

CHAPTER VIII MUNICIPAL PROPERTY

Powers of Corporation as to acquisition of property

Acquisition of Property

76. Powers of Corporation as to acquisition of property.

(1) The Corporation shall, for the purposes of this Act, have power to acquire and hold movable and immovable property or any interest therein whether within or without the limits of the City.

(2) All immovable and other property, wherever situate, which on the date immediately preceding the appointed day vested-

(a) in any municipality or local authority which has been superseded by or under this Act in consequence of the inclusion in the City of the area for which it was constituted, or

(b) in ¹[the State Government] by reason of the supersession or dissolution of such municipality or local authority under any law relating to such municipality or local authority, shall upon and after the said day vest in and be held by the Corporation having jurisdiction in such City as trustees for the purposes of this Act but subject to all trusts, charges and liabilities affecting the same.

(3) All primary schools, with their lands, buildings, records and equipment, and all other properties, movable or immovable, which on the date immediately preceding the appointed day vested, under the provisions of section 12 of the Bombay Primary Education Act, 1947, (Bom. LXI of 1947) in the District School Board of the district in which such City is situate in respect of any area which is included in such City shall, upon and after the said day, vest in, and be held by, the Corporation as trustees for the purposes of this Act, but subject to all trusts, charges and liabilities- affecting the same:

Provided that in the event of any question, dispute or doubt arising as to whether any particular property shall so vest in and be held by the Corporation, the matter shall be referred to the ²[State] Government whose decision thereon shall be final.

(4) The ³[State] Government may, by order in writing, direct that any immovable or other property situate in, or pertaining to, an area included within the limits of any City which, on the appointed day, was vested in a local authority whose jurisdiction extended beyond such area shall vest in and be held by the Corporation as trustees for the purposes of this Act, but subject to all trusts, charges and liabilities affecting the same.

(5) Any immovable property which may be transferred to the Corporation by the Government shall be held by it subject to such conditions, including resumption by the Government on the occurrence of a specified contingency, and shall be applied to such purposes as the Government may impose or specify when the transfer is made :

¹ These words were substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.

² These words were substituted for the words "Provincial" by the Adaptation of law order, 1950.

³ Same as 3.

⁴[Provided that in the event of the resumption of any immovable property by the State Government otherwise than only for a breach of any condition on which the property was held by the Corporation, the Corporation shall be entitled to compensation equal to the value of any improvement of such immovable property made by the Corporation and such value shall be determined in accordance with the provisions of the Land Acquisition Act, 1894.] (I of 1894)

Acquisition of immovable property

77. Acquisition of immovable property.

(1) Whenever it is provided by this Act that the Commissioner may acquire or whenever it is necessary or expedient for any purpose of this Act that the Commissioner shall acquire, any immovable property, such property may be acquired by the Commissioner on behalf of the Corporation by agreement on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the Standing Committee either generally for any class, of cases or specially in any particular case.

(2) Whenever, under any provision of this Act, the Commissioner is authorized to agree to pay the whole or any portion of the expenses of acquiring any immovable property, he shall do so on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the Standing Committee as aforesaid.

(3) The Commissioner may on behalf of the Corporation acquire by agreement any easement affecting any immovable property vested in the Corporation, and the provisions of sub-sections (1) and (2) shall apply to such acquisition.

Procedure when immovable property cannot be acquired by agreement

78. Procedure when immovable property cannot be acquired by agreement.

(1) Whenever the Commissioner is unable under section 77 to acquire by agreement any immovable property or any easement affecting any immovable property vested in the Corporation or whenever any immovable property or any easement affecting any immovable property vested in the Corporation is required for the purposes of this Act, the ⁵[State] Government may, in its discretion, upon the application of the Commissioner, made with the approval of the Standing Committee and subject to the other provisions of this Act, order proceedings to be taken for acquiring the same on behalf of the Corporation, as if such property or easement were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894. (I of 1894)

(2) Whenever an application is made under sub-section (1) for the acquisition of land for the purpose of providing a new street or for widening or improving an existing street it shall be lawful for the Commissioner to apply for the acquisition of such additional land immediately adjoining the land to be occupied by such new street or existing street as is required for the sites of buildings to be erected on either side of the street, and such additional land shall be deemed to be required for the purposes of this Act.

⁴ This proviso was added by Guj. 19 of 1964, s. 3.

⁵ This words was substituted for the words "Provincial " by the Adaptation of Law order. 1950

(3) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to all other provisions of this Act, be forthwith paid by the Commissioner and thereupon the said property shall vest in the Corporation.

Disposal of Property

Provision governing the disposal of municipal property

79. Provision governing the disposal of municipal property.

With respect to the disposal of property belonging to the Corporation other than property vesting in the Corporation exclusively for the purposes of the Transport Undertaking the following provisions shall have effect, namely :-

(a) the Commissioner may, in his discretion, dispose of by sale, letting out on hire or otherwise, any movable property belonging to the Corporation not exceeding in value in each instance five hundred rupees or such higher amount as the Corporation may, with the approval of the ⁶[State] Government from time to time determine or grant a lease of any immovable property belonging to the Corporation including any right of fishing or of gathering and taking fruit, and the like, for any period not exceeding twelve months at a time :

Providing that the Commissioner shall report to the Standing Committee every lease of immovable property within fifteen days of the grant thereof unless it is a contract for a monthly tenancy or the annual rent thereof at a rack rent does not exceed three thousand rupees.

(b) with the sanction of the Standing Committee the Commissioner may dispose of by sale, letting out on hire or otherwise any movable property belonging to the Corporation, of which the value does not exceed five thousand rupees; and may with the like sanction grant a lease of any immovable property belonging to the Corporation, including any such right as aforesaid, for any period exceeding one year or sell or grant a lease in perpetuity of any immovable property belonging to the Corporation the value or premium whereof does not exceed fifty thousand rupees or the annual rent whereof does not exceed three thousand rupees;

(c) with the sanction of the Corporation the Commissioner may lease, sell, let out on hire or otherwise convey any property, movable or immovable, belonging to the Corporation;

(d) the consideration for which any immovable property or any right belonging to the Corporation may be sold, leased or otherwise transferred shall not be less than the current market value of such premium, rent or other consideration :

⁷[Provided that any such sale, lease or transfer to a member of a Scheduled Caste, Scheduled Tribe or any other backward class specified as such class in an order of the President under clause (3) of article 338 of the Constitution or any such sale, lease or transfer to a public charitable trust for the purpose of construction or maintenance of a public hospital may be effected, with the prior sanction of the State Government, for a consideration less than such market value to such extent as the State Government may approve;]

⁶ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁷ This proviso was added by Guj. 1 of 1979, s. 11.

(e) the sanction of the Standing Committee or of the Corporation under clause (b) or clause (c) may be given either generally for any class of cases or specially in any particular case;

(f) the aforesaid provisions of this section and the provisions of the rules shall apply, respectively, to every disposal of property belonging to the Corporation made under or for any purposes of this Act :

Provided that-

(a) no property vesting in the Corporation for the purpose of any specific trust shall be leased, sold or otherwise conveyed in such a manner that the purpose for which it is held will be prejudicially affected;

(b) no property transferred to the Corporation by the Government shall be leased, sold or otherwise conveyed in any manner contrary to the terms of the transfer except with the prior sanction of the appropriate Government.

⁸[79A. **Obligation annexed to property binding on transferee.**

Obligation annexed to property binding on transferee

Where-

(1) the Commissioner has transferred by way of sale or exchange any immovable property belonging to the Corporation and the terms of such transfer direct that the property shall be applied or enjoyed in a particular manner or the use or enjoyment thereof shall be restricted in a particular manner, or

(2) the owner of any immovable property has entered into an agreement with the Corporation concerning the application, enjoyment or use of the property in a particular manner, such term, condition or obligation shall be held to be annexed to the property which is the subject-matter of the transfer or agreement and shall be enforced against the transferee or owner and all persons deriving title or interest under or through him, notwithstanding-

(a) any law for the time being in force, and

(b) that the Corporation are not in possession of or interested in any immovable property for the benefit of which, the term, condition or obligation was agreed to. entered into or imposed.]

80. Decision of claims to property by or against the Corporation

Decision of claims to property by or against the Corporation

(1) Where any immovable property or any right in or over any such property is claimed by or on behalf of the Corporation or by any person as against the Corporation, it shall be lawful for the Collector after formal inquiry, of which due notice has been given, to pass an order deciding the claim.

(2) The Corporation or any person aggrieved by an order passed by the Collector under sub-section (1) may, notwithstanding anything contained in any law for the time being in force, within one year from the date on which the Corporation or such person had due notice of such order, institute a suit in any competent civil court to set aside such order or to claim a relief inconsistent therewith.

If any such suit is instituted after the expiration of one year from the date on which the notice of such order has been given such suit shall

⁸ Section 79A was inserted by Guj. 19 of 1964 s. 4.

be dismissed although limitation has not been set up as a defence.

(3) The Collector may, by general or special order, delegate the powers conferred on him under this section to an Assistant or Deputy Collector or a survey officer as defined in the Bombay Land Revenue Code, 1879. (Bom. V of 1879)

(4) The formal inquiry referred to in this section shall be conducted in accordance with the provisions of the aforesaid Code.

(5) A person shall be deemed to have had due notice of an inquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by the ⁹[State] Government.

81. Power of Corporation to enforce covenants against owner for the time being of land.

Power of Corporation to enforce covenants against owner for the time being of land

A covenant concerning any immovable property for the purposes of this Act entered into with the Corporation by the owner of such property or by any person to whom such property of the Corporation has been transferred by sale or exchange shall be enforceable by the Corporation against any person deriving title under the covenant or notwithstanding that the Corporation is not in possession of, or interested in, any immovable property for the benefit of which the covenant was entered into, in like manner and to the like extent as if it had been possessed of or interested in such property.

⁹ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.