

The Tamil Nadu Highways Act, 2001

Act 34 of 2002

Keyword(s):

Betterment Charges, Building, Building Line, Collector, Control Line, Encroachment, Erection, Excavation, Highway, Highways Authority, Highway Boundary, Land, Means of Access, Middle of a Highway, State Highways Authority, Survey, Survey Mark, Vehicle

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THE TAMIL NADU HIGHWAYS ACT, 2001.

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The following Act of the Tamil Nadu Legislative Assembly received the assent of the President on the 16th September 2002 and is hereby published for general information:—

ACT No. 34 OF 2002.

An Act to provide for the declaration of certain highways to be State highways, restriction of ribbon development along such highways, prevention and removal of encroachment thereon, construction, maintenance and development of highways, and levy of betterment charges and for matters connected therewith or incidental thereto.

WHEREAS it is expedient in the public interest to statutorily declare the State highways and to create Highways authorities for the purpose of construction, maintenance or development of such highways;

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-second Year of the Republic of India as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Tamil Nadu Highways Act, 2001.
- (2) It extends to the whole of the State of Tamil Nadu.
- (3) It shall come into force on such date as the Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and for different areas in the State.
2. In this Act, unless the context otherwise requires,—
 - (1) “animal” means any domestic or captive animal;
 - (2) “betterment charges” means the charges levied under section 34;
 - (3) “building” includes—
 - (a) any erection of whatever material and in whatsoever manner constructed (including a farm building for agricultural purposes) and also includes plinths, doorsteps, wall (including compound walls and fences) and the like, or
 - (b) any structure on wheels or simply resting on the ground without foundation, or
 - (c) any tent, awning, pandal or any other structure used for human habitation or used for keeping vehicles or animals or storing any article or goods;
 - (4) “building line” means the line on either side of any highway or part of such highway, as may be fixed under section 8;
 - (5) “Collector” means the Collector of a district and includes any officer specifically appointed by the Government to perform the functions of the Collector under this Act;
 - (6) “control line” means a line on either side of a highway or part of such highway, as may be fixed under section 8;
 - (7) “division” means the area declared by the Government under section 4;
 - (8) “encroachment” means any unauthorised occupation of any highway or land where the construction of a highway is undertaken or proposed to be undertaken or part thereof, and includes any unauthorised—
 - (a) erection of a building or any other structure, balcony, porch or projection on or over or overhanging the highway or part thereof; or
 - (b) occupation of such highway or such land, after the expiry of the period for which permission was granted for any temporary use under this Act; or
 - (c) excavation or embankments of any sort made or extended on such highways or part thereof or underneath such highway or part thereof;

Short title,
extent and
commence-
ment.

Definitions.

(9) "erection" in relation to building, includes the construction, extension, alteration or re-erection of any structure or building;

(10) "excavation" in relation to any land, does not include any work which does not pierce the surface of that land but includes well and tanks;

(11) "Government" means the State Government;

(12) "highway" means any road, way or land which is declared to be a highway under section 3 and includes—

- (a) all land appurtenant thereto, whether demarcated or not;
- (b) the slope, berm, burrow pits, foot paths, pavement, whether surfaced or unsurfaced;
- (c) all bridges, culverts, causeways, carriage ways or other structures built on or across such road or way;
- (d) the foot-way attached to any road, public bridge or causeway;
- (e) the drains attached to any such street, public bridge or causeway and the land, whether covered or not by any pavement, varanda or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property, whether that property is private or property belonging to the Central Government or any State Government; and
- (f) all fences, trees, posts and boundaries, hectometer and kilometer stones and other highway accessories and materials stacked on such road or public bridge or causeway,

but does not include a National Highway declared as such by or under the National Highways Act, 1956.

Central
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(13) "Highways authority" means the officer appointed under sub-section (2) of section 5;

(14) "highway boundary" means the highway boundary as may be fixed under section 8;

(15) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(16) "local authority" means—

- (i) any Municipal Corporation established under any law for the time being in force; or
- (ii) any Municipal Council constituted under the Tamil Nadu District Municipalities Act, 1920; or
- (iii) any District Panchayat or any Panchayat Union Council or any Village Panchayat constituted under the Tamil Nadu Panchayats Act, 1994;

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Tamil
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(17) "means of access" includes any means of access whether private or public intended for vehicles or pedestrian and includes any street, road, square, court, alley, passage, thorough fare or riding-path;

(18) "middle of a highway" means the point half way between the boundaries of the highway in relation to any highway for the improvement of which plans have been prepared by the Highways authority, the middle of the highway as proposed to be improved in accordance with the plans or the point half way between the boundaries of the highway;

(19) "occupier" includes—

- (a) any person who for the time being is paying or is liable to pay to the owner, rent or any portion of the rent of the premises in respect of which such rent is paid or is payable; or



- (b) a owner living in or otherwise using his premises; or
- (c) a rent free tenant; or
- (d) a licensee in occupation of any premises; or
- (e) any person who is liable to pay to the owner damages for the use and occupation of any premises;

(20) "owner" includes—

- (a) any person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian, manager or receiver for another person or other purpose, the rent or profits of any land or building; and
- (b) the person for the time being in-charge of any land or building or part of the same;

(21) "State Highways Authority" means the officer appointed under sub-section (1) of section 5;

(22) "survey" includes all operations incidental to the determination, measurement and record of a boundary or boundaries or any part of a boundary and includes a re-survey;

(23) "survey mark" means any mark or object erected, made, employed or specified by a survey officer to indicate or determine or assist in determining the position or level or any point or points;

(24) "vehicle" includes any wheeled conveyance drawn, propelled or driven by any kind of power including human, animals, motor, steam or electric power and includes any barrow, sledge, plough, drag or like vehicle.

CHAPTER II.

DECLARATION OF HIGHWAYS, HIGHWAYS AUTHORITIES AND THEIR POWERS AND FUNCTIONS.

3. On the recommendation made by the State Highways Authority, the Government may, by notification, declare any road, way or land to be highway and classify it as any one of the following, namely:-

- (i) a State Highway;
- (ii) a major district road;
- (iii) other district road; or
- (iv) a village road:

Provided that where such road, way or land whether in whole or in part is owned by any local authority, such notification shall be issued with the concurrence of that local authority by a resolution passed by it in this behalf.

4. The Government may, by notification, declare any area to be a division for the purpose of the highways in such area.

5. (1) The Government may, by notification, appoint an officer of the Highways Department of the Government not below the rank of the Chief Engineer, as the State Highways Authority.

(2) The Divisional Engineer, Highways Department of the Government in-charge of each division, shall be the Highways authority for that division.

Declaration of roads, ways or lands as highways.

Declaration of divisions.

Appointment of Highways Authorities.

Functions of
Highways
Authorities.

6. (1) The State Highways Authority shall be responsible for the over all supervision of the construction, maintenance, development or improvement of the highways in the State and for the restriction of ribbon development along the highways. The State Highways Authority shall, from time to time, issue such instructions as may be necessary to the Highways authorities for carrying out the purposes of this Act.

(2) Every Highways authority may, with the approval of the State Highways Authority, undertake the construction, maintenance, development or improvement of any highway and for restriction of ribbon development along such highway, including for the prevention and removal of encroachments and for all matters necessary or incidental thereto, in its division, in such manner and within such time as may be specified by the State Highways Authority in this behalf.

Power of
Government
to enter into
agreements
for
development
and
maintenance
of highways.

7. The Government may, in consultation with the State Highways Authority, enter into an agreement with any person, in relation to the construction, development, maintenance or repair of the whole or any part of any highway.

CHAPTER III.

RESTRICTION OF RIBBON DEVELOPMENT.

Power to fix
highway
boundary,
building line,
control line,
etc.

8. (1) The Highways authority of any division may, by notification, in relation to any highway or any area in that division, where the construction or development of a highway is undertaken or proposed to be undertaken, fix—

- (a) the highway boundary, building line, or control line; or
- (b) the highway boundary and the building line; and
- (c) the building line and the control line:

Provided that before the publication of the notification under this sub-section, a draft of the said notification shall be published inviting objections, if any, on the proposed fixation.

(2) The draft of the notification under sub-section (1) shall contain—

- (a) all details of lands situated between the highway boundary line and control line proposed to be fixed and in the case of new works, the lands and persons benefitted by the construction or development of such highway and
- (b) notice requiring all persons likely to be affected by such notification, to make their objections or suggestions, if any, in writing, with respect to the issue of such a notification, to the Highways authority within such period as may be prescribed.

(3) After considering the representation, if any, received under sub-section (2), the Highways authority may, with the approval of the State Highways Authority—

- (i) drop the proposal to fix the highway boundary, the building line or the control line; or
- (ii) publish the final notification under sub-section (1) with such modifications as may be considered necessary.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), the Government may, in consultation with the State Highways Authority, having regard to the situation or the requirements of any highway or the condition of the area through which such highway passes, —

- (a) fix different building line and control line for such highway; or
- (b) refrain from fixing the building line or control line for such highway or portion thereof.

9. On or after the date of the publication of the notification under sub-section (1) of section 8 in relation to any highway or any area, no person shall, in such highway or in such area, in respect of any land lying between the highway boundary and the building line or between the building line and the control line, as the case may be,—

Restriction on building.

- (a) erect any building or make or extend any excavation or carry out any mining or other operation in, or over such land or make any material change in the use of, or construct, form, or layout any works on such land; or
- (b) construct, form or layout any means of access to or from such highway,

except with the written permission of the Highways authority and in accordance with such terms and conditions, as may be specified in such permission.

10. Nothing contained in section 9 shall apply to—

Exemption for works in progress, etc.

- (a) the erection of any building or the making or extension of any excavation or the carrying out of any mining or other operation or the making of any material change or the construction, formation or laying out of any means of access or of works already commenced, or
- (b) any excavation or works necessary for the repairs, renewal, enlargement or maintenance of any sewer, drain, electric line, pipe, duct or other apparatus made or extended or constructed, formed or laid out in, or over, or under, any land,

before the date of the publication of the notification under sub-section (1) of section 8.

11. When any building or part thereof erected before the date of the publication of the notification under sub-section (1) of section 8 is lying between the highway boundary and the building line, the Highways authority may, whenever any such building or part thereof, either entirely, or in greater part, is taken down or burnt down or has fallen down, by notice, require the owner or occupier of such building or part thereof, when re-erected, to be set back to the building line or control line.

Setting back of building beyond building lines.

12. If the Highways authority is of opinion that it is necessary or expedient so to do in the interest of public safety or convenience of traffic, it may, by notification, and from a date to be specified therein, regulate or divert any existing right of access to a highway across any land lying between the highway boundary and control line:

Regulation of diversion or right of access to highways.

Provided that the existing right of access shall not be diverted until alternative access has been given:

Provided further that where any existing right of access is diverted, the point at which alternative access to the highway is given shall not be unreasonably away from the existing point of access.

13. (1) The Highways authority of every division shall, within such time as may be prescribed, cause to be prepared a map of that division through which any highway or the construction or development of any highway is undertaken or proposed to be undertaken, showing the highway boundaries, building line and control line of such highway, the boundaries of such area and such other particulars, as may be prescribed.

Preparation of maps.

(2) It shall be open to the Highways Authority to make corrections to the map prepared under sub-section (1) with necessary additions, alterations, omissions or such other modifications as may be considered necessary.

(3) The map shall, after the approval of the State Highways Authority,—

(a) be kept in the office of the Highways Authority, with such particulars as may be prescribed; and

(b) be open to inspection, free of charge during office hours, by any person having interest.

(4) Nothing contained in the Registration Act, 1908 shall be deemed to require the registration of the map prepared under this section and such map shall, for the purposes of sections 53, 54 and 55 of that Act, be deemed to have been duly registered in accordance with the provisions of that Act.

Central Act
of 1908

Powers of
Highways
Authority and
other
officers.

14.(1) For the purpose of carrying out the provisions of this Act, the Highways Authority and any officer or servant authorised by it, shall have power to—

(a) enter upon, survey and take measurement and levels of any land; or

(b) mark such levels, dig or bore into the sub-soil of any land; or

(c) demarcate the boundaries of the highway by planting stones or other suitable marks all along the highway in such a manner that the imaginary line adjoining such stones or marks shows the road boundary correctly; or

(d) give consecutive numbers to such boundary stones or marks and maintain them on the ground as if they constitute part of the highway; or

(e) layout the building line and control line by placing marks and cutting trenches.

(2) For the purpose of making the survey, taking measurements, levels, boundaries or for making lines, the Highways Authority or its officers or servants may cut down and clear away any standing crops, tree, fence, or jungle or any part thereof and do such other acts as may be necessary in this behalf:

Provided that the Highways Authority or its officers or servants shall not enter any premises, except with the consent of the owner or occupier thereof and after giving such person at least forty eight hours notice in writing of their intention to do so, and if the owner or occupier is not available, record the fact in a notice and affix such notice in the place, before carrying any such work.

CHAPTER IV.

ACQUISITION OF PROPERTY.

Power to
acquire land.

15. (1) If the Government are satisfied that any land is required for the purpose of any highway or for construction of bridges, culverts, causeways or other structures thereon or for any purpose incidental or ancillary thereto, in furtherance of the objects of this Act, they may acquire such land by publishing in the *Tamil Nadu Government Gazette* a notice specifying the description of such land and the particular purpose for which such land is required.

(2) Before publishing a notice under sub-section (1), the Government shall call upon the owner and any other person having interest in such land to show cause within such time as may be specified in the notice, why the land should not be acquired. The Government shall also cause a public notice to be given in such manner as may be prescribed.

(3) The Government may, after considering the cause, if any, shown by the owner or other person having interest on such land, pass such an order under sub-section (1), as they may deem fit.

16. (1) When a notice under sub-section (1) of section 15 is published in the *Tamil Nadu Government Gazette*, the land to which the said notice shall, on and from the date of such publication, vest absolutely in the Government free from all encumbrances:

Land acquired to vest in Government free from all encumbrances.

Provided that if before actual possession of such land is taken by or on behalf of the Government, it appears for the Government, that the land is no more required for the purpose of this Act, the Government may, by notice published in the *Tamil Nadu Government Gazette*, withdraw the land from acquisition. On the publication of such notice, the land shall revert with retrospective effect in the person from whom it was divested of on the issue of order under sub-section (1) of section 15 subject to such encumbrance, if any, as may be subsisting at that time:

Provided further that the owner and other persons interested shall be entitled to payment of an amount as determined in accordance with the provisions of section 19 for the damages, if any, suffered by them in consequence of the acquisition proceedings.

(2) Where any land is vested in the Government under sub-section (1), the Government may, by order, direct any person who may be in possession of the land to surrender or deliver possession thereof to the Collector or any person duly authorised by him in this behalf, within thirty days of the service of the order.

(3) If any person refuses or fails to comply with an order made under sub-section (2), the Collector may take possession of the land, and may for that purpose, use such force as may be necessary.

17. Where any land has been acquired under this Act, the Government may use or cause to be used such land for the purpose of this Act.

Use of Land acquired.

18. Every owner or person interested in any land acquired under this Act shall be entitled to receive and be paid an amount as hereinafter provided.

Right to receive amount.

19. (1) Where any land is acquired by the Government under this Act, the Government shall pay an amount for such acquisition, which shall be determined in accordance with the provisions of this section.

Determination of amount.

(2) Where the amount has been determined by agreement between the Government and the person to whom the amount has to be paid, it shall be paid in accordance with such agreement.

(3) Where no such agreement can be reached, the Government shall refer the case to the Collector for determination of the amount to be paid for such acquisition as also the person or persons to whom such amount shall be paid:

Provided that no amount exceeding such amount as the Government may, by general or special order, specify, to be paid for such acquisition shall be determined by the Collector without the previous approval of the Government or such officer as the Government may appoint in this behalf.

(4) Notwithstanding anything contained in sub-section (3), after the case is referred to the Collector under that sub-section, but before he has finally determined the amount, if the amount is determined by agreement between the Government and the person to whom the amount has to be paid, such amount shall be paid by the Collector in accordance with such agreement.

(5) Before finally determining the amount, the Collector shall give an opportunity to every person to whom the amount has to be paid to state his case as to the amount.

(6) In determining the amount, the Collector shall be guided by the provisions contained in sections 23 and 24 and other relevant provisions of the Land Acquisition Act, 1894, subject to modifications that in the said sections 23 and 24, the references to the date of publication of the notification under sub-section (1) of section 4 and the date of publication of the declaration under section 6 of the said Act shall be construed as references to the date of publication of notice under sub-sections (2) and (1), respectively, of section 15 of this Act.

Central Act
1894.

(7) For the purpose of determining the amount—

(a) the Collector shall have power to require any person to deliver to him such returns and assessments as he considers necessary;

(b) the Collector shall also have power to require any person known or believed to be interested in the land to deliver to him a statement containing as far as may be practicable, the name of every other person interested in the land as co-owner, mortgagee, tenant or otherwise, and the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of the statement.

(8) Every person required to deliver a return, assessment or statement under sub-section (7) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

Central Act
of 1894.

(9) The Collector may hear expert witnesses if it be necessary to do so in any particular case.

(10) The Collector or any officer authorised by him in this behalf shall be entitled to enter in and inspect any land which is subject to proceedings before him.

(11) The Collector shall dispose of every case referred to him under sub-section (3) for determination of amount as expeditiously as possible and in any case within six months from the date of such reference.

(12) Where any case is referred to any Collector under sub-section (3), the Government may, at any stage by order, in writing and for reasons to be recorded therein, transfer it to any other officer, and upon such transfer, unless some special directions are given in the order, the officer to whom the case is transferred, may hear and dispose of the case from the stage at which it was transferred or the case may be heard and disposed of by him *denovo*.

Reference to
Court.

20. (1) Any person aggrieved by the decision of the Collector, or the officer to whom the case was transferred, determining the amount may, within sixty days from the date of such decision, in so far as it affects him, by application to the Collector or the officer to whom the case was transferred, require that the matter be referred by him for the determination of the Court as defined in the Land Acquisition Act, 1894, and when any such application is made, the provisions of Part III of the said Act shall *mutatis mutandis* apply to further proceedings in respect thereof.

Central
of 1894.

(2) The decision of the Court on such reference and subject only to such decision, the decision of the Collector determining the amount shall be final.

Apportionment
of amount.

21. (1) Where several persons claim to be interested in the amount determined, the Collector shall determine the persons, who, in his opinion, are entitled to receive the amount and the amount payable to each of them.

(2) When the amount has been determined under section 19, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute for the decision of the Court.

22. (1) Where the amount is determined by agreement, the Government shall pay such amount to the person or persons entitled thereto.

Payment of
amount.

(2) Where the amount is determined by the Collector or by any other officer under the provisions of section 19, the Government shall tender payment of the amount determined to the persons entitled thereto according to such determination and shall pay to them unless prevented by someone or more of the contingencies mentioned in sub-section (3).

(3) If the persons entitled to amount according to the decision of the Collector do not consent to receive it, or if there be no person competent to alienate the land or if there be any disputes as to the title to receive the amount, the Government shall deposit the amount so determined in the Court:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided further that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any amount determined under this Chapter, to pay the same to the person lawfully entitled thereto.

23. Where any amount has been deposited in court under sub-section (3) of section 22, the Court may either of its own motion or on the application made by or on behalf of any party interested or claiming to be interested in such amount, order the same to be invested in such Government or other securities approved by the Government as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit there from as they might have had from the land in respect whereof such amount has been deposited or as near thereto as may be.

Investment of
amount
deposited in
the Court.

24. When the amount is not paid or deposited on or before taking possession of the land, the Government shall pay the amount determined with interest thereon at the rate of nine per cent per annum from the time of so taking possession until it shall have been so paid or deposited.

Payment of
interest.

25. Any officer of the Government, and person, either generally or specially authorised by the Government in this behalf, may enter into or upon any land or building with or without assistants or workmen for the purpose of-

Power of entr

(a) making any inspection, survey, measurement, valuation or enquiry or taking levels of such land or buildings;

(b) examing works under construction and ascertaining the course of sewers and drains;

(c) digging or boring into the sub-soil;

(d) setting out boundaries and lines by placing marks and cutting trenches;

(e) doing any other thing necessary for the efficient administration of this Act:

Provided that—

(i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or building;

(ii) sufficient opportunity shall, in every instance, be given to enable women (if any) to withdraw from such land or building;

(iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.

CHAPTER V

PREVENTION OF UNAUTHORISED OCCUPATION OF, AND ENCROACHMENT ON, A HIGHWAY
AND REMOVAL OF ENCROACHMENT.

Prevention of
unauthorised
occupation of
highway.

26. (1) No person shall occupy or encroach on any highway within the highway boundaries.

(2) Notwithstanding anything contained in sub-section (1), the Highways authority may, with the concurrence of the Collector and with due regard to the safety and convenience of traffic and subject to such conditions, and on payment of such rent or other charges as may be prescribed, grant permission, of a temporary nature, to any person—

(a) to make any temporary use of any highway in front of any building owned or occupied by him or make a temporary structure overhanging the highway; or

(b) to put up a temporary awning or tent, pandal or other similar erection or a temporary stall or scaffolding on any highway; or

(c) to deposit or cause to be deposited building materials, goods for sale or other articles on any highway for a specified period; or

(d) to make a temporary excavation on any highway for carrying out any repairs or improvements to building on lands adjoining such highway:

Provided that no such permission shall be deemed to be valid beyond a period of one year, unless it is expressly renewed by the Highways authority.

(3) The permission granted under sub-section (2) shall clearly specify the date upto which and the purpose for which the occupation of the highway is authorised and the exact portion of the highway so permitted to be occupied, and shall also be accompanied by a plan or sketch of that portion of the highway. A copy of such permission shall be communicated to the Collector for the purpose of record.

(4) The person in whose favour such permission has been given shall produce the permit for inspection whenever called upon to do so by the Highways authority, or any officer authorised by it in that behalf and shall, at the end of the period specified in the permit, vacate the portion of the highway occupied by him, after restoring it to the same state as it originally stood before the occupation by him.

(5) The Highways authority shall maintain a complete record of all such permissions granted, and shall also cause an inspection to be made in every case at the expiration of the period upto which such occupation has been permitted, to ensure that the portion of the highway has actually been vacated.

(6) The permission granted under sub-section (2) shall be in such form and subject to such conditions as may be prescribed.

Power to cancel
permission.

27. (1) The Highways authority may cancel the permission granted under sub-section (2) of section 26 for violation of the conditions of permission subject to which the same has been granted:

Provided that no such cancellation shall be ordered without issuing a notice to the holder of the permit, to make his representation, if any.

(2) Where any permission is cancelled under sub-section (1), the holder of the permission shall not be entitled to any amount in respect of such cancellation or to the refund of any rent or charge paid by him in advance.

28.(1) The Highways authority or any person authorised by it in this behalf shall, at such time as may be considered necessary, conduct such checks and periodical inspection, of the highway boundaries, with the view to ensure the prevention of unauthorised encroachment and the removal of such encroachment.

Prevention of encroachment.

(2) The Highways authority or any person authorised by it in this behalf, may—

(i) remove, without any notice, any movable temporary structure, enclosure, stall, booth, any article whatsoever hawked, exposed or displayed for sale or any other thing whatsoever by way of encroaching the highway or in any area where the construction or development of a highway is undertaken or proposed to be undertaken;

(ii) remove any immovable structure, whether permanent or temporary in nature, encroaching the highway or in the area vested with Government under this Act, after issuing a show cause notice against such removal, returnable within a period of seven days from the date of receipt thereof:

Provided that any representation received within the time limit shall be considered by the authority or officer concerned before passing final orders.

29. (1) Whenever any encroachment is removed or any protective work is carried out in respect of any encroachment, the cost thereof shall be recovered from the person responsible for the encroachment, as if it were an arrear of land revenue.

Recovery of cost of removal of encroachment.

(2) The materials, if any, recovered as a result of the removal of any encroachment shall be handed over to the person responsible for the encroachment on payment of the cost, if any, recoverable under sub-section (1). Where the cost is not paid, the materials seized shall be disposed of, in such manner as may be prescribed.

30.(1) Where any person has erected any building or made or extended any excavation or carried out any mining or other operation or made any material change in the use of land, or constructed, formed or laid out any work of means of access or any other acts in contravention of section 9 or in contravention of any of the terms and conditions of the permission granted under sub-section (2) of section 26, the Highways authority may, by order, require such person to restore the land or building to its original condition or to bring the land or building in conformity with the terms and conditions specified in such permission, within such period as may be specified in the order.

Restoration of Property to original state where it is dealt with in contravention of section 9.

(2) If such person fails to comply with such order within the period specified in the order, the Highways authority may itself take such measures as appear to it to be necessary to give effect to the order and recover the cost thereof from such person as an arrear of land revenue.

CHAPTER VI.

PAYMENT OF AMOUNT FOR PROPERTY AFFECTED.

31. Any person whose property is injuriously affected by virtue of any thing done under the provisions of section 11 may make a claim for this purpose to the Highways authority, with such particulars and within such period as may be prescribed.

Right to amount.

32. (1) The Highways authority shall proceed to inquire, in such manner as may be prescribed, into every claim made under section 31.

Enquiry into claims and award of payment.

(2) The Highways authority shall, after such inquiry, either allow the claim and determine the amount or reject the claim in part or in full.

(3) The Highways authority shall give to the claimants or their representatives, notice in writing, of the amount determined under sub-section (2).

Appeal to State
Highways
Authority.

33.(1) Any person aggrieved by any decision or order of the Highways authority under section 32 may, within such period as may be prescribed, appeal to the State Highways Authority.

(2) The State Highways Authority may suspend the execution of any decision or order, pending the exercise of its power under this section in respect thereof.

CHAPTER VII.

LEVY OF BETTERMENT CHARGES.

Notice to
owners and
persons
interested.

34. Where any work, which the Highways authority is empowered to undertake, in relation to any highway, by or under the provisions of this Act is undertaken, it shall give notice to the persons known or believed to be the owners of, or interested in, the lands benefited by such work, requiring them to appear before him either personally or by an agent, at a time and place therein mentioned (such time not being earlier than fifteen days from the date of receipt of notice) to state their objections, if any, to the imposition and recovery of betterment charges on such lands:

Provided that no such notice shall be given, unless the Collector, with the previous sanction of the Government, has declared that the value of such lands is likely to increase or has increased by reason of such work.

Inquiry and
order.

35. On the date fixed under section 34 or on such other date to which the inquiry may be adjourned, the Highways Authority shall, after holding a formal inquiry and after hearing the objections, if any, stated by the persons as required by the notice under section 34, make an order. Such order shall specify—

- (a) the lands benefited by the work referred to in section 34;
- (b) the increase in the value of such lands by such work;
- (c) the amount of the betterment charges leviable on each of the said lands;
- (d) the date from which such betterment charges shall be leviable:

Provided that no betterment charges shall be leviable in respect of any land—

- (i) which is unsuitable for development as a building site, or
- (ii) which is situated beyond a distance of two hundred meters from the middle of the highways on either side.

Increase in
value and
betterment
charges.

36.(1) The increase in value on account of the work referred to in section 34 shall be the amount by which the value of the land on the date of the completion of such work is likely to exceed or has exceeded the value of the land on the date of the commencement of such work and the betterment charges shall be such amount as may be specified by Government from time to time.

(2) For the purpose of sub-section (1), the Government shall, by notification, specify—

- (a) the date of commencement of such work; and
- (b) the date of completion of such work.

Reference
against order
of Highways
Authority
under section
35.

37.(1) Any person aggrieved by the order fixing the betterment charges under section 35 may, by a written application to the Highways Authority require that the matter be referred, if the land in relation to which the order is made is situated—

- (i) in the City of Chennai, to the Principal Judge of the City Civil Court, Chennai, and

(ii) elsewhere, to the Principal District Judge of the district, within whose jurisdiction the land is situate.

(2) Any such application shall be made within six weeks from the date of receipt of the order of the Highways Authority by such person and shall be in such form as may be prescribed.

(3) The provisions of sections 5, 12 and 14 of the Limitation Act, 1963 shall apply to the computation of the time under sub-section (2).

(4) The Highways Authority shall make the reference under sub-section (1) in such manner as may be prescribed.

38. The order fixing the betterment charges made under section 35, subject to a reference to the Court under section 37, shall be final.

Finality of order fixing betterment charges and decision on reference.

39. From the date specified in the order fixing the betterment charges as the date from which such charges shall be leviable, or from such date as may be otherwise specified by the Highways authority under section 35 as the date from which such charges shall be leviable, subject to the prior payment of the land revenue, if any, due to the Government thereon, be a first charge on the land in respect of which such betterment charges are leviable.

Betterment charges to be first charge on land, next to land revenue.

40. The betterment charges shall be payable within such period as may be prescribed:

Provided that the owner of the land on which such charges are imposed may execute an agreement, in favour of the Government, agreeing to pay the amount of such charges by annual instalments, together with interest at such rate and within such period, as may be prescribed.

Payment of betterment charges.

CHAPTER VIII.

PROVISIONS TO SECURE SAFETY OF TRAFFIC AND PREVENTION OF DAMAGE TO HIGHWAYS.

41. (1) Whenever the Highways Authority is of opinion that it is necessary for the prevention of danger arising from obstruction of the view of persons using any highway, at any bend or at any corner of such highway, it may serve a notice upon the owner or occupier of land along side or at the bend or corner of such highway to alter, within such time and in such manner as may be specified in the notice, the height or character of any existing wall (not being a wall forming part of a permanent structure), fence, hedge, tree or any other object thereon, so as to cause it to conform with any requirements specified in the notice.

Prevention of obstruction of view of persons using any highway.

(2) If any person upon whom a notice has been served under sub-section (1), objects to comply with any requirement of such notice, he may, within fifteen days from the date of its receipt, send to the Highways Authority his objection in writing stating the grounds thereof.

(3) The Highways Authority shall, within one month from the date of receipt of the objection, consider the grounds advanced and shall, by order in writing either withdraw the notice or amend or confirm it.

(4) If any person is aggrieved by an order issued by the Highways Authority under sub-section (3), he may prefer an appeal within fifteen days from the date of receipt of such order to the State Highways Authority, whose decision in the matter shall be final.

(5) If any person fails to comply with the notice served on him under sub-section (1), as amended or confirmed, as the case may be, under sub-section (3) or (4), the Highways authority may take such action as may be considered necessary to alter the object. The expenditure incurred for such alternation shall be recovered from such person as an arrear of land revenue, without prejudice to any other action which may be taken, against him.

Highways authority to regulate traffic when Highway is declared unsafe.

42. If at any time it appears to the Highways authority that any highway in its division or any portion thereof is or has been rendered unsafe for vehicular traffic or pedestrian traffic by reason of damage or otherwise, it may subject to the provisions contained in section 43 and subject to such conditions as may be prescribed, either close the highway or the portion of it to all traffic or to any class of traffic, or regulate the number and speed or weight of the vehicles using such highway.

Procedure to be followed when Highways Authority desires permanently to close any highway.

43. (1) Where, in exercise of the powers conferred on it by section 42, the Highways authority desires to close down any highway or part thereof permanently, it shall give notice of its intention so to do in the *Tamil Nadu Government Gazette*. The notice shall also be published in at least two newspapers one of which shall be in Tamil.

(2) The notice shall indicate the alternative route, if any, which is proposed to be provided or which may already be in existence, and shall also invite objections, if any, to the proposal to be submitted to the State Highways Authority under sub-section (3), within such time as may be specified in the notice.

(3) The Highways authority shall finalise its proposal to close down such highway or part of it, after considering the objections, if any, received within the specified time, and shall submit a proposal to the State Highways Authority for approval, together with such objections as may have been received against such proposal.

(4) The State Highways Authority may, either approve such proposal, with or without modification or reject it.

(5) When the State Highways Authority has approved such proposal, it shall publish an order to that effect in the *Tamil Nadu Government Gazette*.

(6) When such order has been published, the Highways authority shall arrange for further publicity to be given to the order in atleast two newspapers, one of which shall be in Tamil and the highway or part thereof shall, then, be closed.

(7) Whenever any highway or any part thereof has been so closed, reasonable compensation shall be paid to every person who was entitled, otherwise than as a mere member of the public, to sue such highway or part thereof as a means of access to or from his property and has suffered damage because of such closure.

Prohibition of use of heavy vehicle on certain highways

44. Where the Highways authority is satisfied that any highway or a portion thereof, or any bridge, culvert or causeway built on across such highway is not designed to carry vehicles of which the laden weight exceeds such limit as may be fixed in this behalf, it may prohibit or restrict the plying of such vehicles on or over such highway or such part of the highway or such bridge, culvert or causeway.

Consent of Highways authority required to certain Acts on highway.

45. (1) Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of section 70, no person, other than the Highways authority or any person authorised by it, shall construct or carry any cable, wire, pipe, drain sewer or channel of any kind through, across, under or over any highway, except with the permission in writing of the Highways authority.

(2) In giving the consent, the Highways authority may impose such conditions as it may deem to be necessary and may also impose a rent or other charge for any land forming part of the highway occupied by or applied to the proposed work.

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

(3) If any person constructs or carries out any work in contravention of sub-section (1), the Highways authority may arrange for the removal of such work and restoration of the highway to its former condition as if the work constituted an encroachment on the highway, and such expenses as the Highways authority may incur for this purpose shall, without prejudice to any other action that may be taken against such person, be recovered from him in accordance with the procedure provided in section 29, in so far as that procedure is applicable.

46. (1) No person shall willfully cause, or allow any vehicle or animal in his charge to cause, any damage to any highway.

Prevention and
rectification
of damage to
highway.

(2) Where any damage has been caused to any highway in contravention of sub-section (1), the Highways authority shall repair such damage and recover the expenses incurred in this regard from such person who caused such damage, as if it were an arrear of land revenue, without prejudice to any action that may be taken against such person for such contravention under section 50.

CHAPTER IX.

PENALTIES.

47. Any person who—

(a) willfully or without any reasonable excuse, disobeys any summons, requisition or other lawful order or direction issued under or in pursuance of this Act; or

Disobedience of
summons,
requisition,
etc.

(b) resists or obstructs any officer or authority in the exercise of any power conferred on, or in the discharge of any duty entrusted to, such officer or authority by or under any of the provisions of this Act; or

(c) being required by or under any of the provisions of this Act to make any return or to furnish any information,—

(i) makes a false return or furnishes false information; or

(ii) willfully withholds or fails to furnish information,

shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

48. Whoever erects, alters or extends any building or makes any excavation or constructs any means of access to or from a highway or does any other work in contravention of the provisions of this Act shall, on conviction, be punishable with fine which may extend to five hundred rupees and with further fine which may extend to fifty rupees for each day after such conviction, during which the offending structure or work is not removed, demolished or cleared and the site not restored to its original condition.

Contravention
of restrictions
relating to
access or
erecting any
building, etc.

49. Whoever—

(a) occupies or makes any encroachment on any highway in contravention of the provisions of section 26; or

(b) fails to comply with the notice served on him under clause (ii) of sub-section (2) of section 28,

shall, on conviction, be punishable—

Unauthorised
occupation of
highway.

(i) for the first offence with fine which may extend to two hundred rupees, and

(ii) for any subsequent offence in relation to the same encroachment, with fine which may extend to five hundred rupees plus a further fine not exceeding fifty rupees per day on which such occupation of the highway or encroachment continues.

Causing
damage to
highways.

50. Whoever in contravention of the provisions of section 46 willfully causes or allows any vehicle or animal in his charge to cause any damage to any highway, shall, on conviction, be punishable with fine which may extend to one thousand rupees.

General
provisions
for
punishment
of offences.

51. Whoever contravenes any of the provisions of this Act or of any rules or order made thereunder shall, if no other penalty is provided for such offence under this Act, on conviction, be punishable with fine which may extend to one hundred rupees or if having been previously convicted of such offence under this Act, with fine which may extend to two hundred rupees.

Offences by
companies.

52. (1) Where an offence against any of the provisions of this Act, or any rule made thereunder has been committed by a company, every person who, at the time the offence was committed, was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any such offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

Compounding
of offences.

53. (1) Any offence punishable under this Act may, either before or after making the complaint, be compounded by the Highways authority on payment, for credit to the Government, of such sum as the Highways authority may specify:

Provided that such sum shall not, in any case, exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded.

(2) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender, in respect of the offence so compounded, and the offender, if in custody, shall be discharged forthwith.

(3) No offence punishable under this Act shall be compounded except as provided by this section.

Cognizance of
offence.

54. No court shall take cognizance of any offence under this Act except on complaint made by the Highways authority.

CHAPTER X.

MISCELLANEOUS.

55. (1) The Government may, of their own motion or on an application, call for and examine the record of any authority or officer in respect of any proceedings, the correctness, legality or propriety of any decision, taken or order passed therein, and if in any case, it appears to the Government that any such decision or order should be modified, revised, annulled, reversed or remitted for reconsideration, they may pass orders accordingly.

Power of Government to call for records and pass orders.

(2) No application to the Government for the exercise of their power under sub-section (1) shall be made—

(a) in respect of any proceeding of any authority or officer of any decision taken or order passed in any such proceeding unless an appeal had already been preferred in respect of such proceeding, decision or order under this Act and such appeal had been disposed off; and

(b) after the expiry of such period as may be prescribed, after the disposal of such appeal.

(3) The Government may suspend the execution of any decision or order pending the exercise of their power under sub-section (1), in respect thereof.

56. (1) The Government may, by notification, authorise any authority or officer to exercise any of the powers vested in them by this Act, other than the powers conferred by sections 55, 65 and 66 and may, in like manner, withdraw such authorisation.

Delegation of powers.

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions as may be specified in the notification and also to control and revision by the Government.

57. The Government may issue to the State Highways Authority or to any Highways authority such orders and directions, as in their opinion are necessary or expedient, for carrying out the purposes of this Act and such authority shall give effect to all such orders and directions.

Power of Government to issue orders and directions to subordinate officers.

58. The Government, the State Highways Authority or any Highways authority may, at their or its discretion, consult such authority or officer as may be prescribed, in exercising any power or discharging any duty or performing any function under or in pursuance of this Act.

Consultation with other authorities.

59. It shall be the duty of every police officer to—

(a) communicate without delay to the Highways authority, any information which such police officer receives of a design to commit, or of the commission of, any offence against this Act or any rule made thereunder;

Duties of police officers.

(b) assist the Highways authority or any officer or servant of the Highways authority reasonably demanding the aid of such police officer for the lawful exercise of any power vested in the Highways authority or any such officer or servant under this Act or any rule made thereunder for enforcing the provisions of this Act.

60. It shall be the duty of every Village Administrative Officer, or other revenue officer, by whatever designation known—

Duties of Village Administrative Officers.

(a) to prevent the destruction, removal, alternation or displacement of, or damage or injury to, or tampering with, any survey mark, or any mark showing the highway boundary, control line or building line; and

(b) when he become aware that any such mark has been destroyed, removed, altered, displaced, damaged, injured or tampered with, to report the fact to the nearest Highways authority or to any officer or servant under the Highways authority.

power regarding
discovery,
production of
evidence, etc.

61.(1) The Highways authority or any officer authorised in this behalf by the Government shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:—

Central Act
1908.

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

(b) requiring the discovery and production of documents;

(c) compelling the production of books of account and other documents; and

(d) issuing commissions for the examinations of witness or documents.

(2) Any person summoned merely to produce a document shall be deemed to have complied with the summons, if he causes such documents to be produced, instead of attending personally to produce the same.

Certain persons
to be public
servants.

62. Every officer acting or purporting to act in pursuance of any of the provisions of this Act or the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Central Act
of 1860.

Bar of certain
proceedings.

63.(1) No suit or other legal proceedings shall lie against the Government of anything which is in good faith done or intended to be done by or under this Act.

(2) (a) No suit, prosecution or other proceedings shall lie against the State Highways Authority or any Highways authority, or officer or person for any thing done or intended to be done under this Act, without the previous sanction of the Government, and such suit, prosecution or proceeding shall be filed within thirty days from the date of the act complained of.

(b) No such authority or officer or person shall be liable in respect of any such Act in any civil or criminal proceedings, if the Act was done in good faith in the course of the execution of the duties or the discharge of the functions assigned to such authority or officer or person by or under this Act.

Service how to
be effected.

64. When any notice, bill or other document is required to be served upon or issued or presented to any person under this Act or any rule made thereunder, such service, issue or presentation shall be given effect—

(a) by giving or tendering such notice, bill or document to such person; or

(b) if such person is not found, by leaving such notice, bill or document at his last known place of abode or business or by giving or tendering the same to his agent, clerk or servant or some adult member of his family; or

(c) if his address elsewhere is known, by forwarding such notice, bill or document of such address by registered post; or

(d) if none of the means aforesaid is available, affixing the same in some conspicuous part of the land or building, if any, to which the notice, bill or document relates.

Power to
exempt.

65. Notwithstanding anything contained in this Act, if the Government are satisfied that it is necessary or expedient in the public interest so to do, they may, by notification, exempt, subject to such conditions as they deem fit, any land or building or class of buildings, from all or any of the provisions of this Act.

Power to make
rules.

66. (1) The Government may make rules to carry out the purposes of this Act.

(2) (a) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.

(b) All notifications issued under this Act, shall, unless they are expressed to come into force on a particular day, come into force on the date on which they are so published.

(3) Every rule or notification made or issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or the Assembly decides that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

67. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order, published in the *Tamil Nadu Government Gazette*, make such provisions not inconsistent with the provisions of this Act as appears to them to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

68. Save as otherwise provided in this Act, the provisions of the Land Acquisition Act, 1894 shall cease to apply to any land which is required for the purpose specified in sub-section (1) of section 15 and any such land shall be acquired by the Government, only in accordance with the provisions of this Act.

Land
Acquisition
Act not to
apply.

69. Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law, custom, usage or contract or decree or order of a court or other authority.

Act to override
contract and
other laws,
etc..

70. Nothing in this Act shall affect—

Savings.

(a) the rights of any local authority to make any excavation for the purpose of laying, making, altering, repairing or renewing any sewer, drain, water course or other work; or

(b) the rights of any authority appointed under any law for the time being in force for gas or water, electricity, railways, tramways or trolley vehicles to erect any support or make any excavation for the purpose of laying, making, altering, repairing or renewing any main pipe, sluice, weir, electric line, duct, drain or other apparatus; or

(c) any land belonging to a railway administration or belonging to or used by a person holding a licence or sanction for the generation, transformation or distribution of electricity under the Indian Electricity Act, 1910 when such land is held or used by the railway administration or such persons, as the case may be, for the purpose of its railway or for generation, transformation or distribution of electricity, except in so far as they may consent thereto; or

(d) any land within the limits of a cantonment or a port; or

(e) any powers and duties of the telegraph authority under the provisions of the Indian Telegraph Act, 1885; or

(f) any land within the jurisdiction of any other authority under the administrative control of the Central Government.

Act I of

Act IX
1910

Act XIII
1885

**TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY**

Explanation I.—For the purpose of clause (a), the Tamil Nadu Housing Board constituted under the Tamil Nadu Housing Board Act, 1961 and the Tamil Nadu Slum Clearance Board constituted under the Tamil Nadu Slum Areas Improvement and Clearance Act, 1971 shall be deemed to be a local authority.

Tamil Nadu A
17 of 1961.Tamil Nadu A
11 of 1971.

Explanation II.— The saving of rights of authorities in clauses (a) and (b) does not dispense with the seeking of permission of the highways Authority under section 45.

(By order of the Governor)

A. KRISHNANKUTTY NAIR,
Secretary to Government,
Law Department.

Wondershare
PDFelement

VII