

TAMIL NADU AIDED INSTITUTIONS (PROHIBITION OF TRANSFERS OF PROPERTY) ACT, 1948

(1948 : T.N. Act XIV] Aided Institutions. 1079 (Prohibition of Transfers of Property) [TAMIL NADU] ACT No. XIV OP 19482. [TKE I(TAMIL NADU) AIDED INSTITUTIONS (PRO. HIBITION OF TRANSFERS OF PROPERTY) ACT, 1948 •] (Received the assent of the Governor-General on the 7th June 1948 ; first published in the Fort St. George Gazette on the 15th June 1948.) An Act to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the 3[State of Tamil Nadu]. WHEREAS it is expedient to prohibit transfers by managers of educational and other institutions in the '[S* ate of Tamil Nadu], of lands and buildings acquired with the aid of Government grants, or from the Government , It is hereby enacted as follows . 1. (1) This Act may be called the 11 Tamil Nadu] title' Aided Institutions (Prohibition of Transfers of Pro• and 001fMnence. perty) Act, 1948. 1 These words were substituted for the word ' Madras ' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, 2 For Statement of Objects and Reasons, see Fort St. George Gazette, dated the 13th January 1948, Part IV-A, pages 4142. This Act was extended to the Kanyakumari district and the Shencottah taluk of the Tirunelveli district by section 3 of, and the First Schedule to, the Tamil Nadu (Transferred Territory) of Laws Act, 1960 (Tamil Nadu Act 23 of 1960), repealing the corresponding law in force in that territory. This Act was extended to the merged territory of Pudukkottai by section 2 of the Tamil Nadu Aided Institutions of Transfers of Property) (Extension to Pudukkottai); Act, 1961 Tamil Nadu Act 54 of 1961), repealing the corresponding law in that territory. 8 This expression was substituted for the expression " Madras " by the Tamil Nadu Adaptation of Laws which was deemed to have come into force on the 15th definitions. 1080 Aided (1948 : T. N. Act xv (Prohibition of Transfers of Property) (2) It extends to the whole •ot the I(State of Tamil Nadu], (3) It shall come into force at once, 2. In this Act, unless there is anything repugnant in the subject or context— (1) " Government " means the 2(State) Govern- ment ; (2) " institution " means— (a) any college, school •or other place in the 1[State of Tamil Nadu] which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants ; (b) any hospital, dispensary or nursing home in the 3(State) and includes quarters for the residence of doctors, nurses and servants • (c) any other institution or '[class of institutions] in the 3(State) notified by the Government in the Fort St. George Gazette ; (3) " manager " means the owner, trustee or other person who has power to transfer any land or building belonging to an institution, and includes a local authority ; i This expression was substituted for the expression " State of Madras " by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969. 2 This word was substituted for the word " Provincial " by the Adaptation Order of 1950. 8 This word was substituted for the word ' c' ' by Ibid, 4 These words were substituted for the words class of institution " by section 4 of, and the Third Schedule to, the Tamil Nadu Repealing and Amending Act, 1957 (Tamil Nadu Act XXV of 1957)' In so far as this Act applies to the added territories, the word, " class of institutions " were substituted for the words "class of titution " by section 4 of, and the Second Schedule , the Tamil Nadu (Added Territory)' Extension of Laws' (No.2) 1961 (Tamil Nadu Act 39 of 1961) 1948: T. N. Act XIV] Aided Institutions (Prohibition of Transfers of Property) (4) " transfer " includes sale, exchange, mortgage (charge), lease or gift, 3. (1) Where before or after the commencement of this Act— of transfer of lands and (a) any land or building has been acquired, buildings without constructed, improved, or for the purpose Of permission any institution, with the aid of any grant made from the *revenues of the Government, or Government. (b) any land or building has been transferred by the Government for use for the purposes of Nil)' institution, then, notwithstanding anything to the contrary in other law for the time being in force or in the deed transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2) ; nor shall land or building be used except for the purposes of i institution or purposes similar thereto 01 be kept vacant without being used for any purpose, without the permission of the Government. (2) The Government may, in their discretion, order, permit the transfer of any such land or building if (i) the transfer is made in furtherance of the purposes of the institution or of similar purposes approved by the Government, and the assets resulting from the transfer are to be wholly utilized in furtherance of the said

purposes ; (ii) the transfer is made only in part in furtherance of the purposes aforesaid, provided repayment made to the Government of such portion as the Government may deem proper in the circumstances of the case ; of the grant referred to in sub-section (1), clause 1. This word was inserted by section of the Madras Aided Institutions (Prohibition of Transfers of Property) Amendment Act 950 (Madras Act XXXIII of 1950). {Now the Consolidated Fund of the State Government. 1082 Aided Institutions T.N. Act (Prohibition of Transfers of Property) Consequences of breach of provisions Of section 3. or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be ; (iii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (a), or of the current market value of the land or building referred to in sub-section (1), clause (b), or of both, as the case may be. granting permission under clause (i) or (ii) for the transfer of any land or building, the Government may impose such conditions as they deem fit to ensure that the assets resulting from the transfer are utilized wholly or in part, as the case may be, in furtherance of the purposes to in those clauses ; but a contravention of any such condition imposed on the transferor shall not invalidate the transfer. (3) If any such land or building is transferred without such permission, the transfer shall be null and void. 4. If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations in regard to the matter, are satisfied that the provisions of section 3, (1), have been contravened in respect of any land or building, they may, by order— (a) if the land, or the land on which the building stands, belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by the Government for improving, altering or constructing the land or 1948 : T.N. Act XIV] Aided Institutions 1083 (Prohibition of Transfers of Property) (b) if the land, or the land on which the building stands, did not belong to the Government direct the manager to repay in full the grant made by the Government, or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, in which case, the Government shall pay to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon, 5. (1) Every order passed by the Government under Effect of section 3 (2) or 4 shall, subject to the provisions of sub- orders under sections (2) and (3), be final and shall not be liable sections (h and 4. to be questioned in any Court of Law. (2) (a) The manager of the institution in respect of which such an order is passed, not being a local authority, may, on the ground that the amount repayable or payable by or to him has been wrongly fixed in the order, apply to the District Judge having jurisdiction over the area in which the property in question is situated or if the property is situated in the Presidency-town, to the Principal Judge of the Madras City Civil Court, for fixing such amount correctly in accordance with the provisions of section 3 (2) or (4), as the case may be. (b) Such application shall be made within sixty days from the date on which the order is communicated to the manager. (3) The District or City Civil court Judge shall determine the amount which is properly repayable or payable by to the manager in accordance with the provision of section 3 (2) or 4, as the case may be. and such determination shall be final and shall not be liable to be questioned in any Court of Law. 1084 6. 1948 : T.N. Act XIV Aided Institutions (Prohibition of Transfers of Property) (1) When, in pursuance of—an order under Law to vest in absolutely on possession taken. Recovery of sums due under Act. section 4, the Collector takes possession of any land or building by himself or through another, it shall vest absolutely in the Government free from all encumbrances other than those existing at the commencement of this Act or created with the permission of the Government after such commencement. (2) If the Collector or any person authorized by him in this behalf is opposed or impeded in taking possession of any land or building under this Act, he shall, if he is a Magistrate, enforce the surrender of such land or building to himself ; and, if he is not a Magistrate, he shall apply to a Magistrate, or within the presidency-town, to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector, (3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both. (4) Any land or building which vests in the Government under sub-section (1) shall be used

by the Government, so far as may be, only for purposes similar to those for which it was being used before such vesting

7. Any sum required to be repaid or paid to the Government in pursuance of section 3, 4 or 5 may, without prejudice to any mode of recovery provided in any other law for the time being in force, be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager, unless this word was substituted for the word " Crown by the Adaptation Order of 1950. 54 048 T.N. Act XIV of (Prohibition of Transfers of Property) 1948. (1) No land or building referred to in section 3 (1) shall be liable to be attached, sold, or made attach, sell, etc., without subject to a charge by any court whether in execution of a decree or order or otherwise, unless the person seeking such relief from the court has obtained the permission of Government to do so and files such permission in Court. (2) When granting such permission, the Government may impose such conditions as they deem fit. (3) If any such land or building is attached or sold, or a charge is created thereon by any court without the permission of Government having been obtained and filed as aforesaid or if any condition imposed by them when granting such permission is contravened, then, the attachment, sale or charge, as the case may be, shall be null and void.] 8, (1) The Government may, by notification in the Fort St. George Gazette, make rules not inconsistent with this Act for carrying into effect the purposes thereof; (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for— (a) the court-fees payable on the applications referred to in section 5, sub-section (2) ; (b) the procedure to be followed in respect of such applications ; (c) the payment of the costs incurred by the parties, in connexion with such applications. i This section was inserted by section. 3 of the Madras Aided Institutions (Prohibition of Transfers of Property) Amendment Act. 199 (Madras Act 1950).