

CHAPTER 288

STATE LANDS ENCROACHMENTS

Ordinances Nos.12 of 1840, 22 of 1931, 8 of 1947, Act No. 8 of 1954.

AN ORDINANCE TO MAKE PROVISION FOR THE PREVENTION OF ENCROACHMENTS UPON STATE LANDS.

[27 th October. 1840.]

Short title. 1. This Ordinance may be cited as the State Lands Encroachments Ordinance.

Information of encroachment. 2. It shall and may be lawful for the District Court, upon information supported by affidavit charging any person or persons with having, without the permission of the Government, entered upon or taken possession of any land which belongs to, or which immediately prior to such entry or taking possession was in the possession of, the State, to issue its summons for the appearance before it of the party or parties alleged to have so illegally entered upon or taken possession of such land, and of any other person or persons whom it may be necessary or proper to examine as a witness or witnesses on the hearing of any such information; and the said District Court shall proceed in a summary way in the presence of the parties, or in case of wilful absence of any person against whom any such information shall have been laid, then in his absence to hear and determine such information; and in case on the hearing thereof it shall be made to appear by the examination of the said party or parties, or other sufficient evidence to the satisfaction of such District Court, that the said party or parties against whom such information shall have been laid hath or have entered upon or taken possession of the land mentioned or referred to in such information without the permission of the Government, such District Court is hereby authorized and required to make an order directing such party or parties to deliver up to the State peaceable possession of such land, together with all crops growing thereon, and all buildings and other immovable property upon and affixed to the said land, and to pay the cost of such information; and in case the party

or parties against whom any such order shall have been made shall not, within fourteen days after service thereof, deliver up possession of the said land and premises, pursuant to the said order, or shall afterwards make or cause to be made any further encroachments upon the said land or premises, contrary to such order or in evasion thereof, then and in such case it shall be lawful for such District Court to adjudge such party or parties to pay a fine not exceeding fifty rupees, or to be imprisoned, with or without hard labour, for any time not exceeding fourteen days, and to make a further order for the immediate delivery over of the possession of such land and premises to the State; and the District Court shall thereupon cause possession thereof to be delivered to the State accordingly.

Penalty on disobedience of order or renewed encroachment.

3. Any person against whom any such order as aforesaid may have been made may, notwithstanding such order, proceed by the ordinary course of law to recover possession of such lands, in case he shall be able to establish a title thereto; and may also in such case recover a reasonable compensation for the damage he may have sustained by reason of his having been compelled to deliver up possession of the said premises, and in like manner, in case of the dismissal of any such information, the party having preferred the same may proceed according to the ordinary course of law, as if no such information had been preferred.

Subsequent proceeding by ordinary course of law.

4. Provided always that in case any such information shall be dismissed, it shall be lawful for the said District Court, if it shall think fit, to order payment by Government to the party or parties against whom the

Court may order payment of costs.

Order for delivery up of possession.

same may have been preferred of such sum as the said court may consider to be the amount of costs fairly incurred by such party or parties by reason of such information so dismissed.

Proceedings subject to rules of court.

5. The forms of the proceedings to be observed on lodging complaints, in issuing summonses, in the examination of the party or parties, in the citation of witnesses, in the making orders, and generally for the complete carrying into execution the powers hereby vested in the said District Court, shall be according to such general rules of practice as the Judges of the Supreme Court may now or hereafter frame thereon.

Cinnamon lands, when the property of the State.

6. All cinnamon lands which shall have been uninterruptedly possessed by Government for a period of thirty years and upwards, by peeling the cinnamon growing thereon, shall be held and deemed to be the property of the State.

Waste lands to be deemed the property of the State.

7. All forest, waste, unoccupied, or uncultivated lands shall be presumed to be the property of the State until the contrary thereof be proved, and all chenas and other lands which can be only cultivated after intervals of several years shall, if the same be situate within the districts formerly comprised in the Kandyan provinces (wherein no *thombo* registers have been heretofore established), be deemed to belong to the State and not to be the property of any private person claiming the same against the State, except upon proof only by such person—

(a) of a *sannas* or grant for the same, together with satisfactory evidence as to the limits and boundaries thereof; or

(b) of such customary taxes, dues, or services having been rendered to the State or other person for the same as have been rendered for similar lands being the property of private proprietors in the same districts ; or

(c) of his or his predecessor in title having made and maintained a permanent plantation in and upon the same for a period of not less than thirty years, or of his having otherwise improved the same and maintained it in such improved state for such period, and in either case of his having held uninterrupted possession of the same during the whole of the said period.

In all other districts in Sri Lanka chena and other lands which can only be cultivated after intervals of several years shall be deemed to be forest or waste lands within the meaning of this section.

8. All and every encroachment on any public road, street, or highway, by building or other erection, or by enclosure, planting, or otherwise, shall, on information thereof, be immediately abated and removed by judgment, order, or decree of the District Court thereon, and the party or parties offending found liable in damages besides the costs of suit.

Encroachment on road, &c.

9. Any divisional Assistant Government Agent or grama seva niladhari who shall wilfully or knowingly refuse or neglect to give every information within his knowledge or power immediately to the Government Agent or some Assistant Agent of his administrative district, of any encroachment made by any person or persons upon any land belonging to the State and situated in the division or village of such divisional Assistant Government Agent or grama seva niladhari, shall be liable for every such offence to a fine not exceeding one hundred rupees.

Divisional Assistant Government Agents and grama seva niladharis to give information.

10. In this Ordinance, unless the context otherwise requires—

Interpretation.

"unoccupied land" includes land occupied by, on behalf of, or under, the State.