

# ENEMY PROPERTY (Amendment and Validation) ACT, 2017

# ENEMY PROPERTY (Amendment and Validation) ACT, 2017

  
**भारत का राजपत्र**  
**The Gazette of India**

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H H k e n i H i i T h j : k r i t k h g S H I I s i d ; g v y x l d y u d s i e n j i k t k l d A  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE  
(Legislative Department)

New Delhi, the 14th March, 2017/Phalgun 23, 1938 (Saka)

The following Act of Parliament received the assent of the President on the 14th March, 2017 and is hereby published for general information:—

THE ENEMY PROPERTY (AMENDMENT AND VALIDATION) ACT, 2017

No. 3 of 2017

[14th March, 2017.]

An Act further to amend the Enemy Property Act, 1968 and the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

Be it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Enemy Property (Amendment and Validation) Act, 2017. Short title and commencement

(2) Save as otherwise provided in this Act, it shall be deemed to have come into force on the 7th day of January, 2016.

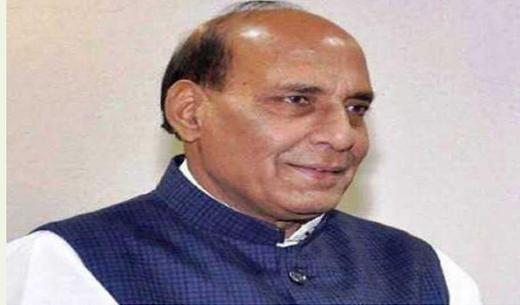
2. On and from the date of commencement of the Enemy Property Act, 1968 (hereinafter referred to as the principal Act), in section 2,— Amendment of section 2.

(i) in clause (b),—

(1) for the words "an enemy subject", the words "an enemy subject including his legal heir and successor whether or not a citizen of India or the citizen of a country which is not an enemy or the enemy, enemy subject or his legal heir and successor who has changed his nationality" shall be substituted and shall always be deemed to have been substituted;

18<sup>th</sup> December, 2017

## Rajnath reviews pensioners, enemy property issues



Union Home Minister Rajnath Singh reviewed the issues relating to Freedom Fighters' pension, rehabilitation schemes and Enemy Properties

Stressing the need to strengthen the custodian office for enemy property, the Minister directed the official to expeditiously notify the amended Enemy Property Act, 2017. The identification of such properties free from encumbrance for quick disposal and monetization was stressed upon.

Singh said that the appointment of Nodal officers by the State Governments be pursued to coordinate identification, vesting and valuation of enemy properties.

Cont...

## Rajnath reviews pensioners, enemy property issues

Singh directed that the pension of the freedom fighters to be distribution of through banks and all pensioners' Aadhar must be linked with banks.

The rehabilitation issues relating to Sri Lankan Tamilians staying in 107 camps and Tibetan refugees were also reviewed. The officials have been advised to handle the issues relating to Tibetan/Tamilian refugees to ensure good living conditions to the refugees.

The progress of developmental activities for settling about 1,000 returnees from former Indian enclaves in Bangladesh and infrastructure development in 51 Bangladeshi enclaves in Cooch Behar District of West Bengal was also reviewed at the meeting.

The West Bengal Government has been given Rs 413 crore for developing the infrastructure for these returnees. The progress of implementation should be monitored regularly to ensure timely completion of the project to rehabilitate the returnees, the Home Minister said.

# THE ECONOMIC TIMES

Jan 14, 2018, 03.35 PM IST

## Government plans to auction 'Enemy properties' worth Rs 1 lakh crore

Over 9,400 'enemy' properties, worth more than Rs 1 lakh crore, are set to be auctioned with the home ministry starting the process of identifying all such estates, officials said.

At a recent meeting, Union Home Minister Rajnath Singh was informed that the survey of 6,289 enemy properties has been completed and that of the remaining 2,991 properties which are vested with the custodian will be completed, a home ministry official told PTI.

## Government plans to dispose of 'enemy' properties soon

The government has vested such properties in the Custodian of Enemy Property for India, an office instituted under the central government.



Properties belonging to people who had left for countries like Pakistan after the partition and free from legal tangle will soon be disposed of with Home Minister Rajnath Singh giving his nod, the home ministry said.

The issue was discussed threadbare at a high-level meeting chaired by the home minister here today.

The home minister directed that considering the importance of the new provisions in the **Enemy Property Act, 2017**, which was amended recently to include disposal/transfer of enemy properties, the rules may be notified expeditiously.

**"It was also decided that the custodian office be strengthened for this purpose and the ministry should identify the properties free from encumbrance for quick disposal and monetisation,"** a home ministry statement said.

Cont...

## Government plans to dispose of 'enemy' properties soon

**The government has vested such properties in the Custodian of Enemy Property for India, an office instituted under the central government.**

According to the amended Act, "Enemy property" refers to any property belonging to, held or managed on behalf of an enemy, an enemy subject or an enemy firm. The owners of the enemy properties are those who have left India and settled in Pakistan or China.

The government has vested these properties in the Custodian of Enemy Property for India, an office instituted under the central government.

After the Indo-Pakistan War of 1965, the Enemy Property Act was enacted in 1968, which regulates such properties and lists the Custodian's powers.

The home ministry today said similar properties in Pakistan belonging to Indians have been disposed of and the appointment of nodal officers by the state governments be pursued to coordinate identification, vesting and valuation of enemy properties.

During the meeting, it was also informed that the survey of 6,289 properties has been completed and the survey be completed in respect of remaining 2,991 properties which are vested with the custodian, the statement said.

Also, the properties in the process for vesting numbering 5,863 may also be surveyed at the earliest.

# WHAT IS ENEMY PROPERTY...???

- ▶ In the wake of the 1962 war with China and the Indo-Pak wars of 1965 and 1971, there was a migration of people from India to Pakistan and China. Under the Defense of India Rules framed under the Defense of India Act, the government took over the properties and companies of such persons who had taken Pakistani and Chinese nationality. The Centre designated these properties as “ENEMY PROPERTIES” and vested them in the ‘Custodian of Enemy Property for India’, an office instituted under the central government
- ▶ Any property belonging to or held on the behalf of the successors of those who moved to Pakistan or China during partition will have no right to claim what they left in India. Properties were earlier left with custodians.
- ▶ The term “enemy property” is derived from the Enemy Property Act of 1968 (EPA 1968), which allowed the government to vest all property belonging to Pakistani and Chinese nationals in India. This law was a result of the wars India fought with Pakistan and China in the 1960s.

# What is Enemy Property Act...???

- ▶ The **Enemy Property Act, 1968** is an Act of the Parliament of India, which provides for the continuous vesting of enemy property in the Custodian. The Central Government through the Custodian of Enemy Property for India is in possession of enemy properties spread across many states in the country. In addition, there are also movable properties categorized as enemy properties.
- ▶ Any property belonging to or held on the behalf of the successors of those who moved to Pakistan or China during partition will have no right to claim what they left in India. Properties were earlier left with custodians.
- ▶ After the Indo-Pak war of 1965, the 'Enemy Property Act' was enacted in 1968 in order to regulate these properties and keep a tab on the powers custodians have.

# Why to Amend Act...???

- ▶ To avoid any litigation and encroachments because of the original law, necessary amendments have been imposed on it.

# History of Enemy Property Act...!!!

- The Enemy Property Act, 1968
- Amendment to the Enemy Property Act, 1968 (No. 34 of 1968) as amended in 1977 and issue of ordinance to give effect to the proposed new amendments.
- The Enemy Property (Amendment & Validation) Third ordinance, 2016
- The Enemy Property (Amendment & Validation) Fourth ordinance, 2016

# Highlights of the Enemy Property Act - 2017

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- ▶ The Bill amends the Enemy Property Act, 1968, to vest all rights, titles and interests over enemy property in the Custodian for the Enemy Property for India.
- ▶ The Bill declares transfer of enemy property by the enemy, conducted under the Act, to be void. This applies retrospectively to transfers that have occurred before or after 1968.
- ▶ The Bill prohibits civil courts and other authorities from entertaining disputes related to enemy property.

The Bill was passed by the Rajya Sabha on 10 March 2017. The Bill, with amendments made in the Rajya Sabha, was passed by the Lok Sabha on 14 March 2017.

# Key Issues and Analysis :

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- ▶ The Act allows transfer of enemy property from the enemy to other persons. The Bill declares all such transfers as void. This may be arbitrary and in violation of Article 14 of the Constitution.
- ▶ The Bill prohibits civil courts from entertaining any disputes with regard to enemy property. It does not provide any alternative judicial remedy (eg. tribunals). Therefore, it limits judicial recourse or access to courts available to aggrieved persons.

# Some Enemy Properties in India

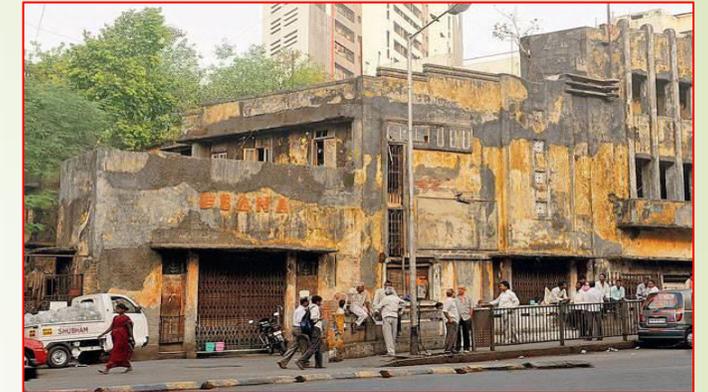
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'Jinnah House' was the residence of Mohammad Ali Jinnah in Malabar Hill of south Mumbai.



The Sorab House in Colaba is one of the 13 well-maintained enemy properties in Mumbai



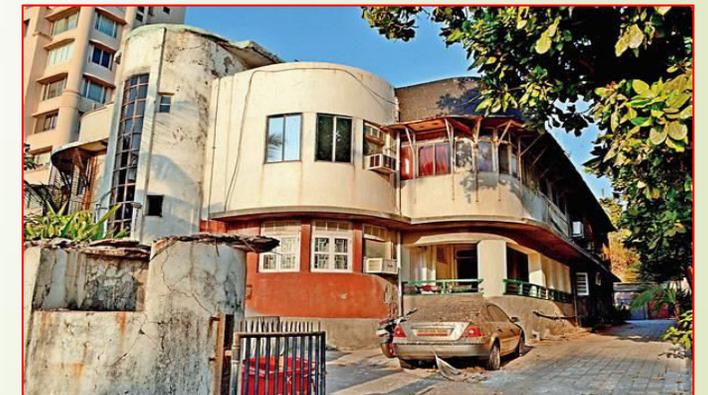
The Diana Talkies near Tardeo Circle, Mumbai,



(The Qila Mahmudabad in UP belonged to the erstwhile raja of Mahmudabad, who migrated to Pakistan in the mid-50s )



(The Flagstaff House in Bhopal is one of the disputed properties of the Pataudis )



(The Kishori Court, near the Worli end of the sealink, is perhaps the most high-profile enemy property in Mumbai )

# LOK SABHA

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## List of Questions for WRITTEN ANSWERS

Tuesday, March 28, 2017/Chaitra 7, 1939 (Saka)

▶ Enemy Property

▶ Question No. 4250.

SHRIMATI K. MARAGATHAM: SHRI PR. SENTHIL NATHAN: SHRI P.R. SUNDARAM:

Will the Minister of HOME AFFAIRS

▶ be pleased to state:

- ▶ (a) whether the Government has identified, recorded and evaluated all the enemy properties in the country and if so, the details thereof, State-wise including Tamil Nadu;
- ▶ (b) the income generated from each of the enemy properties during the last three years and the current year, State-wise;
- ▶ (c) whether it is a fact that the Government has identified 263 enemy properties worth over Rs. 100 crore originally belonging to Goans who have acquired Pakistan nationality and if so, the details thereof; and
- ▶ (d) the action taken by the Government on the enemy properties identified so far, in the country?

# Details of Immovable Enemy Property and Estimated Value

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| STATE/UT           | NO. OF IMMOVABLE PROPERTIES: PAKISTANI NATIONALS | NO. OF IMMOVABLE PROPERTIES: CHINESE NATIONALS | ESTIMATED VALUE (₹ cr) |
|--------------------|--|--|------------------------|
| Andhra Pradesh     | 159  |  | 11641.2                |
| <b>Assam</b>       | <b>6</b>   | <b>64</b>                                      | <b>41.26</b>           |
| Andaman            | 1  |  | 5.29                   |
| <b>Bihar</b>       | <b>79</b>  |  | <b>101.22</b>          |
| Chhattisgarh       | 78   |  | 54.62                  |
| <b>Delhi</b>       | <b>487</b>                                       | <b>2</b>                                       | <b>816.9</b>           |
| Diu                | 4  |  | 2.99                   |
| <b>Goa</b>         | <b>263</b>                                       |  | <b>100.1</b>           |
| Gujarat            | 146  |  | 844.52                 |
| <b>Haryana</b>     | <b>9</b>   |  | <b>791.5</b>           |
| Karnataka          | 20   | 1  | 151.81                 |
| <b>Kerala</b>      | <b>60</b>  |  | <b>1375.22</b>         |
| Madhya Pradesh     | 88   | 1  | 1796.71                |
| <b>Maharashtra</b> | <b>48</b>  |  | <b>571.3</b>           |
| Rajasthan          | 22   | 1  | 23.25                  |
| <b>Tamil Nadu</b>  | <b>34</b>  | <b>2</b>                                       | <b>1773.93</b>         |
| Uttar Pradesh      | 4991   |  | 82441.23               |
| <b>Uttarakhand</b> | <b>50</b>  |  | <b>927.69</b>          |
| West Bengal        | 2735   | 59   | 878.26                 |
| <b>Meghalaya</b>   | <b>NA</b>  | <b>19</b>                                      | <b>NA</b>              |

## Top Grossing States from Enemy Property



## Custodian of Enemy Property Bill Includes :

### Windfall Gains

Custodian of Enemy Property Bill Includes:

| Type of Property                 | Value (₹ cr)   |
|----------------------------------|----------------|
| <b>Immovable Properties:</b>     | <b>104,340</b> |
| <b>Movable Properties:</b>       |                |
| Shares in 266 listed companies*  | 2610           |
| Shares in 318 unlisted companies | 24             |
| Gold and Jewellery               | 0.38           |
| Bank Balance                     | 177.6          |
| Investment in Govt securities    | 150            |
| Investment in Fixed Deposits     | 160.58         |
| <b>Total</b>                     | <b>107,463</b> |

Listed Companies in which Custodian has high shareholding

**Wipro**

**Cipla**

**Tata Group  
Companies**

**ACC**

**VST Industries**

**DCM Group**

# Important Facts

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- The total valuation of immovable enemy property in the country stands at **Rs.1.04 lakh crore** as informed by Lok Sabha
- The amendment now empowers the Custodian of Enemy Property (CEP) to sell such assets, which wasn't permitted under the old Enemy Property Act, 1968. The official, appointed under the 1968 Act, was entrusted with the custody, management and administration of assets deemed enemy property after the India-China war of 1962 and the wars with Pakistan in 1965 and 1971. The authority, under the home ministry, can now sell these properties.
- Data provided in the report of the parliament select committee on the bill released in May last year reveals that there are **9,280** immovable properties belonging to Pakistani nationals encompassing **11,882** acres. The total value of immovable properties that are vested with the custodian stood at **Rs 1.04 lakh crore**.
- Movable vested properties consist of shares in 266 listed companies valued at Rs 2,610 crore; shares in 318 unlisted companies valued at Rs 24 crore; gold and jewellery worth Rs 0.4 crore bank balances of Rs 177 crore; investment in government securities of Rs 150 crore and investment in fixed deposits of Rs 160 crore.
- Besides this, there are 149 immovable enemy properties of Chinese nationals with the custodian in West Bengal, Assam, Meghalaya, Tamil Nadu, Madhya Pradesh, Rajasthan, Karnataka and Delhi.

# Highlights of ENEMY PROPERTY (Amendment and Validation) ACT, 2017

- ▶ **"enemy property vested in the Custodian"** shall include and shall always be deemed to have been included all rights, titles, and interest in, or any benefit arising out of, such property vested in him under this Act.
- ▶ **Issue of certificate by Custodian** : The Custodian may, after making such inquiry as he deems necessary, by order, declare that the property of the enemy or the enemy subject or the enemy firm described in the order, vests in him under this Act and **issue a certificate to this effect and such certificate shall be the evidence of the facts stated therein.**
- ▶ **Law of succession or any custom or usage not to apply to enemy property** : Nothing contained in any law for the time being in force **relating to succession or any custom or usage governing succession** of property shall apply in relation to the enemy property under this Act and no person (including his legal heir and successor) shall have any right and **shall be deemed not to have any right (including all rights, titles and interests or any benefit arising out of such property) in relation to such enemy property.**
- ▶ **Prohibition to transfer any property vested in Custodian by an enemy, enemy subject or enemy firm** : No enemy or enemy subject or enemy firm shall have any right and shall never be deemed to have any right to transfer any property vested in the Custodian under this Act, whether before or after the commencement of this Act and **any transfer of such property shall be void and shall always be deemed to have been void.**

# Highlights of ENEMY PROPERTY (Amendment and Validation) ACT, 2017

- **Sale of Property by Custodian** : Notwithstanding anything contained in any judgment decree or order of any court Tribunal or other authority or any law for the time being in force. **the Custodian** may within such time as may be specified by the Central Government in this behalf, **dispose of whether by sale or otherwise**, as the case may be, **with prior approval of the Central Government**, by general or special order, enemy properties vested in him immediately before the date of commencement of the Enemy Property (Amendment and Validation) Second Ordinance, 2016.
- The Custodian may, for the purpose of disposal of enemy property under sub-section (1), make requisition of the **services of any police officer to assist** him and it shall be the duty of such officer to comply with such requisition.
- The Custodian shall, on disposal of enemy property under sub-section (1) immediately **deposit the sale proceeds into the Consolidated Fund of India** and intimate details thereof to the Central Government.

# Highlights of ENEMY PROPERTY (Amendment and Validation) ACT, 2017

- The Central Government may by general or special order, make such guidelines for disposal of enemy property
- The Central Government may deal with or utilize the enemy property in such manner as it may deem fit.
- **Power to issue certificate of sale** : Where the Custodian proposes to sell any enemy immovable property vested in him, to any person, he may on receipt of the sale proceeds of such property, **issue a certificate of sale** in favour of such person and such certificate of sale shall, notwithstanding the fact that the original title deeds of the property have not been handed over to the transferee, **be valid and conclusive proof of ownership of such property.**
- **The certificate of Sale issued by custodian shall be a valid instrument for the registration of the property** in favour of the transferee and the registration in respect of enemy property for which such certificate of sale had been issued by the Custodian, shall not be refused on the ground of lack of original title deeds in respect of such property or for any such other reason."

# Highlights of ENEMY PROPERTY (Amendment and Validation) ACT, 2017

- ▶ **Transfer of property vested as enemy property in certain cases :**

**The Central Government may**, on receipt of a representation from a person, aggrieved by an order vesting a property as enemy property in the Custodian within a period of thirty days from the date of receipt of such order and after giving a reasonable opportunity of being heard, if it is of the opinion that any enemy property vested in the Custodian under this Act and remaining with him was not an enemy property. it may by general or special order. **direct the Custodian that such ,property vested as enemy property in the Custodian may be transferred to the person from whom such property was acquired and vested in the Custodian**

- ▶ **Income not liable to be returned :**

**Any income received in respect of the enemy property by the Custodian shall not**, notwithstanding that such property had been transferred by way of sale under section 8A or section 18, as the case may be, to any other person, **be returned or liable to be returned to such person or any other person.**

# Highlights of ENEMY PROPERTY (Amendment and Validation) ACT, 2017

- ▶ **Bar of jurisdiction :**

**No civil court or other authority shall entertain any suit or other proceeding** in respect of any property, subject-matter of this Act as amended by the Enemy Property (Amendment and Validation) Second Ordinance, 2016, or any action taken by the Central Government or the Custodian in this regard

- ▶ **In the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 is also suitably amended.**

Thank  
you



## **PARAG SHETH**

**Insolvency Professional , Govt. Regd. Valuer  
Chartered Engineer, Arbitrator**

**F I V, F I E, MICA, M ASCE,  
LL.B., DPM, ISO Lead Auditor**

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