

CHAPTER-33

SQUATTING OR ENCROACHMENT OF GOVERNMENT LAND

During late fifties there was large scale squatting on Government land both under the control of Land & Development Office, and various other agencies such as Delhi Development Authority, Municipal Corporation of Delhi etc. The Government have issued following instructions to the Land & Development Office to ensure removal of encroachments upon land under the control of this Office:-

- (i) In no case shall public land be allowed to be enclosed either by a pucca structure or hedge or barbed wire fencing etc.
- (ii) No objection shall be taken to hedges grown immediately outside but adjacent to the boundary walls.
- (iii) Plot holders, who have not erected boundary walls at the limits of their plots shall be served with notices to put up boundary walls according to the plans approved by local bodies. No extra wicket gates, not included in the sanctioned plans, shall be allowed.
- (iv) Local bodies and the Government would welcome if the plot holders grow lawns and even flowers in open areas adjacent to the plots but without enclosing the area in any way. It would be better not to give leases for this purpose but in case the Corporation insists on giving temporary leases for permitting laying of lawns and growing of flowers without any hedges or fencing or barbed wiring etc., no objection need be taken.

2. ENCROACHMENT ON LAND IN GOVERNMENT COLONIES:

Encroachment on land in Government colonies shall be dealt with as follows:-

- (i) The Directorate of Estates shall be responsible for taking action against the misuse of land appurtenant to the houses or flats allotted to Government servants. No objection may, however be taken for use of these lands for raising poultry or growing vegetables, flowers etc., by the allottees provided such use does not become nuisance to their neighbors.

(ii) All open land in Government colonies shall be under the charge of Director of Horticulture, Central Public Works Department, who is also incharge of maintenance of these open spaces as lawns. He may continue to deal with the requests of the residents of the localities for use of these lawns for social and religious functions without any charges subject to the condition that any damage done to the lawns shall repaired at the cost of the party concerned.

The Land & Development Officer who administers Nazul lands shall not be responsible for eviction of encroachments and recovery of damages, etc, from Government servants or any other person in respect of vacant lands, in Government colonies covered by items (i) and (ii) above.

3. SURVEY OF SQUATTERS:

A quick survey shall be carried out twice a year (in winter and rainy seasons) by each Overseer, attached to the Enforcement Section, in the areas allotted to him to find out whether any Government land other than that which is under the control of Central Public Works Department, Director of Horticulture and Estate Office, has been squatted upon. When any squatting comes to notice during such a survey, the Overseer concerned shall note down the particulars of each squatter in a Register (arranged area-wise) known as "Squatters Register" to be maintained by him.

Sl. No.	Name of Squatter	Father's Name	Approximate area occupied	Whether used for residential or commercial purposes
1	2	3	4	5

Whether old or_____	Year of occupation	Date of inspection and dated initials of overseer	Date of removal with Sl. No: of the Demolition Register
6	7	8	9

After the survey is over each overseer shall prepare a consolidated statement in the prescribed form and also prepare a rough plan showing disposition of camps of squatters with other necessary details and send it to Enforcement Section for formulating necessary proposals for the eviction of squatter in consultation with other concerned agencies such as Delhi Administration, Delhi Development Authority, Delhi Municipal Corporation and New Delhi Municipal Committee.

Apart from the half yearly survey, squatting on Government land may come to notice either through intimation given by any party or through routine inspection of an area. The Overseer shall then immediately carry out a detailed inspection of the squatted area, fill in the Inspection Report in the specified format and send it to the Enforcement Section.

On receipt of Overseer's Report the Enforcement Section shall obtain orders as to whether the encroachment be removed straight-away with the help of Deputy Superintendent of Police (Mobile Demolition Squad) or proceedings under Public Premises (Eviction of Unauthorised Occupants) Act be initiated. If it is decided to remove the encroachment straight-away the Deputy Superintendent of Police shall be addressed. Where, however, there is squatting also in adjacent land belonging to any one of the agencies

mentioned above, the Delhi Administration shall be requested to arrange a joint demolition operation in the area.

After the issue of the letter to the Deputy Superintendent of Police (D), the Overseer shall contact the former's office and fix the date for carrying out demolition of structures etc., in consultation with other agencies involved, if any. For joint operation the time and date of demolition shall be fixed by Delhi Administration. The Overseer concerned shall attend the operation in both the cases.

After the unauthorised encroachment is removed, the Overseer shall report this fact to the Superintendent of Enforcement Section.

A record of all demolition operations shall be maintained by Enforcement Section separately for joint operations and other operations as in the following forms:-

- (i) Register of Record of Joint Demolition Operation.
- (ii) Register of Other Demolitions.

Register of Record of Joint Demolition Operation

Sl. No.	S.No.in the register of the area	Location	No. of struct	No. of families	Date of Demolition	Place to which Shifted	Purpose for which land was Required
1	2	3	4	5	6	7	8

Register of Other Demolitions

Sl. No.	S.No. in register Squatters	Locality	No. of squatters removed	Date of Demolition	Remarks File No.
1	2	3	4	5	6

4. PROCEDURE FOR EVICTION OF SQUATTERS UNDER P.P.E. ACT:

In a case where it is decided to start proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 the concerned section shall pass on the relevant file to the Estate Officer along with a brief history of the case and the information required for completing the prescribed proforma.

The Estate Officer shall on receipt of file for eviction under P.P.E. Act, issue a show-cause notice to the squatter, in the prescribed format and return the file to the Section concerned with the number and date of the notice issued to the party and date of hearing duly recorded thereon. This notice shall be prepared in quadruplicate. Three copies shall be handed over to the Overseer who shall serve one copy to the party, paste the second one on the premises and return the third copy to Estate Officer with details of service or pasting of copies duly recorded thereon. If the respondent files any reply to the show cause notice by the due date it shall be considered by Estate Officer. The Respondent shall also be permitted to summon witnesses, produce or call for necessary and relevant documents and be offered all other reasonable opportunities to defend his case as admissible under the law.

The Government shall be represented by the Overseer concerned if the Respondent himself defends the case and by Legal Officer if the Respondent is represented by a Pleader.

If, after hearing both the parties and examining the evidence produced, the Estate Officer is satisfied that the Respondent is in unauthorised occupation of Government land, he shall pass orders for his eviction and communicate the same to the Respondent in the prescribed format, giving him thirty days time to vacate the premises. The respondent can file an appeal against such order before the District Judge within 15 days of the service of the order.

If the Respondent neither files an appeal or brings any stay order from a competent court, nor does he vacate the premises within the specified period, the Estate officer shall issue orders, for his forcible eviction with the help of D.S.P., Mobile Demolition Squad. The Overseer concerned shall, on receipt of a copy of such order, arrange for the removal of encroachment in the same manner as outlined above.

5. CLAIMING OF DAMAGES:

In a case where damages are recoverable from the squatter for the period of unauthorised occupation, the overseer shall calculate damages, fill in

a schedule and a brief history of the case, and submit the case to the Estate Officer through Enforcement Section.

If the Estate Officer is satisfied that the damages are recoverable, he shall issue a show-cause notice to the squatter in the prescribed format. If the Respondent files a reply it shall be considered. He shall be granted a hearing to enable him to represent the case in person. He shall also be allowed to produce documentary evidence and summon witness in support of his reply. The Government shall be represented by the Overseer concerned or the Legal Office depending upon whether the other party appears personally or through a counsel.

If after hearing both the parties, the Estate Officer comes to the conclusion that damages or any other charges are recoverable from the Respondent, he shall pass orders to that effect and issue orders to the Respondent, to make payment of the amount found due, in lumpsum or in such monthly instalments as he (Estate Officer) may deem fit to grant on the merits of the case.

If the Respondent fails to make payment of damages as ordered, Estate Officer shall write to the Collector, Delhi to effect recovery of the amount as arrears of Land Revenue and to credit the sum to Government accounts. All such requests to Collector shall be pursued vigorously till the recovery is made in full.

Where a squatter files an appeal in the District Court against the order of Estate Officer and brings a stay order, the recovery of damages shall be stayed till the appeal is decided by the District Judge. The recovery of damages shall be made in accordance with the decision of that court whose order is binding on both the parties.

Where the District Judge remands the case to Estate Office, the latter will re-consider the case as laid down in the remand order and decide those issues again. A fresh order of recovery of damages shall be issued irrespective of whether the amount of damages remains the same or not. Simultaneously the order of recovery of damages issued previously shall be cancelled. Copies of all such orders shall, invariably, be endorsed to Revenue and Accounts Section and Enforcement Section.

6.

MODE OF RECOVERY OF DAMAGES:

The amount of damages shall, preferable, be recovered in cash. As and when a person wants to make payment in cash, the clerk attached to Estate

officer shall make an endorsement in the proceedings file and send it to the Cashier who shall accept the amount and issue a receipt to the person. The Cashier shall also record on Estate Officer's file the amount recovered and the number and date of Receipt issued to the payer. After payment is made, the Cashier shall immediately prepare a challan in the appropriate form and deposit the amount in the Reserve Bank of India under distinct head of account.

7. REGISTER OF DAMAGES:

Enforcement Section shall maintain a record of all damages recovered under the P.P.E. Act. Such record shall be maintained in a Register.

As soon as the Overseer prepares the brief history of the case for submission to the Estate Officer for recovery of damages from a squatter, the dealing hand in Enforcement Section shall make an entry of the claim in the Register of Damages by filling in column 1 to 10 thereof.

On receipt of a copy of Estate Officer's order asking the squatter to pay the damages, columns 11 to 13 of the Register shall be completed.

The Clerk attached to Estate Officer shall maintain a record of amounts received from day to day in compliance with Estate Officer's orders and details of such receipts shall be sent to Enforcement Section on every Monday.

On receipt of intimation of recoveries from Estate Officer's Clerk, Enforcement Section shall complete column 14 of the Register. Superintendent of Enforcement Section shall attest all entries made in column 14 by appending his initials in column 15 of the register and inform the Accounts Section also.

This Register shall be maintained separately for each year and orders issued by Estate Officer during one year shall be entered in the same register irrespective of whether the recovery is effected in the same or subsequent year.

• 8. TYPES OF SQUATTERS AND MODE OF RECOVERY OF DAMAGES FORM THEM:

Squatters are divided in the following four categories:-

- (a) Residential squatters.
- (b) Squatters who are petty shop-keepers i.e. those who are running petty shops for sale of grocery and sundry articles for meeting the daily

needs of the squatters of the locality. Dairy-Walas having not more than two cattle are included in this category.

- (c) Commercial squatters who are doing substantial business such as shop-keepers, cabinet makers, owners of workshops, fuel depot holders and Dairy-Walas having more than two cattle etc. etc.
- (d) Religious squatters.

The damages are recovered in the following manners:-

- (a) Period upto 14th January, 1966.
 - (i) No damages shall be recovered from pre July, 1960 squatters who were covered under the Jhuggis and Jhompries Removal Scheme and whose cases fall, under categories (a) & (b)
 - (ii) Damages from pre July, 1960 commercial squatters whose cases fall under category (c) shall be recovered from 1st January, 1959 or from the date of occupation, whichever is later, at rates comparable to those Adopted by Delhi Development Authority.
 - (iii) Damages from post July, 1960 squatters would be recovered at rates prescribed from time to time.
- (b) Period after the 14th January, 1966.
 - (i) Damages from pre July, 1960 squatters (residential or commercial) occupying Government land upto 50 sq. yds. shall be recovered at the rates adopted by the Delhi Development Authority from time to time.
 - (ii) Damages from pre July, 1960 squatters occupying Government land more than 50 sq. yds. in area and from all post July, 1960 squatters shall be recovered at rates not less than the rates laid down by the Government from time to time for temporary allotment or land for the appropriate purpose.

9. SPECIAL INSTRUCTIONS FOR DEALING WITH CASES OF ENCROACHMENT FOR A RELIGIOUS PURPOSES;

As soon as any encroachment for a religious purpose comes to notice, a note shall be submitted to Lt. Governor seeking his approval to the removal of the shrine. After the Lt. Governor has accorded his approval, the file shall be shown to the Ministry of Urban Development Before proceeding further in the matter. After both of them (Lt. Governor and the Ministry) have approved proceedings shall be started under P.P.E. Act for the eviction of encroached as outlined above. After the orders of eviction against unauthorised shrine are passed by the Estate Officer and the party does not file any appeal or does not vacate the site within 30 days from the date of Judgement order, the Estate Officer shall be required to authorise the Deputy Superintendent of Police (D), to provide necessary police protection to the Overseer incharge of the area and also to use such force as may be necessary to secure the compliance of the order. Where the Deputy Superintendent of Police (D) has not ordered removal of such unauthorised shrines in general rounds, and in such a contingency a formal request shall be made to the Deputy Commissioner to make suitable arrangements for the removal of the unauthorised shrines through Illaqua Magistrate. A copy of the letter shall also be sent to Illaqua Magistrate for advance information. After Deputy Commissioner has passed orders in the matter, the Overseer concerned shall contact the Illaqua Magistrate to fix the time and date of removal of the shrine. After the encroachment is removed, the Overseer shall submit a report to Enforcement Section as in other cases.