



Enemy Property Act 1968

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Why in News?

Recently, a parcel of land in Uttar Pradesh, formerly owned by the family of an ex-Pakistani President, is set to be auctioned under **the [Enemy Property Act, 1968](#)**. This development highlights ongoing discussions surrounding the management and **disposal of enemy properties in India**.

What is the Enemy Property Act?

- **Enactment:** The Enemy Property Act was enacted in 1968 following the **India-Pakistan war of 1965** to regulate properties owned by individuals classified as "enemy aliens" or "enemy subjects."
- **Enemy Property Definition:** It refers to assets left behind by individuals or entities that migrated to enemy countries (Pakistan and China) following conflicts such as the [1965 and 1971 India-Pakistan wars](#) and the [1962 Sino-Indian War](#).
 - These properties were initially taken over under the **Defence of India Rules of 1962**, which were enacted under the **Defence of India Act of 1962** and vested with the **Custodian of Enemy Property for India (CEPI)**, a department under the Ministry of Home Affairs,.
 - The [1966 Tashkent Declaration](#) between India and Pakistan included discussions about the return of such properties, but Pakistan disposed of these properties in 1971.
 - India continued to hold these properties under the **Enemy Property Act of 1968**.
 - The Act authorises the government to assume custody and management of such properties to prevent their use against national interests.
- **Amendment:** The **Enemy Property (Amendment and Validation) Bill, 2016**, was passed by Parliament in 2017, amending the 1968 Act and the **1971 Public Premises (Eviction of Unauthorised Occupants) Act**.
 - It broadened the definitions of **"enemy subject" and "enemy firm"** to include an **enemy's legal heir and successor**, whether a citizen of India or a citizen of a non-enemy country, as well as the succeeding firm of an enemy firm, regardless of the nationality of its members or partners.
 - The 2017 amendment clarified that enemy property remains under government control even if the original enemy's status changes.
- **Key Legal Precedents:**
 - **Union of India vs. Raja Mohammad Amir Mohammad Khan Case, 2005:** The Raja of Mahmudabad owned properties in Uttar Pradesh. After Partition, he left for Pakistan in 1957 and acquired Pakistani citizenship, leading to his estate being declared enemy property.
 - His wife and son stayed in India as Indian citizens, and upon the Raja's death, his son staked a claim to the properties, challenging their classification as enemy property.
 - The [Supreme Court \(SC\) of India](#) held that **since the son was an Indian citizen**, he was entitled to reclaim his father's properties. The properties could not be treated as enemy property because the rightful heir was a citizen of India.
 - **Impact:** The SC verdict led to numerous claims by relatives of those who migrated to Pakistan. In response, the government issued ordinances to prevent courts from

ordering the return of enemy properties, **ultimately passing The Enemy Property (Amendment and Validation) Act in 2017.**

- **Lucknow Nagar Nigam & Others V. Kohli Brothers Colour Lab. Pvt. Ltd. & Others Case, 2024:** The SC ruled that **vesting enemy property in the Custodian is temporary.** The Union of India cannot claim ownership, as there is no transfer of ownership from the original owner to the Custodian, and thus no ownership rights are transferred to the government.

Public Premises (Eviction of Unauthorised Occupants) Act, 1971

- It is **commonly known as the Public Premises Act** and is designed to address the issue of unauthorised occupation of public property.
- **Definition of Public Premises:** Under Section 2(e) of the Act, "public premises" include:
 - Properties belonging to or leased by the Central Government.
 - Premises under the control of the Secretariat of either House of Parliament.
 - Properties controlled by companies with significant Central Government shareholding, corporations established by Central Acts, universities, and technology institutes.
- **Implications for Occupants and Landlords:**
 - **Unauthorised Occupants:** The Act provides a **stringent mechanism for eviction**, offering limited scope for legal recourse. Courts consistently **uphold the principle that public premises** should be available for their intended use and that unauthorised occupation undermines this purpose.
 - **Landlords (Government Bodies/Public Sector Undertakings):** The Act streamlines the process for reclaiming occupied properties. However, authorities must ensure that the **eviction process is fair and reasonable**, adhering to principles of natural justice. Judicial interpretations emphasise that while estate officers have substantial powers, these must be exercised judiciously.

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