

**THE BANGLADESH (RESUMPTION OF EASEMENT
LANDS) ORDER, 1972**

PRESIDENT'S ORDER NO. 35 OF 1972

[18th April, 1972]

WHEREAS it is expedient to make provision for resumption of lands recorded as lands having public right of easement in the District Settlement Operation in Bangladesh and for matters incidental thereto;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:-

1. (1) This Order may be called the Bangladesh (Resumption of Easement Lands) Order, 1972.

(2) It extends to the whole of Bangladesh except the district of the Chittagong Hill-tracts.

(3) It shall come into force at once.

2. In this Order, unless there is anything repugnant in the subject or context,-

- (a) "Deputy Commissioner" includes an Additional Deputy Commissioner or a Joint Deputy Commissioner;
- (b) "district settlement operation" means the last cadastral survey and settlement operation and the State acquisition settlement operation carried on in various districts under the Bengal Tenancy Act, 1885, and the East Bengal State Acquisition and Tenancy Act, 1950, respectively;
- (c) "easement" shall have the same meaning as defined in section 4 of the Easements Act, 1882 (Act V of 1882);
- (d) "Government" means the Government of the People's Republic of Bangladesh;

- (e) "lands" means land which is cultivated, un-cultivated or covered with water at any time of the year, rivers, khals, paths, roads, embankments, dams, dykes, and includes benefits to arise out of land, houses, buildings and also things attached to the earth, or permanently fastened to anything attached to the earth;
- (f) "prescribed" means prescribed by rules made under this Order; and
- (g) "Revenue-Officer" includes any officer whom the Government may appoint to discharge all or any of the functions of a Revenue-Officer under this Order or any rules made thereunder.

3. (1) Notwithstanding anything contained in any other law for the time being in force or any contract or agreement to the contrary, whenever any land recorded under the district settlement operation as land having any right or easement and now in possession of any person is needed or is likely to be needed for any public purpose or in public interest, the Deputy Commissioner may, with the prior approval of the Government, resume such land by notification in the *official Gazette*.

(2) On the publication of the notification under clause (1), all lands specified therein, shall vest in the Government free from all encumbrances.

4. Any person claiming any interest in the land resumed under Article 3, on the ground of having taken lease of such land or any part thereof or having purchased it from any person or otherwise, may, within sixty days after the publication of the notification under Article 3, apply for compensation in the prescribed manner to the Revenue-Officer.

5. When an application is made under Article 4, the Revenue-Officer, after giving the applicant an opportunity of being heard and taking such evidence and making such enquiries as he thinks fit, may either reject it recording the reasons for such rejection or allow it for the purpose of assessing compensation.

6. When an application is allowed under Article 5 for assessment of compensation, the Revenue-Officer shall assess such compensation in the prescribed manner and in making such assessment, he shall have regard to the amount paid for the lease or purchase by the applicant and to the principles of assessment of compensation under section 39 of the East Bengal State Acquisition and Tenancy Act, 1950 (Act XXVIII of 1951).

7. Any proceedings started under the Land Acquisition Act, 1894 (Act I of 1894), or the East Bengal (Emergency) Requisition of Property Act, 1948 (Act XIII of 1948), or any other law for the requisition or acquisition of any land resumed under Article 3 and all applications and appeals in connection therewith, pending before any officer, Arbitrator, Court or any other authority shall, on the publication of the notification under Article 3, abate and any payment made on account of compensation in connection with such requisition or acquisition shall be refunded by the person who has received it and, in default, shall be recoverable from him as public demand.

¹[8. (1) An appeal against an order under Article 5 or 6 passed by a Revenue-officer subordinate to the Deputy Commissioner may be preferred to the Deputy Commissioner within thirty days of the passing of such order.

(2) An appeal against an order under Article 5 or 6 passed by a Deputy Commissioner as Revenue-officer may be preferred to the ²[Board of Land Administration] within thirty days of the passing of such order.

(3) An aggrieved party may, within thirty days of disposal of an appeal under clause (1), ³[or (2)], make an application to the Government for review.]

Article 8 was substituted by Article 3 and Schedule of the Bangladesh Laws (Repealing and Amending) Order, 1973 (President's Order No. 12 of 1973).

² The words "Board of Land Administration" were substituted for the words "Commissioner of the Division" by section 2 and the Schedule of the Laws (Amendment) Ordinance, 1982 (Ordinance No. XLI of 1982).

³ The word, brackets and figure "or (2)" were inserted by section 2 and the Schedule of the Bangladesh Laws (Amending) Ordinance, 1976 (Ordinance No. IX of 1976).

9. Government may, by order published in the *official Gazette*, direct that any power or duty which is conferred or imposed by this Order upon the Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority subordinate to it.

10. No suit, prosecution or other legal proceeding shall lie against the Government or any person for anything which is in good faith done or intended to be done under this Order or the rules made thereunder.

11. Anything done, any action taken or any order passed under this Order shall not be called in question in any Court.

12. The Government may make rules for carrying out the purpose of this Order.

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