

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY
PUBLISHED BY AUTHORITY

Part IV—Section 2

Tamil Nadu Acts and Ordinances.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the President on the 8th April 1987 and is hereby published for general information

ACT No. 10 OF 1987

THE KELAVARAPALLI RESERVOIR SCHEME (ACQUISITION OF LAND)
ACT, 1987.

Arrangement of sections.

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THE SCHEDULE.

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

An Act to provide for the acquisition of certain lands for the Kelavarapalli Reservoir Scheme in the Hosur taluk of the Dharmapuri district.

WHEREAS under Article 48 of the Constitution of India the State shall endeavour to organise agriculture on modern and scientific lines;

AND WHEREAS in the interest of the general public and in order that maximum possible advantage may result in the matter of agricultural production and for bringing prosperity to the backward and droughtprone areas, it has been considered necessary, as a measure of agrarian reform to bring more lands under cultivation in the Dharmapuri district by improving the irrigation system on modern and scientific lines, in pursuance of the directive principle enshrined in the said Article 48 of the Constitution of India;

AND WHEREAS the Kelavarapalli Reservoir Scheme in the Hosur taluk of the Dharmapuri district was framed in the year 1977 at an estimated cost of live hundred and fifty-one lakhs of rupees without escalation cost and six hundred and fifty nine lakhs of rupees including escalation cost so as to be a source of irrigation on modern and scientific lines to benefit a new area of three thousand two hundred and forty hectares (eight thousand acres) of dry land and to stabilise an extent of four hundred and thirty-eight hectares (one thousand and eighty-three acres) of existing wet ayacut in the Dharmapuri district and for rapidly industrialising the said district;

AND WHEREAS the lands specified in the Schedule, among other lands were needed for a public purpose, namely, the execution of the Kelavarapalli Reservoir Scheme including the construction of the dam and other work connected therewith ;

AND WHEREAS the possession of the lands specified in the Schedule which were required for the speedy execution of the Kelavarapalli Reservoir Scheme was taken on behalf of the State Government by the officers of the State Government and considerable progress has been made in the execution of the said Scheme as specified below :—

Physical progress.		
1.	Earth Dam	Almost completed.
2.	Masonry Dam	73.30 per cent.
3.	Left Main Canal Excavation	17.172 kilo metres out 30.50 kilo metres.
4.	Left Main Canal Lining	9.317 kilo metres out 30.50 kilo metres.
5.	Left Main Canal C.M. works	37 numbers out of 118 numbers.

6.	Right Main Canal Excavation .	13.797 kilo metres out 22.58 kilo metres.
7.	Right Main Canal Lining	10.228 kilo metres out of 22.58 kilo metres.
8.	Right Main Canal C.M Works	39 numbers out of 50 numbers;

AND WHEREAS an amount, of three hundred and eleven lakhs of rupees has so far been, spent in the execution of the said Scheme as specified in the preceding paragraph ;

AND WHEREAS the remaining part of the said Scheme is yet to be completed;

AND WHEREAS a dispute has been raised by certain persons interested in some of the scheduled lands that possession of the said lands was taken without their consent :

AND WHEREAS the execution of the Kelavarapalli Reservoir Scheme as specified above was proceeded, without any obstruction by the persons interested in the scheduled lands till the 16th November 1979 ; .

AND WHEREAS after taking possession of the scheduled lands, the land acquisition proceedings were initiated under the Land Acquisition Act, 1894 (Central Act I of 1894) and notifications under sub-section (1) of section 4 of the said Act in respect of most of the said lands have been published in the 7th Tamil Nadu Government Gazette between the 23rd day of May 1979 and the 12th day of September 1979 ;

AND WHEREAS the land acquisition proceedings aforesaid have been challenged by certain persons, interested in some of the scheduled lands by way of a Writ Petition in the Madras High Court and which is pending consideration before the said High Court;

AND WHEREAS it is not possible to return the scheduled lands to the owners from whom those lands were taken as those lands have already been constructed upon or otherwise utilised in the execution of the said Kelavarapalli Reservoir Scheme ;

AND WHEREAS it is reported that the components of the Scheme already executed are deteriorating and the canal length already completed are getting into disrepair owing to disuse :

AND WHEREAS the State Government are of the opinion that the very object of increasing agricultural production in and the rapid industrialisation of,

the Dharmapuri district by the execution of the said Kelavarapalli Reservoir Scheme should not be defeated and that public interests should not suffer;

AND WHEREAS representations have been received from the Members of Parliament and of the State Legislature and other members of the public for the Curly completion of the Kelavarapalli Reservoir Scheme without further delay ;

AND WHEREAS the Government have decided to pay compensation for the acquisition of the scheduled lands as far as possible in the same manner as under the Land Acquisition Act, 1894 (Central Act I of 1894; as amended up to date ;

AND WHEREAS for perfecting the title of the State Government in respect of the scheduled lands which were already taken possession of, it is considered expedient to take immediate action;

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Thirty-eighth Year of the Republic of India as follows :—

1. Short title and commencement.—(1) This Act may be called the Kelavarapalli Reservoir Scheme (Acquisition of Land) Act, 1987.

(2) It shall be deemed to have come into force on the 14th day of February 1987.

2. Declaration.—It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles laid down in clauses (b) and (c) of Article 39 of the Constitution of India.

3. Definitions.—In this Act, unless the context otherwise requires,—

(1) “court” means the subordinate judges court having jurisdiction and if there is no subordinate judge's court, the district court, having jurisdiction ;

(2) “Government” means the State Government.

(3) “person interested ” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land

(4) “prescribed authority” means any authority or person authorised by the Government in this regard, by notification ;

(5) "scheduled lands" means the lands specified in the Schedule to this Act and includes benefits to arise out of such lands and, things attached to the earth or permanently fastened to anything attached to the earth.

4. Scheduled lands deemed to have been validly taken possession of, acquired and vested in Government.—Notwithstanding anything to the contrary contained in the Land Acquisition Act, 1894 (Central Act 1 of 1894) or any other law for the time being in force or any settlement, grant, agreement, usage, custom or any decree or order of a court or any Tribunal or other authority, the scheduled lands which have been taken possession of by, or on behalf of, the Government (whether with or without the consent of the persons interested) shall be deemed, and shall be deemed always to have been,—

(a) validly taken possession of and acquired for a public purpose, namely, for the purpose of execution of the Kelavarapalli Reservoir Scheme including the construction of the dam and other work connected therewith ; and

(b) vested absolutely in the Government free from all encumbrances, on the respective date of-taking possession of the said lands specified in column (5) of the Schedule against the scheduled land specified in the corresponding entry in column (2) thereof.

5. Right to receive compensation.—Every person having any interest in the scheduled land shall be entitled to receive and be paid compensation as hereinafter provided.

6. Amount of compensation.—(1) In respect of the scheduled lands acquired under this Act, there shall be paid compensation, the amount of which shall be determined in the manner specified in, and in accordance with the provisions of, this Act.

(2) The prescribed authority shall, as soon as may be after the publication of this Act in the Tamil Nadu Government Gazette, cause public notice to be given at convenient places on or near the scheduled land stating that claims to compensation for all interests in such scheduled land may be made to him.

(3) Such notice shall state the particulars of the scheduled land and shall require all persons interested, in the scheduled land to appear personally or by agent before the prescribed authority at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice) and to state the nature of their respective interests in the scheduled land and the amount and particulars of their claims to compensation for such interests. The prescribed authority may in any case require such statement to be made in writing and signed by the party or his agent.

(4) The prescribed authority shall also serve notice to the same effect on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised' to receive service on their behalf, within the Dharmapuri district.

(5) In case any person so interested resides elsewhere, and "has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under sections 28 and 29 of the Indian Post Office Act, 1898 (Central Act VI of 1898).

(6) On the day so fixed, or on any other day to which enquiry has been adjourned, the prescribed authority shall proceed to enquire into the value of the scheduled land on the date of taking possession of the said scheduled land and into the respective interests of the persons claiming compensation and shall make an order under

“his hand of—

(i) the compensation which in his opinion should be allowed for the scheduled land ; and

(ii) the apportionment of the said compensation among all the persons known or believed to be interested in the scheduled land; of whom, or of whose claims, the prescribed authority has information whether or not they have respectively appeared before him.

(7) The order under sub-section (6) shall be made within a period of two years from the date of publication of this Act in the Tamil Nadu Government Gazette. A copy of the said order shall be published in the Tamil Nadu Government Gazette and shall also be communicated to every person interested in the scheduled land.

Explanation.—In computing the period of two years referred to in this sub-section, any period or periods subsequent to the date of publication of this Act in the Tamil Nadu Government Gazette during which the proceedings for the making of an order under this sub section were held tip on account of any stay or injunction by order of any court shall be excluded.

7. Matters to be considered in determining compensation.—(1) In determining the amount of compensation to be awarded for the scheduled lands acquired under this Act, the prescribed authority shall take into consideration first., the market value of the scheduled land on the respective date of taking possession of the land by. or on behalf of the Government ;

secondly, the damage sustained by the person interested by Reason of the taking of any standing crops or trees which may be on the scheduled land at the time of taking possession thereof ;

thirdly, the damage (if any) sustained by the person interested, at the time of taking possession of the scheduled land, by reason of severing such scheduled land from his other lands;

fourthly, the damage (if any) sustained by the person interested at the time of taking possession of the. scheduled land, by reason of the acquisition injuriously affecting, his other property, movable or immovable, in any other manner or his earnings ;

fifthly, if in consequence of the acquisition of the scheduled land, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change.

(2) In addition to the market value of the scheduled land as above provided, there shall be paid an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and from the date of taking possession of the scheduled land to the date of the order under sub-section (6) of section 6.

Explanation.—In computing the period referred to in this section, any period or periods subsequent to the date of publication of this Act in the Tamil Nadu Government Gazette during which the proceedings for the making of an order under sub-section (6) of Section 6 were held up on account of any stay or injunction by the order of any court shall be excluded.

(3) In addition to the market value of the scheduled land as above provided, there shall be paid a sum of thirty per centum on such market value in consideration of the compulsory nature of the acquisition.

8. Matters to be neglected in determining compensation.—In determining the amount of compensation under this Act, the following shall not be taken into consideration, namely:—

first, the degree of urgency which has led to acquisition ;

secondly, any disinclination of the person interested to part with the land acquired ;

thirdly, any damage sustained by him, which, if caused by a private person, shall not render such person liable to a suit;

fourthly, any increase to the value of the scheduled land acquired likely to accrue from the use to which it is put ;

fifthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the scheduled land acquired is put;

sixthly, any outlay or improvements on, or disposal of, the scheduled land acquired, commenced, made or effected, after the date of taking possession of the scheduled land.

9. Part payment of compensation pending determination.—(1) The prescribed authority shall, within one month from the date of publication of this Act in the Tamil Nadu Government Gazette—

(a) tender payment of eighty per centum of the compensation for the scheduled land as estimated by the prescribed authority (hereafter in this section referred to as “ the amount ”) to the persons entitled thereto, and

(b) pay the amount to them unless prevented by some one or more of the contingencies mentioned in sub-section (2) of section 22, and where the prescribed authority is so prevented, the provisions of section 22, sub-section (2) (except the second proviso thereto) shall apply as they apply to the payment of compensation under that section.

(2) The amount paid or deposited under sub-section (1) shall be taken into account for determining the amount of compensation required to be paid under this Act and where the amount paid or deposited exceeds the compensation determined under section 6, the excess may, unless refunded within three months from the date of the order under sub-section (6) of section 6, be recovered as an arrear of land revenue.

10. Payment of interest.—The prescribed authority shall pay the amount of compensation determined under section 6 with interest, thereon at the rate of nine per centum per annum for the period of one year from the date of taking possession of the scheduled land and at the rate of fifteen per centum per annum from the date of expiry of the said period of one year until it shall have been so paid or deposited.

11. Apportionment of compensation—(1) Where several persons claim to be interested in the amount of compensation determined, the prescribed authority shall determine the person who, in his opinion, are entitled to receive compensation and the amount payable to each of them.

(2) If any dispute arises as to the apportionment of the compensation or any part thereof, or as to the persons to whom the same or any part thereof is

payable, the prescribed authority may refer such dispute to the decision of the court.

12. Reference to court.—(1) Any person aggrieved by an order made by the prescribed authority under sub-section (6) of section 6 may, by written application to the prescribed authority, require that the matter be referred by the prescribed authority for the determination of the court, whether his objection be to the amount of compensation, the persons to whom it is payable or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the order made under sub-section (6) of section 6 is taken:

Provided that every such application shall be made,—

(a) if the person making it was present or represented before the prescribed authority at the time when he made the order under sub-section (6) of section 6, within six weeks from the date of the said order ;

(b) in other cases, within six weeks of the receipt of the order, communicated under sub-section (7) of section 6, or within six months from the date of the order of the prescribed authority, whichever period shall first expire.

13. Statement of prescribed authority to court.—(1) In making a reference under section 12, the prescribed authority shall state for the information of the court, in writing under his hand,—

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land;

(c) the amount of compensation determined under section 6 ;

(d) the amount paid or deposited under sub-section (1) of section 9 ; and

(e) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

14. Service of notice.—The court shall thereupon cause a notice specifying the day on which the court will proceed to determine the objection,

and directing their appearance before the court on that day to be served on the following persons, namely :—

(a) the applicant;

(b) all persons interested in the objection, except such (if Any) of them as have consented without protest to receive payment Of compensation determined; and the amount of compensation, the prescribed authority.

15. Restrictions on scope of proceedings.—The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

16. Proceeding to be in open court.—Every such proceeding shall

(a) take place if the objection is in regard to the area of the land or to in open court, and all persons entitled to practise in any civil court in the State shall be entitled to appear, plead and act (as the case may be) in such proceeding.

17. Amount of compensation awarded by court not to be lower than amount determined by prescribed authority.—The amount of compensation awarded by the court shall not be less than the amount determined by the prescribed authority under section 6.

18. Form of awards.—(1) Every award shall be in writing signed by the judge, and shall specify the amount awarded under clause first of sub-section (1) of section 7, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and statement of the grounds of every such award a judgment within the meaning of section 2, clause (2), and section 2, clause (9), respectively of the Code of Civil Procedure, 1908 (Central Act V of 1908)

19. Costs.—(1) Every such award shall also state the amount of costs incurred in the proceedings, and by what persons and in what proportions they are to be paid.

(2) When the amount determined by the prescribed authority is not upheld, the costs shall ordinarily be paid by the prescribed; authority, unless the court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the prescribed authority that some deduction from his costs should be made or that he should pay a part of the costs of the prescribed authority.

20. Prescribed authority may be directed to pay interest on excess compensation.—If the amount which, in the opinion of the court, the prescribed authority ought to have awarded as compensation is in excess of the amount which the prescribed authority did award as compensation, the award of the court may direct that the prescribed authority shall pay interest on such excess at the rate of nine per centum per annum for the period of one year from the date of taking possession of the scheduled lands and at the rate of fifteen per centum per annum from the date of expiry of the said period of one year until the amount of such excess or part thereof has been deposited into court.

21. Re-determination of amount of compensation on basis of award of court.—(1) Where in an award the court allows to the applicant any amount of compensation in excess of the amount determined by the prescribed authority under section 6, the persons interested in the scheduled land and who are also aggrieved by the order of the prescribed authority may, notwithstanding that they had not made an application to the prescribed authority under section 12 by written application to the prescribed authority* within three months from the date of the award of the court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the court:

Provided that in computing the period of three months within which an application to the prescribed authority shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The prescribed authority shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicant.

(3) Any person who has not accepted the award under sub section (2), may, by written application to the prescribed authority require that the matter be referred by the prescribed authority for the determination of the court and the provisions of sections 7, 8 and 12 to 20 shall, so far as may be, apply to such reference as they apply to a reference under section 12.

22. Payment of compensation.—(1) After the amount of compensation has been determined, the prescribed authority shall tender payment of the compensation to the persons entitled thereto and shall pay it to them.

(2) If the persons entitled to the compensation do not consent to receive it or if there be no person competent to alienate the land, or if there be any dispute

as to the title to receive compensation, or as to the apportionment of it, the prescribed authority shall deposit the amount of compensation in the court:

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

Provided further that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 12 :

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

23. Investment of money deposited in respect of lands belonging to persons incompetent to alienate.—(1) If any money shall be deposited in court under sub-section (2) of section 22 and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the court shall—

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect, of which such money shall have been deposited was held, or

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the court shall think fit, and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid ; or

(ii) in payment of any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the court shall order the costs of the following matters, including therein all reasonable charges and expenses incidental thereto, to be paid by the prescribed authority, namely :

(a) the cost of such investments as aforesaid ;

(b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of court of the principal of such moneys, and of all proceedings

relating thereto, except such as may be occasioned by litigation between adverse claimants.

24. Investment of money deposited in other cases.—When any money shall have been deposited in court under this Act for any cause other than that mentioned in section 23, the court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or oilier proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested herein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be,

25. Appeals in proceedings before court.—Subject to the provisions the Code of Civil Procedure, 1908 (Central Act V of 1908) applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High v run from the award, or from any part of the award, of the com and from any decree of the High Court passed on such appeal at aforesaid an appeal shall lie to the Supreme Court subject to the, precisions contained in Order XLV—A of the Code of Civil Procedure, 1908 (Central Act V of 1908).

26. Power of prescribed authority in relation to determination of compensation, etc.—(1) The prescribed authority may, for the purpose of carrying out the provisions of sections 6, 7, 10, 11 and 22, by order, require, any person to furnish such information in his possession relating to the scheduled lands as- may be specified in **such order. , 7 |**

(2) Tire prescribed authority shall, while holding an enquiry under this Act, have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely —

(a) summoning and enforcing the attendance of any person and examining him on oath ;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commission for examination of witnesses.

27. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Tamil Nadu Government Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date of publication of this Act in the Tamil Nadu Government Gazette.

(2) Every order made under sub-section (1) shall, as soon as possible, after it is made, be placed on the table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such order or the Assembly decides that the order should not be issued, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

28. Repeal and saving.—(1) The Kelavarapalli Reservoir Scheme (Acquisition of Land) Ordinance, 1987 (Tamil Nadu Ordinance 3 of 1987), is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under this Act.

THE SCHEDULE

District: Dharmapuri.		Taluk: Hosur.		
Serial number (1)	Survey number. (2)	Classification of land. (3)	Extent Date of in Acres taking possession. (4)	(5)
1	100-1	Dry	39.63	
2	100-1	Dry	3.453	
3	100-1	Dry	2.10	
4	100-3	Dry	16.53	
5	97	Wet	3.60	2 nd January 1978.
6	98	Wet	1.60	2 nd January 1978.
7	99	Dry	2.52	2 nd January 1978.
8	108	Poramboke	5.05	31st August 1977.
9	109-1	Dry	0.76	2nd January 1978.

10	109-2	Dry	2.35	2nd January 1978.
11	109-3	Dry	8.34	2nd January 1978.
12	109-3	Dry	0.16	2nd January 1978.
Village : Elayasandiram Village.				
13	46-2	Dry	13.71	26th August 1977.
14	46-2	Dry	4.90	25th April 1978.
15	46-2	Dry	0.78	1 st February 1978.
Village : Chennasandiram Village				
16	62-1	Dry	0.30	22nd January 1978.
17	64-2	Dry	0.30	22nd January 1978.
18	64-1	Rocky	0.03	22nd January 1978.
19	135	Dry	0.07	22nd January 1978.
20	136-3 and 4	Dry	0.10	22nd January 1978.
21	136-5	Dry	0.15	22nd January 1978.
22	137	Dry	0.20	22nd January 1978.
23	138	Dry	0.52	22nd January 1978.
24	144	Dry	1.60	22nd January 1978.

(By order of the Governor.)

S. VADIVELU,

Commissioner and Secretary to Government,

Law Department.

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