

## 28. INSTRUCTION ON ENEMY PROPERTIES

**GOVERNMENT OF WEST BENGAL**  
**Office of the Director of Land Records & Surveys**  
**& Joint Land Reforms Commissioner, West Bengal**  
**35, Gopalnagar Road, Alipore, Calcutta - 27**

No. 36/3285/C/96

Dated : 15<sup>th</sup> October, 1996

From: Director of Land Records and Surveys and  
Joint Land Reforms Commissioner, West Bengal.

**To**  
**The District Land & Land Reforms Officer,**  
**North 24-Parganas.**

**Subject : Right of Citizen of Bangladesh.**

Ref : His Memo No. LR/1038/LR(N) dated 23.08.96.

With reference to the above, this is to inform him that landed property of a person who has become a citizen of Bangladesh after it's independence, can neither be treated as enemy property nor evacuee property. Further the principal of "Escheat" will also not apply here.

The views of the Learned Government Pleader is endorsed. The property will remain in the name of the Bangladeshi people. The properties should be recorded also in the names of the present possessor.

A.K. Bhattacharyya  
for Director of Land Records & Surveys  
&  
Jt. Land Reforms Commissioner,  
West Bengal.

**GOVERNMENT OF WEST BENGAL**  
**Office of the Director of Land Records and Surveys**  
**and Joint Land Reforms Commissioner, West Bengal**  
**35, Gopalnagar Road, Alipore, Calcutta - 27**

Memo No. : 36/2434/C/96

Dated : Calcutta, the 2<sup>nd</sup> July, 1997.

From: Director of Land Records and Surveys and  
Joint Land Reforms Commissioner.

**To**  
**The District Land & Land Reforms Officer,**  
**North 24-Parganas.**

**Sub : Right of Citizen of Bangladesh.**

A reference is invited to his office memo no. LR/452 dated 27.02.97 on the above mentioned subject.

This is to inform him that after independence of India i.e. after 15<sup>th</sup> August, 1947, if any person leaves West Bengal and becomes a citizen of East Pakistan before 10<sup>th</sup> July, 1968 and if he has left any property behind in West Bengal his property was being looked into by the Collector as defined in the West Bengal Evacue Property Act 1951. Hence his property would have been guided by "The West Bengal Evacue Property Act, 1951."

To provide continued vesting of enemy property vested in the custodian of enemy property for India under Defence of India Rule with effect from 10th July, 1968 all such properties left by an "enemy" under D.I. Rules, 1962 should vest in the custodian of enemy properties, under Enemy Property Act, 1968. The Central Govt. from time to time by Gazette Notification appointed custodians.

However, in any case the properties will not be treated as escheat properties but it would vest either in the Collector as stated in West Bengal Evacue Property Act, 1951 or in the custodian of the "Enemy Property Act 1968" as the case may be before emergence of Bangladesh, if any person left India and become a citizen of East Pakistan leaving behind his property in West Bengal.

A. Bhattacharyya  
for Director of Land Records & Surveys  
& Jt. Land Reforms Commissioner,  
West Bengal

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**Radiogram from Ministry of Home Affairs to Chief Secretaries of States**

T K S CALCUTTA DE DELHI OE Z NR 4395 GR 90

TO HO+ CHIEF SECYS ALL STATE GOVTS AND UT ADMNS

FROM HOME NEW DELHI

NO. 1/13034/1/85-IS(D.111), 21/3/9+85 UNGLAS

GOVT. OF INDIA HAVE DECIDED TO ENACT A NEW LAW TO CONFISCATE PROPERTY IN INDIA OF PERSONS OF INDIAN ORIGIN LIVING ABROAD AND WHO PROMOTE OR PREACH SEDITIOUS (.) THE PROPOSED LAW WILL BE EFFECTIVE FROM MARCH 11, 1985(.) PEOPLE SHOULD BE CAUTIONED THAT TRANSFER OF PROPERTY OF SUCH PERSONS WOULD NOT BE VALID FROM MARCH 11, 1985 AND HENCE THEY SHOULD BE CAREFULL BEFORE ENTERING INTO ANY SUCH TRANSACTIONS(.) REQUEST WIDE PUBLICITY IN THIS REGARD MAY PLEASE BE MADE (.) ACTION TAKEN MAY BE INTIMATED TO THIS MINISTRY(.)

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**The Enemy Property Act, 1968  
(Act No.34 of 1968)**

(20<sup>th</sup> August, 1968)

An Act to provide for the continued vesting of enemy property vested in the Custodian of Enemy Property for India under the Defence of India Rules, 1962, and for matters connected therewith.

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows :-

Short title, extent, application and commencement.

1. (1) This Act may be called the Enemy Property Act, 1968
- (2) It extends to the whole of India except the state of Jammu and Kashmir and it applies also to all citizens of India outside India and to branches and agencies outside India of companies or bodies corporate, registered or incorporated in India.
- (3) It shall be deemed to have come into force on the 10<sup>th</sup> day of July, 1968.

Definitions.

2. In this Act, unless the context otherwise requires –
  - (a) "Custodian" means the Custodian of Enemy Property for India appointed or deemed to have been appointed under section 3 and includes a Deputy Custodian and an Assistant Custodian of Enemy Property appointed or deemed to have been appointed under that

section.

- (b) "Enemy" or "Enemy subject" or "Enemy firm" means a person or country who or which was an enemy, an enemy subject or an enemy firm, as the case may be under the Defence of India Act, 1962 ( 51 of 1962) and the Defence of India Rules, 1962, but does not include a citizen of India.
- (c) "Enemy property" means any property for the time being belonging to or held or managed on behalf of an enemy, an enemy subject or an enemy firm :

Provided that where an individual enemy subject dies in the territories to which this Act extends, any property which immediately before his death, belonged to or was held by him or was managed on his behalf, may notwithstanding his death, continue to be regarded as enemy property for the purposes of this Act.

- (d) "Prescribed" means prescribed by rules made under this Act.

Appointment of Custodian of Enemy Property for India and Deputy Custodian, etc.

3. The Central Government may, by notification in the official Gazettee, appoint a Custodian of Enemy Property for India and one or more Deputy Custodians and Assistant Custodians of Enemy Property for such local areas as may be specified in the notification :

Provided that the Custodian of Enemy Property for India and any Deputy Custodian or Assistant Custodian of Enemy Property appointed under the Defence of India Rules, 1962, shall be deemed to have been appointed under this section.

Appointment of inspectors of Enemy Property.

4. The Central Government may, either generally or for any particular area, by notification in the Official Gazettee, appoint one or more Inspectors of Enemy Property for securing compliance with the provisions of this Act and may, by general or special order, provide for the distribution and allocation of the work to be performed by them for securing such compliance :

Provided that every Inspector of Enemy Firms appointed under the Defence of India Rules, 1962 shall be deemed to be an Inspector of Enemy Property appointed under this section.

Property vested in the Custodian of Enemy Property for India under the Defence of India Rules, 1962 to continue to vest in Custodian.

5. Notwithstanding the expiration of the Defence of India Act, 1962( 51 of 1962) and the Defence of India Rules, 1962, all enemy property vested before such expiration in the Custodian of Enemy Property for India appointed under the said Rules and continuing to vest in him immediately before the commencement of this Act, shall, as from such commencement, vest in the Custodian.

Transfer of Property vested in Custodian by enemy or enemy subject or enemy firm.

6. Where any property vested in the Custodian under this Act has been transferred, whether before or after the Commencement of this Act, by an enemy or an enemy subject or an enemy firm and where it appears to the Central Government that such transfer is injurious to the public interest or was made with a view to evading or defeating the vesting of the property in the Custodian, then, the Central Government may after giving a reasonable opportunity to the transferee to be heard in the matter, by order, declare such transfer to be void and on the making of such order, the property shall continue to vest or be deemed to vest in the Custodian.

Payment to Custodian of money otherwise payable to an enemy, enemy subject or enemy firm.

7. (1) Any sum payable by way of dividend, interest, share, profit or otherwise to or for the benefit of an enemy or an enemy subject or an enemy firm shall, unless otherwise ordered by the Central Government, be paid by the person by whom such sum would have been payable but for the prohibition under the Defence of India Rules, 1962, to the Custodian or such person as may be authorised by him in this behalf and shall be held by the Custodian or such person subject to the provisions of this Act.
- (2) In Cases in which money would, but for the prohibition under the Defence of India Rules, 1962, be payable, in a foreign currency to or for the benefit of an enemy or an enemy subject or an enemy firm (other than cases in which money is payable under a contract in which provision is made for a specified rate of exchange), the payment shall be made to the custodian in rupee currency at the middle official rate of exchange fixed by the Reserve Bank of India on the date on which the payment became due to that enemy, enemy subject or enemy firm.
- (3) The Custodian shall, subject to the provisions of section 8, deal with any money paid to him under the Defence of India Rules, 1962 or under this Act and any property vested to him under this Act in such manner as the Central Government may direct.

Powers of Custodian in respect of enemy property vested in him.

8. (1) With respect to the property vested in the Custodian under this Act, the Custodian may take or authorise the taking of such measure as he considers necessary or expedient for preserving such property and where such property belongs to an individual enemy subject, may incur such expenditure out of the property as he considers necessary or expedient for the maintenance of that individual or of his family in India.
- (2) Without prejudice to the generality of the foregoing provision the Custodian or such person as may be specifically authorised by him in this behalf, may for the said purpose –
- i) carry on the busniess of the enemy.
  - ii) take action for recovering any money due to the enemy.
  - iii) make any contract and execute any document in the name and on behalf of the enemy.
  - iv) institute, defend or continue any suit or other legal proceeding, refer any dispute to arbitration and compromise any debts, claims or liabilities.
  - v) raise on the security of the property such loans as may be necessary.
  - vi) incur out of the property any expenditure including the payment of any taxes, duties, cesses and rates to Government or to any local authority and of any wages, salaries, pensions, provident fund contributions, to or in respect of, any employee of the enemy and the repayment of any debts due by the enemy to persons other than enemies.
  - vii) transfer by way of sale, mortgage or lease or otherwise dispose of any of the properties.
  - viii) invest any money held by him on behalf of enemies for the purchase of Treasury Bills or such other Government Securities as may be approved by the Central Government for the purpose.
  - ix) make payments to the enemy and his dependents.
  - x) make payments on behalf of the enemy to persons other than those who are enemies, of dues outstanding on the 25<sup>th</sup> October, 1962.
  - xi) make such other payments out of the funds of the enemy as may be directed by the Central Government.

Explanation – In this sub-section and in section 10 and 17 “enemy” includes an enemy subject and an enemy firm.

Exemption from attachment etc.	9. All enemy property vested in the Custodian under this Act shall be exempted from attachment, seizure or sale in execution of decree of a civil court or orders of any other authority.
Transfer of securities belonging to an enemy.	<p>10. (1) Where, in exercise of the power conferred by section 8, the Custodian proposes to sell any security issued by a company and belonging to an enemy, the company may, with the consent of the Custodian, purchase the securities, notwithstanding anything to the contrary in any regulations of the company and any securities so purchased may be re-issued by the company as and when it thinks fit so to do.</p> <p>(2) Where the Custodian executes and transfers any securities issued by a company, the company shall, on receipt of the transfer and an order in this behalf from the Custodian, register the securities in the name of the transferee notwithstanding that the regulations of company do not permit such registration in the absence of the certificate, script or other evidence of title relating to the securities transferred ;</p> <p style="padding-left: 40px;">Provided that any such registration shall be without prejudice to any lien or charge in favour of the company and to any other lien or charge of which the Custodian gives express notice to the company.</p>
Power of custodian to summon persons and call for documents.	<p>11. (1) The Custodian may, by notice in writing, require any person whom he believes to be capable of giving information concerning any enemy property to attend before him at such time and place as may be specified in the notice and examine any such person concerning the same, reduce his statement to writing and require him to sign it.</p> <p>(2) The Custodian may, by notice in writing, require any person whom he believes to have in his possession or control any account book, letter book, invoice, receipt or other document of whatever nature relating to any enemy property, to produce the same or cause the same to be produced before the Custodian at such time and place as may be specified in the notice and to submit the same to his examination and to allow copies of any entry therein or any part thereof to be taken by him.</p>
Protection for complying with orders of Custodian.	12. Where any order with respect to any money or property is addressed to any person by the Custodian and accompanied by a certificate of the Custodian that the money or property is vested in him under this Act, the Certificate shall be evidence of the facts stated therein and if that person complies with the orders of the Custodian, he shall not be liable to any suit or other legal proceedings by reason only of such compliance.
Validity of action taken in pursuance of orders of Custodian	<p>13. Where under this Act. -</p> <p>(a) any money is paid to the Custodian : or</p> <p>(b) any property is vested in the Custodian or an order is given to any person by the Custodian in relation to any property which appears to the Custodian to be enemy property vested in him under this Act, neither the payment, vesting nor order of the custodian nor any proceedings, in consequence thereof shall be invalidated or affected by reason only that at a material time , -</p> <p>(i) some person who was or might have been interested in the money or property, and who was an enemy or an enemy firm, had died or had ceased to be an enemy or an enemy firm; or</p> <p>(ii) some person who was so interested and who was believed by the Custodian to be an enemy or an enemy firm, was not an enemy or an enemy firm.</p>

- Proceedings against companies whose assets vested in Custodian.
14. Where the enemy property vested in the Custodian under this Act consist of assets of an company, no proceedings, civil or criminal, shall be instituted under the Companies Act, 1956 (I of 1956), against the company or any director, manager or other officer thereof except with the consent in the Custodian.
- Returns as to enemy property.
- 15.(1) Custodian may call for from persons who, in his opinion have any interest in , or control over, any enemy property vested in him under this Act, such returns as may be prescribed.
- (2) Every person from whom a return is called for under sub section (1) shall be bound to submit such return within the prescribed period.
- Registers of returns.
- 16.(1) All returns relating to enemy property submitted to the Custodian under this Act shall be recorded in such registers as may be prescribed.
- (2) All such registers shall be open to inspection subject to the payment of such fees as may be prescribed and to such reasonable restrictions as the Custodian may impose, to any person who, in the opinion of the Custodian, is interested in any particular enemy property as a creditor or otherwise and any such person may also obtain a copy of the relevant portion from the registers on payment of the prescribed fees.
- Levy of Fee.
17. (1) There shall be levied by the Custodian fees equal to two per centum of -
- (a) the amount of money paid to him ;
- (b) the proceeds of the sale or transfer of any property which has been vested in him under this Act, and
- (c) the value of the residual property, if any, at the time of its transfer to the original owner or other person specified by the Central Government under section 18; Provided that in the case of enemy whose property is allowed by the Custodian to be managed by some person specially authorised in that behalf, there shall be levied a fee of two per centum of the gross income of the enemy or such less fee as may be specifically fixed by the Central Government after taking into consideration the cost of direct management incurred by that Government, the cost of superior supervision and any risks that may be incurred by that Government in respect of the management.
- Provided further that the Central Government may, for reasons to be recorded in writing, reduce or remit the fees leviable under this sub-section in any special case or class of cases.
- Explanation . – In this sub-section “gross income of the enemy” means income derived out of the properties of the enemy vested in the Custodian under this Act.
- 2) The value of any property for the purpose of assessing the fees shall be the price which, in the opinion of the Central Government or of an authority empowered in this behalf by the Central Government, such property would fetch if sold in the open market.
- 3) The fees in respect of property may be levied out of any proceeds of the sale or transfer thereof or out of any income accrued therefrom or out of any other property belonging to the same enemy and vested in the Custodian under this Act.
- 4) The fees levied under this section shall be credited to the Central Government.

Divesting of enemy property vested in the Custodian.	18. The Central Government may, by general or special order, direct that any enemy property vested in the Custodian under this Act and remaining with him shall be divested from him and be returned in such manner as may be prescribed, to the owner thereof or to such other person as may be specified in the direction and there upon such property shall cease to vest in the Custodian and shall revert in such owner or other person.
Protection of action taken under the Act.	19. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Custodian or an Inspector of Enemy Property for anything which is in good faith done or intended to be done under this Act.
Penalty.	20. (1) If any person makes any payment in contravention of the provisions of sub-section (1) of section 7, he shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both and the payment or dealing shall be void.  (2) If any person contravenes the provisions of sub-section (2) of section 10, he shall be punishable with imprisonment, for a term which may extend to six months, or with fine, or with both.  (3) If any person fails to comply with a requisition made by the Custodian under sub-section (1) or sub-section (2) of section 11, he shall be punishable with fine which may extend to five hundred rupees.  (4) If any person fails to submit the return under sub-section (2) of section 15, or furnishes such return containing any particular which is false and which he knows to be false or does not believe to be true, he shall be punishable with fine which extend to five hundred rupees.
Offences by companies.	21. (1) Where an offence under this Act 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 exercised all due diligence to prevent the Commission of such offence.  (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act 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 of the company, such 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 sections  a) “company” means any body corporate and includes firm or other association of individuals ; and b) “director”, in relation to a firm, means a partner in the firm.
Effect of laws inconsistent with the Act.	22. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.
Power to make rules	23. (1) The Central Government may make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide, for –

(a) the returns that may be called for by the Custodian under sub-section(1) of section 15 and the period within which such returns shall be submitted under sub-section (2) of that section;

(b) the registers in which the returns relating to enemy property shall be recorded under section 16 ;

(c) the fees for the inspection of registers and for obtaining copies of the relevant portions from the registers under sub-section (2) of section 16 ;

(d) the manner in which enemy property vested in the Custodian may be returned under section 18 ;

(e) any other matter which has to be or may be prescribed.

(3) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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.

Certain orders made under the Defence of India Rules 1962 to continue in force.

24. Every order which was made under the Defence of India Rules 1962, by the Central Government or by the Custodian of Enemy Property for India appointed under these Rules, relating to enemy property and which was in force immediately before the expiration thereof shall, in so far as such order is not inconsistent with the provisions of this Act, be deemed to continue in force and to have been made under this Act.

Repeal and saving.

25. (1) The Enemy Property Ordinance, 1968 (7 of 1968), is hereby repealed.  
(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

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**GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE & INDUSTRY  
DEPARTMENT OF COMMERCE  
OFFICE OF THE CUSTODIAN OF ENEMY PROPERTY FOR INDIA  
KAISER-I-HIND BUILDING  
CURRIMBHOY ROAD  
BALLARD ESTATE  
MUMBAI – 400 038.**

F.No.  $\frac{\text{Est/Cir/102}}{\text{I(108)GL}}$  / 292

Dated the 17<sup>th</sup> April, 2000

**STANDING ORDER NO. 5/2000**

**Subject : Guidelines to preserve and manage the immovable property vested in the Custodian of Enemy Property for India**

In exercise of powers conferred on Custodian of Enemy property for India under Section 8 of the Enemy Property Act, 1968 (E.P. Act, 1968), it is considered necessary and expedient to issue the following guidelines with immediate effect for preserving and

managing immovable enemy property vested in Custodian of Enemy Property for India by Notification No.12/2/65-E.Pty dated 10.09.1965 & S.O. No. 5511 dated 18.12.1971 issued by the Government of India, New Delhi.

## **2. Functions and duties of the Officers under the E.P. Act, 1968.**

**2.1. Dy. Custodian and Asstt. Custodian of Enemy Property :** Notwithstanding the definition of the Custodian in the E.P. Act, 1968 which includes Dy. Custodian and Asstt. Custodian of Enemy Property appointed u/s. 3 of the Act, it is hereby clarified that the Dy. Custodian and Asstt. Custodian are subordinate to the Custodian of Enemy Property for purpose of exercise of powers and discharge of their functions under the said Act. The Dy. Custodian and Asstt. Custodian appointed by the Central Government shall therefore exercise only those powers under the E.P. Act, 1968 which are specifically conferred on them by the Central Government or delegated / authorised by the Custodian of Enemy Property for India (CEP).

**2.2. State Liaison Officers :** Ministry of Commerce vide its circular letter No. 12/15/79 EI & EP dated 14.3.1980 had requested the Chief Secretaries of the various state Governments to nominate Liaison Officers in their States. It is therefore expected that the Liaison Officers have been nominated by the State Government in order to facilitate better coordination between the office of the Custodian of Enemy Property for India and the district level officers who are specifically authorised by the Custodian to preserve and manage the enemy property on his behalf. Chief secretaries of States except U.P. are once again requested to nominate one of their Joint/Special Secretaries as Liaison Officers for their State under intimation to the office of the Custodian of Enemy Property for India, Mumbai. The state Liaison Officers and the Dy. Custodian of Enemy Property in U.P. are required to assist the Custodian of Enemy Property for India in discharge of his functions under the Enemy Property Act, 1968. They should supervise and guide the work relating to the enemy property in their state entrusted to the district level Officers by the Custodian of Enemy Property for India. They should maintain proper lists of enemy properties district wise with details such as the name of Pakistani owner, name of tenants, the rent payable by the tenants, arrears if any payable on account of rent, name of employee/agent, if any, authorised for collection of rent, wages/commission payable to them, expenditure incurred on repairs etc. They should also furnish monthly returns to the Custodian of Enemy Property for India in the prescribed proforma annexed hereto as Annexure-I so that the proper check can be kept on the income and expenditure of the enemy properties.

**2.3. District Level Officers :** The District Magistrate, S.D.Os, J.L.R.Os, L.A.Os and other officers are authorised from time to time to preserve and manage the enemy properties in their districts on behalf of Custodian of Enemy Property for India. These Officers are also authorised to engage staff for the above said purpose and to pay wages /salaries to such staff out of the income of the property in their district/tehsil managed by them.

They should, however, send all their proposals for spending any money out of the enemy property income to the Custodian of Enemy Property for India, Mumbai through their state Liaison Officers who should satisfy themselves on justification of the each said expenditure before sending it to the Custodian of Enemy Property for India. Wherever it is felt that the staff engaged is in excess of the actual requirement, the State Liaison Officers should direct the district level officers to reduce the same in order to keep the expenses to the barest minimum. The district level Officers should also maintain proper register/lists of enemy properties of their districts/tehsils in the proforma prescribed at Annexure-I and send the copy of monthly abstract thereof to the State Liaison Officers and the Custodian of Enemy Property for India for maintaining proper account of the properties, income and expenditure thereon.

## **3. Detection, identification and take over of Enemy Property vested in the Custodian of Enemy Property.**

It is again brought to the notice of all concerned that all immovable properties in India belonging to or held by or managed on behalf of the Pakistani nationals are automatically vested in the Custodian of Enemy Property for India in terms of

Notification No. 12/2/65-E Pty dated 10.09.1965 and S.O. 5511 dated 18.12.1971 issued by Central Government under Defence of India Rules 1962 & 1971 respectively. All such enemy properties vested in the Custodian continue to remain vested in him in terms of Sec. 5 & 24 of the Enemy Property Act 1968 as amended. Accordingly, all such properties situated anywhere in India whether detected during the vesting period between 10.09.1965 to 26.09.1977 or any time thereafter continue to remain vested in him till they are divested from him by the Central Government as provided under Section 18 of the Enemy Property Act, 1968. The Custodian of Enemy Property for India is, therefore, required to detect, identify and take over the control and management of all vested enemy properties all over India and preserve them till they are divested from him. It is, therefore, necessary that the State Governments, their officials, especially the district revenue officials and municipal officials should re-check their records to find out if there is any immovable property belonging to or held in the name of Pakistani national during the said period in the revenue/Municipal/Police records. The intimation to this effect providing complete details of the enemy property and the nationality of the owner thereof during the said crucial vesting period should be given to the Custodian of Enemy Property for India to enable him to initiate take over process of such vested property. Any intelligence, information or complaint received from any person in respect of any such property should also be immediately forwarded to Custodian of Enemy Property for India for his further directions.

3.2. On receipt of the intelligence/information/complaint regarding any enemy property, from the district authorities or otherwise, the office of the Custodian of Enemy Property for India shall forward the same to District Magistrate/Dy. Commissioner-In-charge of District in which the said property is located. The District authorities will first check the relevant revenue/Municipal /Police records to verify the location/area and the other details of the property viz. the name of owner, his nationality, the name of occupier or manager or agent of the owner during the said crucial vesting period. Thereafter, a notice may be given by the jurisdictional district revenue officer not below the rank of the SDM/SDO requiring any person whom he believes to be capable of giving information concerning any enemy property to attend before him at such time and place as specified in the notice and examine any such person concerning the same, reduce his statement in writing and require him to sign it. He may also require any person whom he believes to have in his possession or control any account book, letter book, invoices, receipt or other documents of whatever nature relating to any enemy property to produce the same or cause the same to be produced before them at such time and place as may be specified in the notice and to submit the same to their examination and to allow copies of any entry therein or any part thereof to be taken by them. The proforma for the notice is annexed hereto as Annexure- II. The notice to the occupant of the property or any other person should be served only by District Revenue staff looking after the enemy property work :-

- (i) By giving or tendering it to the person concerned or his manager, if any;
- (ii) By leaving it at the last known place of the business of the person concerned or by giving or tendering the same to other member of the family;
- (iii) By sending through registered post ;
- (iv) By affixing it on some conspicuous part of the premises concerned or at the last known place of the business of the person concerned.

The notice should be served only by following the above order. "Dasti" service of notice through police may be resorted only in the case of persistent non-compliance by the Noticee.

3.3 The district authorities should observe the principles of natural justice, giving sufficient opportunity to the Noticees to present their case and also hear them or their representative, if requested. After the Noticee has given his explanation/ representation in writing and/or in person, the authority who has given the notice will submit his findings to the Dist. Magistrate / Collector /Dy. Commissioner-in-Charge of the district for confirmation. The Dist. Magistrate / Collector / Dy. Commissioner, as the case may be, should forward his report and recommendation alongwith the report and documents

relied thereon for declaration of the property as “enemy” property. On receipt of the report/recommendations from the Dist. Magistrate/Collector /Dy.Commissioner the Custodian will examine the same and cause further investigation, if deemed necessary, in the matter. After he has satisfied himself on the basis of the report of the Dist. Magistrate /Collector / Dy.Commissioner in respect of the property in question, the Custodian will declare that property as enemy property by issuing a Certificate u/s. 12 of The Enemy Property Act, 1968 in the form prescribed at Annexure-III and shall also issue an ‘Authorisation Order’ in the form at Annexure IV. Only on receipt of the “Authorisation Order” from the Custodian, the Dist. Authorities shall proceed to take over the control and management of the enemy property from 1965 onwards. The report to this effect should be sent by the Dist. Magistrate/Collector/Dy. Commissioner to the State Liaison Officer and the Custodian of Enemy Property for India at Mumbai immediately. The Property taken over should be included in the list of enemy properties pertaining to his district in the form at Annexure-I. The monthly abstract of these lists should also be sent to the State Liaison Officer and the Custodian regularly.

#### **4. Preservation and Management of Enemy Property vested in the Custodian.**

4.1. Partitions : There are quite a few enemy properties which are partly owned by Indian co-sharers but they have not yet been partitioned. This sometimes results in complicated arrangement between the Indian co-sharer and this office, especially in connection with the payment of various types of taxes, etc. Steps should immediately be taken to partition such properties.

4.2. Rent/Lease : Fair rent should invariably be fixed for all enemy properties and the same should be revised at regular intervals as per the laws of the state relating to rent control etc. Enemy Property may be normally leased/rented out for a period of 1 year only. However, landed property may be leased out for 3 years to preserve them better. Specific lease/rent agreements may be entered into for this purpose between the tenant on one hand and the concerned District Magistrates on the other hand after taking prior approval from the Custodian, Mumbai. The District Magistrates have powers to cancel any lease with the prior approval of Custodian of Enemy Property for India at any time or withhold its renewal for violation of any terms and conditions of lease, default of payment of lease money and other dues, if any, or for any other act prejudicial to management and preservation of the vested properties.

4.3. Gross collection : It is noticed that many times only net income is remitted by the State/District authorities without giving any indication as to the gross collection. This makes it very difficult for the office of the Custodian of Enemy Property for India to compute the 2% levy on the gross collection which is credited to the Consolidated Fund of India under section 17 of the Enemy Property Act, 1968. Therefore, while rendering the accounts of income and expenditure, the gross collection made should invariably be mentioned.

4.4 Remittance of income from enemy property : District authorities are sometimes keeping the income received from enemy property under their control in the form of Savings Bank accounts, fixed deposits in the post office or banks or in their own treasury. This violates the provisions of the Enemy Property Act, 1968 which provides for keeping monies under the control of Custodian of Enemy Property for India only in the form of Treasury Bill or such other Govt. Securities as may be approved by the Central Government. The Central Government has approved only Treasury Bills to be brought by the Custodian of Enemy Property for India from the RBI at Mumbai. All authorities should, therefore, stop this practice forthwith and remit the entire money held by them in respect of the enemy property under their control and management to the office of the Custodian of Enemy Property for India by Bank draft/pay order immediately. It is further clarified that the income received from the enemy property may be kept in a current account opened in the name of Custodian of Enemy property for India, in a nationalised Bank by the Dist. Magistrates for a limited period of one month and thereafter keeping 1/12<sup>th</sup> of the income of each enemy property in the district for purpose of incurring expenses in connection with management and maintenance of the enemy property, the balance should be remitted to the office of the Custodian of Enemy Property for India by 10<sup>th</sup> of every month.

4.5 Repairs : Sometimes huge sums of money are being spent at a time on repairs and maintenance of enemy properties. It is desirable to follow certain basic principle while allowing such expenditure. Invariably, expenditures on repairs involving more than Rs.1000/- should be allowed only after a proper survey has been made and after calling quotations of the work to be done and assigning the work order to the person making the lowest offer.

4.6 Taxes : Various types of Taxes, such as Income Tax, Wealth Tax, Corporation Tax, Repair cess, Estate Duty etc. are required to be paid in respect of enemy properties. This may be paid by the Dist. Authorities as per the prevailing law of the State under intimation to their State Liaison Officer and the Custodian of Enemy Property. Taxes payable by tenants should be paid by them only. Copies of receipts for payment of tax made in respect of each property should be sent to the Office of Custodian for record.

4.7 Expenses : It has been often noticed that the district authorities do not follow the guidelines issued for incurring expenses for repairs and the maintenance of the enemy property. In every case it should be ensured that the amount spent on repairs/maintenance each year should not exceed one month's rent or two month's rents as the case may be, as per the relevant law of the state in respect of the repair of properties by the landlord/owners. The differences, if any, should be borne by the tenant/ lessee. In case there is no income or 1/12<sup>th</sup> or 1/6<sup>th</sup> of income as the case may be from a particular property is not sufficient for repairs or maintenance thereof, a proposal with justification of such expenses may be sent through the State Liaison Officer to the Custodian of Enemy Property for India, Mumbai for his consideration. The district Level officers are hereby authorised to make expenses of any kind for preservation and management of enemy property to the extent of Rs.1000/-The expenses exceeding Rs.1000/- but not exceeding Rs.10,000/- may also be incurred by them after taking approval from the State Liaison Officers. But the expenses exceeding Rs.10,000/- should be incurred only after obtaining prior permission from the Custodian of Enemy Property for India, Mumbai. The above said limits, however, do not apply to the payment of various types of taxes such as Income Tax, Wealth Tax, Corporation Tax, etc. required to be paid in respect of enemy properties to the Central Government, State Govt., or Municipal authorities.

#### **5. Recovery of arrears of money due to Custodian on behalf of Pak. Nationals and institution of legal proceedings.**

As per section 8(2)(ii) of the Enemy Property Act, 1968, the Custodian of Enemy Property is empowered to authorise persons specifically to take action for the recovery of any money due to the enemy. Thus wherever arrears of rent have accumulated, the district authorities may submit suitable proposals through their State Liaison Officers for recovering the rent or for evicting the defaulting tenant. Section 8(2) (iv) further empowers the Custodian to issue authorisation to specific persons for the purpose of instituting, defending, or continuing any suit or any other legal proceedings, or to refer any dispute or to arbitration or to compromise any debts, claims or liability. Appropriate proposals in this behalf may also be forwarded to the Custodian of Enemy Property. On receipt of such proposals, specific authorisation for taking action for eviction of tenants/ occupants/lessee and/or for recovery of such money as arrears of land revenue may be issued by the Custodian in appropriate cases.

However, no proceedings in any court for eviction of tenants or for recovery of money in respect of any property or for any purpose whatsoever should be initiated without specific approval from the Custodian of Enemy Property, Mumbai. The Custodian and District authorities may institute or defend suits when filed after taking legal opinion on merits of each case but in no case criminal suit/FIR should be filed against the owner/occupant or claimant of any enemy property during the process of identification of any property as enemy property or for recovery of income /possession of the property. Wherever on the legal advice of D.G.C. or Central Government Standing Counsel it is found necessary to do so in a particular case, suitable proposal giving full justification for registering FIR or instituting criminal suit alongwith copy of such legal advice may be sent through their State Liaison Officer to the Custodian of Enemy Property for India who will examine the case in consultation with Branch Secretariate

of Ministry of Law and Justice at Mumbai and issue appropriate directions to Dist. Authorities in this regard.

**6. Receipts for Collections :**

It has been observed that the District authorities are issuing their own receipts while collecting the rent/lease amount/auction value in respect of enemy properties under their control and management. There is no uniform format of receipt with them. With a view to have uniformity and also for better accounting of money collected on behalf of Custodian in respect of enemy property it has been decided to issue the receipt only from the receipt book provided by the office of Custodian. The district authorities are therefore requested to send their requirement of receipt books so that the same can be supplied to them. It should be ensured that only the receipt book preauthenticated by the office of the Custodian is used for any type of collection made in respect of enemy property. The counter foils of the used receipt book should be sent to the office of the Custodian for record and reconciliation of income.

**7. Unauthorised Occupation/encroachments of enemy property.**

A strict vigilance should be kept to avoid unauthorised occupation and illegal transfer of enemy properties and prompt action should be taken to remove such unauthorised occupants and check illegal transfers of enemy properties if this should happen.

**8. Inspection and Measurement :**

The District authorities should devise a method of regular periodic inspection of the properties under their charge. The measurement of the properties as per revenue/municipal records should be done and map/ blue print of each property should be got prepared and copy thereof be sent to the office of the Custodian for record.

**9. Court Cases :**

It is observed that hundreds of Court cases have been filed in respect of enemy properties by the tenants/ occupiers / pakistani owners. These cases are being handled by the district authorities all over India. There are also cases which have been filed by the district authorities for eviction of tenants, removal of encroachments or recovery of rent etc. but information relating to the court cases is not being regularly sent to the Office of the Custodian of Enemy Property for India.

The district authorities should give top priority to the Court cases under their charge and send their regular report in this regard to the Custodian. The Dist. Government Counsel (D.G.C.) of the district appointed by the State Government only should be approached to handle the Court cases relating to enemy property and their fees should be determined in accordance with the State Government schedule of fees. The Cases filed and pending in the High Court of the State should be handled only by Central Government Standing Counsels or Counsel on the Panel of the Branch Secretariate of Ministry of Law, Government of India. No private Counsel advocates/pleaders should be appointed without prior approval from the Custodian. The D.G.C. or Central Government Standing Counsel as the case may be should be requested to send their fee bills including other expenses if any incurred in connection with the cases handled by them through district authorities for payment by the office of the Custodian of Enemy Property for India at Mumbai.

10. The guidelines issued earlier on the subject are modified to the above extent. Any difficulty experienced in implementing the above guidelines and suggestions, if any, for further modification may be brought to the notice of this office immediately.

This issues with the approval of Govt. of India, Ministry of Commerce & Industry vide their letter no. 12/41/99-EI &EP dated 15.03.2000.

G.B. Yadav  
Custodian of Enemy Property for India.

**ANNEXURE - I****MONTHLY RETURN OF ENEMY PROPERTY IN THE DISTRICT OF ..... STATE OF .....**

Sl. No.	Name of owner as on 1965 and changes, if any, thereafter	Full description & location of the property including postal address	Name & Address of occupant lessee/ tenants	Details of rent/ lease amount payable	Name of employees/ agents, if any, authorised for collection of rent including their wages/ commission payable to them	Details of expenditure if any, incurred for repairs etc.	Arrears if any, payable in respect of property	Details of amount remitted to the Custodian of Enemy Property, Mumbai.	Action taken to recover arrears of / rent/lease/ Auction amount	Details of Court cases, if any, filed in respect of property
1	2	3	4	5	6	7	8	9	10	11

OFFICE OF THE .....  
..... (complete address)

F.No.

Dated :

To

.....  
.....  
.....  
.....

Subject: Immovable Property viz .....

.....

Sir,

Whereas it appears, the subject property belonged to or/was held by or managed on behalf of Pakistani national during the period from 10.09.1965 to 26.09.1977. In terms of section 5 & 24 of the Enemy Property Act, 1968 read with Notification No.12/2/65-E.Pty. dated 10.09.1965 and S.O.5511 dated 13.12.1971 issued by the Government of India, New Delhi the subject property appears to be an enemy property vested in the Custodian of Enemy Property for India and continues to vest in him. I have been authorised by the said Custodian to identify, preserve and manage on his behalf, the enemy property situated in the district /tehsil under my charge.

2. Now, therefore, I require you to furnish the following informations/documents in person or through your representative and show cause in writing at the address given above within 10 days on receipt of this notice as to why the subject property should not be declared as enemy property and taken under my control for its preservation and management as provided under the Enemy Property Act, 1968. The reply should indicate specifically whether any personal hearing in the matter is required by you.

3. In case no reply is received within the stipulated time as above, or you do not appear for the personal hearing on the date and time fixed for the said purpose, it will be presumed that you have nothing to say in the matter and the said property shall be taken over by me as enemy property and dealt with in accordance with the provisions of the said Act.

4) List of documents/information required :

- (1) Name of owner of the property, date and other details of migration of owner to Pakistan.
- (2) Details of subsequent transfers, if any, by way of inheritance, sale, gift or otherwise.
- (3) Copies of relevant sale-deed, gift deed, Will, Succession Certificates, revenue records relating to these transfers.
- (4) Documentary evidence in support of your rights, if any, in respect of the subject property.
- (5) Death certificates and true geneological chart of the owner and/or subsequent transferers where the owner/ transferer died intestate.
- (6) Any other informations in respect of the property.

Yours faithfully,  
(To be signed by Officer-in-Charge  
at Dist./Tehsil level)

**ANNEXURE - III**

(On letter head of Office of the CEP)

No.

Dated :

**CERTIFICATE UNDER SECTION 12 OF  
THE ENEMY PROPERTY ACT, 1968.**

WHEREAS all immovable properties in India belonging to or held by or managed on behalf of Pakistani nationals vested in the Custodian of Enemy Property for India, under Government of India, Notification No.12/2/65-E, Pty. Dated 10.09.1965 and S.O. 5511 dated 18.12.1971 issued under Defence of India Rules, 1962 & Defence of India Rules, 1971 respectively continue to remain so vested in the said Custodian, under section 5 of The Enemy Property Act, 1968.

AND WHEREAS, the immovable properties situated at .....  
..... (details of property) belong(s) to or is/are held/managed by  
..... who is/are Pakistani  
national(s) and whereas the said property(s) is/are enemy property(s) vested in the Custodian of  
Enemy Properties for India.

NOW, therefore, I, ..... (name of CEP) Custodian of  
Enemy Property for India U/s. 12 of The Enemy Property Act, 1968 hereby certify that the above  
mentioned property(s) is/are enemy property(s) vested in me and continue to so vest under the  
provisions of the said Act.

(.....)  
Custodian of Enemy Property  
For India.

(round seal of office)

**ANNEXURE - IV**

(On letter head of office of the CEP)

File No.

Dated :

**AUTHORISATION ORDER UNDER SECTION 8  
OF THE ENEMY PROPERTY ACT, 1968.**

WHEREAS under Government of India, Ministry of Commerce Notification No.12/2/65-E  
Pty. dated 10.09.65 and S.O. 5511 dated 18.12.1971, all immovable properties in India belonging to  
or held by or managed on behalf of all Pakistani nationals are 'Enemy property' vested in the  
Custodian of Enemy Property for India and continue to vest in the said Custodian under Section 5  
of the Enemy Property Act, 1968.

AND WHEREAS the person(s) detailed in column 2 of the schedule annexed hereto is/are  
a/all Pakistani national(s) owning/ holding / managing the immovable properties mentioned in  
column 3 thereof and whereas the said property(s) is/are an enemy property vested in me and  
continue(s) to so vest in terms of the said orders and the provisions of said Act.

Now, therefore, I, ..... the Custodian of Enemy Property  
for India hereby authorises the Dist. Magistrate / Collector /Dy. Commissioner, Incharge of Dist  
..... under section 8 of the Enemy Property Act, 1968 to take over control and  
management of and take such measures as he considers necessary or expedient for the  
preservation and management of the said 'enemy' property.

(.....)  
Custodian of Enemy Property  
for India.

**SCHEDULE**

Sl. No.	Name(s) of the Pakistani Owner(s) of the Property	Details of Property
(1)	(2)	(3)

**STATEMENT SHOWING DETAILS OF ENEMY PROPERTY**

**INCOME RECEIVING CASES**

**STATEMENT - "A"**

NAME OF THE DISTRICT \_\_\_\_\_ SUB-DIVISION NAME \_\_\_\_\_ BLOCK NAME \_\_\_\_\_

Sl. No.	File No.	Name of Pak National	Details of Property	Name of occupants/tenant /lessee	Rate of Rent	Rent Received upto	Rent in Arrear	Qutstanding Amount
1.	2.	3.	4.	5.	6.	7.	8.	9.

**STATEMENT SHOWING COURT CASES OF ENEMY PROPERTY**

**STATEMENT - "B"**

NAME OF THE DISTRICT \_\_\_\_\_ SUB-DIVISION NAME \_\_\_\_\_ BLOCK NAME \_\_\_\_\_

Sl. No.	File No.	Name of Pak National	Details of Property	No. of cases	Suit/ W.P.	Cause Title	Name of Court	Matter of Litigation	Remarks
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.

**STATEMENT SHOWING DECLARED CASES OF ENEMY PROPERTY**

**STATEMENT - "C"**

NAME OF THE DISTRICT \_\_\_\_\_ SUB-DIVISION NAME \_\_\_\_\_ BLOCK NAME \_\_\_\_\_

Sl. No.	File No.	Name of Pak. Owner	Details of Property	Date of vesting declaration	Name of present occupant	Remarks.
1.	2.	3.	4.	5.	6.	7.

**STATEMENT SHOWING PROCESS CASES OF ENEMY PROPERTY**

**STATEMENT - "D"**

NAME OF THE DISTRICT \_\_\_\_\_ SUB-DIVISION NAME \_\_\_\_\_ BLOCK NAME \_\_\_\_\_

Sl. No.	File No.	Name of the Pak National	Details of Property	Remarks.
1.	2.	3.	4.	5.