

Code of Criminal Procedure, 1973

Chapter 10 - Maintenance of Public Order and Tranquillity

Section 129 - Dispersal of assembly by use of civil force

(1) Any Executive Magistrate or officer in charge of a police station or, in the absence of such officer in charge, any police officer, not below the rank of a sub-inspector, may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination, not to disperse, any Executive Magistrate or police officer referred to in sub-section (1), may proceed to disperse such assembly by force, and may require the assistance of any make person, not being an officer or member of the armed forces and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

Section 130 - Use of armed forces to disperse assembly

(1) If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Executive Magistrate of the highest rank who is present may cause it to be dispersed by the armed forces.

(2) Such Magistrate may require any officer in command of any group of persons belonging to the armed forces to disperse the assembly with the help of the armed forces under his command, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(3) Every such officer of the armed forces shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

Section 131 - Power of certain armed force officers to disperse assembly

When the public security is manifestly endangered by any such assembly and no Executive Magistrate can be communicated with, any commissioned or gazette officer of the armed forces may disperse such assembly with the help of the armed forces under his command, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law, but if, while he is acting under this section, it becomes practicable for him to communicate with an Executive Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate, as to whether he shall or shall not continue such action.

Section 132 - Protection against prosecution for acts done under preceding sections

(1) No prosecution against any person for any act purporting to be done under section 129, section 130 or section 131 shall be instituted in any Criminal Court except.

(a) with the sanction of the Central Government where such person is an officer or member of the armed forces;

(b) with the sanction of the State Government in any other case.

(2) (a) No Executive Magistrate or police officer acting under any of the said sections in good faith;

(b) no person doing any act in good faith in compliance with a requisition under section 129 or section 130;

(c) no officer of the armed forces acting under section 131 in good faith;

(d) no member of the armed forces doing any act in obedience to any order which he was bound to obey, shall be deemed to have thereby, committed an offence.

(3) In this section and in the preceding sections of this Chapter,

(a) the expression "armed forces" means the military, naval and air forces, operating as land forces and includes any other Armed Forces of the Union so operating;

(b) "officer" in relation to the armed forces, means a person commissioned, gazetted or in pay as an officer of the armed forces and includes a junior commissioned officer, a warrant officer, a petty officer, a non-commissioned officer and a non-gazetted officer;

(c) "member" in relation to the armed forces, means a person in the armed forces other than an officer.

Section 133 to 143 - Public nuisances

Section 133 - Conditional order for removal of nuisance

(1) Whenever a District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the State Government on receiving the report of a police officer or other information and on taking such evidence (if any) as he thinks fit, considers.-

(a) that any unlawful obstruction or nuisance should be removed from any public place or from any way, river or channel which is or may be lawfully used by the public; or

(b) that the conduct of any trade or occupation or the keeping of any goods or merchandise; is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated; or

(c) that the construction of any building, or the disposal of any substance, as is likely to occasion conflagration or explosion, should be prevented or stopped; or

(d) that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary; or

(e) that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public; or

(f) that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, lank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order-

- (i) to remove such obstruction or nuisance; or
- (ii) to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation, or to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or
- (iii) to prevent or stop the construction of such building, or to alter the disposal of such substance; or
- (iv) to remove, repair or support such building, tent or structure, or to remove or support such trees; or
- (v) to fence such tank, well or excavation; or
- (vi) to destroy, confine or dispose of such dangerous animal in the manner provided in the said order;

or, if he objects so to do, to appear before himself or some other Executive Magistrate subordinate to him at a time and place to be fixed by the order, and show cause, in the manner hereinafter provided, why the order should not be made absolute.

(2) No order duly made by a Magistrate under this section shall be called in question in any civil Court.

Explanation.-A "public place" includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.

Section 134 - Service or notification of order

(1) The order shall, if practicable, be served on the person against whom it is made, in the manner herein provided for service of a summons.

(2) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the State Government may, by rules, direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

Section 135 - Person to whom order is addressed to obey or show cause

The person against whom such order is made shall

- (a) perform, within the time and in the manner specified in the order, the act directed thereby; or
- (b) appear in accordance with such order and show cause against the same.

Section 136 - Consequences of his failing to do so

If such person does not perform such act or appear and show cause, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code (45 of 1860,) and the order shall be made absolute.

Section 137 - Procedure where existence of public right is denied

(1) Where an order is made under section 113 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and if he does so, the Magistrate shall, before proceeding under section 138, inquire into the matter.

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Court; and if he finds that there is no such evidence, he shall proceed as laid down in section 138.

(3) A person who has, on being questioned by the Magistrate under sub-section (1), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial.

Section 138 - Procedure where he appears to show cause

(1) If the person against whom an order under section 133 is made appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case.

(2) If the Magistrate is satisfied that the order, either as originally made or subject to such modification as he considers necessary, is reasonable and proper, the order shall be made absolute without modification or, as the case may be, with such modification.

(3) If the Magistrate is not so satisfied, no further proceedings shall be taken in the case.

Section 139 - Power of Magistrate to direct local investigation and examination of an expert

The Magistrate may, for the purposes of an inquiry under section 137 or section 138

(a) direct a local investigation to be made by such person as he thinks fit; or

(b) summon and examine an expert.

Section 140 - Power of Magistrate to furnish written instructions, etc

(1) Where the Magistrate directs a local investigation by any person under section 139, the Magistrate may

(a) furnish such person with such written instruction as may seem necessary for his guidance;

(b) declare by whom the whole or any part of the necessary expenses of the local investigation shall be paid.

(2) The report of such person may be read as evidence in the case.

(3) Where the Magistrate summons and examines an expert under section 139, the Magistrate may direct by whom the costs of such summoning and examination shall be paid.

Section 141 - Procedure on order being made absolute and consequences of disobedience

(1) When an order has been made absolute under section 136 or section 138, the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code (45 of 1860).

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other movable property of such person within or without such Magistrate's local jurisdiction and if such other property is without such jurisdiction, the order shall authorise its attachment and sale when endorsed by the Magistrate within whose local jurisdiction the property to be attached is found.

(3) No suit shall lie in respect of anything done in good faith under this section.

Section 142 - Injunction pending inquiry

(1) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

Section 143 - Magistrate may prohibit repetition or continuance of public nuisance

A District Magistrate or Sub-divisional Magistrate, or any other Executive Magistrate empowered by the State Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code (45 of 1860), or any special or local law.

Section 144 to 144A - Urgent cases of nuisance or apprehended danger

Section 144 - Power to issue order in urgent cases of nuisance or apprehended danger

(1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed ex parte.

(3) An order under this section may be directed to a particular individual, or to persons residing in a particular place or area, or to the public generally when frequenting or visiting a particular place or area.

(4) No order under this section shall remain in force for more than two months from the making thereof:

Provided that, if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.

(5) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section, by himself or any Magistrate subordinate to him or by his predecessor-in-office.

(6) The State Government may, either on its own motion or on the application of any person aggrieved, rescind or alter any order made by it under the proviso to subsection (4).

(7) Where an application under sub-section (5), or sub-section (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it, either in person or by pleader and showing cause against the order, and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing.

Section 144A - Power to prohibit carrying arms in procession or mass drill or mass training with arms

1[(1) The District Magistrate may, whenever he considers it necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by public notice or by order, prohibit in any area within the local limits of his jurisdiction, the carrying of arms in any procession or the organising or holding of, or taking part in, any mass drill or mass training with arms in any public place.

(2) A public notice issued or an order made under this section may be directed to a particular person or to persons belonging to any community, party or organisation.

(3) No public notice issued or an order made under this section shall remain in force for more than three months from the date on which it is issued or made.

(4) The State Government may, if it considers necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by notification, direct that a public notice issued or order made by the District Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which such public notice or order was issued or made by the District Magistrate would have, but for such direction, expired, as it may specify in the said notification.

(5) The State Government may, subject to such control and directions as it may deem fit to impose, by general or special order, delegate its powers under sub-section (4) to the District Magistrate.

Explanation.--The word "arms" shall have the meaning assigned to it in section 153AA of the Indian Penal Code'(45 of 1860).]

1.Inserted vide the Code of Criminal Procedure (Amendment) Act, 2005

Section 145 to 148 - Disputes as to immovable property

Section 145 - Procedure where dispute concerning land or water is likely to cause breach of peace

(1) Whenever an Executive Magistrate is satisfied from a report of a police officer or upon other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, on a specified date and time, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section, the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(3) A copy of the order shall be served in the manner provided by the Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The Magistrate shall then, without reference to the merits or the claims of any of the parties, to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them, take such further evidence, if any as he thinks necessary, and, if possible, decide whether and which of the parties was, at the date of the order made by him under sub-section (1), in possession of the subject of dispute:

Provided that if it appears to the Magistrate that any party has been forcibly and wrongfully dispossessed within two months next before the date on which the report of a police officer or other information was received by the Magistrate, or after that date and before the date of his order under sub-section (1), he may treat the party so dispossessed as if that party had been in possession on the date of his order under sub-section (1).

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final.

(6) (a) If the Magistrate decides that one of the parties was, or should under the proviso to sub-section (4) be treated as being, in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction; and when he proceeds under the proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed.

(b) The order made under this sub-section shall be served and published in the manner laid down in sub-section (3).

(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purposes of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto.

(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107.

STATE AMENDMENT

1Maharashtra:

In section 145,-

(a) in sub-section (1), for the words "whenever an Executive Magistrate" the words "Whenever in Greater Bombay, a Metropolitan Magistrate and elsewhere in the State, an Executive Magistrate" shall be substituted;

(b) for sub-section (10), the following sub-section shall be substituted, namely:-

"(10) In the case of an Executive Magistrate taking action under this section nothing in this section shall be deemed to be in derogation of his power to proceed under section 107 . In the case of a Metropolitan Magistrate taking action under this section, if at any stage of the proceeding, he is of the opinion that the dispute calls for an action under section 107 , he shall after recording his reasons, forward the necessary information to the Executive Magistrate having jurisdiction, to enable him to proceed under that section."

1. Vide Maharashtra Act 1 of 1978 (w.e.f. 15-4-1978).

Section 146 - Power to attach subject of dispute and to appoint receiver

(1) If the Magistrate at any time after making the order under sub-section (1) of section 145 considers the case to be one of emergency, or if he decides that none of the parties was then in such possession as is referred to in section 145, or if he is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach the subject of dispute until a competent Court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof:

Provided that such Magistrate may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of breach of the peace with regard to the subject of dispute.

(2) When the Magistrate attaches the subject of dispute, he may, if no receiver in relation to such subject of dispute has been appointed by any civil Court, make such arrangements as he considers proper for looking after the property or if he thinks fit. Appoint a receiver thereof, who shall have, subject to the control of the Magistrate, all the powers of a receiver appointed under the Code of Civil Procedure, 1908 (5 of 1908):

Provided that in the event of a receiver being subsequently appointed in relation to the subject of dispute by any civil Court, the Magistrate

(a) shall order the receiver appointed by him to hand over the possession of the subject of dispute to the receiver appointed by the civil Court and shall thereafter discharge the receiver appointed by him;

(b) may make such other incidental or consequential orders as may be just.

Section 147 - Dispute concerning right of use of land or water

(1) Whenever an Executive Magistrate is satisfied from the report of a police officer or upon other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water within his local jurisdiction, whether such right be claimed as an easement or otherwise, he shall make an order in writing, stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend his Court in person or by pleader on a specified date and time and to put in written statements of their respective claims.

Explanation .-The expression "land or water" has the meaning given to it in subsection (2) of section 145.

(2) The Magistrate shall then peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence, if any, as he thinks necessary and, if possible, decide whether such right exists; and the provisions of section 145 shall, so far as may be, apply in the case of such inquiry.

(3) If it appears to such Magistrate that such rights exist, he may make an order prohibiting any interference with the exercise of such right, including, in a proper case, an order for the removal of any obstruction in the exercise of any such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the receipt under sub-section (1) of the report of a police officer or other information leading to the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such receipt.

(4) When in any proceedings commenced under sub-section (1) of section 145 the Magistrate finds that the dispute is as regards an alleged right to user of land or water, he may, after "recording his reasons, continue with the proceedings as if they had been commenced under sub-section (1); and when in any proceedings commenced under sub-section (1) the Magistrate finds that the dispute should be dealt with under section 145, he may, after recording his reasons, continue with the proceedings as if they had been commenced under sub-section (1) of section 145.

STATE AMENDMENT

1Maharashtra:

In sub-section (1) of section 147, for the words "Whenever an Executive Magistrate" the words "Whenever in greater Bombay, a Metropolitan Magistrate and elsewhere in the State, an Executive Magistrate" shall be substituted..

Section 148 - Local inquiry

(1) Whenever a local inquiry is necessary for the purposes of section 145, section 146 or section 147, a District Magistrate or Sub-divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

(2) The report of the person so deputed may be read as evidence in the case.

(3) When any costs have been incurred by any party to a proceeding under section 145, section 146 or section 147, the Magistrate passing a decision may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion and such costs may include any expenses incurred in respect of witnesses and of pleaders' fees, which the Court may consider reasonable.