

THE ANDHRA PRADESH LAND GRABBING (PROHIBITION) ACT, 1982

ACT No. 12 OF 1982

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THE ANDHRA PRADESH LAND GRABBING (PROHIBITION) ACT, 1982

ACT No. 12 OF 1982

[4th September, 1982]

AN ACT TO PROHIBIT THE ACTIVITY OF LAND GRABBING IN THE STATE OF ANDHRA PRADESH AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

Whereas there are organised attempts on the 'part' of certain lawless persons operating individually and in groups, to grab, either by force or by deceit or otherwise, lands (whether belonging to the Government, a local authority, a religious or charitable institution or endowment, including a wakf, or any other private persons) who are known as "land grabbers";

And Whereas such land grabbers are forming bogus co-operative housing societies or setting up fictitious claims and indulging in large scale and unprecedented and fraudulent sales of lands belonging to the Government, local authority, religious or charitable institutions or endowments including a wakf, or private persons, through unscrupulous real estate dealers or otherwise in favour of certain sections of the people resulting in large accumulation of unaccounted wealth and quick money to land grabbers;

And Whereas, having regard to the resources and influence of the persons by whom, the large scale on which and the manner in which, the unlawful activity of land grabbing was, has been, or is being organised and carried on in violation of law by them, as land grabbers in the State of Andhra Pradesh, and particularly in its urban areas, it is necessary to arrest and curb immediately such unlawful activity of land grabbing.

And Whereas public order is adversely affected by such unlawful activity of land grabbers;

Be it enacted by the Legislature of the State of Andhra Pradesh in the Thirty-third Year of the Republic of India as follows:-

1. Short title, extent, application and commencement- (1) This Act may be called the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982.

(2) It extends to the whole of the State of Andhra Pradesh.

¹ [(3) It applies to all lands situated within the limits of urban agglomeration as defined in Clause (n) of Section 2 of the Urban Land (Ceiling and Regulation) Act, 1976 (Central Act 33 of 1976) and a Municipality.]

² [(3-A) It applies also to any other lands situated in such areas as the Government may, by notification, specify, having due regard to,-

(a) the urbanisable nature of the land, or

(b) the usefulness or potential usefulness of such land for commercial, industrial, pisciculture or praunculture purposes."]

(4) It shall be deemed to have come into force on the 29th June, 1982.

2. Definitions- In this Act, unless the context otherwise requires-

(a)³ [*****]

¹ . Substituted by Act No.16 of 1987, s 2.

² . Substituted by Act No. 18 of 1994, s 2.

³ . Omitted by Act No. 16 of 1987, s 3.

(b) "Government" means the State Government;

(c) "land" includes rights in or over land, benefits to arise out of land, and buildings, structures and other things attached to the earth or permanently fastened to anything attached to the earth;

¹[(cc) "*land belonging to a private person*" means any land belonging to,-

(i) an evacuee;

(ii) a military personnel, or

(iii) any other private individual.

The value or the extent of which or the nature of the evil involved shall be of substantial nature or in the interest of justice required".]

(d) "land grabber" means a person or a group of persons who commits land grabbing and includes any person who gives financial aid to any person for taking illegal possession of lands or for construction of unauthorised structures thereon, or who collects or attempts to collect from any occupiers of such lands rent, compensation and other charges by criminal intimidation, or who abets the doing of any of the above mentioned acts; and also includes the successors in interest;

(e) "land grabbing" means every activity of grabbing of any land (whether belonging to the Government, a local authority, a religious or charitable institution or endowment, including a wakf, or any other private person) by a person or group of persons, without any lawful entitlement and with a view to illegally taking possession of such lands, or enter into or create illegal tenancies or lease and licence agreements or any other illegal agreements in respect of such lands, or to construct unauthorised structures thereon for sale or hire, or give such lands to any person on rental or lease and licence basis for construction, or use and occupation, of unauthorised structures; and the term "to grab land" shall be construed accordingly;

(f) "notification" means a notification published in the Andhra Pradesh Gazette; and the word "notified" shall be construed accordingly;

(g) "person" includes a group of body of persons, an association, or a religious or charitable institution or endowment, whether incorporated or not;

(h) "prescribed" means prescribed by rules made by the Government under this Act;

²[(i) "*Schedule*" means a Schedule appended to this Act;

(i-a) "*Special Court*" means a Special Court constituted under Section 7;

(i-b) "*Special Tribunal*" means a Court of the District Judge having jurisdiction over the area concerned and includes Chief Judge, City Civil Court, Hyderabad.]

(j) "unauthorised structures" means any structure constructed, without express permission in writing of the Municipal Commissioner in any municipal corporation or municipality, and

¹ . Inserted by Act No. 16 of 1987, s 3.

² . Substituted by Act No. 16 of 1987, s 3.

elsewhere of the authority concerned, or except in accordance with any law for the time being in force in the area concerned.

3. Land grabbing to be unlawful- Land grabbing in any form is hereby declared unlawful; and any activity connected with or arising out of land grabbing shall be an offence punishable under this Act.

4. Prohibition of land grabbing- (1) No person shall commit or cause to be committed land grabbing.

(2) Any person who, or on after the commencement of this Act, continues to be in occupation, otherwise than as a lawful tenant, of a grabbed land belonging to the Government, local authority, religious or charitable institution or endowment including a wakf, or other private person, shall be guilty of an offence under this Act.

(3) Whoever contravenes the provisions of sub section (1) or sub-section (2) shall, on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to five years, and with fine which may extend to five thousand rupees.

5. Penalty for other offences in connection with land grabbing- Whoever, with a view to grabbing land in contravention of the provisions of this Act or in connection with any such land grabbing-

(a) sells or allots, or offers or advertises for sale or allotment, or has in his possession for the purpose of sale or allotment any land grabbed;

(b) instigates or incites any person to commit land grabbing;

(c) uses any land grabbed or causes or permits knowingly to be used, for purposes connected with sale or allotment; or

(d) causes or procures or attempts to procure any person to do any of above mentioned acts, shall on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend five years and with fine which may extend to five thousand rupees.

6. Offences by companies- (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the offence and shall be, liable to be proceeded against and punished accordingly:

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

(2) Notwithstanding anything in sub-section (1), where any 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 that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such 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.

(a) "company" means any 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.

7. Constitution of Special Courts- (1) The Government may, for the purpose of providing speedy enquiry into any alleged act of land grabbing, and trial of

cases in respect of the ownership and title to, or lawful possession of, the land grabbed, by notification, constitute ¹[a Special Court].

(2) A Special Court shall consist of a Chairman and ²[four other members], to be appointed by the Government.

³[(3) The Chairman shall be a person who is or has been a Judge of a High Court and of the other four members, two shall be persons ⁴[who are or have been District Judges] (hereinafter referred to as Judicial Members) and the other two members shall be persons who hold or have held a post not below the rank of a District Collector (hereinafter referred to as Revenue Members):

Provided that the appointment of a person who was a Judge of a High Court as the Chairman of the Special Court shall be made after consultation with the Chief Justice of the High Court concerned:

Provided further that where a sitting Judge of a High Court is to be appointed as Chairman, such appointment shall be made after nomination by the Chief Justice of the High Court concerned, with the concurrence of the Chief Justice of India].

(4) The Government may, from time to time likewise, reconstitute ⁵[the Special Court] constituted under sub-section (1) or may, at any time, abolish such Special Court.

⁶[(4A) The Chairman or other member shall hold office as such for a term of two years from the date on which he enters upon his office, or until the Special Court is reconstituted or abolished under sub-section (4), whichever is earlier.

(4B)(a) Subject to the other provisions of this Act, the jurisdiction, powers and authority of the Special Court may be exercised by benches thereof one comprising of the Chairman, a judicial member and a Revenue member and the other comprising of a Judicial Member and a Revenue Member.

(b) Where the bench comprises of the Chairman, he shall be the Presiding Officer of such a bench and where the bench consists of two members, the Judicial Member shall be the Presiding Officer.

(c) It shall be competent for the Chairman either *suo motu* or on a reference made to him to withdraw any case pending before the bench comprising of two members and dispose of the same or to transfer any case from one bench to another bench in the interest of justice.

(d) Where it is reasonably apprehended that the trial of Civil Liability of a person accused of an offence under this Act, is likely to take considerable time, it shall be competent for the Chairman to entrust the trial of the criminal liability of such offender to another bench in the interest of speedy disposal of the case.

(e) Where a case under this Act is heard by a bench consisting of two members and the members thereof are divided in opinion, the case with their opinions shall be laid before another judicial member or the Chairman and that member or Chairman, as the case may be after such hearing as he thinks fit, shall deliver his opinion and the decision or order shall follow that opinion.]

⁷[(5) The quorum to constitute a meeting of any bench of the Special Court shall be two.

¹ . Substituted by Act No. 16 of 1987, s 4.

² . Substituted by Act No. 16 of 1987, s 4.

³ . Substituted by Act No. 6 of 1988, s 2.

⁴ . Substituted by Act No. 6 of 1988, s 2.

⁵ . Substituted by Act No. 16 of 1987, s 4.

⁶ . Substituted by Act No. 16 of 1987, s 4.

⁷ . Substituted by Act No. 16 of 1987, s 4.

(5A) The Special Court may, by notification, make regulations not inconsistent with the provisions of this Act or the rules made thereunder relating to the procedure to be followed for the conduct of the cases and for regulating the manner of taking decisions.

(5B) The Special Court may cause a public notice of the substance of such regulations for the information of the general public.

(5C) Every regulation made under this section shall, immediately after it is made, be laid before the Legislative Assembly of the State if it is in session, and if it is not in session in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modifications in the regulation or in the annulment of the regulation, the regulation shall from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, so however that any such modification or annulments shall be without prejudice to the validity of anything previously done under that regulation.

(5D) (i) Notwithstanding anything in the Code of Civil Procedure, 1908 (V of 1908) the Special Court may follow its own procedure which shall not be inconsistent with the principles of natural justice and fair play and subject to the other provisions of this Act and of any rules made thereunder while deciding the Civil liability.

(ii) Notwithstanding anything contained in Section 260 or Section 262 of the Code of Criminal Procedure, 1973 (2 of 1974) every offence punishable under this Act shall be tried in a summary way and the provisions of Sections 263 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial.

(iii) When a person is convicted of an offence of land grabbing attended by criminal force or show of force or by criminal intimidation, and it appears to the Special Court that, by such force or show of force or intimidation the land of any person has been grabbed, the Special Court may if it thinks fit, order that possession of the same be restored to that person after evicting by force, if necessary, any other person who may be in possession of the property.]

(6) No act or proceeding of ¹[the Special Court] shall be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution or re-constitution thereof.

²[7A. Special Tribunals and its powers, etc.: - (1) Every Special Tribunal shall have power to try all cases not taken cognizance of by the Special Court relating to any alleged act of land grabbing, or with respect to the ownership and title to, or lawful possession of the land grabbed whether before or after the commencement of the Andhra Pradesh Land Grabbing (Prohibition) (Amendment) Act, 1987 and brought before it and pass such orders (including orders by way of interim directions) as it deems fit :

Provided that if, in the opinion of the Special Tribunal, any case brought before it is *prima facie* frivolous, or vexatious it shall reject the same without any further enquiry :

Provided further that if, in the opinion of the Special Tribunal any case brought before it is a fit case to be tried by the Special Court it may for reasons to be recorded by it transfer the case to the Special Court for its decision in the matter.

¹ . Substituted by Act No.16 of 1987, s 4.

² . Inserted by Act No.16 of 1987, s 5.

(2) Save as otherwise provided in this Act, a Special Tribunal shall, in the trial of cases before it follow the procedure prescribed in the Code of Civil Procedure, 1908.

(3) An appeal shall lie, from any judgment or order not being interlocutory order of the Special Tribunal, to the Special Court on any question of law or of fact. Every appeal under this sub-section shall be preferred within a period of sixty days from the date of Judgment or order of the Special Tribunal :

Provided that the Special Court may entertain an appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of sixty days.

(4) Every finding of the Special Tribunal with regard to any alleged act of land grabbing shall be conclusive proof of the fact of land grabbing, and of the persons who committed such land grabbing and every Judgment of the Special Tribunal with regard to the determination of the title and ownership to, or lawful possession of, any land grabbed shall be binding on all persons having interest in such land :

Provided that the Special Tribunal shall by notification specify the fact of taking cognizance of the case under this Act. Such notification shall state that any objection which may be received by the Special Tribunal from any person including the custodian of evacuee property within the period specified therein will be considered by it :

Provided further that where the custodian of evacuee property objects to the Special Tribunal taking cognizance of the case, the Special Tribunal shall not proceed further with the case in regard to such property :

Provided also that the Special Tribunal shall cause a notice of taking cognizance of the case under the Act served on any person known or believed to be interested in the land, after a summary enquiry to satisfy itself about the persons likely to be interested in the land.

(5) It shall be lawful for the Special Tribunal to pass an order in any case decided by it, awarding compensation in terms of money for wrongful possession, which shall not be less than an amount equivalent to the market value of the land grabbed as on the date of the order and profits accrued from the land payable by the land grabber to the owner of the grabbed land and may direct the re-delivery of the grabbed land to its rightful owner. The amount of compensation and profits so awarded and cost of re-delivery, if any, shall be recovered as an arrear of land revenue if the Government are the owner or as a decree of a Civil Court, in any other case:

Provided that the Special Tribunal shall, before passing an order under this sub-section, give to the land grabber an opportunity of making his representation or of adducing evidence, if any, in this regard and consider every such representation and evidence.

(6) Any case, pending before any Court or other authority immediately before the commencement of the Andhra Pradesh Land Grabbing (Prohibition) (Amendment) Act, 1987 as would have been within the jurisdiction of a Special Tribunal, shall stand transferred to the Special Tribunal, having jurisdiction, as if the cause of action on which such suit or proceeding is based had arisen after such commencement.

(7) Every case brought before the Special Tribunal shall be disposed of finally by the Special Tribunal, as far as possible, within a period of six months from the date of its having been brought before it.

(8) The Special Tribunal shall have all the powers of a Civil Court for purposes of review.]

8. Procedure and powers of the Special Courts- (1) The Special Court may, either *suo motu*, or on application made by any person, officer or authority take cognizance of and try every case arising out of any alleged act of land grabbing, or with respect to the ownership and title to, or lawful possession of, the land grabbed, whether before or after the commencement of this Act, and pass such orders (including orders by way of interim directions) as it deems fit;

¹[****]

²[(1-A) The Special Court shall, for the purpose of taking cognizance of the case, consider the location, or extent or value of the land alleged to have been grabbed or of the substantial nature of the evil involved or in the interest of justice required or any other relevant matter :

Provided that the Special Court shall not take cognizance of any such case without hearing the petitioner.]

(2) Notwithstanding anything in the Code of Civil Procedure, 1908, (Central Act 5 of 1908) ³[the Code of Criminal Procedure, 1973] or in the Andhra Pradesh Civil Courts Act, 1972, (Act of 1972) any case in respect of an alleged act of land grabbing, or the determination of questions of title and ownership to, or lawful possession of any land grabbed under this Act, ²[shall, subject to the provisions of this Act, be triable in the Special Court.]

⁴[(2-A) If the Special Court is of the opinion that any case brought before it, is not a fit case to be taken cognizance of, it may return the same for presentation before the Special Tribunal :

Provided that if, in the opinion of the Special Court, any application filed before it is *prima facie* frivolous or vexatious, it shall reject the same without any further enquiry :

Provided further that if on an application from an interested person to withdraw and try a case pending before any Special Tribunal the Special Court is of the opinion that it is a fit case to be withdrawn and tried by it, it may for reasons to be recorded in writing withdraw any such case from such Special Tribunal and shall deal with it as if the case was originally instituted before the Special Court.

(2-B) Notwithstanding anything in the Code of Criminal Procedure, 1973, it shall be lawful for the Special Court to try all offences punishable under this Act.

(2-C) The Special Court shall determine the order in which the civil and criminal liability against a land grabber be initiated. It shall be within the discretion of the Special Court whether or not to deliver its decision or order until both civil and criminal proceedings are completed. The evidence admitted during the criminal proceeding may be made use of while trying the civil liability. But additional evidence, if any, adduced in the civil proceedings shall not be considered by the Special Court while determining the criminal liability. Any person accused of land grabbing or the abetment thereof before the Special Court shall be a competent witness for the defence and may give evidence or oath in disproof of the charge made against him or any person charged together with him in the criminal proceeding:

Provided that he shall not be called as a witness except on his own request in writing or his failure to give evidence shall be made the subject of any comment by any of the parties or the Special Court or give rise to any

¹ . Omitted by Act No.16 of 1987, s 6.

² . Inserted by Act No.16 of 1987, s 6.

³ . Substituted by Act No. 16 of 1987, s 6.

⁴ . Inserted by Act No.16 of 1987, s 6.

presumption against himself or any person charged together with him at the same proceeding.]

(3) ¹[*****]

(4) Every case under sub-section (1) shall be disposed of finally by the Special Court, as far as possible, within a period of six months from the date of institution of the case before it.

(5) ⁴[*****]

(6) Every finding of the Special Court with regard to any alleged act of land grabbing shall be conclusive proof of the fact of land grabbing and of the persons who committed such land grabbing, and every judgment of the Special Court with regard to the determination of title and ownership to, or lawful possession of, any land grabbed shall be binding on all persons having interest in such land. ²[*****]

³ [Provided that the Special Court shall, by notification, specify the fact of taking cognizance of the case under this Act. Such notification, shall state that any objection which may be received by the Special Court from any person including the custodian of evacuee property within the period specified therein will be considered by it :

Provided further that where the custodian of evacuee property objects to the Special Court taking cognizance of the case, the Special Court shall not proceed further with the case in regard to such property;

Provided also that the Special Court shall cause a notice of taking cognizance of the case under the Act, served on any person known or believed to be interested in the land, after a summary enquiry to satisfy itself about the persons likely to be interested in the land.]

⁴[(7) It shall be lawful for the Special Court to pass such order as it may deem fit to advance the cause of justice. It may award compensation in terms of money for wrongful possession of the land grabbed which shall not be less than an amount equivalent to the market value of the land grabbed as on the date of the order and profits accrued from the land payable by the land grabber to the owner of the grabbed land and may direct re-delivery of the grabbed land to its rightful owner. The amount of compensation and profits, so awarded and costs of re-delivery, if any, shall be recovered as an arrear of land revenue in case the Government is the owner, or as a decree of a Civil Court, in any other case to be executed by the Special Court :

Provided that the Special Court shall, before passing an order under this sub-section, give to the land grabber an opportunity of making his representation or of adducing evidence, if any, in this regard, and consider every such representation and evidence.]

(8) Any case, pending before any court or other authority immediately before the constitution of a Special Court, as would have been within the jurisdiction of such Special Court, shall stand transferred to the Special Court [x x x] ⁵, as if the cause of action on which such suit or proceeding is based had arisen after the constitution of the Special Court.

⁶[9. Special Court to have the powers of the Civil Court and the Court of Session: - Save as expressly provided in this Act, the provisions of the Code of

¹ . Omitted by Act No.16 of 1987, s 6.

² .Omitted by Act No.16 of 1987, s 6.

³ . Inserted by Act No.16 of 1987, s 6.

⁴ . Substituted by Act No.16 of 1987, s 6.

⁵ . Omitted by Act No.16 of 1987, s 6.

⁶ . Substituted by Act No.16 of 1987, s 6.

Civil Procedure, 1908, the Andhra Pradesh Civil Courts Act, 1972 and the Code of Criminal Procedure, 1973, in so far as they are not inconsistent with the provisions of this Act, shall apply to the proceedings before the Special Court and for the purposes of the provisions of the said enactments, Special Court shall be deemed to be a Civil Court, or as the case may be, a Court of session and shall have all the powers of a Civil Court and a Court of session and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

10. Burden of proof:-Where in any proceedings under this Act, a land is alleged to have been grabbed, and such land is *prima facie* proved to be the land owned by the Government or by a private person the Special Court or as the case may be, the Special Tribunal shall presume that the person who is alleged to have grabbed the land is a land grabber and the burden of proving that the land has not been grabbed by him shall be on such person.

10A. Staff of the Special Court:- (1) The Chairman of the Special Court may appoint officers and other employees required to assist the Special Court in the discharge of its functions under this Act.

(2) The categories of officers and employees who may be appointed under subsection (1), their salaries, allowances and other conditions of service and the administrative powers of the Chairman of the Special Court shall be such as may be prescribed, after consultation with the Chairman.]

11. Power to try offences- Notwithstanding anything in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be tried by a Magistrate of the First Class, specially empowered by the Government in this behalf.

12. Sanction for prosecution of offence under the Act- ¹[No Court other than the Special Court] shall take cognizance of an offence, punishable under this Act, except with the previous sanction of the ¹[Special Tribunal], which sanction shall be accorded having regard to the circumstances of each case.

13. Persons acting under the Act to be public servants- Any person acting under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

14. Protection of persons acting in good faith- No suit, prosecution or other legal proceeding shall lie against [any officer or employee of the Special Court] ²any officer of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

15. Act to override other laws- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or custom, usage or agreement or decree or order of a court or any other tribunal or authority.

16. Power to make rules- (1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this section shall, immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session, or in two successive sessions and if before the expiration of the session in which it is so laid or the session immediately following both Houses agree in making any modification in

¹ . Substituted by Act No 16 of 1987, s 8.

² . Substituted by Act No 16 of 1987, s 9.

the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previous done under that rule.

17. Prohibition of alienation of lands grabbed- Any transaction relating to an alienation of a land grabbed or any part thereof by way of sale, lease, gift, exchange, settlement, surrender, usufructuary mortgage or otherwise, or any partition effected or a trust created in respect of such land, which has taken place ¹[whether before or after] the commencement of this Act shall, except to the extent ordered by the ³[Special Tribunal], be null and void.

[17A. Review: - The Special Court may in order to prevent the miscarriage of justice review its judgment or order passed under Section 8 but no such review shall be entertained except on the ground that it was passed under a mistake of fact, ignorance of any material fact or an error apparent on the face of the record:]

Provided that it shall be lawful for the Special Court to admit or reject review petitions in circulation without hearing the petitioner:

Provided further that the Special Court shall not allow any review petition and set aside its previous order or judgment without hearing the parties affected.]

17B. Guidelines for interpretation of Act: - The Schedule shall constitute the guidelines for the interpretation and implementation of this Act.]

18. Repeal of Ordinance 9 of 1982- The Andhra Pradesh Land Grabbing (Prohibition) Ordinance, 1982 is hereby repealed.

²[THE SCHEDULE

The Statement of Objects and reasons to the Andhra Pradesh Land Grabbing (Prohibition) Bill, 1982.

It has come to the notice of the Government that there are organized attempts on the part of certain lawless persons operating individually and in groups to grab either by force or by deceit or otherwise lands belonging to the Government, a local authority, a religious or charitable institution or endowment including a wakf or any other private person. The land grabbers are forming bogus co-operative housing societies or setting up fictitious claims and indulging in large scale and unprecedented and fraudulent sales of land through unscrupulous real estate dealer or otherwise in favour of certain section of people, resulting in large scale accumulation of the unaccounted wealth. As public order is also adversely affected thereby now and then by such unlawful activities of land grabbers in the State, particularly in respect of urban and urbanisable lands, it was felt necessary to arrest and curb such unlawful activities immediately by enacting a special law in that regard.

As the State Legislature was not then in session and as it was considered necessary to give effect to the above decision immediately the Andhra Pradesh Land Grabbing (Prohibition) Ordinance, 1982 was promulgated by the Governor on the 29th June, 1982.

This Bill seeks to replace the said Ordinance.

¹ . Substituted by Act No 16 of 1987, s 10.

² . Schedule added by the Act No. 16 of 1987, S.12.

The Statement of Objects and Reasons to the Andhra Pradesh Land Grabbing (Prohibition) (Amendment) Bill, 1987.

Law's delays is an undeniable fact. Matters pending in Civil and Criminal Courts take frustratingly long periods to reach finality. Matters pending in Civil Courts are delayed notoriously for long periods. Even Criminal cases taking long periods for disposal. The observations of Hon'ble Sri Y.V. Chandrachud, Chief Justice, Supreme Court of India, in *In Re. The Special Courts Bill, 1978* (quoted in the footnote appended below) highlight the reality. In urban areas due to pressure on land, prices have been constantly soaring high, and taking advantage of this phenomenon, unscrupulous and resourceful persons backed by wealth and following occupied without any semblance of right, vast extents of land belonging to the Government, Local authorities, Wakfs, and Charitable and Religious Endowments and evacuees and private person. In- several cases such illegal occupation were noticed in respect of lands -belonging to private individuals. who are not in a position to effectively defend their possession. In many cases this is being done by organised groups loosely called "Mafia", a distinct class of economic offenders, operating in the cities of Andhra Pradesh. Unless all such cases of land grabbing are immediately detected and dealt sternly and swiftly by specially devised adjudicating forums the evil cannot subside and social injustice will continue to be perpetrated with impunity. If civil, and criminal actions are dealt by two separate forums, the desired objective cannot be achieved due to procedural delays. In every case of land grabbing the person responsible is liable in tort and also for criminal action. To remedy this menace it is felt that a Special Court should be constituted with jurisdiction to determine both civil and criminal liabilities and also award sentences of imprisonment and fine in order to advance the cause of justice in the same proceedings without being driven to duplication of litigation, of course taking care of procedural fairness and natural justice. The Special Court which consists of a retired Judge of Supreme Court or retired Chief Justice of a High Court, retired or serving Judges of a High Court and civil servants, serving or retired member of the Indian Administrative Service in the rank of Secretary to Government with experience in revenue matters will entertain only such cases in which the magnitude of the evil needs immediate eradication. Such court will avoid duplication and further the cause of justice, since under existing law, evidence given in a Civil Court cannot automatically be relied upon in a criminal proceeding.

A high powered body like the Special Court, by the very nature of its composition will be the best safeguard to guard against possible miscarriage of justice due to non-application of the exiting procedural law for determination of both civil and criminal liability. The Special Court, in exercise of its judicial discretion, will decide what type of cases of alleged, land grabbing it should entertain, the guidelines being the extent or the value or the location or other like circumstances of the land alleged to have been grabbed. In respect of matters in which the Special Court is not inclined to proceed with, the District Judge exercising jurisdiction over the area will constitute the Special Tribunal. The Special Tribunal shall have to follow the procedural law strictly and its jurisdiction is limited only to adjudicating civil liability.

With a view *to* achieving the aforesaid objective, it has been decided to amend the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 by under-taking suitable legislation.

As the Legislative Assembly of the State was not then in session and as it was considered necessary to give effect to the above decision immediately the Andhra Pradesh Land Grabbing (Prohibition) (Amendment) Ordinance, 1986 was promulgated by the Governor on the 16th September, 1986.

This Bill seeks to replace the said Ordinance.

APPENDIX

* Observations of Sri Y.V. Chandrachud, Chief Justice of the Supreme Court of India, in In Re The Special Courts Bill, 1978 : (1979 1 SCC 380 at 429).

*"The congestion in courts, the mounting arrears and the easy and unconcerned dilatoriness which characterise the routine trials in our courts are well known facts of contemporary life. They are too glaring to permit of disputation. Seminars and, symposiums are anxiously occupied in finding ways and means to solve what seems to be an intractable and frustrating problems.

NOTES ON CLAUSES

Clause 2:—Sub-section (3) of section 1 of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 provides for the application of the Act to all lands, situated within the limits of a Municipal Corporation or Municipality and to any other land situated in such other areas as the Government may, notify. The areas comprised within a Municipal Corporation or Municipality are limited. Due to heavy influx of people from rural areas into urban areas, the value of lands beyond the limits of Municipal Corporations and Municipalities has escalated enormously with the result it was felt that the area of the operation of the Act should be extended to all the urban agglomerations as defined in the Urban Land (Ceiling and Regulation) Act, 1976 and also to such other land having regard to urbanisable nature of the land. It was noticed that cases of land grabbing have been in the increase mainly in the urban agglomerations. Hence, this clause provides for application of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 to the lands situated within the limits of the urban agglomerations in the State and also such other lands situated in such other areas as the Government may, having due regard to the urbanisable nature of land by notification apply.

Clause 3 :—*Land belonging, to private persons :*

Under section 9, the competent- authority was entrusted with the work of implementing the decisions of the Special Court. The Special Court is now empowered to record convictions and award sentences and execute its orders. In view of this the definition of 'competent authority' is omitted.

Section 4 of the, principal Act, prohibits, among other things, grabbing of land belonging to private persons. The scope of "Land belonging to private person" it was felt, should be specified, so that the lands belonging to certain classes of persons, namely, evacuees, military personnel and any other private individual also may be brought within the purview of that definition.

Special Court:—Originally the District Judge having jurisdiction over the area concerned was also included as a Special Court where there is no Special Court constituted under section 7 of the principal Act. It is felt that the Special Court should be a high powered body presided over by a retired Supreme Court Judge, or a retired Chief Justice of a High Court and the other members being a retired or a serving Judge of a High Court and a senior member of the Indian Administrative Service. Accordingly, it is now proposed to constitute only one Special Court. The term " Special Court " is now suitably modified.

Special Tribunal :- The term "Special Tribunal " was not defined in the principal Act. Originally the intention was that where Special Court was not constituted, the District Judge having jurisdiction over the area will function as Special Court. In view of the decision taken how to have a Special Court presided over by a retired Judge of the Supreme Court or a retired Chief Justice of a High Court, it was felt that the Special Court should not be burdened with all cases of land grabbing and that there should be another separate forum called " Special Tribunal " to deal with the cases not taken cognizance of by the Special Court. The District Judge having jurisdiction over the area will constitute the Special Tribunal.

Clause 4:— As it was decided to have only one Special Court presided over by a retired Judge of the Supreme Court or a retired Chief justice of a High Court, it is necessary to dispense with the constitution of more than one Special Court. Accordingly subsection (1) of section 7 of the principal Act which envisages constitution of more than one Court is suitably amended. Sub-section (2) of section 7 has been suitably modified providing for constitution of the Special Court consisting of Chairman and four other members. The Special Court, because of the very nature of its composition, is empowered to regulate its proceedings by evolving its own procedure, not inconsistent with the provisions of the Act or rules to be made thereunder. Provision is made that two members shall form the quorum for any bench of the Special Court and that at any sitting of any bench of the Special Court, either the Chairman or the judicial member shall preside. This will ensure decisions being taken in a just and fair manner and there will not be any miscarriage of justice. The regulations made by the Special Court are required to be notified in the Gazette and the substance thereof will have to be exhibited by way of public notice for the information of the general public and this ensures openness in procedural matters.

The Special Court is allowed to evolve its own. procedure untrammelled by the existing procedural laws in order to ensure that it determines both civil and criminal liability in the same proceedings expeditiously. The procedure evolved by the Special Court should be consistent with the principles of natural justice and fair play and this is the best safeguard against arbitrariness.

In sub-section (1) of section 7 of the principal Act, it is provided that the Government may constitute many Special Courts as may be necessary. But as already stated in the Statement of Objects and Reasons, it was decided to constitute only one Special Court invested with jurisdiction - both Civil and Criminal to deal with important cases of land grabbing. However, in cases where the Special Court does not entertain a petition on its being satisfied that it is not a fit case to be taken up, it is open to the petitioner to present the

same before the Special Tribunal. The intention in creating one Special Court is that all cases of public importance should go before the Special Court, other cases of less importance may be referred to the Special Tribunal.

The Special court is empowered to make regulations not inconsistent with the provisions of the Act or rules made thereunder for conducting the cases and regulating the manner of taking decisions. The regulations so made are required to be laid before the Legislative Assembly and the same are liable to be modified or annulled in the said Assembly. In order to strengthen the powers of the Special Court it is provided that a Special Court may follow its own procedure which shall not be inconsistent with the principles of natural justice and fair play in the trial of the cases and for recording convictions and awarding sentences and execution of its orders. As the Special Court has to follow its own procedure consistent with principles of natural justice and fair play, the provisions in the Code of Civil Procedure, 1908, are not made applicable to it. However, while deciding the criminal liability, the offences punishable under the Act shall be tried in a summary way and the provisions in sections 263 to 265 of the Code of Criminal Procedure, 1973 as far as may be, shall apply to such trial. If for any reason, the Special Tribunal comes to the conclusion that a particular case is a fit case to be tried by the Special Court, it may transfer the same to the Special Court.

The term of office of the Chairman and other members is fixed at two years.

Further the Special Court is also empowered to exercise its powers and authority through benches, the constitution of which has been specified. The Chairman is empowered to transfer cases from one bench to another.

Clause 5:- The Special Tribunal is empowered to take cognizance of cases not seized of by the Special Court. In order to avoid vexatious or frivolous litigation, the Special Tribunal is empowered to reject any case without any further enquiry if, *prima facie* it is of the opinion that the case is frivolous or vexatious. If any case, in the opinion of the Special Tribunal, is fit to be tried by the Special Court, the former may transfer the same recording the reasons, to the Special Court for decision. As the District Judge, exercising jurisdiction over the area shall constitute the Special Tribunal, it was felt desirable that the procedural law contained in the Code of Civil Procedure, 1908 should be followed in the trial of cases. For the same reason, the Special Tribunal is not invested with simultaneous jurisdiction to determine civil and criminal liability. Its jurisdiction is exclusively limited to decide civil nature of the liability.

The appellate authority over the decisions of the Special Tribunal is the Special Court and an appeal shall lie on questions of Law and fact against the judgment and orders not being interlocutory orders of the Special Tribunal.

As regards the binding nature of the decisions of the Special Tribunal, the reasoning mentioned for conferring such a power on the Special Court fully applies to the Special Tribunal also.

In order to advance the cause of justice, the Special Tribunal is empowered to mould the relief. It can award not only compensation in terms of money but also award profits accrued from the land and direct restoration of land to the rightful owner. In case compensation and profits are awarded to the Government, in order to ensure quick recovery, the provisions of Revenue Recovery Act are made applicable. In other cases, where the decree holder, is not the

Government the decree of the Special Tribunal will have to be executed like any other decree passed by a Civil Court. As a necessary consequence of the constitution of the Special forums for adjudicating the disputes relating to alleged acts of land grabbing, all cases pending in the Civil Courts will naturally have to go before them. The Special Court, by reason of its composition, cannot be burdened with all the cases. It is, therefore, felt desirable that all such cases should stand transferred to the Special Tribunal exercising jurisdiction over the area and the Special Tribunal is empowered to transfer for reasons to be recorded by it any case for decision to the Special Court. In order to avoid delay in the disposal, it has been decided to fix a time limit of six months and as far as possible, within this period, the Special Tribunal shall dispose of finally every case brought before it. As the District Court is the Special Tribunal, it is conferred with the power of review like any other Civil Court exercising powers under the Code of Civil Procedure.

Clause 6 : - Guidelines have been specified to enable the Special Court to take cognizance of any case, the guidelines being the location, extent or value of the land alleged to have been grabbed or of the substantial nature of the evil involved or in the interest of the justice required or any other relevant matter. In the absence of these guidelines, the Special Court will not be in a position to choose the type of cases to be dealt with by it. A procedural safeguard is also incorporated to the effect that before taking cognizance of any case the Special Court shall hear the petitioner. This will enable the petitioner to satisfy the Special Court with reference to the guidelines, if there is material, that the case is a fit case to be dealt by the Special Court.

As it was decided to confer wide jurisdiction on the Special Court to try and determine in the same proceedings, civil and criminal liability, it became necessary to incorporate the non-obstante clause to the effect that notwithstanding anything contained in the Code of Civil Procedure, 1908, Code of Criminal Procedure, 1973 and the Andhra Pradesh Civil Courts Act, 1972, the Special Court shall have the aforesaid jurisdiction.

Having regard to the guidelines specified and after considering the submissions of the petitioner if the Special Court is of the opinion that any case brought before it is not fit to be dealt by it, it may return the same for presentation before the Special Tribunal. This will lighten the burden of the Special Court, otherwise it will be flooded with large number of cases. In order to pre-empt vexatious or frivolous litigation, power is conferred on the Special Court to reject any application filed before it without any further enquiry if in its opinion *prima facie*, such an application is frivolous or vexatious.

Cases which are either instituted before the Special Tribunal or stand transferred to it under sub-section (6) of section 7A may be of such an important nature falling within the scope of the guidelines specified for determination of cases by the Special Court. All such cases may escape the attention of the Special Court. In such a contingency in the absence of adequate power being conferred on the Special Court to withdraw such cases from the file of the Special Tribunal to its file, justice will not be advanced, unless the Special Court is empowered to withdraw cases from the Special Tribunals.

When a Special Court was conceived of as a single forum for the determination of both civil and criminal liability, it must be empowered to try all cases under the Act notwithstanding any thing contained in the Code of Criminal Procedure, 1973. Hence, a non-obstante clause has been incorporated to enable the Special Court to try offences. As a consequence of conferment of the aforesaid power on the Special Court, the power to make regulations, evolving its own procedure and also having regard to its power to make regulations evolving its own procedure not inconsistent with the principles of natural justice and fair play, sub-sections (3) and (5) of section 8 of the principal Act have been omitted.

As the Special Court is invested with both civil and criminal powers, it shall determine the order in which they shall be taken up and it is within its discretion to decide whether the judgment should not be delivered until both the civil and criminal proceedings are completed. It is also provided that the evidence admitted during the criminal proceedings may be made use of while trying the civil liability and additional evidence, if any, adduced in the civil proceedings shall not be considered by the Special Court while determining the criminal liability.

The land grabbers being highly sophisticated economic offenders, rich and resourceful will naturally adopt all means and techniques to escape the liability. It is common knowledge that one of the well known methods of defeating the just claims of a decree holder is by setting up third parties in a fresh litigation alleging that the third parties were not parties to the earlier proceedings and so they were not bound by the decree. To surmount this, it was felt necessary that a notification should be issued by the Special Court specifying factum of taking cognizance of any case under the Act, so that the said notification may serve as notice to the persons interested in the litigation and if they not come forward within the time specified to file their objections, the finding of the Special Court will become conclusive proof regarding the fact of the land grabbing. The Custodian of the evacuee property also may object to the exercising of the jurisdiction by the Special Court in which case the Special Court will not proceed further in so far as evacuee property is concerned.

Advancement of the cause of justice is the foundation of the actions for the Special Court. Keeping this in view, it is provided that the Special Court may award compensation in respect of wrongful possession of the land held to have been grabbed and also profits accrued from such land and the liability to make payment will be on the land grabber. The Special Court also have power to direct redelivery of the grabbed land to the rightful owner. In order to ensure swift implementation of the orders and decisions of the Special Court, it is provided that the amount of compensation and profits and the costs of redelivery shall be recovered as arrears of land revenue, in case, the Government is held to be the owner and in other cases, they will be executed as a decree of civil court. The Special Court itself is empowered to execute the decree passed and orders made by it. In consonance with the principles of natural justice it is provided that before an order is passed by the Special Court directing the land grabber to pay compensation and other costs, he is given an opportunity to make representation.

Clause 7:- The very nature of the composition of the Special Court should not give any scope to any party to circumvent its decisions, and orders and defeat, the just claims of the persons in whose favour the orders or decisions are given. To ensure this, it is felt that civil and criminal powers should be conferred on the Special Court.

This clause substitutes new sections 9,10 and 10-A in place of the present sections 9 and 10. It is intend to reduce the rigour of burden of proof under the existing section 10 and shifts the burden of proofs on the alleged land grabber only where there is *prima facie* proof that the land belongs to Government.

New section 10-A is being inserted by this clause. This provision empowers the Chairman of the Special Court to appoint officers and other employees required to assist it in the discharge of its functions under this Act. It is provided that the rules may be made after consulting the Chairman of the Special Court in respect of salaries, allowances and other conditions and the administrative powers of the Chairman.

Clause 11:- This clause inserts new sections 17-A and 17-B. Section 17-A confers power of review on the Special Court. Section 17-B relates to the statement of purpose. The Statement of Objects and Reasons and the notes on clauses reflect the Legislative intention and the purpose for which the legislation is embarked upon. Without referring to the Statement of Objects and Reasons and the Notes on Clauses, any judicial interpretation of any of the provisions of the Act will not reflect the legislative intention precisely. Taking this into account, it is felt that the Statement of Objects and Reasons and the Notes on clauses should constitute guidelines for the interpretation and the implementation of the Act.

In order to enable the Special Court to render complete justice uninhibited by technicalities, wide power of review has been conferred on it. It is felt that the existing provisions in the Code of Civil Procedure, 1908 relating to power of review are not wide enough to prevent possible miscarriage of justice.

With a view to preventing making review applications, a routine procedure and allowing advocates to re-argue the very same questions of fact and Law, it is considered that, the Special Court should be empowered to admit or reject view petitions in circulation without hearing the petitioners. But when once a review petition is admitted, the affected parties will have to be heard before a final decision is taken by the Special Court.]