

ORDINANCE No. II of 1949

An Ordinance further to amend the East Punjab Evacuees' (Administration of Property) Act, 1947, in its application to the Provinces of Delhi and Ajmer-Merwara.

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WHEREAS an emergency has arisen which makes it necessary further to amend the East Punjab Evacuees' (Administration of Property) Act, 1947 (East Punjab Act XIV of 1947), in its application to the Provinces of Delhi and Ajmer-Merwara;

Now, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the East Punjab Evacuees' (Administration of Property) Delhi and Ajmer-Merwara Amendment Ordinance, 1949.

(2) It extends to the Provinces of Delhi and Ajmer-Merwara.

(3) It shall come into force at once.

2. **Interpretation.**—In the application of this Ordinance to the Province of Ajmer-Merwara, all references to the Province of Delhi herein, other than in the long title, preamble and section 1, shall be construed as references to the Province of Ajmer-Merwara.

3. **Amendment of section 2, East Punjab Act XIV of 1947.**—In section 2 of the East Punjab Evacuees' (Administration of Property) Act, 1947, as extended to the Province of Delhi (hereinafter referred to as the said Act),—

(1) for clause (b), the following clause shall be substituted, namely:—

'(b) "evacuee" means any person ordinarily resident in or owning property or carrying on business within the Province of Delhi,—

(i) who, on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances, leaves or has since the 1st day of March, 1947, left the Province of Delhi for a place outside India, or

(ii) who, since the 1st day of March, 1947, has been ordinarily resident in any place now forming part of Pakistan and who for that reason is unable to personally occupy or supervise his property or carry on his business or watch his interests or enforce his rights in the Province of Delhi;';

(2) for clause (e), the following clause shall be substituted, namely:—

'(e) "property" means property of every description and includes—

(i) any right or interest in movable or immovable property,

(ii) any right to remain in possession of any immovable property under any law for the time being in force, notwithstanding that the period of the tenancy in respect thereof has terminated,

(iii) any right or interest in any shop or business establishment or any factory or workshop or undertaking,

(iv) any right or interest in any debt or actionable claim other than a mere right to sue,

but does not include cash deposits in banks.'

4. **Amendment of sections 3 and 8, East Punjab Act XIV of 1947.**—In section 3 and in sub-section (2) of section 8 of the said Act, for the words

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"evacuees' property", wherever they occur, the words "evacuee property" shall be substituted.

5. Amendment of section 4, East Punjab Act XIV of 1947.—To section 4 of the said Act, the following words shall be added, namely:—

"or is otherwise disposed of under this Act".

6. Amendment of section 9, East Punjab Act XIV of 1947.—In clause (a) of sub-section (2) of section 9 of the said Act, after the words "transfer by way of sale or mortgage or lease or otherwise howsoever any property of the evacuee" the words "notwithstanding anything in any law or agreement to the contrary" shall be inserted.

7. Insertion of new section 12A in East Punjab Act XIV of 1947.—After section 12 of the said Act, the following new section shall be inserted, namely:—

"12A. Transfer of management of tenancy rights of evacuees to non-evacuee landlords after creation of new tenancies.—(1) Notwithstanding anything contained in this Act, where the Custodian has under this Act granted a lease in respect of any evacuee property, of or over which he has assumed possession or control and which consists of tenancy rights or other rights of a like nature, he may, in any case where the lessee under whom such property was held immediately before the Custodian assumed possession or control thereof, is not an evacuee, by general or special order, declare that, with effect from such date as may be specified in the order, he shall stand absolved of all responsibilities in respect of the property or the lease granted by him.

(2) On the making of any such declaration as is specified in sub-section (1),—

(i) the lease granted by the Custodian shall be deemed to have effect as against the lessor under whom the property was held immediately before the Custodian assumed possession or control thereof, until it is determined by lapse of time or operation of law; and

(ii) all sums realised by the Custodian in respect of the said lease prior to the date of the declaration specified in sub-section (1) shall less the fees, if any, payable to him, become payable to the lessor against whom the lease now has effect.

(3) Nothing contained in this section shall—

(a) render the Custodian liable to any person for any sum in excess of the sum payable to the lessor under clause (ii) of sub-section (2); or

(b) prejudice any rights to which the lessor or the lessee, consistently with the terms and conditions, if any, of the lease granted by the Custodian, may be entitled under any other law for the time being in force."

8. Validation of action taken prior to commencement of Ordinance.—Anything done or any action taken by the Custodian before the commencement of this Ordinance which would have been valid if this Ordinance had been in force when such thing was done or action taken, shall be deemed to be valid for all purposes as if such thing was done or action taken in the exercise of the powers conferred by this Ordinance.

C. RAJAGOPALACHARI
Governor-General.