Trust so established; and

(k) every officer or other employee servings under such former Trust immediately before such establishment in connection with such area shall be required to give an option to become an officer or employee of the Trust so established, with such designation as the Chairman may determine and hold office by the same tenure and at the same remuneration and on the same terms and conditions of service as he would have held the same if the Trust had not been established, and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by the Trust so established:
Provided that the tenure, remuneration and terms and conditions of service of any such officer or other employee shall not be altered to his disadvantage.]

राजस्थान नगर सुधार अधिनियम, 1959

राजस्थान नगर सुधार अधिनियम, 1947, कोटा शहर सुधार अधिनियम, 1946 और राज्य के किसी भाग में प्रवृत्त सभी अन्य तत्त्वांशीय विधियों या नियमों को किसी ऐसे क्षेत्र में निरस्त किया जायेगा, जिसके लिए इस अधिनियम के अधीन न्याय गठित किया जाता है या जिसके लिए उस तिथि, जिस पर ऐसा न्याय गठित किया जाता है या ऐसा आदेश किया जाता है, पर और से उसके अधीन मास्टर प्लान तैयार करने का आदेश दिया जाता है:

(प्रथम) ऐसा निर्देश दिया जाये कि ऐसी भारी तस्करी में पूर्व में ऐसे प्रवृत्त होने के लिए निरस्त अधिनियम, विधि या नियम के अधीन किये गये किसी कार्ययोग्य को की गयी किसी कार्यवाही को प्रभावित नहीं करेगा।

(2) राज्य के भीतर किसी क्षेत्र के लिए इस अधिनियम के अधीन सुधार न्याय की घटना का तिथि से, एतिहासिक पश्चात् ऐसी स्थापना कहा जायेगा—

(क) उस क्षेत्र में कार्यरत भूमौध न्याय, यदि कोई हो, विघटित हो जायेगा,

(ख) ऐसी स्थापना के तुरंत पूर्व ऐसे क्षेत्र में स्थित और ऐसे भूमौध न्याय में निहित या निहित होने वाले सभी भूमियों और भवन (सभी हितों के साथ, बाह्य उनकी प्रकृति और प्रकार कुछ भी हो) ऐसे विधानित किये गये न्याय का प्राप्त हो जायेगी और न्याय में निहित हो जायेगी,

(ग) ऐसी स्थापना के तुरंत पूर्व ऐसे भूमौध न्याय से संबंधित और ऐसे क्षेत्र के लिए या उसके संबंध में प्रवृत्त सभी भूमियों, वस्तुओं और अन्य अचल सम्पत्तियों ऐसे स्थापित किये गये न्याय को प्राप्त हो जायेगी और न्याय में निहित हो जायेगी,

(घ) ऐसे क्षेत्र में या उसके संबंध में ऐसी स्थापना से तुरंत पूर्व ऐसे भूमौध न्याय द्वारा की गयी सभी नियुक्तियों या जारी की गयी अधिसूचनाएं, आदेश योजनाएं, नियम, प्रवृत्त नोटिस या उप-विधियां या प्रदान कोई अनुज्ञात या अनुमति, जहाँ तक वे इस अधिनियम के प्रवृत्त में अस्तित्व नहीं हो, लागतार प्रवृत्त सत्ता में और इस अधिनियम के प्रवृत्त में अधिकार की गयी, जारी की गयी या प्रदान की गयी सभी मानी जायेगी, जब तक कि उन्हें उत्तर प्रवृत्त में अधिकार की गयी किसी नियुक्ति या जारी की गयी अधिसूचना, आदेश, योजना, नियम प्रवृत्त नोटिस या उप-विधि या प्रदान की गयी किसी अनुज्ञात या अनुमति द्वारा अविभाजित नहीं हो जाय,

(ङ) इस अधिनियम में किसी भी बात के अंतर्विष्ट होने दु:हो भी, ऐसी योजनाओं के संबंध में ऐसी स्थापना से पूर्व की गयी किसी घोषणा, कार्यवाही किये गये आदेश, प्रकाशन अधिसूचना, नियुक्ति, आदेश प्रस्ताव, पंजीकृत, कार्यवाही, सत्ता, जारी, प्रमाणपत्रकरण, जारी की गयी संस्थीकृति, किये गये कार्य, दिये गये नोटिस, लिये गये अनुमोदन, बिनिष्ठय विनिमित किये गये विवाद, बनाये गये प्रतिपादन या अंतिम योजना या किये गये कार्य जिसे किया जाना, कार्यवाही किया जाना, जारी किया जाना, किया जाना, दिया जाना, लिया जाना, विनिमित किया जाना, बनाया गया या पूर्व किया जाना तत्परिचित है, की बैठक किसी न्यायालय में या किसी अधिकरण के या प्रभावित के समक्ष प्रस्नपत्रकरण करने हेतु दायी नहीं होगी,

(च) ऐसे क्षेत्र के संबंध में या उसके लिए ऐसी स्थापना के तुरंत पूर्व भूमौध न्याय द्वारा उपभोक्ता सभी स्रोत, बाह्यांतर और दावित, उसके साथ की गयी सभी संविदाएं और उसके साथ या उसके लिए किये जाने वाले सभी मामले और बांटे, स्थापित किये गये न्याय द्वारा उपभोक्ता, उसके साथ की गयी और उसके साथ या उसके लिए किये गये माने जायेंगे.