

## CHAPTER VI

### POWER TO EVICT PERSONS FROM AUTHORITY PREMISES AND TO RECOVER DUES

Appointment of Competent Authority. 65. The State Government may, by notification in the *Official Gazette*, appoint an officer, who is holding or has held an office which in its opinion is not lower in rank than that of Deputy Collector or Civil Judge, to be the Competent Authority for performing the functions of such authority under this Chapter in such areas, or in respect of such premises or class of premises in any area, as may be specified in the notification; and more than one officer may be appointed as Competent Authority in the same area in respect of different premises or different classes of premises.

66. (1) If the Competent Authority is satisfied—

(a) that the person authorised to occupy any Authority premises has—

(i) not paid rent or compensation or amount lawfully due from him in respect of such premises for a period of more than two months, or

(ii) sub-let, without the previous permission of the Authority, the whole or any part of such premises, or

(iii) committed, or is committing any act which is destructive or permanently injurious to such premises, or

(iv) made, or is making, material addition to, or alteration in, such premises without the previous permission of the Authority, or

(v) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such premises, or

(vi) failed to vacate the premises required by the Authority for the purpose of implementing any plan or project for the sale of tenements and to accept the alternative accommodation offered by the Authority ;

(b) that any person is in unauthorised occupation of any Authority premises, the Competent Authority may, for reasons to be recorded in writing, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that person, as well as any other person, who may be in occupation of the whole or any part of the premises, to vacate the premises in unauthorised occupation, within 24 hours of the date of service of notice, and in any other case within a period of seven days of the date of such service.

(2) Before an order under sub-section (1) is made against any person, the Competent Authority shall issue, in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause within ten days why an order of eviction should not be made.

The notice shall—

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are or may be in occupation of, or claim interest in, the Authority premises, to show cause against the proposed order, on or before such date as is specified in the notice.

If such persons makes an application to the Competent Authority for the extension of the period specified in the notice, such Authority may grant the same on deposit of one hundred rupees and on such terms as to payment and recovery of the amount claimed in the notice, as such Authority thinks fit.

Any written statement put in by any person and documents produced in pursuance of the notice, shall be filed with the record of the case, and such person shall be entitled to appear before the Competent Authority by advocate, attorney or other legal practitioner.

The notice to be served under this sub-section shall be served in the manner provided for the service of a notice under sub-section (1) ; and thereupon, the notice shall be deemed to have been duly given to all persons concerned.

(3) If any person refuses or fails to comply with an order made under sub-section (1), the Competent Authority may evict that person and any other persons who obstructs him and takes possession of the premises, and may for that purpose use such force as may be necessary.

Power to  
evict certain  
persons from  
Authority  
premises

(4) The Competent Authority may, after giving ten clear days notice to the person from whom possession of the Authority premises has been taken under sub-section (3), and after publishing such notice in the prescribed manner, remove or cause to be removed or disposed of by public auction, any property remaining on such premises. Such notice shall be served in the manner provided for the service of a notice under sub-section (1).

(5) Where the property is sold under sub-section (4) the sale proceeds shall, after deducting the expenses of sale, be paid to such person or persons as may appear to the Competent Authority to be entitled to the same :

Provided that, where the Competent Authority is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he shall refer such dispute to a Civil Court of competent jurisdiction and the decision of the Court thereon shall be final.

(6) If a person, who has been ordered to vacate any premises under sub-clause (i) or (v) of clause (a) of sub-section (1), within seven days of the date of service of the notice, pays to the Authority the rents or compensation or amount in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the Competent Authority, such Authority shall, on such terms, if any (including the payment of any sum by way of damages or compensation for the contravention aforesaid), in lieu of evicting such person under sub-section (3) cancel his order made under sub-section (1) and thereupon, such person shall continue to hold the premises on the same terms on which he held them immediately before such notice was served on him :

Provided that, if a person authorised to occupy the Authority premises fails to pay the arrears of rent, compensation or amount for three times within a period of two consecutive years, he shall be liable to be evicted under the provisions of this section.

*Explanation I.*—For the purpose of this Chapter, the expression 'unauthorised occupation' in relation to any person authorised to occupy any Authority premises includes the continuance of occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has expired or has been duly determined.

*Explanation II.*—For the purpose of this Chapter, the term rent, compensation or amount includes any payment to be made by a person in respect of any premises taken by him from the Authority under hire-purchase agreement and also any penalty <sup>1</sup>[imposed such rate as may be prescribed] for the default in the payment of rent, compensation or amount. The amount of such penalty shall not exceed 10 per cent. of such rent, compensation or amount.

(7) Notwithstanding anything contained in this Chapter including this section, if any person fails to vacate the premises required by the Board for the purpose of demolition of building containing such premises which are unfit for human habitation then, the Board may require the occupants thereof to vacate the premises within 24 hours of the date of service of the notice ; and at the same time allot them alternative accommodation in any building of the Authority at such place as it thinks fit. The accommodation may not be in the same locality or of the same floor area as the premises vacated by the occupiers. If any occupier fails to accept and occupy the alternative accommodation allotted to him within the time specified by the Board the responsibility of the Board to provide him with any alternative accommodation shall cease. Such occupier shall, however, have a right to re-occupy his premises in the building if a building is re-erected on the land on which the demolished building stood.

<sup>1</sup> These words were substituted for the words "which the Competent Authority may levy according to rules" by Mah. 12 of 1989, s. 5.

(8) Where an occupier does not vacate his premises, the Board may take or cause to be taken such steps and use or cause to be used such force as may be reasonably necessary for the purpose of getting the premises vacated.

(9) The decision of the Board under sub-sections (7) and (8) shall be final and conclusive and shall not be called in question in any Court nor any injunction against the order of demolition or vacation of the premises shall be made by any Court.

67. (1) Subject to any rules made by the State Government in this behalf, but without prejudice to the provisions of the last preceding section, where any person is in arrears of rent, compensation or amount payable in respect of any Authority premises, such officers as may be authorised by the Board may by notice served in the manner provided for service of notice under sub-section (1) of section 66 order that person to pay the same within such period, not less than ten days as may be specified in the notice. If such person refuses to pay the arrear of rent, compensation or amount within the time specified in the notice, such arrears may be recovered as arrears of land revenue.

Power to recover rent, compensation, amount or damages as arrears of land revenue.

(2) Where any person is in unauthorised occupation of any Authority premises, the Competent Authority may, in the manner and having regard to the principles of assessment of damages provided for by the rules, assess, such damages on account of the use and occupation of the premises as it may deem fit, and may by notice served in the manner referred to in sub-section (1) order that person to pay the damages, within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue.

(3) No order shall be made under sub-section (2) until after the issue of a notice in writing to the person calling upon him to show cause, within fifteen days, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the Competent Authority.

68. (1) Without prejudice to the provisions of section 66, any person who has been allotted any Authority premises may execute an agreement in favour of his employer providing that the employer shall be competent to deduct from the salary or wages payable to such person such amount as may be specified in the agreement and to pay the amount so deducted to the Authority in satisfaction of the rent compensation or amount due by him in respect of the Authority premises allotted to him.

Rent, compensation or amount to be recovered from deduction from salary or wages in certain cases.

(2) On the execution of such agreement the employer shall, if so required by the authority, by requisition in writing make the deduction of the amount specified in the requisition from the salary or wages of the employee specified in the requisition in accordance with the agreement, and pay the amount so deducted to the Authority as if it were a part of the salary or wages payable by the employer as required under the Payment of Wages Act, 1936 on the day on which the employer makes payment.

69. The Competent Authority shall, for the purpose of holding any inquiry under this Chapter, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely :—

Competent Authority to have powers of Civil Courts.

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

(b) requiring the discovery and production of documents ;

(c) any other matter which may be prescribed.



Appeals.

70. (1) An appeal shall lie from every order of the Competent Authority made in respect of any Authority premises under section 66 or section 67 to an appellate officer whom the State Government may, by a notification in the *Official Gazette*, appoint. The appellate officer shall be a person not below the rank of a Deputy Secretary to Government having judicial experience or experience in the Legal Department of the State or <sup>1</sup>[a person who has for at least ten years held any judicial office,] who shall be specified for the purpose by the State Government in such notification.

(2) The State Government may appoint one or more appellate officers for the whole or that part of the State in which this Act is in force, or for such are a therein as may be specified in the notification.

(3) The period within which an appeal under sub-section (1) may be preferred shall—

(a) in the case of an appeal from an order under section 66 be not later than 30 days from the date of the service of the notice relating to the order under sub-section (1) of that section, and

(b) in the case of an appeal from an order under section 67 be not later than 30 days from the date of the service of the notice relating to the order under sub-section (1) or (2) of that section, as the case may be :

Provided that, the appellate officer may entertain the appeal after the expiry of the said period of 30 days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.]

(4) Where an appeal is preferred from an order of the Competent Authority, the appellate officer may stay the enforcement of that order on payment of deposit of two hundred rupees for such period and on such conditions as he deems fit.

(5) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

(6) The appellate officer may make regulations for regulating the practice and procedure, including the award of costs, the levy of any process fee, filing fee, or copying or translation fees including provision for recovery thereof in the form of court-fee stamps, the right of appearance before him, the place or places of his sitting, the disposal of any proceedings before him notwithstanding that in the course thereof there has been a change in the appellate officer and generally for the effective exercise of his powers and discharge of his functions under this Act.

(7) The regulations made under this section shall be published in the *Official Gazette*.

Bar of  
jurisdiction of  
civil courts:

71. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person from any Authority premises under this Chapter, or the recovery of the arrears of rent, compensation, amount or damages for use and occupation of such premises, or in respect of any order made or to be made or any action taken or to be taken by the Competent Authority or the appellate officer in the exercise of any power conferred by or under this Chapter, or to grant any injunction in respect of such order or action.

Penalty for  
obstructing  
lawful  
exercise of  
powers under  
this Cha. ter.

72. Any person, who obstructs the lawful exercise of any powers conferred by or under this Chapter, shall, on conviction, be punished with fine which may extend to one thousand rupees.

<sup>1</sup> These words were substituted for the words "who has held judicial office not below the rank of District Judge" by Mah. 29 of 1978, s. 2.