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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH  
MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS  
(Law Division)  
NOTIFICATION

No. 147-Pub.—18th February, 1972—The following Order made by the President, on the advice of the Prime Minister, of the People's Republic of Bangladesh on the 17th February, 1972, is hereby published for general information :—

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH  
MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS  
(Law Division)

President's Order No. 13 of 1972.

**THE BANGLADESH (RESTORATION OF EVACUEE PROPERTY)  
ORDER, 1972.**

WHEREAS it is expedient to provide for the restoration of possession of evacuee property in Bangladesh and for matters incidental thereto;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:

1. (1) This Order may be called the Bangladesh (Restoration of Evacuee Property) Order, 1972.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

(4) It shall remain in force up to the 25th day of March, 1973.

2. In this Order, unless there is anything repugnant in the subject or context,—

- (a) "Arbitration Court" means an Arbitration Court constituted under this Order;
- (b) "bargadar" means a person who, under the system generally known as *adhi*, *barga* or *bhag*, cultivates the land of another person on condition of delivering a share of the produce to that person;
- (c) "evacuee" means a person ordinarily resident in Bangladesh, who, on account of the country-wide disturbances, on or after the 25th day of March, 1971 and before the 16th day of December, 1971 left his ordinary place of residence for any place within Bangladesh or left Bangladesh for any other country and includes the legal heirs of such person;
- (d) "evacuee property" means any immovable property of which an evacuee is an owner;
- (e) "Government" means the Government of the People's Republic of Bangladesh;
- (f) "Owner" includes a tenant and a lessee, but does not include a tenant-at-will or a bargadar;
- (g) "specified date" means the 25th day of March, 1971;
- (h) "Thana Magistrate" means a Magistrate appointed for a thana and includes, where there is no such Magistrate, a Subdivisional Magistrate;
- (i) "Tribunal" means a Tribunal constituted under this Order;
- (j) "unauthorised occupation" means occupation without any express permission or authority of the owner;
- (k) "union" means a union within the meaning of the Basic Democracies Order, 1959 (P.O. No. 18 of 1959) and includes a town within the meaning of that Order.

3. (1) The provisions of this Order and any rule made thereunder shall have effect notwithstanding anything contained in any other law for the time being in force.

(2) Except as expressly provided in this Order, the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), the Code of Civil Procedure, 1908 (Act V of 1908), the Arbitration Act, 1940 (Act X of 1940), and any other law regulating the procedure of Courts shall not apply to any Arbitration Court, Thana Magistrate or Tribunal.

4. (1) For the purposes of this Order, there shall be constituted for each union an Arbitration Court consisting of—

- (a) two members to be nominated by the Subdivisional Magistrate—one from amongst the secondary school and college teachers and the other from amongst the primary school teachers:

Provided that where there is no secondary school or college in a union, both the members may be nominated from amongst the primary school teachers and;

- (b) one member to be nominated by the Subdivisional Magistrate from amongst the educated and respectable persons of the union,



(2) The Subdivisional Magistrate shall nominate one of the members mentioned in clause (1) to be the Chairman of the Arbitration Court.

(3) In addition to the members mentioned in clause (1), the Chairman of an Arbitration Court shall, on receipt of an application under clause (1) of Article 7 or clause (1) of Article 8, nominate one member to represent each of the two parties concerned.

(4) A member of an Arbitration Court nominated under clause (1) and a Chairman of such Court shall hold office for such period as the Subdivisional Magistrate may determine.

5. (1) For the purposes of this Order, there shall be constituted for each Subdivision a Tribunal consisting of a Chairman and two members, all to be nominated by the District Judge.

(2) The Chairman shall be nominated from amongst the Additional District Judges and Senior Subordinate Judges and the members shall be nominated from amongst other Subordinate Judges and Munsifs.

(3) A Chairman or a member of a Tribunal shall hold office for such period as the District Judge may determine.

6. A person who is in unauthorised occupation of an evacuee property, which was in actual possession of an evacuee on the specified date, shall deliver possession thereof to the evacuee within seven days of the demand made by the evacuee for such possession.

7. (1) Where a person refuses or fails to deliver possession of any evacuee property within seven days of the demand made under Article 6, the evacuee may file an application to the Arbitration Court, having jurisdiction, praying for being restored to actual possession of the property by evicting the unauthorised occupant.

(2) An application filed under clause (1) shall contain the following particulars :—

(a) the name and address of the applicant;

(b) the name and address of the unauthorised occupant;

(c) full particulars of the property;

(d) the date on which the applicant left his ordinary place of residence or Bangladesh; and

(e) the date on which the applicant demanded the possession of the property.

(3) On receipt of an application under clause (1), the Arbitration Court shall at first ascertain from both the parties whether they agree to Arbitration and thereafter, shall, after such local enquiry as it may think fit and after examining the evidence—oral and documentary—that may be given by both the parties, find out whether the applicant is an evacuee, whether the property was in actual possession of the applicant on the specified date, and whether the property is in unauthorised occupation of the person named in the application.

(4) Where the parties have agreed to Arbitration, the Arbitration Court shall, on the basis of its findings under clause (3), pass an order either allowing the prayer of the applicant or rejecting it; and this order shall be final and binding on both the parties.



(5) Where the parties have not agreed to arbitration, the Arbitration Court shall send its findings under clause (3), along with the record of the case, to the Thana Magistrate, having jurisdiction for such order as he may deem fit.

(6) The Thana Magistrate shall, on a consideration of the findings of the Arbitration Court and other evidence on record and after such further enquiry as he may consider necessary or after hearing both the parties, pass an order in writing either allowing the prayer of the applicant or rejecting it; and this order shall, subject to the provision of clause (7), be final and binding on both the parties.

(7) Any person aggrieved by an order of the Thana Magistrate may, within fourteen days of passing such order, file an appeal to the Tribunal; and the order of the Tribunal on such appeal shall be final and binding on both the parties.

(8) Where the prayer of an applicant for restoration of possession is allowed under clause (4), (6) or (7), the Arbitration Court, in the case of an order passed by it, or the Thana Magistrate, in the case of an order passed by it or by the Tribunal, shall cause the possession of the property concerned to be delivered to the applicant by evicting the unauthorised occupant therefrom and may, for this purpose, cause to be used such force as may be necessary.

8. (1) Any person who has been in possession of any movable property, which was in actual possession of an evacuee on the specified date, without any authority from the evacuee knowing it to be the property, of the evacuee or is found to have, after the specified date, misappropriated such property or unlawfully caused loss or damage to such property by his act shall be liable to pay to the evacuee such compensation as may, on the application of the evacuee, be assessed by the Arbitration Court or the Thana Magistrate.

(2) An evacuee may file an application for assessment of compensation—

- (a) to the Arbitration Court, if the value of the movable property does not exceed two thousand rupees; or
- (b) to the Thana Magistrate, if the value of the movable property exceeds two thousand rupees.

(3) An application under clause (2) shall contain the following particulars—

- (a) the name and address of the applicant;
- (b) the name and address of the person from whom compensation is claimed;
- (c) full particulars of the movable property;
- (d) the date on which the applicant left his ordinary place of residence or Bangladesh;
- (e) the nature and extent of misappropriation, misuses, loss or damage; and
- (f) the amount of compensation claimed.

(4) On receipt of an application under clause (2), the Arbitration Court or the Thana Magistrate, as the case may be, shall, after such local enquiry as it or he may deem fit and after examining the evidence—oral and documentary—that may be given by both the parties, assess the compensation:



Provided that where the Arbitration Court or the Thana Magistrate is of the opinion that the movable property concerned may be restored to the possession of the applicant without any substantial loss to him, the person in unauthorised possession of the property may be ordered to restore the property to the possession of the applicant and, if the said person complies with such order, as compensation shall be payable by him.

(5) Any person aggrieved by an assesment of compensation made or an order passed under clause (4) may, within fourteen days of such assessment or order, prefer an appeal—

(a) to the Thana Magistrate, if the assessment or order is made or passed by the Arbitration Court; or

(b) to the Tribunal, if the assessment or order is made or passed by the Thana Magistrate,

and the decision of the Thana Magistrate or the Tribunal on such appeal shall be final and binding on both the parties.

(6) Any sum assessed as compensation under this Article may be recovered as arrear of land revenue.

(7) Where any action is taken against any person under this Article, he shall not be liable to any other action or penalty to which he may otherwise be liable under any other law.

9. (1) An Arbitration Court or a Tribunal shall hold its sittings at such place or places within its territorial jurisdiction as the Chairman of the Court or Tribunal may fix.

(2) If, in the course of hearing of a case, any one of the members of an Arbitration Court or a Tribunal is, for any reason, unable to attend any sitting thereof, the hearing may continue before the other members.

(3) If, upon any matter requiring the decision of an Arbitration Court or a Tribunal, there is a difference of opinion amongst its members, including the Chairman, the opinion of the majority shall prevail and the decision of the Court or Tribunal shall be expressed in terms of the views of the majority.

(4) The Chairman of an Arbitration Court or a Tribunal may make such administrative arrangements as he considers necessary for the performance of the functions of the Court or Tribunal under this Order.

10. (1) An Arbitration Court, a Thana Magistrate or a Tribunal may issue summons to any person to appear and give evidence, or to produce or cause the production of any document:

Provided that—

(a) no person who is exempt from personal appearance in Court under sub-section (1) of section 133 of the Code of Civil Procedure, 1908 (Act V of 1908) shall be required to appear in person;

(b) an Arbitration Court, a Thana Magistrate or a Tribunal may refuse to summon a witness or to enforce a summons already issued against a witness when, in the opinion of the Court, the Magistrate or the Tribunal the attendance of the witness cannot be procured without such delay, expense or inconvenience as in the circumstances would be unreasonable;



(c) an Arbitration Court, a Thana Magistrate or a Tribunal shall not require any person living beyond its or his jurisdiction to give evidence or to produce or cause the production of a document unless such sum of money is deposited for payment to him as the Court, the Magistrate or the Tribunal would think sufficient for defraying his travelling and other expenses.

(2) If any person to whom an Arbitration Court, a Thana Magistrate or a Tribunal has issued summons to appear and give evidence or to produce or cause the production of any document before it or him wilfully disobeys such summons, the Court, the Magistrate or the Tribunal may take cognizance of such disobedience and, after giving such persons an opportunity to explain, sentence him to a fine not exceeding twenty rupees.

(3) Where a fine imposed by an Arbitration Court or a Tribunal under clause (2) is not immediately paid, the Court or the Tribunal shall report the matter to the Thana Magistrate who shall proceed to recover the fine in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) as if it were a fine imposed by himself.

(4) Where a fine imposed by a Thana Magistrate under clause (2) is not immediately paid, the Magistrate shall recover the fine in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898).

(5) All fines paid or recovered under this Article shall be deposited into the Government Treasury.

11. (1) An evacuee who is restored to actual possession of any property under the provisions of this Order shall have the same right, title and interest in the property as he had therein, and shall hold the property subject to the same terms and conditions under which he held it, on the specified date.

(2) Except as provided in this Order, nothing in this Order shall be construed to confer on any evacuee any right in any property which he does not otherwise possess.

(3) Where a case or suit is filed in a Civil Court in respect of any evacuee property, in computing the period of limitation prescribed therefor by or under any law for the time being in force, the period between the specified date and the date of commencement of this Order shall be excluded.

(4) Nothing in this Order shall in any way affect the right of any person to establish his title to any evacuee property in a competent Civil or, after the evacuee has been restored to possession of such property, to execute any decree or order for possession of the same.

12. All settlements of evacuee properties granted by the Government of East Pakistan or any other authority during the period between the 26th day of March, 1971, and the 16th day of December, 1971, shall be deemed to be null and void and the evacuees concerned shall be entitled to be restored to possession of such properties in accordance with the provisions of this Order.

13. Every Police officer having jurisdiction in the area concerned shall assist the Arbitration Court and the Thana Magistrate or any person authorised by them in this behalf seeking his aid in the lawful exercise of any power conferred upon them under this Order.

14. Except as expressly provided in this Order, no Civil Court including High Court shall call in question any order passed or any action taken under this Order.

15. The Government may, by notification in the official Gazette, make rules to carry into effect the provisions of this Order.

DACCA;  
*The 17th February, 1972.*

A. S. CHOWDHURY  
*President of the  
People's Republic of Bangladesh.*