

**THE AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the September, 3, 1980.

No. 5018/LD/80. The following Ordinance made by the President on the 3rd day of September, 1980, is hereby published for general information :-

(ORDINANCE CXLIX OF 1980)

AN

ORDINANCE

to provide for law relating to the Acquisition of Land for Housing and Development Schemes in Azad Jammu and Kashmir and for matters ancillary thereto

WHEREAS it is expedient to provide for law relating to Acquisition of Land for Housing and Development Scheme, in the manner hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President is pleased to make and promulgate the following Ordinance :-

1. **Short title, extent and Commencement:-** (1) This Ordinance may be called the Azad Jammu and Kashmir Acquisition of Land (Housing and Development Schemes) Ordinance, 1980.
 - (2) It shall extend to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
2. **Definitions.-** (1) In this Ordinance unless there is any thing repugnant in the subject or context,-
 - (a) 'Collector' means the Collector of a District and includes any Officer specially empowered by the Government to perform the functions of a Collector under this Ordinance;
 - (b) 'Development Scheme' means any public welfare scheme including wate supply, public buildings, electric installations and land used for industrial purposes or any other similar purpose specified by the Official Development Agency.

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- (c) 'Commissioner' means the Chief Officer Incharge of Revenue and General Administration of Azad Jammu and Kashmir;
 - (d) 'Deputy Commissioner' means the Chief Officer Incharge of the General Administration of a District;
 - (e) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (f) 'Official Development Agency' means any nation building Department and includes;
 - (i) Autonomous and Semi-autonomous bodies established as such under any law for the time being in force;
 - (ii) any Organization or Organizations that the Government may declare to be official Development Agency;
 - (g) 'Housing Scheme' means a scheme which provides for residential sites, houses or apartments including ancillary land uses such as -
 - (i) building and other facilities for health, education, culture, transportation, communication and shopping;
 - (ii) environmental improvements; and
 - (iii) utility services, that is to say water supply, drainage, sewerage, sanitation, electricity and fuel;
 - (h) 'Prescribed' means prescribed by the rules.
- (2) Save as otherwise provided in this Ordinance or where context otherwise requires all terms and expressions used but not defined in this Ordinance shall bear the same meanings as they bear in Land Acquisitions Act, 1894 (Act I of 1894).
3. **Liability to acquisition.-** Notwithstanding anything to the contrary contained in the Land Acquisition Act, 1894 or any other Law for the time being in force, all land within Azad Jammu and Kashmir shall be liable to acquisition at any time under this Ordinance for Development and Housing Schemes approved and notified by Government or Official Development Agency.
4. **Publication of Notification and Land to be marked out and measured.-** When any land is proposed to be acquired under this Ordinance, the Collector shall cause a notice to be published in the official Gazette with details of the property and thereafter

shall cause the land (unless it has already been marked out) to be marked out and measured and if no plan has been made thereof a plan shall be made of the same.

5. **Notice to persons interested.**- (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be acquired stating that the Government intends to acquire and take possession of the land, and that claims to compensation for all interests in such land may be made to him. He shall also inform all the owners and the claimants of interests in such land by giving them a special notice of 19 days in accordance with rules.

(2) Such notice shall state the particulars of land so needed and shall require all person interested in the land to appear personally or by agent before the Collector at a date, time and place therein mentioned (such period not being earlier than 10 days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections, if any, to the measurements made under section 5 and the Collector may require any such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier, if any, of such land and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested.

6. **Inquiry and award by Collector.**- On the day so fixed, or any other subsequent days to which the inquiry has been adjourned, the Collector shall proceed to inquire into the objections, if any, whether interested persons or claimants are present or not after service of the notice and shall determine :

- (i) the correct area of the land;
- (ii) compensation which in his opinion, having regard to the provisions of this Ordinance, is reasonable; and
- (iii) apportionment of such compensation among all the claimants or persons known or believed to be interested in the land whether or not they have appeared before him.

7. **Matters to be considered in determining compensations.**- (1) In determining the amount of compensation to be awarded for land acquired under this Ordinance the Collector shall take into consideration:

- (i) market value of the land to be determined on the basis of two years average sale price of land similarly situated and put to similar use proceeding the date of notification under Section 4 ;
- (ii) the damage if any, sustained by the person interested at the time of taking possession of the land by reason of severing such land from the other land ;
- (iii) the damage, if any , sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner or his earnings; and
- (iv) if, in consequence of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change;
- (v) the damage sustained by the person interested by the reason of dispossession of any standing crops or trees or building or other structure or installations which may be existing on the land.

(2) in addition to the market value of the land as above provided, the Collector shall in every case award a sum of fifteen per centum on such market value, in consideration of compulsory nature of acquisition.

- 8. **Payment of compensation.-** The payment of compensation shall be in cash or by cheque, and shall be made in the prescribed manner.
- 9. **Power to take possession.-** When the Collector has made an award and objections and claims to compensation have been decided, the Government or the Official Development Agency shall take possession of the land, which land there-upon shall vest absolutely in Government or, as the case may be, in the Official Development Agency:

Provided that possession shall not be taken of any land under this Section without giving to the occupier thereof at least 24 hours notice, or such longer notice as may be reasonable and sufficient to enable such occupier to remove his movable property without unnecessary inconvenience.

- 10. **Acquisition in case of urgency.-** In case of urgency the Deputy Commissioner, may, immediately after the publication of notice published under Section 5(1) authorised the Collector through a notification published in the Official Gazette to enter upon and

take possession of land which shall there upon vest absolutely in Government or the Official Development Agency, as the case may be, free from all encumbrances:

Provided that the Collector shall not take possession under this Section without giving to the occupier thereof at least 24 hours notice of his intention to do so, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building or land without unnecessary inconvenience.

11. **Appeal and Review.-** (1) The person entitled to compensation under the award and Government or the Official Development Agency, as the case may be, may accept the award and intimate their acceptance in writing to the Collector within fifteen days of making the award.
 - (2) The Government, or the Official Development Agency, or any person aggrieved by an award of the Collector may, within one month of such an award, file an appeal to the Commissioner. Where the affected party had no intimation of the award, the appeal may be filled within six weeks of the award. The Commissioner may, after giving, the Government or, as the case may be the Official Development Agency and the person effected by award or their agents, an opportunity of being heard, make such order as he may deem fit.
 - (3) The order of the Commissioner made on appeal shall be final and shall not be called into question in any Court.
 - (4) The Collector or the Commissioner either of his own motion or on an application made in this behalf by the Government, or as the case may be, Official Development Agency or any affected person may, at any time review an order made by himself or his predecessor, in so far as it corrects an Arithmetical, clerical or patent error or mistake only.
 - (5) Any amount paid to any person which is found for any reason including fraud or misrepresentation, not to be due or in excess of the amount he is entitled to under the award, shall be recoverable as arrear of land Revenue and the Collector shall call upon such person to refund it.
12. **Powers of the Collector.-** When the acquiring any land or determining compensation therefore or carrying out any other purpose of this Ordinance, the Collector may;
 - (a) require any person by order in writing to furnish such information in his possession pertaining to any land as may be specified in the order; and

- (b) enter or authorise any person to enter upon land and take such action as may be necessary.

13. **Collector and Commissioner to have powers of Civil Courts etc.-** The Collector making an enquiry or conducting any proceedings under this Ordinance or the Commissioner exercising the powers of appeal or deciding a Review petition under this Ordinance shall have the same powers in respect of the following matters as are vested in a Civil Court, when trying a suit, under the Code of Civil procedure, 1908 (Act V of 1908) namely:-
- (a) summoning and enforcing attendance of any person, examining him on oath or affirmation;
 - (b) requiring the discovery and production of any document;
 - (c) requisitioning any record from any Court or Office ;
 - (d) issuing commissions for examination of witnesses, inspection of property or making any local investigations;
 - (e) appointing guardians ad litem or next friends;
 - (f) adding or substituting representatives of deceased parties to proceedings;
 - (g) adding or dropping parties from pending proceedings; and
 - (h) any other matter connected with the holding of an enquiry or hearing of an appeal.
14. **Powers of Government to give directions to the Deputy Commissioner.-** The Government may give directions to the Deputy Commissioner with respect to the exercise of his powers and the discharge of functions under this Ordinance and the Deputy Commissioner shall be guided, by, and act in accordance with such directions.
15. **Powers to withdraw from acquisition proceedings.-** The Deputy Commissioner with the approval of the Government can leave out from acquisition proceedings any land, notified under this Ordinance, of which possession has not been taken.
16. **Abatement of suits and other proceedings.-** (1) All references, suit, appeals and application regarding any matter now within the jurisdiction of the Commissioner under the provisions of the ordinance No. CXIII of 1979 pending in any court under any law on the subject, immediately before the commencement of this Ordinance, shall abate forthwith except the Supreme Court of Azad Jammu and Kashmir:

Provided that any party to such reference, suit, appeal or application may, within ninety days from the date of such abatement, prefer an appeal to the Commissioner in respect of any such matter which is in issue in such reference, suit, appeal or application.

(2) Subject to the provisions of Section 11 any proceedings in a reference or appeal pending immediately before coming into force of this Ordinance shall be completed by the Commissioner in accordance with the provisions of the Ordinance.

(3) Any notifications issued under any law on the subject, so far as they are inconsistent with the provisions of the Ordinance, shall be deemed to have been issued under the provisions of the said Ordinance.

17. **Bar of Jurisdiction.-** Any notification issued, directions given and decision made or orders passed by the Government or by any competent authority under this Ordinance shall not be questionable in any Court of Law.
18. **Delegation of powers.—** The Government may, by notification in the official Gazette, delegate all or any of its powers conferred upon it or any officer under this Ordinance to any other officer sub Ordinate to it.
19. **Powers to make rules.-** The Government may make rules to give effect to the provisions of this Ordinance.
20. **Savings.-** Notwithstanding any judgment, decree or order of any Court including High Court, every thing done, all actions taken, notifications issued, orders or appointments made, proceedings initiated, jurisdiction or powers exercised under the provisions of the Azad Jammu and Kashmir Acquisition of Land (Housing and Development Schemes) Ordinance, 1979 (Ordinance CXIII of 1979) or its succeeding Ordinances issued from time to time shall be deemed to have been validly done, taken, issued, made, initiated or exercised under this Ordinance.

(Mohammad Hay at Khan)
President
Azad Jammu & Kashmir

Sd/- (Khalil Ahmed Qureshi)
Secretary Law