

PUNJAB REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY ACT, 1953

420 Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 The Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 Punjab Act No. 11 of 1953 Contents Section 1. Short title, extent and duration

2. Definitions

3. Power to requisition of immovable property

4. Power to take possession of requisitioned property

5. Right over requisitioned property

6. Release from requisitioning. 6-A. Application for release from requisitioning. 6-8. Further application for release from requisitioning. 9. Power to acquire requisitioned property

8. Principles and methods of determining compensation

9. Payment of compensation

10. Appeals from orders of requisitioning. 10-A. Appeals from order of competent authority rejecting application for release from requisitioning. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21

22. Appeals from awards in respect of compensation. Competent authority and arbitrator to have certain powers of Civil Courts. Power to obtain information. Power to enter and inspect. Service of notices and orders. Easement not to be disturbed. Delegation of powers. Protection of action taken in good faith. Bar of jurisdiction of Civil Courts. Penalty for offences. Certain persons to be public servants. Power to make rules. 23. Validation of certain requisitioning and acquisitions

24. Power to recover rent or damages in respect of requisitioned property as arrears of land revenue

25. Repeals and savings. Received the assent of the President on the 15th April, 1953; and was published in the Punjab Government Gazette, Extraordinary, of the 15th April, 1953. 2. 4. 5

6. Legislative History Amended in part by Punjab Act 24 of 1954 Extended to the territories which immediately before the 1st November

1956. Were comprised in the Patiala and East Punjab State Union by Punjab Act NO. 5 of 1957 Amended in part Act No. 5 of 1958 Amended in part by Punjab Act No. 29 of 1962 Amended by Punjab Act 7 of 1968— Amended by the Punjab Adaptation of Laws (State and Concurrent Subjects) Order

1968. Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 7. Amended by the Adaptation of Punjab Laws Order. 1970

8. Amended by Punjab Act No. 13 of 1973 421 An Act to provide for the requisitioning and acquisition of immovable property for the purposes of the State. It is hereby enacted as follows :- I. Short title, extent and duration.- (1) This Act may be called the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953. (2) It extends to the whole of the State of Punjab. NOTE Statement of objects and reasons - The East Punjab Requisitioning of Immovable Property (Temporary Powers) Act, 1948, was amended by the President's Act 1 of 1951, as the High Court had held the 1948 Act to be void

2. The President's Amending Act expires on the 17th April, 1953. Therefore the opportunity is taken to replace the entire enactment on the lines of the Central Act, namely, the Requisitioning and Acquisition of Immovable Property Act, 1952.] Lifespan of the legislation. - The Act was first enacted in 1953 and came into force on April 15, 1953. Its original life was for five years. Subsequently, by Punjab Act 5 of 1958, the period of five years mentioned in sub-section (3) of section I was replaced by a period of ten years. Again, by Punjab Act 29 of 1962, the word 'ten' in the aforesaid sub-section (3) of section I, was substituted by the word 'fifteen'. After the reorganisation of the Punjab State, the life of this Act as applicable to the State of Haryana, has been extended up to the middle of April, 1973, the word 'fifteen' in the aforesaid sub-section (3) being substituted by the word 'twenty'. Scheme of the act.- The Preamble of the Act says : "An Act to provide for the requisitioning and acquisition of immovable property for the purpose of the State." Section 2 gives definitions of various terms. It defines 'property' as immovable property of every kind, including any rights in or over such property. Section 5 Indicates the rights which the State will have over the requisitioned property, and the purpose for which it shall be used. Section 6 speaks of release of the

property from requisitioning. Section 6-A gives a right to the owner or any person interested in the requisitioned property to apply to the competent authority to release it from requisition after a period of two years from the date of its requisitioning. Section 7 gives the State Government the power to acquire the property subject to requisition for a public purpose in the manner laid down in that section, after giving the parties due opportunity. Sub-section (3) of that section is material. Sub-section (4) says that any decision or determination of the State Government under sub-section (3) shall be final. Sub-section (1) and (2) of section 8 lay down the principles and methods of determining compensation for any property requisitioned or acquired under this Act. While sub-section (4) provides how the compensation for acquisition of any property under section 7, in the absence of any agreement, shall be assessed. It says that such compensation shall be the price which the requisitioned property would have fetched in the open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, or twice the price which the requisitioned property would have fetched in the open market if it had been sold on the date of requisition, whichever is less. Sub-section (5) says that an Arbitrator would be appointed by the State Government for assessing the compensation. Sub-section (3) omitted by Punjab Act 13 of 1973. section 2

2. Punjab Government Gazette Extraordinary dated 13 March 1953

3. Ram Chander V. State of Haryana; 1970 Cur-J 422 Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 Section 1 maps provision for appeal to the High Court from the award of the Arbitrator by the aggrieved party. Object and Scope. From the preamble, the scheme and the various provisions of the Act, deduced above, it is clear that the first and the foremost object of this enactment is to requisition the property for a public purpose of the State. The first step which can be taken under this Act is given in section 3(1). It is significant to note that acquisition of any property as such does not figure anywhere in sections, 3, 4, 5, 6, 6-A and 6-B. It is only that following section 7, which first speaks of acquisition of property which is subject to requisition. From the scheme and context of the Act, it is abundantly clear that the words 'requisitioning' and 'acquisition' used in this Act carry two distinct and different connotations. The word 'requisition' has not been defined anywhere in the Act. We have, therefore, to fall back upon its ordinary meaning in contradistinction to 'acquisition' consistent with the scheme and the context in which the term has been used in the various provisions of the Act. Webster's Dictionary, Second Edition, gives the following meaning of the word 'requisition': "To make a requisition or authoritative demand for, especially for military purpose; to put in requisition; hence to demand; to press into service; as requisition horses for troops to make a requisition or demand upon a town." The term 'requisition', however, was used in a somewhat special sense in England in Regulation 100 made under the Emergency Powers in 1920. It was stated there that 'requisition' means, in relation to any property "take possession of the property or require the property to be placed at the disposal of the requisitioning authority". Compensation for requisitioned land or other property was authorised by Compensation (Defence) Act, 1939. In that Act also, the same definition of the term 'requisition' was given. Since the Act envisages restoration of the requisitioned property, it seems that in the scheme and context of the Act, the term "requisition" has been used in the sense of taking possession and control of the property of the citizen without divesting him of his title to the land, for a limited period, a purpose of the public and the State. In requisitioning property, the intention of the competent authority concerned is to cause only temporary deprivation of the property of the owner for subserving the paramount purposes of the State in the interest of the public, while in a compulsory acquisition the owner is expropriated permanently for all time! From what has been said above, it is clear that if the purpose for which the land is being acquired is a permanent purpose and the intention of the authorities concerned from its very inception is to expropriate the owner for good, it is not proper to resort to the requisitioning provisions of this act. In such a case, recourse should be had to the normal procedure of acquiring property laid down in the Land Acquisition Act, 1894, or any other special or local law for that purpose. 2

2. Definitions.- In this Act, unless the context otherwise requires, - (a) "award" means any award of an arbitrator made under section 8; (b) "competent authority" means any person or authority authorised by the State Government, by notification in the official Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification; (c) "landlord" means any person who for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account, or on account or on behalf or for the benefit, of any other person or as a trustee, guardian

or receiver' for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant, (d) the expression "person interested" in relation to any property, includes all persons claiming or entitled to claim an interest in the compensation payable on account of the requisitioning or acquisition of the property under this Act; (e) "premises" means any building or part of a building and includes - (i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building; (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof; (f) "prescribed" means prescribed by rules made under this Act; (g) "property" means immovable property of every kind and includes any rights in or over such property; (h) "tenant" means any person by whom or on whose account rent is payable for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force. Definition.- Definition is explicit statement of the full connotation of a term. According to well established principles of interpretation of statute even a definition clause is always subject to context in which the word is used. If the context so requires, a word may be given meaning not covered by the definition clause. Public Purpose and state purpose. - Clause (c) of sub-section (2) of section 17 gives still wider powers to the State Government to acquire land for a public purpose of urgent importance. It has been held by a Full Bench of this Court in the *Printers House Private Ltd v. Misri Lal and others*, 1969 CurLJ 94 that clause (c) is not to be interpreted ejusdem generis to clause (a) and (b). The expressions 'state purpose' and 'public purpose' do not admit of any precise definition. All that may be said is that a 'public purpose' (which is also a 'state purpose') is one in which the public and the State are directly and vitally interested." Three hundred acres is a large area. Obviously, it must be in the ownership of a large number of persons. Prima facie therefore, it cannot be said that the drain is being constructed only to benefit a few individuals. "Context otherwise requires." - Definition given in the Act is normally to be taken to apply whenever that word occurs in the statute. The definition, however, will not apply if the word appears in a subject or context which makes the application of the definition impossible and repugnant to the meaning of the context in which the word is found. When the expression "context otherwise requires" is used with reference to any provision of the Act and it results in absurdity, then the definition given cannot be used and has to be discarded and then ordinary meaning assigned to it is to be used and not that the definition is to be expanded to mean something different which legislature itself did not contemplate. Words not defined in Act but used in Act. - When a word or expression used in a statute is not defined, it should as far as possible be so interpreted as to be consistent with the scheme of the statute. Where a statute defines an expression or a word used in the statute, that definition must pre-empt but otherwise reference must be made to general concept of the object. When a word is vital: *Punjab Land Development and Reclamation Corporation v. Presiding Officer*, 1990(3) SCC 682

2. *Bharat steel Tubes v. State of Haryana*. 1977 AIR 289 (P&H) (FB). *Ram Chander v. State of Haryana*. 1970 Curw 3. *Ram Bandhu v. Brahmanand*. AIR 1950 C 524 : 54 CWN 586. *Des Raj Sant Ram v. Karam Chand*, 4. 1962 PLR 758 (FB). *Rohit Talwar v. Municipal Corporation of Delhi*. 1993(1) RRR 647. *S. Joseph D. Silva v. E.* AIR 1947 1947 B. 310 : 49 BLR 6 : 229 IC 178 : 48 crw 305 (FB)

6. *Mahim Chandra Ghatak v. Dingamanik Union Board*. AIR 1947 Calcutta 41 : 81 CLJ 243 : 226 IC 188 7. 50 CWN 778. 424 Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 capable of being construed either in its popular sense or as a word of art it is for those who that it is used in a technical and not in a popular sense to establish the fact. Means. - When a statute says that a word or phrase shall 'mean' - not merely that it shall 'include', - certain things or acts. 'the definition is a hard-and-fast definition, and no other meaning can be assigned to the expression than is put down in definition'

3. Power to requisition of immovable property.- (I) Where the competent authority is of opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the State, and that the property should be requisitioned, the competent authority - (a)- shall call upon the owner or any other person who may be in possession of the property by notice in writing (specifying therein the purpose of the requisition) to show cause, Within fifteen days of the date of the service of such notice on him, why the property should not be requisitioned, and (b) may, by order, direct that neither the owner of the property nor any other person shall, without permission of the competent authority dispose of, or structurally alter, the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be

specified in the order. (2) If after considering the cause, if any, shown by any person interested in the property, or in possession thereof, the competent authority is satisfied that it is necessary or expedient so to do, it may, by order in writing, requisition the property and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning; Provided that no property or part thereof - (a) which is bonafide used by the owner thereof as the residence of himself or his family; or (b) which is exclusively used either for religious worship by the public or as a school, hospital, public library or an orphanage or for the purpose of accommodation of persons connected with the management of such place of worship or such school, hospital, library or orphanage, shall be requisitioned Provided further that where the requisitioned property consists of premises which are being used as a residence by a tenant for not less than two months immediately preceding the date of the service of notice under sub-section (1), possession of the property shall not be taken unless the competent authority has provided such tenant with alternative accommodation which, in its opinion is suitable. NOTES Property requisitioned for a specific purpose — Not so used for the said purpose — Order quashed. Held that the property was never used for the purpose and was allowed to be occupied by the Society. The order was illegal, ultra vires and mala fide and was liable to be quashed—*Amrits Central Co-operative Store Ltd. v. Dr. Ram Kishan, Jlehra*. AIR 1973 Punjab 342 (DB). Mentioning of purpose of requisition in notice is mandatory. Held that from the reading of Sections 3 and 5 of the Punjab Requisitioning and Acquisition of Immovable Property Act 1953' *I. Maqbool Alam Khan v. Mt. Khodija Begum*. AIR 1949 P. wherein *Sharp v. Dawes*, 1876' 2 QBD 26 : 46 LJQB 104 : *Nuth v. Tampi* inc. 1881.8 QBA 247 : 51 LJQB 177. *Inland Revenue Commissioner v. Gribble*. 1913.3 KB 212 : 821-JKB 900

2. Punjab Land Development and Reclamation Corp. Ltd. v. Presiding Officer. (1990) 3 SCC 682.71.1 • Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 425 it is clear that the mentioning of the purpose of the requisition in the notice is a mandatory requirement and if the purpose is not mentioned, then the notice is illegal with the result that any requisition made in pursuance of that notice too cannot legally be held as valid. *Narinder Singh v. The State of Punjab and others*. 1972 PW 31 : 1972 RLR 276 (P&H). Words 'Requisition' and 'Acquisition' — Meaning and distinction. Held that the term "requisition" has been used in the sense of taking possession and Control of the property of the citizen without divesting him of his title to the land, for a limited period, a purpose of the public, and the State. In requisitioning property, the intention of the competent authority concerned is to cause only temporary deprivation of the property of the owner for subserving the paramount purposes of the State in the interest of the public, while in compulsory acquisition the owner is expropriated permanently for all time. *Ram Chander v. The State of Haryana*. 1970 Cur. LJ. 284 (P&H). Enquiry under — Enquiry is to be made by Competent Authority and not by Court. Held that the enquiry contemplated in Section 3 of the Act as to whether the house in question is being bona fide used by the owner as the residence of himself or his family is to be undertaken by the Competent Authority constituted under the Act and not by or under supervision of a Court. *State v. Harbhajan Singh*. 1957 PLR21 : ILR 1957 Punjab 409. Notice of requisition — Notice not served on owner personally — Requisition invalid. Held that requisitioning of property is a very serious matter for the owner. The notice should be served on him. An employee cannot be considered to be an officer of the person whose property has been requisitioned. Hence a notice served on the employee when it is not proved that the owner could not be served personally, is not sufficient. Held therefore, that the requisition must be deemed to be invalid because in the absence of the service of the notice the landlord could not show cause against the proposed requisition. *Sohan Lal v. The Punjab State*, AIR 1957 Punjab 34

4. Power to take possession of requisitioned property. (1) Where any property has been requisitioned under section 3, the competent authority may, by notice in writing, order the owner as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within thirty days of the service of the (2) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the property and may, for that purpose, use such force as may be necessary

5. Right over requisitioned property.— (1) All property requisitioned under section 3, shall be used for such purposes, as may be mentioned in the notice of requisition. (2) Where any premises are requisitioned under section 3, the competent authority may order the landlord to execute such repairs as may be

necessary and are usually made by landlords in that locality and as may be specified in the notice, within such reasonable time as may be mentioned therein and if the landlord fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery be deducted from the compensation payable to the Landlord. 4/ NOTLS Notice requisitioning property — Purpose to be mentioned — Purpose for requisition ceasing to exist — Property must be derequisitioned. Held that Section 5(I) shows that the State is permitted to use requisitioned premises only for the purpose mentioned in the notice of requisition. Where the purpose mentioned in the notice was to provide residential accommodation to a particular Government Officer, and no other purpose whatever was mentioned in the notice, the allotment Of the house or any part thereof to any the officer of the Government was ultra vires Section 1) 426 Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 of the Act. Held further that the proviso to sub-section (I) of section 6 of the Act enjoins upon the state of statutory duty to release as soon as may be after the purpose for which it was requisitioned, has ceased to exist. Action of the Government in not releasing the premises from requisition according to mandatory requirements of the section was illegal and high handed. MeÛ Singh v. Punjab, 1968 PLRSN. 25 (DB). Mentioning of purpose of requisition in notice is mandatory. Held that from the reading of Sections 3 and 5 of the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 it is clear that the mentioning of the requisition in the notice is a mandatory requirement and if the purpose is; not mentioned, then the notice is illegal with the result that any requisition made in pursuance of that notice too cannot legally be held as valid. Narinder Singh v. The state of Punjab and others, 1972 PW 31 : 1972 RLR 276 (P&H)

6. Release from requisitioning.- (1) The competent authority may at any time release from requisition any property requisitioned under this Act and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the change caused by reasonable wear and tear and irresistible force: Provided that where the purposes for which any requisitioned property was being used cease to exist, the competent authority shall, unless property is acquired under section 7, release that property, as soon as may be from requisition. 1 [(1-A) Notwithstanding anything contained in sub-section (1) State Government shall release from requisition, - (a) any property requisitioned or deemed to be requisitioned under this Act before the commencement of the Punjab Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1973, on or before the expiry of a period of five years from such commencement, (b) any property requisitioned under this Act after such commencement, on or before the expiry of a period of five years from the date on which possession of such property was surrendered or delivered to or taken by the competent authority' under section 4, unless such property is acquired under section 7 within the period of 5 years aforesaid] (2) Where any property is to be released from requisition, [under sub-section (1) or sub-section (1-A)] the competent authority may, after such inquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken a) the time of the requisition or to the successors-in-interest of such person (3) The delivery of possession of, the property to the person specified in an order under sub-section (2) shall be a full discharge of the State Government from all liability in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled to by due process of law to enforce against the person to whom possession of the property is given. (4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery 1. Sub-section (1A) inserted by Punjab Act 13 of 1973. section 3

2. Certain words inserted by Punjab Act 13 of 1973. section 3.' Punjab Requisitioning and Acquisition of Immovable Property Act. 1953 427 his behalf, the competent authority shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and shall also publish the notice in the official Gazette. (5) When a notice referred to in sub-section (4) is published in the official Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the State Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date. (6) Where any property

requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of any army or of a mob or other irresistible force, the requisition shall, at the option of the State Government, be void. • Provided that the benefit of this sub-section shall not be available to the State Government where the injury to such property is caused by any wrongful act or default of that Government.

NOTES Acquisition and requisitioning of property — If the property is requisitioned as not more • required for the purpose it was acquired, the government is bound to restore back the vacant possession of the land to the owners and pay compensation for the period the landowner was deprived of its use and occupation — Government cannot take a plea that if the provisions of law are enforced it will create law and order problem — If so done it will completely shatter the faith of citizens — None can be deprived of his property without any authority of law — Government directed to hand over the vacant possession or to pay compensation in lieu of the land within stipulated period deeming it to be acquired and appoint an arbitrator to assess the compensation for use and occupation of the land for the interregnum.

Imdad Bahmi Khan v. State of Punjab 1994(1) RRR Section 6(2) relates to release of property requisitioned and not release of acquired property. Held that Section 2) does not apply to property acquired for the public purpose.

Amrao Singh v. Sanatan Dharam Sabha. 1984 PW 542 1985(1) LLR 136 (POI). [6-A. Application for release from requisitioning. - (1) A period of two years from the date of requisitioning of any property, the owner or any person interested in such property, may apply to the competent authority to release it from requisition: Provided that such application may be made before the expiry of two years from the date of requisitioning of the property, if there have arisen circumstances which the owner or any person interested in the property could not have urged when given an opportunity to show cause under clause (a) of sub-section (1) of section 3. (2) On receipt of an application under sub-section (1) the competent authority may, after calling for such information as may be found necessary from the owner or any person interested in the property or making such further inquiry as it may consider necessary, pass such orders as it deems fit.

1. Section 6-A and 6-B added by Punjab Act 24 of 1954. section 2. 428 Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 6-B. Further application for release from requisitioning. - After the application for release from requisition made under section 6-A has been rejected by the competent authority and the appeal filed before the State Government under section 10-A has also been rejected, no further application for the release from requisition of property in question will be entertained by the competent authority till the expiry of a further period of two years: Provided that another application may be made by the owner or any person interested in the property within two years of rejection of the first appeal if any further circumstances have arisen which he could not have urged in his previous application]

7. Power to acquire requisitioned property. - (1) Where any property is subject to requisition the State Government may, if it is of opinion that it is necessary to acquire the property for a public purpose, at any time acquire such property by publishing in the official Gazette a notice to the effect that the State Government has decided to acquire the property in pursuance of this section. Provided that before issuing such notice the State Government shall call upon the owner of, or any other person who, in the opinion of the State Government may be interested in, such property to show cause why the property should not be acquired; and after considering the cause, if any, shown by any person interested in the property and after giving the parties an opportunity of being heard, the State Government may pass such orders as it deems fit. (2) When a notice as aforesaid is published in the official Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the State Government free from all encumbrances and the period of requisition of such property shall end. (3) No property shall be acquired under this section except in the following circumstances, namely: - (a) where any works the period of requisition, been constructed on, in or over, the property wholly or partially at the expense of the State Government and the Government decides that the value of, or the right to use; such works should be secured or preserved for the purposes of Government; or (b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the State Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property. (4) Any decision or determination of the State Government under sub-section (3) shall be final and shall not be called in question in any court. (5) For the purposes of clause (a), of sub-section (3) "works" includes buildings, structures and improvements of every description. Acquisition of land — Determination of

compensation — Dispute between parties with regard to actual existence of assets on land — Dispute to be settled by an impartial authority entrusted to an Arbitrator under the Act — Petitioners claimed assets besides those for which reference was made — Details of assets furnished — Acquisition authority to make reference in respect of entire claim — can go into evidence and determine question of existence of assets and then proceed to award compensation — Action of Authority in not referring entire dispute to the Arbitrator was illegal. *Bhag Singh v. The Union of India* 1992(1) RRR 49 : 1992 PIJ Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 429 compensation. Held that besides compensation a claimant is entitled to get 15 per cent solatium and 6 per cent interest per annum on the amount of compensation allowed to the claimant, under Section 8(4) of the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953. *State of Punjab v. Lila wan.* 1981 RLR 59 : 1981 CLJ 95 : 1981 PLR 138 (P&H). , Acquisition of land — Determination of compensation — Dispute, between parties with regard to actual existence of assets on land — Dispute to be settled by an impartial authority entrusted to an Arbitrator under the Act — Petitioners claimed assets besides those for which reference was made — Details of assets furnished — Acquisition authority to make reference in respect of entire claim — can go into evidence and determine question of existence of assets and then proceed to award compensation — Action of Authority in not referring entire dispute to the Arbitrator was illegal. *Bhag Singh v. The Union of India* 1992(1) RRR 449(P&H) Words 'Requisition' and 'Acquisition' — Meaning and distinction. Held that the term "requisition" has been used in the sense of taking possession and control of the property of the citizen without divesting him of his title to the land, for a limited of the public, and the State. In requisitioning property, the intention of the competent authority concerned is to cause only temporary deprivation of the property of the owner for subserving the paramount purposes of the State in the interest of the public, while in a compulsory acquisition the owner is expropriated permanently for all time. *Ram Chand v. The State of Haryana*, 1970 C.ur. W. 284 (P&H). 8.' Principles and methods of determining compensation. - (1) Where any property is requisitioned or acquired under this Act there shall be given compensation which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say :- (a) where the compensation can be fixed by agreement, it shall be given in accordance with such agreement; (b) where no such agreement can be reached; the State Government shall appoint as arbitrator a person, who is, or has been, or is qualified for appointments as a Judge of a High Court; (c) the State Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose; (d) at the commencement of the proceedings before the arbitrator, the State Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation; (e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specify the person or persons to whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and the provisions of subsections (2) and (3), so far as they are applicable. (O) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons; (g) nothing in the Arbitration Act, 1940, shall apply to arbitrations under this section. (2) The compensation for the requisitioning of any property shall consist of- (a) a recurring payment, in respect of the period of requisition of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period; and (b) such sum, or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely

430. Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 (i) pecuniary loss due to requisitioning; (ii) expenses on account of vacating the requisitioned premises; (iii) expenses on account of re-occupying the premises upon release from requisition; and (iv) damages (other than normal wear and tear) caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition. (3) Where any property is acquired in connection with the new Capital of the State of Punjab [as that Capital and State existed immediately before the 1st November, 1966] compensation may be paid, whether by agreement or by award of the arbitrator, either in money or in kind

or partly in money and partly in kind, and where there is no person competent to alienate the property or there is a person with limited interest in such property or there is any dispute as to the persons entitled to receive the compensation or as to the apportionment thereof, the arbitrator shall make an award in such manner or make an arrangement in such a way as may be equitable having regard to the interests of the persons concerned. (4) The compensation for the acquisition of any property under section 7, in the absence of an agreement shall be - (a) the price which the requisitioned property would have fetched in the open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, or (b) twice the price which the requisitioned property would have fetched in the open market if it had been sold on the date of requisition, whichever is less. (5) Where there are several persons interested in the compensation, it shall be lawful for the State Government, either on its own motion, or on an application from any person interested to appoint the same or any other arbitrator to make an award or supplementary award in respect of the dispute. NOTES Scope — Compensation — Arbitration. Held that as soon as it is evident that quantum of compensation could not be agreed upon, the competent authority was bound to refer it to arbitration by a person eligible for appointment as a High Court Judge. *Dr. Ram Kishan Mehra v. Union of India*, AIR 1972 Punjab 433. Determination of market price Land sold at Rs. 2006/- per kanal — Land acquired situated at a distance of 250 karmas — Arbitrator applying 2/3 cut in the sale price — Held that distance of 250 karmas does not make much difference — One-third cut in the sale price found to be reasonable — Claimants entitled to solatium and interest as provided by Land Acquisition Act. *Kishan Singh v. Union of India*, 1988(1) RRR 514 : 1991 PW Enhancement of compensation and ancillary reliefs — Land acquired under Section 7 of the Act and compensation fixed by the arbitrator — Appeal by Union for reduction of compensation — Cross objection by respondents for enhancement — Compensation enhanced to Rs. 150/- per marla and solatium enhanced to 30% of entire compensation — Interest @ 9% also awarded from the date of taking possession till expiry of one year and @ for the subsequent period. *Union of India v. Manga Singh*, 1987 RRR 348 (P&H). Requisitioning of residential accommodation — For determination of compensation fair 1. Issued by the Punjab Adaptation of Laws (State and concurrent Subjects) Order

1968. Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 431 rent not the only basis for. Held that an arbitrator can take into consideration, apart from the factors mentioned in the other circumstances of the case before arriving at the figure of compensation which appears to him to be just for requisitioned property. *Ravi Kanta v. The Punjab State*, : ILR (1964) 2 Punjab 311 : 1964 PLR (DB). Compensation for requisitioned house Fair rent fixed under Rent Restriction Laws is mere piece of evidence. Held that the fair rent fixed by a Rent Controller under the Rent Restriction Laws is no more than a piece of relevant evidence to be considered along with other material in reaching a decision on the question of compensation to which a claimant whose property is requisitioned is entitled. Note — *Union of India v. Roshan Lal Gupta*, 1960 PLR 812 FB Followed. *Lajwanti v. The Punjab State*, 1964 PLR 187 (Punjab). Enquiry by the Arbitrator — Objection as to jurisdiction — Objection as to jurisdiction cannot be raised before the Arbitrator for the first time by the claimant after the proceedings are remitted to him by the High Court for the limited purpose of re-assessing the award. Held that the scope of an Arbitrator's enquiry under the Punjab Requisitioning and Acquisition of Immovable Property Act cannot be extended to permit him to investigate into the matter whether the object of acquisition was in fact a of the State. Section 8 of the Act sets out in meticulous details what an arbitrator is required to determine under the Act. *The State of Punjab v. Bakshi Ram*, 1963 PLR 555 (Punjab). Award made under is not a decree Court Fees Act (VII of 1870) Schedule 11, Article 11. Held that the award made by an Arbitrator appointed under the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953, is not a decree nor an order having the force of a decree within the words used in Article 11 of Schedule 11 of the Court Fees Act, 1870. *Kanwar Jagat Bahadur Singh v. The Punjab State*. 1956 PLR : A/R 1957 Punjab 92: ILR 1957 Punjab 142 - (Punjab) (DB). Compensation by agreement — Meaning — Offer of compensation made by Competent Authority accepted by owner without demur is agreement within Section 8(1)(a). Held that an agreement conceived by Section 8 not an agreement between owner and the person or Department for whom property requisitioned or who has to foot the bill. Compensation fixed by Competent Authority and agreed to by owner is binding as compensation assessed. Department or the person for whom building requisition is not a necessary party to the agreement and it is not correct that compensation fixed not payable till agreed to by Department or the person who gets to occupy and use the property requisitioned

and has to foot the bill. *Ku/ Bhushan Chandhok v. The District Magistrate, Julundur*. 1983 PW 90: 1983 RLR 196 : 1983(1) LLR 493 Appointment of arbitrator — Senior Sub Judge by office — Original notification would cover the case of succeeding holders of office. Held that a notification issued by the State Government appointing the Senior Sub Judge of a place an Arbitrator under Section (2) does not make the appointment of the office of the Senior Sub-Judge as the arbitrator but makes the appointment of the holder of that office, natural person the arbitrator in the matter under the said provision. Such an appointment of a natural person is obviously a valid notification within the meaning and scope of Section 8 of the Act. It was not necessary for the State Government to issue a notification separately each time Senior Subordinate Judge was transferred from the place concerned and was replaced by another judicial officer, for that would have been a mere idle formality. The transfer of one judicial officer and taking over his place by another judicial officer as Senior Subordinate Judge, but duly qualified to be appointed a judge of the High Court, does not require the reissuing of the same notification in the name of the replacing officer. *DS. Grewal v. Punjab State* 1970 PLR 648 : ILR (1972) 1 Punjab 248 : AIR 1971 Punjab 205 : 1970 RCR 1016 (Punjab) (DB). Compensation Time gap in acquisition — 'Compensation and market Value of the acquired land assessed on the basis of earlier acquisition — Later acquisition made after the gap of 3 months — Proper consideration has to be given to the price rise during the intervening period. *Varan Singh v. Union of India* 1993(2) RRR Assessment of Fair Rent of premises. Held that fair rent assessed under East Punjab urban Rent Restriction Act is relevant piece of evidence and would not form the sole basis. *Ravi Kantav. The Punjab State*. ILR (1964/2 Punjab 311 : 1964 PLR 919 (Punjab) (DB). Pecuniary loss due to requisitioning. Held that the 'pecuniary loss due to requisitioning' evidently envisages a loss which is directly due to the act of requisitioning and not a loss which may be due to the tortious act of a public officer in throwing away the goods lying in the requisitioned premises and not taking care of the same. *Gujjm: Alal Punjab State*, 1959 PLR 322 : ILR 1939 Punjab 233.. Scope — Claimant entitled to highest value, prevailing in market at relevant time. Held that a claimant is entitled to the market value of the land acquired by the Government, on the basis of sale-deeds fetching the highest value, prevailing in the market, at the relevant time. *State of Punjab v. Lila wan*. 1981 RLR 59 : 1981 CLJ 195 : 1981 PLR 138 (P&H). Section 8(4) Clause (b) — of Section 8(4) of the Punjab Requisitioning and Acquisition of Immovable Property Act is ultra vires. *Gandharav Sain v. Punjab State*, 1973. PLJ 23 (P&H) (DB)

9. Payment of compensation.— The amount of compensation under an award shall, subject to any rules made under this Act, be paid or given by the competent authority to the person or persons entitled thereto in such manner and within such time as may be specified in the award

10. Appeals from orders of requisitioning.— (1) Any person aggrieved by an order of requisition made by the competent authority under sub-section (2) of section 3 may, within twenty-one days from the date of service of the order, prefer an appeal to the State Government : Provided that the State Government may entertain the appeal after the expiry of the said period of twenty-one days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. (2) On receipt of an appeal under sub-section (1), the State Government may, after calling for report from the competent authority and giving an opportunity to the parties of being heard and after making such further inquiry, if any, as maybe necessary, pass such orders as it thinks fit and the orders of the State Government shall be final. (3) Where an appeal is preferred under sub-section (1), the State Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit. [IO-A. Appeals from order of competent authority rejecting application for release from requisitioning. - (1) Any person aggrieved by an order made by the , competent authority under sections 4A and 6-B may, within twenty-one days from the date of service of the order,' prefer an appeal to the State Government : Provided that the State Government may entertain the appeal after the expiry of the said period of twenty-one days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. (2) On receipt of an appeal under sub-section (1) the State Government may, after calling for a report from the competent authority and after making such further inquiry as it may consider necessary, pass such orders as it deems fit and the orders of the State Government shall be final.] 11. Appeals from awards in respect of compensation. - Any person aggrieved by an award of the arbitrator made under section 8 may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the requisitioned or acquired property is situate : Provided that the High Court may entertain the appeal after

the expiry of the said period - I. section 10-A added by Punjab Act 24 of 1954. section 3. Punjab Requisitioning and Acquisition of Immovable Property Act. '53 433 period of thirty days. if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. NOTES Appeal filed by Government in High Court under Section 11 — Cross-objections by claimant-respondent. Held that cross-objections filed under Order 41, Rule 22, Civil Procedure Code by the claimant-respondent in an appeal filed in the High Court by the Government under Section 11 of the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953, are maintainable. *State of Punjab v. Lila wan*, 1981 RLR 59 : 1981 CLJ 195 : 1981 PLR 138 (P&H). Appeal — Court-fee whether leviable. The amount of court-fee payable on a memorandum of appeal filed under Section 11 of the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953, is governed by Article I of Schedule I of the Court Fees Act. *Kanwar Jagat Bahadur Singh v. The Punjab State*, 1956 PLR 471 : AIR 1957 Punjab 32 : ILR 1957 Punjab 2

12. Competent authority and arbitrator to have certain powers of Civil Courts.- The competent authority and the arbitrator appointed under section 8 while holding an inquiry or as the case may be, arbitration proceedings under this Act, shall have all powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely :- (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of any document; (c) reception of evidence on affidavits; (d) requisitioning any public record from any court or office; (e) issuing commissions for examination of witnesses

13. Power to obtain information.- The State Government or the competent authority may, with a view to carrying out the purposes of section 3 or section 6, or section 7, or section 8, by order require any person to furnish to such officer, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired, under this Act

14. Power to enter and inspect.- The competent authority or any officer, empowered in this behalf by such authority by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner an order under this Act should be made in relation to such property or with a view to securing compliance with an order made under this Act

15. Service of notice and orders.- (1) Subject to the provisions of this section and any rules that may be made under this Act, every notice or order issued or made under this Act, shall - (a) in the case of any notice or order of a general nature or affecting a class of persons be published in the official Gazette; and (b) in the case of any notice or order affecting an individual corporation or firm, be served in the manner provided for the service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX as the case may be, in the First Schedule of the Code of Civil Procedure, 1908; and (c) in the case of any notice or order affecting an individual person (not being a corporation or firm) be served on such person 434 Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 (i) by delivering or tendering it to that person; or (ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door on some conspicuous part on the premises in which that person is known to have last resided or by these means; (iii) by post. (2) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the official Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates

16. Easement not to be disturbed.- No person interested in any property requisitioned or acquired under this Act shall, without the previous written consent of the competent authority or except for the purposes of effecting repairs or complying with a municipal requirement, wilfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property

17. Delegation of powers.- (1) The State Government may, by notification in the official Gazette, direct that the powers exercisable by it by or under this Act shall, in such circumstances and under such conditions, if any, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to that Government. (2) All notifications issued

under sub-section (1) shall be laid, as soon as may be, before both the houses of the State Legislative. NOTES Public Purpose and state purpose. - Clause (c) of sub-section (2) of section 17 gives still wider powers to the State Government to acquire land for a public purpose of urgent importance. It has been held by a Full Bench of this Court in the *Printers House Private Ltd. v. Misri Lal and others*, 1969 C. 1974 that clause (c) is not to be interpreted ejusdem generis to clause (a) and (b). The expressions 'state purpose' and 'public purpose' do not admit of any precise definition. All that may be said is that a 'public purpose' (which is also a 'state purpose') is one in which the public and the State are directly and vitally interested." Three hundred acres is a large area. Obviously, it must be in the ownership of a large number of persons. Prima facie, therefore, it cannot be said that the drain is being constructed only to benefit a few individuals

18. Protection of action taken in good faith. - No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder. (2) No suit or other legal proceeding shall lie against the State Government or the competent authority for any damage caused or likely to be caused by anything which l. *Ram Chander v. State of Haryana*. 1970 CurLJ Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 is in good faith done or intended to be done in pursuance of this Act or any order made thereunder

19. Bar of jurisdiction of Civil Courts.- Save as otherwise expressly provided in this Act no civil court shall have jurisdiction in respect of any matter which the competent authority or arbitrator is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act

20. Penalty for offences.- Whoever contravenes any provision of this Act, or any rule made thereunder, or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine which may extend to one thousand rupees

21. Certain persons to be public servants.- The competent authority, every arbitrator and every officer empowered by the State Government or the competent authority while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code

22. Power to make rules.- (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :- (a) the procedure to be followed by the competent authority in making inquiries under section 3 or section 6; (b) the procedure to be followed in arbitration proceedings and appeals under this Act; (c) the principles to be followed in determining the compensation and method of rendition of such compensation; (d) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act; (e) the manner of service of notices and orders; (f) any other matter which has to be or may be, prescribed. (3) All rules made under the provisions of this Act shall be laid, as soon as may be, before the [X X] State Legislature. NOTE Interpretation of Rules. - Rules must be read together with the relevant Act. Rules cannot repeal or contradict express provisions in the Act from which they derive their authority. Rules must be interpreted so as to reconcile them with the Act. If the Rules framed under the statute are in contravention of or inconsistent with the provisions of the statute they cannot be given effect to and must be regarded as ultra vires: Where it is not possible to reconcile a rule made under the Act. The words "both the Houses of" omitted by the Adaptation of Punjab Laws Orders, 1970

2. State of Madhya Pradesh v. A.K. Jain and others. 1951 Madhya Pradesh 162

3. Barisa Co-operative Central Bank Ltd. v. Benay Bhushan Guha and other. AIR 1934 Cal. 537. 436 Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 Act with the provision of that Act then the rule which is a subordinate provision must give way. Further a rule cannot exceed the four corners of the authority conferred by the Act. If a statutory rule goes beyond what the section contemplates, the rule must yield to the statute. Power to frame Rules - It is legislative power. - It has been held by the Supreme Court of India in the case of *B.S. Yadav v. State of Haryana*, AIR 1981 Supreme Court 561 : 1981 LIC 104 that on a plain reading of Arts. 235 and 309 of the Constitution, it is clear that the power to frame rules regarding seniority of officers in the judicial service of the State is vested in the Governor and not in

the High Court. Article 235 itself defines the outer limits of the High Court's power of control over the district courts and courts subordinate thereto. In the first place, in the exercise of its control over the district courts and subordinate courts, it is not open to the High Court to deny to a member of the subordinate judicial service of the State the right of appeal given to him by the law which regulates the conditions of his service. Secondly the High Court cannot, in the exercise of its power of control, deal with such person otherwise than in accordance with the conditions of his service which are prescribed by such law. There is no power in the High Court to pass a law, though rules made by the High Court in the exercise of power conferred upon it in that behalf may have the force of law. There is a distinction between the power to pass a law and the power to make rules, which by law, have the force of law. Besides, "law" which the second part of Art. 235 speaks of, is law made by the legislature because, if it were not so, there was no purpose in saying that the High Court's power of control will not be construed as taking away certain rights of certain persons under a law regulating their conditions of service. It could not have been possibly intended to be provided that the High Court's power of control will be subject to the conditions of service prescribed by it. The clear meaning, therefore, of the second part of Article 235 is that the power of control vested in the High Court by the first part will not deprive a judicial officer of the rights conferred upon him by a law made by the legislature regulating his conditions of service. It is the High Court, not the executive which possesses control over the State judiciary. But, what is important to bear in mind is that the Constitution which has taken the greatest care to preserve the independence of the judiciary did not regard the power of the State legislature to pass laws regulating the recruitment and conditions of service of judicial officers as an infringement of that independence. The mere power to pass such a law is not violative of the control vested in the High Court over the State judiciary. The power exercised by the Governor under the proviso is a power which the legislature is competent to exercise but has in fact not yet exercised. It partakes of the characteristics of the legislative, not executive, power. It is legislative power. That the Governor possesses legislative power under our Constitution is on controvertible and, therefore, there is nothing unique about the Governor's power under the proviso to Article 309 being in the nature of a legislative power. It is true that the power conferred by Article 309 is "subject to" the provisions of the Constitution. But it is fallacious for that reason to contend that the Governor cannot frame rules regulating the recruitment and conditions of service of the judicial officers of the State. The power to make law relating to seniority is vested by Article 309 in the legislature. and until it acts, in the Governor. Whether it is the legislature which passes an Act or the Governor who makes rules regulating seniority, the end product is "law" within the meaning of the second part of Article 235

23. Validation of certain requisitions and acquisitions.- (1) All immovable property which purports to have been requisitioned by the State Government for any public purpose, under any law in force prior to the commencement of this Act, and which, immediately before such commencement was used or occupied by the State Government or by an officer or authority subordinate to that Government shall, as from the commencement of this Act, be deemed to be property duly requisitioned under section 3 of this Act, and every such requisition shall, notwithstanding any judgment, decree or order of any court, be deemed always to have been valid as if this Act had been in force on and from the date of the requisition and the requisition had I. Central Karnataka Motor Services Ltd. v. State of Mysore and others. AIR 1957 Mysore 7

2. The Central Bank of India and others v. Their Workmen etc- AIR 1960 SC 12. State of U.P. v. Babu Ranu 1961 SC 751 : 1961(2) SCR 679. Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 437 been duly made by a competent authority under this Act, and all the provisions of this Act shall apply accordingly : provided that all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement shall valid and shall be deemed always to have been valid and shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement. (2) Every acquisition of immovable property purporting to have been made before the commencement of this Act by the State Government for any public purpose, under any enactment for the time being in force in the State and which, immediately before such commencement was used or occupied by the State Government or by an officer or authority subordinate to that Government shall, notwithstanding any defect in, or invalidity of, the enactment or order under which the acquisition was made, be deemed for all purposes to have been validly made as if

the provisions of the said enactment or order had been included and enacted in this section and this section had been in force on and from the date of the acquisition

24. Power to recover rent or damages in respect of requisitioned property as arrears of land revenue.— (1) Subject to any rules that may be made in this behalf by the State Government any sum due by way of rent in respect of any requisitioned property which is in arrears may be recovered by the competent authority from the person liable to pay the same in the same manner as an arrear of land revenue. (2) Where any person is in unauthorised occupation of any requisitioned property, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the said property as it thinks fit and may, by notice served by post or in such other manner, as may be prescribed by rules made in this behalf, order that person to pay the damages within such time as may be specified in the notice. (3) If any person refuses or fails to pay the damages within the time specified in the notice under sub-section (2), the damages may be recovered in the same manner as an arrear of land revenue

25. Repeals and savings.(1) The East Punjab Requisitioning of Immovable Property (Temporary Powers) Act, 1948 (East Punjab Act No. XLVIII of 1948), and the Punjab Requisitioning of Immovable Property (Amendment and Validation) Act, 1951 (President's Act No. 11 of 1951) are hereby repealed. (2) For the removal of doubts, it is hereby declared that any property which immediately before such repeal was subject to requisition under the provisions of either of the said Acts shall, on the commencement of this Act, be deemed to be property requisitioned under section 3 of this Act and all the provisions of this Act shall apply accordingly : Provided that - (a) all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement; (b) anything done or any actions taken (including any orders, notifications or rules made or issued) in exercise of the powers conferred by or under either of the said Acts shall, in so far as it is not inconsistent with the provision of this Act, be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done or action was taken. v/ COMMENTARY Repeal - S "Repeal" connotes abrogation or obliteration of one statute by another, from the statute book as completely as if it had never been passed"; when an Act is repealed, "it must be considered (except as to transactions past and closed) as if it had never existed" Repeal is not a matter of mere form but one of substance, depending upon the intention of the Legislature. If the intention indicated expressly or by necessary implication in the subsequent statute was to abrogate or wipe off the former enactment, wholly or in part, then it would be a case of total or pro tanto repeal. If the intention was merely to modify the former enactment by engrafting an exception or granting an exemption, or by superadding conditions, or by restricting, intercepting or suspending its operation, such modification would not amount to a repeal. Property requisitioned under East Punjab Requisitioning of Immovable Property (Temporary Powers) Act, 1948 — Property under requisition when new Act came into force — Compensation to be assessed under new Act. Held that the property was requisitioned under the provisions of the East Punjab Requisitioning of Immovable Property (Temporary Powers) Act, 1948 and was admittedly under requisition the date when the new Act came into force, the case clearly falls within the ambit of sub-section (2) of section 25 of the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953, and compensation must be assessed according to the provisions of the new Act. *Gujjar Mal v. Punjab State*. 1959 PLR 322 : ILR 1959 Punjab 233. Orders requisitioning property under earlier Acts of 1948 and 1951 — Kept alive by new Act. Held that proviso (b) to sub-Section (2) of Section 25 of the Act keeps alive orders requisitioning property passed under the earlier Acts of 1948 and 1951 which are consistent with the provisions of the Act of 1953. *State v. Harbhajan Singh*, 1957 PLR 21 : -ILR 1957 Punjab 409 (Punjab) (DB). Old Act repealed while proceedings were pending. - High Court set aside the award keeping original reference and entrustment of dispute to three arbitrators alive. Old Act repealed during pendency of proceedings. After repeal of Old Act provisions of new Act applicable. Registrar withdrawing dispute from three arbitrators appointed earlier and referring it to sole arbitrator is competent. Repeal of Act and its effect on bye-laws. - The repeal of an Act will not put an end to a bye-law when it is not inconsistent with the Act. Thus the age of retirement fixed under a bye-law would be protected

1. **India Tobacco Co. Ltd. v. C.T.O.**, 1975 SCC (Tax) 49
2. **Kirpal Singh v. Mirpur Jattan Co-operative Agricultural Service Society Ltd.**, 1978 PLJ 190 : 1978 RLR 159 : 1978 PLR 173 : 1978 ILR
3. **Babu Lai v. Director of Municipal Admr**, AIR 1974 Bom. 219.

