

The Goa Agricultural Tenancy (Amendment) Bill, 2017

(Bill No. 14 of 2017)

A

BILL

further to amend the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964).

BE it enacted by the Legislative Assembly of Goa in the Sixty-eighth Year of the Republic of India, as follows:-

1. Short title and commencement.- (1) This Act may be called the Goa Agricultural Tenancy (Amendment) Act, 2017.

(2) It shall come into force at once.

2. Amendment of section 2.- In section 2 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964) (hereinafter referred to as the "principal Act"),-

(i) before clause (1A), the following clause shall be inserted, namely:-

“(1) “Administrative Tribunal” means the Administrative Tribunal constituted under the Goa Administrative Tribunal Act, 1965 (Act No. 6 of 1965);”;

(ii) clause 5A shall be omitted;

(iii) in clause (19A), for the expression “Court of Senior Civil Judge”, the word “Mamlatdar” shall be substituted;

(iv) for clause (24), the following clause shall be substituted, namely:-

“(24) “Tribunal” means the Tribunal constituted under this Act; and”.

3. Amendment of sections 7, 7A, 8, 8A, 10, 11, 12, 14, 18B, 18C, 18E, 18F, 18G, 18H, 18J, 18K and 18L.- In sections 7, 7A, 8, 8A, 10, 11, 12, 14, 18B, 18C, 18E, 18F, 18G, 18H, 18J, 18K and 18L of the principal Act, for the expression “Court of Senior Civil Judge”, wherever it occurs, the word “Mamlatdar” shall be substituted.

- 4. Amendment of section 18.-** In section 18 of the principal Act,-
- (i) for the expression “Court of Senior Civil Judge”, wherever it occurs, the word “Mamlatdar” shall be substituted;
 - (ii) in sub-section (4), for the words “District Court”, the word “Collector” shall be substituted.

- 5. Amendment of section 18A.-** In section 18A of the principal Act,-
- (i) for the expression “Court of Senior Civil Judge”, wherever it occurs, the word “Mamlatdar” shall be substituted;
 - (ii) in sub-section (2), for the expression “in appeal by the District Court”, the expression “in appeal by the Collector or in revision by the Administrative Tribunal” shall be substituted.

- 6. Insertion of section 43.-** After section 42A of the principal Act, the following section shall be inserted, namely:-

“43. Tribunal. - (1) For the purpose of this Act there shall be a Tribunal consisting of not more than three members, called the Agricultural Lands Tribunal, for such area as the Government may, by notification, from time to time specify.

(2) Notwithstanding anything contained in sub-section (1), the Government may appoint any officer not below the rank of a Mamlatdar to be the Agricultural Lands Tribunal and to exercise the powers and to perform the duties and functions of the said Tribunal under this Act in a Taluka or in any other area as may be specified in this behalf.

(3) Save as otherwise provided, the qualifications of the members constituting the Tribunal and conditions of service and all other matters relating to the constitution or organisation of the Agricultural Lands Tribunal shall be such as may be prescribed.”.

- 7. Amendment of section 46.-** In section 46 of the principal Act, for the word “Tribunal”, the words “Mamlatdar or Tribunal” shall be substituted.

- 8. Substitution of section 46A.-** For section 46A of the principal Act, the following section shall be substituted, namely:-

“46A. Powers of the Mamlatdar to inquire into contraventions.- (1) Notwithstanding the fact that no application has been made to him in this behalf, the Mamlatdar may, upon information received or upon his own

knowledge or suspicion, that any of the provisions of this Act have been contravened, hold an inquiry in the prescribed manner into the alleged contravention as if an application had been made to him in this regard.

(2) The Government, Collector or any officer empowered by the Government in this behalf, may, in any case, where it/he has reason to believe that there has been a contravention of the provisions of this Act, direct the Mamlatdar to hold an inquiry into alleged contravention.”.

9. Substitution of section 46B.- For section 46B of the principal Act, the following section shall be substituted, namely:-

“46B. Transfer and disposal of pending applications, appeals and revisions.- (1) All applications and/or proceedings under sections 7, 7A, 8, 8A, 10, 11, 12, 14, 18, 18A, 18B, 18C, 18E, 18F, 18G, 18H, 18J and 18K of this Act filed and pending with the Court of Senior Civil Judge immediately before the commencement of the Goa Agricultural Tenancy (Amendment) Act, 2017, shall, on such commencement, stand transferred to the Mamlatdar having jurisdiction over such matters and such Mamlatdar may proceed to deal with such matters from the stage at which they have reached before such transfer.

(2) All appeals and revisions against the orders passed by the Mamlatdar, pertaining to the applications and/or proceedings referred to in sub-section (1), filed and pending with the District Court, if any, immediately before the commencement of the Goa Agricultural Tenancy (Amendment) Act, 2017, shall, on such commencement, stand transferred to the Collector having jurisdiction over such matters and such Collector may proceed to deal with such matters from the stage at which they have reached before such transfer.

(3) All appeals and revisions against the orders passed by the Collector, filed and pending with the District Court, if any, immediately before the commencement of the Goa Agricultural Tenancy (Amendment) Act, 2017, shall, on such commencement, stand transferred to the Administrative Tribunal and such Administrative Tribunal may proceed to deal with such matters from the stage at which they have reached before such transfer.

(4) All appeals and revisions against the orders passed by the Court of Senior Civil Judge, filed and pending with the District Court immediately before commencement of the Goa Agricultural Tenancy (Amendment)

Act, 2017, shall, on such commencement, be continued in and disposed by, the District Court.”.

10. Insertion of section 48.- After section 47 of the principal Act, the following section shall be inserted, namely:-

“48. Execution of order for payment of money or restoring possession.— (1) Any sum the payment of which has been directed by an order of the Mamlatdar or the Tribunal or the Collector including an order awarding costs, shall be recoverable from the person ordered to pay the same as an arrear of land revenue; an order of the Mamlatdar or the Tribunal awarding possession or restoring the possession or use of any land shall be executed in such manner as may be prescribed:

Provided that such recovery shall not be made and such order other than an order directing the restoration of possession to a tenant shall not be executed till the expiry of the period of appeal or, as the case may be, of application for revision as provided in this Act.

Explanation:- For the purposes of the preceding proviso, the expression “tenant” shall not include a person deemed to be a tenant under section 4 or section 5.

(2) An order or decision of the Mamlatdar in execution proceedings, subject to appeal, if any, shall be final.”.

11. Substitution of section 49.- For section 49 of the principal Act, the following section shall be substituted, namely:-

“49. Appeals.- (1) From every order including an order passed under chapter II-A other than an interim order passed by the Mamlatdar or the Tribunal under this Act, an appeal shall lie to the Collector and the orders of the Collector on such appeal shall be final, subject to revision, if any, by the Administrative Tribunal:

Provided that where such order has been passed by the Court of Senior Civil Judge before the commencement of the Goa Agricultural Tenancy (Amendment) Act, 2017, an appeal shall lie to the District Court and the orders of the District Court on such appeal shall be final.

(2) From every original order other than an interim order passed by the Collector an appeal shall lie to the Administrative Tribunal and the orders of the Administrative Tribunal on such appeal shall be final.”.

12. Substitution of section 50.- For section 50 of the principal Act, the following section shall be substituted, namely:-

“50. Revision.- (1) Where no appeal lies under this Act, or none has been filed within the period provided for it, the Collector may, on his own motion or on an application made by an aggrieved person or on a reference made in this behalf by the Government, at any time call for the record of any inquiry or the proceedings of any Mamlatdar or Tribunal for the purpose of satisfying himself as to the legality or propriety of any order passed by and as to the regularity of the proceedings of such Mamlatdar or Tribunal and pass such order thereon as he deems fit:

Provided that no such record shall be called for after the expiry of one year from the date of such order and no order of such Mamlatdar shall be modified, annulled or reversed unless opportunity has been given to the interested parties to appear and be heard.

(2) An application for revision may be made to the Administrative Tribunal against any order, other than an interim order of the Collector, on the following grounds only:-

(a) that the order of the Collector was contrary to law;

(b) that the Collector has failed to determine some material issue of law;
or

(c) that there was a substantial error in following the procedure provided by this Act, which has resulted in the miscarriage of justice.”.

13. Substitution of section 51.- For section 51 of the principal Act, the following section shall be substituted, namely:-

“51. Extent of powers in appeal or revision.- (1) The Collector or the Administrative Tribunal in appeal or in revision, may confirm, modify or rescind the order in appeal or revision or its execution or may remand the case for disposal with such direction as deemed fit or pass such other

order as may seem legal and just in accordance with the provisions of this Act.

(2) The orders passed in appeal or revision shall be executed in the manner provided for the execution of the orders of the Mamlatdar or the Tribunal under this Act.”.

14. Substitution of section 51A.- For section 51A of the principal Act, the following section shall be substituted, namely:-

“51A. Finality of decisions of District Court.— Every order or decision of the District Court passed/taken shall be final and conclusive.”.

15. Amendment of section 52.- In section 52 of the principal Act,-

- (i) in sub-section (1), for the expression “Court of Senior Civil Judge”, the word “Collector” shall be substituted;
- (ii) in sub-section (2),
 - (a) the expression “, or the Court of Senior Civil Judge,” shall be omitted;
 - (b) for the words “District Court”, the words “Administrative Tribunal or the District Court” shall be substituted.

16. Amendment of section 53.- In section 53 of the principal Act, for the expression “inquiries and proceedings under this Act”, the expression “inquiries, appeals and proceedings under this Act and in revision by the Collector” shall be substituted.

17. Insertion of section 58 B.- After section 58 A of the principal Act, the following section shall be inserted, namely:-

“58B. Bar to jurisdiction of Courts.- Save as provided in this Act, no Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Mamlatdar, Tribunal, Collector, Administrative Tribunal or Government, and no order passed by these authorities under this Act shall be questioned in any Civil or Criminal Court.”.

18. Amendment of section 59.- In section 59 of the principal Act, for the expression “Tribunal, Collectors and Court of Senior Civil Judge”, the words “Tribunal and Collectors” shall be substituted.

19. Insertion of section 60C.- After section 60 B of the principal Act, the following section shall be inserted, namely:-

“60C. Time limit for disposal of cases.- All applications and/or proceedings under sections 7, 7A, 14 and 18C of this Act shall be disposed as far as possible within a period of three years from the date of their filing or from the date of their receipt from the Court of Senior Civil Judge, as the case may be.”.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to bestow upon the Mamlatdar the powers of deciding matters under sections 7, 7A, 8, 8A, 10, 11, 12, 14, 18, 18A, 18B, 18C, 18E, 18F, 18G, 18H, 18J, 18K, 18L and 46A of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964) (hereinafter referred to as the “said Act”). Similarly, the Bill seeks to bestow upon the Collector and the Administrative Tribunal the appellate/revisional powers under the said Act.

The Bill further seeks to insert section 60C in the said Act so as to fix the time limit for disposal of the Applications and/or proceedings under sections 7, 7A, 14 and 18 of the said Act, within a period of three years from the date of their filing or from the date of their receipt from the Court of Senior Civil Judge, as the case may be.

The Bill also seeks to make certain other provisions as also amendments which are consequential in nature.

This Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

Clause 6 of the Bill proposes constitution of a Tribunal, which will have certain financial implications towards costs of staffing, office exigencies and honorarium to the members, which at this stage cannot be quantified.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers Government to constitute Agricultural Lands Tribunal, for such area as the Government may decide, by Notification in the Official Gazette.

The said Clause also empowers the Government to frame rules for prescribing the qualifications of the members constituting Agricultural Lands Tribunal and conditions of service and other matters relating to the constitution and organization of Agricultural Lands Tribunal.

Clause 8 of the Bill empowers the Government to frame rules for prescribing the manner for holding inquiry by the Mamlatdar into the alleged contravention.

Assembly Hall,
Porvorim, Goa.
24th July, 2017.

(Rohan A. Khaunte)
Minister for Revenue

Assembly Hall,
Porvorim, Goa.
24th July, 2017.

(Nilkanth Subhedar)
Secretary to the Legislative
Assembly of Goa

ANNEXURE

EXTRACT OF CLAUSES 5A, 19A & 24 OF SECTION 2, SECTION 7, 7A, 8, 8A, 10, 11, 12, 14, 18, 18A, 18B, 18C, 18E, 18F, 18G, 18H, 18J, 18K, 18L, 46, 46A, 46B, 49, 50, 51, 51A, 52, 53 & 59 OF THE GOA, DAMAN AND DIU AGRICULTURAL TENANCY ACT, 1964 (ACT 7 OF 1964) SOUGHT TO BE AMENDED.

(1) Amendment of section 2 -

- (i) “(5A) “Court of Senior Civil Judge” includes the Court of Junior Civil Judge;”;
- (ii) (19A) “purchase price” means the price determined by the [Court of Senior Civil Judge] under section 18C;
- (iii) “(24) “Tribunal” means the Court of Senior Civil Judge; and”.

(2) Amendment of section 7 –

7. Question of tenancy.— If any question arises whether any person is a or was tenant or should be deemed to be a tenant under this Act the Court of Senior Civil Judge shall, after holding an inquiry, decide such question. In any such enquiry, the Court of Senior Civil Judge shall presume that any statement as to the existence of a right of tenancy in a record of rights prepared in the prescribed manner under and in accordance with the provisions of this Act, is true.

(3) Amendment of section 7A –

7A. Question as to nature of land.— If any question arises as to whether any land is or is not used for agricultural purposes the Court of Senior Civil Judge shall, after holding an inquiry, decide such question.

(4) Amendment of section 8 -

8. Bar to eviction and restoration of possession.— (1) No tenancy of any land shall be terminated and no person holding land as a tenant shall be liable to be evicted there from save as provided under this Act.

(2) Where any such person as is referred to in section 4 has been evicted from the land on or after the 1st July, 1962 such person shall be entitled to recover immediate possession of the land in the manner prescribed by or under this Act unless the landlord proves that the termination of tenancy was in the manner authorised under section 9.

(3) Where any such person as is referred to in section 5 was evicted from such land on or after the 19th of December, 1961 but before the 1st of July,

1962, such person shall, in the manner prescribed by or under this Act, be entitled to recover possession of the land if —

(i) he applies to the Court of Senior Civil Judge within six months from the day of coming into force of this Act stating that he agrees to become a tenant on the same terms and conditions as existed before and as modified by the provisions of this Act;

(ii) he proves that the eviction was malafied and was intended to defeat the purposes of this Act; and

(iii) he pays to the landlord the arrears of rent, if any, due from him under the terms of his tenancy or gives sufficient secure therefore:

Provided that where the land from which such person was evicted had been leased out by the landlord to another person for any perk after the said date, the evicted person shall not be entitled to recover possession before the first day of the year immediately following the year in which this Act comes into force.

(4) Notwithstanding anything contained in the foregoing provision where the Government is satisfied that a tenant has for reasons beyond his control omitted to take step for restoration of possession within the time prescribed therefore, it may on its own motion, direct the Court of Senior Civil Judge to entertain and dispose of an application.

(5) Notwithstanding anything contained in the other provisions this Act, where a person who was holding land on lease from landlord has, in cases coming under section 4, on or after the 1st July, 1962, and in cases coming under section 5, on or after the 19th December, 1961, surrendered his right of tenancy to the landlord on or before the 28th July, 1964, he shall not be entitled to restoration of possession under this Act, if such surrender was voluntary and was made before the Administrator of the Concelho, in accordance with the rules and orders, if any, in that behalf or is found to be genuine by the [Court of Senior Civil Judge] after holding an enquiry.

(5) Amendment of section 8A –

8A. Relief in certain cases of threatened wrongful dispossession.— (1) Any tenant in possession of any land or dwelling house who apprehends that he may be dispossessed contrary to the provisions of this Act, may apply in the prescribed manner to the Court of Senior Civil Judge for an order safe guarding his right to possession.

(2) On such application, the Court of Senior Civil Judge if he is satisfied on holding such enquiry as may be prescribed, that the applicant is entitled to continue in possession, shall, by order, direct the landlord or any person claiming through him to refrain from disturbing it otherwise than in accordance with law.

(3) In any proceeding under this section, if it is proved to the satisfaction of the Court of Senior Civil Judge by affidavit or otherwise that the opponent threatens to dispossess the applicant, he may by order grant a temporary

injunction restraining such dispossession or otherwise causing injury until the final disposal of the proceeding or until further orders. In all such cases the Court of Senior Civil Judge shall, except where it appears that the object of granting the injunction would be defeated by delay, issue notice of the application to the opponent before granting an injunction.

(4) Any person dispossessing a tenant in contravention of an order made under sub-section (2) or (3), in addition to any other penalty to which he is subject, on application made by the tenant within thirty days of such dispossession, and notwithstanding anything to the contrary in any other provision of this Act, be summarily evicted by the Court of Senior Civil Judge who shall thereupon restore possession to the tenant.

(6) Amendment of section 10 –

10. Surrender by tenant.— (1) Any tenant may surrender his right of tenancy in respect of any land to the landlord and thereupon the tenancy in respect of that land shall stand terminated if the following conditions are satisfied:

(i) the surrender is made at least one month before the commencement of the year;

(ii) it is made by the tenant in writing and is admitted by him before the Court of Senior Civil Judge;

(iii) it is made voluntarily and in good faith to the satisfaction of the Court of Senior Civil Judge;

(iv) it is approved by the Court of Senior Civil Judge; and

(v) the conditions in clauses (a) to (d) of sub-section (4) of section 20 are satisfied

(2) Where the land is cultivated jointly by joint tenants or members of joint family, the surrender, unless it is made by all of them shall be ineffective in respect of such joint tenants or members, as the case may be, as have not joined in the application for surrender.

(3) Where the Court of Senior Civil Judge is of opinion that the conditions mentioned in sub-section (1) are not satisfied, he may, after giving a reasonable opportunity to the landlord to show cause against taking action under this sub-section, and holding such enquiry as he may;

(i) refuse to approve the surrender, or

(ii) submit the case to the Government for orders under the next sub-section.

(4) Where a case is submitted under the preceding sub-section, the Government may, by order, transfer the tenancy right to any other person, including a Comunidade, a Co-operative Society or a Panchayat, who, in its opinion, is a fit and proper person to be a tenant, and thereupon such other person shall be deemed to be a tenant for the purposes of this Act.

(7) Amendment of section 11 –

11. Termination of tenancy by landlord.— (1) The landlord may terminate a tenancy on the ground that the tenant:

(a) has failed to pay the rent for any period on or before the date or dates fixed by or under this Act, or

(b) has done any act which is destructive or permanently injurious to the land, or

(c) has sub-divided, sub-let, or assigned any interest in the land, otherwise than as permitted under sections 14 and 15, or

(d) has failed to cultivate the land personally, or

(e) has used such land for a purpose other than agriculture.

(2) No tenancy of any land held by a tenant shall be terminated on any of the grounds mentioned in this section unless the landlord gives at least ninety days notice in writing to the tenant intimating his decision to terminate the tenancy and the ground for such termination and unless within that period the tenant has failed to remedy the breach for which the tenancy is liable to be terminated:

Provided that where the said breach occurs for the second time the tenant shall be liable to pay to the landlord by way of penalty a sum equal to 50 per cent of the rent payable for that season for the land in relation to which the breach has occurred:

Provided further, that where a breach of the same kind occurs on more than two consecutive occasions no such notice as is referred to above shall be necessary and the landlord shall be entitled to straight away make an application to the Court of Senior Civil Judge under sub-section (4).

(3) The tenancy of a tenant who is a minor, or is subject to physical or mental disability, or is a serving Member of the Defence Forces shall not be terminated on the ground only that the land comprised in the tenancy has been sub-let by or on behalf of such tenant.

(4) Where the landlord after the expiry of the period of notice, if any, mentioned in sub-section (2) decides to terminate the tenancy under this section, he shall within such time as may be prescribed apply to the Court of Senior Civil Judge may accord permission or, if he considers it necessary for reasons to be recorded in writing and after considering the objections, if any, of the landlord, submit the case to the Government for orders sub-section (4) of section 10.

(8) Amendment of section 12 –

12. Special provisions regarding termination for non-payment of rent.—

(1) Where the tenancy of any land held by a tenant is terminated for non-

payment of rent and the landlord files any proceeding to eject the tenant, the Court of Senior Civil Judge shall call upon the tenant to tender to the landlord the rent in arrears together with the cost of the proceedings within thirty days from the date of the order and if the tenant complies with such order, the Court of Senior Civil Judge shall, in lieu of making an order of ejectment, pass an order directing that the tenancy has not been terminated, and thereupon the tenant shall hold the land as if the tenancy had not been terminated:

Provided that nothing in this section shall apply to any tenant whose tenancy is terminated for non-payment of rent if he has failed for any three years to pay rent within the period fixed by or under this Act and the landlord has complied with the requirements, if any, of any notice to the tenant by or under this Act.

(2) The landlord may apply to the Court of Senior Civil Judge in the prescribed form for recovery of arrears of rent for any period not exceeding three years. The Court of Senior Civil Judge may, after such enquiry as he considers necessary, pass such order as he deems fit. The Court of Senior Civil Judge in passing an order shall allow the tenant to set off the sum, if any, paid by him to the landlord within the period of three years immediately preceding the date of application made under sub-section (1) in excess of the rent due from him:

Provided that if the Court of Senior Civil Judge is satisfied that in consequence of a total or partial failure of crops or similar calamity the tenant has been unable to pay the rent due, the Court of Senior Civil Judge may, for reasons to be recorded in writing,

(i) direct, after hearing the landlord, that no rent shall be payable for the period of such failure of crops by the tenant, or

(ii) direct, after hearing the tenant and the landlord, that the arrears of rent, or such part thereof as may be considered reasonable by the Court of Senior Civil Judge, together with the cost of proceedings, if awarded, shall be paid within one year from the date of the order and that if before expiry of the said period the tenant fails to pay the said arrears of rent and costs the tenancy shall be deemed to be terminated and the tenant shall be liable to be evicted.

(3) When a tenant tenders an amount on account of rent to the landlord for any period and if the landlord refuses to receive it or grant a receipt for it, the tenant may present to the Court of Senior Civil Judge an application in writing for permission to deposit in his office the full amount of rent. The Court of Senior Civil Judge may receive the amount in deposit and give a receipt for it. Notice of the amount so deposited shall be given to the landlord and if the Court of Senior Civil Judge is satisfied that the payment by the tenant was bona fide it shall be paid to the landlord, and thereupon it shall constitute a discharge of the tenant's liability in respect of the rent for such period and no claim or application by a landlord for rent shall be maintainable in respect of the period for which the rent has been so deposited by the tenant.

(9) Amendment of section 14 –

14. Rights of tenants are heritable. — (1) Where a tenant dies the landlord shall be deemed to have continued the tenancy —

(a) if such tenant was a member of a joint family, to the surviving member or members of the said family, and

(b) if such tenant was not a member of a joint family, to his, heir or heirs on the same terms and conditions on which such tenant was holding it at the time of his death.

(2) The surviving members, or as the case may be, the heirs to whom the tenancy is continued under sub-section (1) shall be entitled to partition and sub-division of the land leased subject to the following conditions:

(a) each sharer shall hold his share as a separate tenant;

(b) the rent payable in respect of the land leased shall be apportioned among the shares according to share allotted to them;

and if any question arises regarding the shares or the apportionment of the rent payable by the sharers, it shall be decided by the Court of Senior Civil Judge whose decision shall be final.

Provided, however, that no partition or sub-division shall be permissible if the share allotted to any heir or any co-partner together with any other land already held by him is less than 1/3 hectare of morod land and 1/4 hectares of Khajan or Kher land.

Explanation.— The allotment of a separate number to any portion of the land for the purposes of land records or land survey under any law for the time being in force shall not, by itself amount to a sub-division or partition for the purpose of this sub-section.

(3) Where any question arises as to the person or persons in whose favour tenancy is deemed to have been continued under the foregoing provisions, such question shall be determined by the Court of Senior Civil Judge after hearing the landlord and other persons interested in the matter:

Provided that nothing in this sub-section shall preclude the rights of parties being determined by a court of law.

(10) Amendment of section 18 -

18. Procedure for taking possession.— (1) A tenant entitled to possession of any land or dwelling house under any of the provisions of this Act may apply in writing for such possession to the Court of Senior Civil Judge. The application shall be made in such form and within such period as may be prescribed by or under this Act.

(2) No landlord shall obtain possession of any land or dwelling house held by a tenant except under an order of the Court of Senior Civil

Judge, for which he shall make an application in such form and within such period as may be prescribed by or under this Act.

(3) On receipt of an application under sub-section (1) or (2) the Court of Senior Civil Judge shall, after holding an enquiry, pass such orders thereon as he deems fit, with due regard to the other provisions of this Act and the Rules.

(4) Any tenant or landlord taking possession of any land or dwelling house except in accordance with the provisions of sub-section (1) or (2), shall be liable to forfeiture of crops, if any, grown in the land in favour of the landlord or the tenant, as the case may be, in addition to payment of such costs as may be awarded by the Court of Senior Civil Judge or by the District Court on appeal and also to the penalty, if any, prescribed by or under this Act.

(5) The Government may, by notification, direct that the provisions of the foregoing sub-sections shall apply to sites used for allied pursuits as they apply to sites of dwelling houses of an agriculturist and thereupon the provisions shall so apply.

(11) Amendment of section 18A -

18A. Tenants deemed to have purchased lands on tillers' day. — (1) On the tillers' day, every tenant shall, subject to the other provisions of this Act, be deemed to have purchased from his landlord the land held by him as a tenant and such land shall vest in him free from all encumbrances subsisting on the said day.

(2) Where a tenant, on account of his eviction from the land by the landlord before the tillers' day, is not in possession of the land on the said day, but has made or makes an application for possession of the land under section 18 within the period specified therein, then, if the application is allowed by the Court of Senior Civil Judge or, as the case may be, in appeal by the District Court, he shall be deemed to have purchased the land on the day on which the final order allowing the application is passed.

(3) Where a tenant referred to in sub-section (2) has not made an application for possession within the period specified under section 18 or the application made by him is finally rejected under this Act, and the land is held by any other person as tenant on the expiry of the said period or on the date of the final rejection of the application, such other person shall be deemed to have purchased the land on the date of the expiry of the said period or, as the case may be, on the date of the final rejection of the application.

(4) If a tenant is not in possession of the land on the tillers' day on account of his being dispossessed otherwise than in the manner provided in section 11 and the land is—

(a) in possession of the landlord or his successor in interest; and

(b) not put to a non-agricultural use, the Court of Senior Civil Judge shall notwithstanding anything contained in this Act, either

suo-motu or on the application of the tenant, hold an inquiry and direct that such land shall be taken from the possession of the landlord or, as the case may be, his successor in interest and shall be restored to the tenant and the provisions of this Chapter shall, in so far as they may be applicable, apply thereto, subject to the modification that the tenant shall be deemed to have purchased the land on the date on which the land is restored to him:

Provided that the tenant shall not be entitled to restoration under this sub-section unless he undertakes to cultivate the land personally.

Explanation.— In this sub-section, “successor-in-interest” means a person who acquires the interest by testamentary disposition or devolution on death.

(5) In respect of the land deemed to have been purchased by a tenant under sub-section (1),—

(a) the tenant-purchaser shall be liable to pay to the former landlord the purchase price; and

(b) the tenant-purchaser shall be liable to pay to the Government, the dues, if any, from the tillers’ day.

(12) Amendment of section 18B –

18B. Right of tenant to purchase land where he is a minor, etc.— (1) Notwithstanding anything contained in section 18A, where the tenant is a minor or a widow or a person subject to mental or physical disability or a serving member of the Defence Forces, the right to purchase land under that section may be exercised—

(a) by the minor within one year from the date on which he attains majority;

(b) by the successor in title of the widow within one year from the date on which her interest in the land ceases to exist;

(c) within one year from the date on which the mental or physical disability of the tenant ceases to exist;

(d) within one year from the date on which the tenant ceases to be a serving member of the Defence Forces:

Provided that where a person of any such category is a member of a joint family, the provisions of this sub-section shall not apply if at least one member of the joint family is outside the categories mentioned in this sub-section, unless before the tillers’ day the share of such person in the joint family has been separated by metes and bounds, and the Court of Senior Civil Judge on inquiry is satisfied that the share of such person in the land is separated having regard to the area, assessment, classification and the value of the land, in the same proportion as the share of that person in the entire joint family property.

(2) A tenant desirous of exercising the right conferred on him under sub-section (1) shall give an intimation in that behalf to the landlord and the Court of Senior Civil Judge within whose jurisdiction the land is situated in the prescribed manner within the period specified in that sub-section.

(3) The provisions of section 18A and sections 18C to 181 shall, so far as may be applicable, apply to such purchase.

(13) Amendment of section 18C –

18C. Court of Senior Civil Judge to issue notices and determine price of land to be paid by tenants.— (1) As soon as may be after the tillers' day, the Court of Senior Civil Judge shall publish or cause to be published a public notice in the prescribed form in the Official Gazette and also in such other manner as may be prescribed calling upon—

(a) all tenants who under section 18A are deemed to have purchased the lands;

(b) all landlords of such land; and

(c) all other persons interested therein, to appear before him on the date specified in the notice.

(2) Notwithstanding anything contained in sub-section (1), the Court of Senior Civil Judge may, on his own motion or on an application from any person who has been called upon to appear before him under sub-section (1), give an opportunity to appear before him on any subsequent day, time and place other than that specified in the public notice under subsection (1), to—

(a) such tenants or such persons claiming to be tenants;

(b) such landlords and other interested parties, who had appeared before the Court of Senior Civil Judge in response to notice published under sub-section (1)";

(3) The Court of Senior Civil Judge shall record in the prescribed manner the statement of the tenant whether he is or is not willing to purchase the land held by him as a tenant.

(4) Where any tenant makes a statement that he is not willing to purchase the land, the Court of Senior Civil Judge shall, by an order in writing declare that such tenant is not willing to purchase the land and that the purchase is ineffective:

Provided that if such order is passed in default of the appearance of any party, the Court of Senior Civil Judge shall communicate such order to the parties and any party on whose default the order was passed may within sixty days from the date on which the order was communicated to him apply for the review of the same.

(5) If a tenant is willing to purchase, the Court of Senior Civil Judge shall, after giving an opportunity to the tenant and the landlord and all other

persons interested in such land to be heard and after holding an inquiry determine the purchase price for such land in accordance with the provisions of section 18D.

(6) In the case of a tenant who is deemed to have purchased the land on a date subsequent to the tiller's day, the Court of Senior Civil Judge shall, as soon as may be after such day, determine the price of the land.

(14) Amendment of section 18E –

18E. Mode of payment of purchase price by tenant.— (1) On the determination of the purchase price by the Court of Senior Civil Judge under section (18C, the tenant shall deposit the purchase price with the Court of Senior Civil Judge the manner provided in this section.

(2) The tenant shall have the option to deposit the purchase price either in lumpsum or in ten equal annual installments.

(3) The first installment of the purchase price or where the purchase price is payable in a lumpsum under sub-section (2), the lumpsum, shall be paid by the tenant within a period of six months from the date of passing of the order of the Court of Senior Civil Judge under section 18C.

(4) The second or subsequent installments of the purchase price shall be paid within a period of one year from the date on which the previous installment was due.

(5) Where the lumpsum payment or any installment of the purchase price has not been deposited on the due date, the amount in default shall carry interest at the rate of six per cent per annum.

(15) Amendment of section 18F –

18F. Amount of purchase price to be applied towards satisfaction of debts. — (1) The Court of Senior Civil Judge shall in an inquiry held under section 18C, determine any encumbrances lawfully subsisting on the land on the tillers' day.

(2) If the total amount of the encumbrances is less than the purchase price determined under that section,—

(i) where the purchase price is paid in lumpsum, it shall be deducted from the purchase price and the balance paid to the former landlord;

(ii) where the purchase price made payable in installments, the Court of Senior Civil Judge shall deduct such amount from such installments towards the payment of such encumbrances:

Provided that where under any agreement, award, decree or order of a court or under any law, the amount of the encumbrances is recoverable in installments, the Court of Senior Civil Judge shall deduct such amount as he deems reasonable from the installments so payable.

(3) If the total amount of the encumbrances is more than the amount so determined, the purchase price in lumpsum or the installments, as the case may be, shall be distributed in the order of priority and if any person has a right to receive maintenance or alimony from the profits of the land the Court of Senior Civil Judge shall also make deductions for payment out of the purchase price.

(4) Nothing in this section shall affect the rights of the holder of any such encumbrance to proceed against the former landlord in any other manner or under any other law for the time being in force.

(16) Amendment of section 18G –

18G. Recovery of purchase price as arrears of land revenue. — If the tenant-purchaser makes a default in the payment of the whole or part of the purchase price, the Court of Senior Civil Judge shall, on an application made in this behalf by the landlord proceed to recover such sum which is in arrears on the date of application, together with any interest due as arrears of land revenue.

(17) Amendment of section 18H –

18H. Purchase to be ineffective on tenant-purchaser's failure to pay purchase price. — (1) On the deposit of the purchase price in lumpsum or of the first installment of such price, the Court of Senior Civil Judge shall issue a certificate of purchase in the prescribed form to the tenant purchaser in respect of the land and such certificate shall, subject to sub-section (2), be conclusive evidence of the purchase.

(2) In the event of failure of recovery of purchase price as arrears of land revenue under section 18G, the purchase shall be ineffective and the land shall be at the disposal of the Court of Senior Civil Judge under section 18J and any amount deposited by such tenant-purchaser towards the price of the land shall be refunded to him.

(18) Amendment of section 18J –

18J. Power of Court of Senior Civil Judge to resume and dispose of land not purchased by the tenant.— (1) Where the purchase of any land by the tenant under section 18A becomes ineffective under section 18C or section 18H or where a tenant fails to exercise the right to purchase the land held by him within the specified period under section 18B, the Court of Senior Civil Judge may, *suo motu* or on an application made in this behalf, and in cases other than those cases in which the purchase has become ineffective by reason of section 18C or section 18H, after holding a formal inquiry direct the land or part thereof shall be disposed of in the manner provided in sub-section (2).

(2) The Court of Senior Civil Judge shall make an order directing that the land or part thereof referred to in sub-section (1) shall be disposed of by sale to any person in the following order of priority:

(i) 75 per cent of such land shall be disposed of by sale to persons belonging to the Schedule Castes and Scheduled Tribes;

(ii) the land remaining after disposal in the manner provided in clause (i) shall be disposed of by sale in the following order of priority, namely:—

(a) serving member of the Defence Forces or an ex-serviceman or a freedom fighter, who agrees to cultivate the land personally;

(b) agricultural labourers;

(c) landless persons;

(d) a co-operative farming society registered as such under the Maharashtra Cooperative Societies Act, 1960, as in force in the Union Territory of Goa, Daman & Diu.

Explanation 1.— Where the Court of Senior Civil Judge has to select under this sub-section one or more persons having the same order of priority, preference shall be given to a person residing in the village in which the land is situated. In the event of there being more than one applicant having the same priority, the land shall be disposed of by sale, by drawing lots. The maximum area of the land that shall be sold to an individual shall be equivalent to one “economic holding” as defined in clause (e) of rule 2 of the Goa, Daman and Diu Land Revenue (Disposal of Government Lands) Rules, 1971.

Explanation II.— For the purposes of this sub-section, “freedom fighter” means a person who has,—

(a) suffered imprisonment or detention for a period of not less than six months; or

(b) become permanently incapacitated as a result of any firing or lathi charge; or

(c) lost his job or means of livelihood or the whole or part of any of his property,

by reason of his participation in the national movement for the liberation of Goa, Daman and Diu.

(3) Where any land is disposed of under sub-section (2), the Court of Senior Civil Judge shall determine the price of the land in accordance with the provisions of section 18C and the price so determined shall be paid in accordance with the provisions of section 18E.

(4) Where any land or portion thereof is offered for sale under sub-section (2), but no person comes forward to purchase such land or portion, as the case may be, it shall vest in the Government free from all encumbrances subsisting on the tillers’ day and the purchase price payable by the

Government to the landlord in respect of the land so vested in the Government shall be paid in cash.

(19) Amendment of section 18K –

18K. Restrictions on transfers of land purchased under this Chapter.— No land purchased by a tenant under this Chapter shall be transferred by sale, gift, exchange, mortgage, lease or assignment without the previous sanction of the Court of Senior Civil Judge:

Provided that no such sanction shall be necessary where the land is to be mortgaged in favour of the Government or a co-operative society for the purpose of a loan for effecting any improvement of such land.

(20) Amendment of section 18L –

18L. Power to make rules.— (1) The Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

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

(a) the manner in which the tenant should intimate the landlord and the Court of Senior Civil Judge under sub-section (2) of section 18B;

(b) the form of public notice and the manner in which it is so be published under sub-section (1) of section 18C;

(c) any other matter which is required to be prescribed.”

(21) Amendment of section 46 -

46. Commencement of Proceedings. — Save as otherwise expressly provided by or under this Act all inquiries and other proceedings before the Tribunal shall be commenced by an application which shall contain the following particulars:

(a) the name, age, profession and place of residence of the applicant and the opponents;

(b) a short description and situation of the property of which possession is sought, or the amount of the claim, as the case may be;

(c) the circumstances out of which the cause of action arose;

(d) a list of the applicant’s documents, if any, and of his witnesses, and whether such witnesses are to be summoned to attend or whether the applicant will produce them on the day of the hearing; and

(e) such other particulars as may be prescribed.

(22) Amendment of section 46A -

“46A. Powers of the Court of Senior Civil Judge to inquire into contraventions.—The Government may, in any case where it has a reason to believe that there has been a contravention of the provisions of this Act, refer the matter to the Court of Senior Civil Judge to hold an inquiry into alleged contravention.”

(23) Amendment of section 46B -

“46B. Transfer of pending applications, appeals and revisions.—(1) All applications and/or proceedings under sections 7, 7A, 8, 8A, 10, 11, 12, 14, 18, 18A, 18B, 18C, 18E, 18F, 18G, 18H, 18J and 18K of this Act filed and pending with the Mamlatdar immediately before the commencement of the Goa Agricultural Tenancy (Amendment) Act, 2014, shall, on such commencement, stand transferred to the Court of Senior Civil Judge and such Court of Senior Civil Judge may proceed to deal with such matters from the stage at which they have reached before such transfer or from any earlier stage or *de novo* as such Court of Senior Civil Judge may deem fit.

(2) All appeals and revisions pertaining to the applications and/or proceedings referred to in sub-section (1) filed and pending with the Collector immediately before the commencement of the Goa Agricultural Tenancy (Amendment) Act, 2014, shall, on such commencement, stand transferred to the District Court and such District Court may proceed to deal with such matters from the stage at which they have reached before such transfer or from any earlier stage or *de novo* as such District Court may deem fit.

(3) All appeals and revisions filed and pending with the Administrative Tribunal immediately before the commencement of the Goa Agricultural Tenancy (Amendment) Act, 2014, shall, on such commencement, stand transferred to the District Court and such District Court may proceed to deal with such matters from the stage at which they have reached before such transfer or from any earlier stage or *de novo* as such District Court may deem fit.”

(24) Amendment of section 49 -

“49. Appeals.—(1) From every order passed by the Mamlatdar before the commencement of the Goa Agricultural Tenancy (Amendment) Act, 2014 or by the Court of Senior Civil Judge after such commencement, or by the Tribunal, an appeal shall lie to the District Court and the orders of the District Court on such appeal shall be final.

(2) From every original order passed by the Collector, an appeal shall lie to the District Court and the orders of the District Court on such appeal shall be final.”

(25) Amendment of section 50 -

“50. Revision.—Where no appeal lies under this Act, the District Court may, on an application made by an aggrieved person, at any time, call for the record of the proceedings before the Mamlatdar, or the Collector, or the Tribunal, or the Court of Senior Civil Judge, for the purpose of satisfying itself as to the legality or propriety of any order passed by or as to the regularity of the proceedings before such Mamlatdar, or the Collector, or Tribunal, or Court of Senior Civil Judge, and pass such order as it may deem fit:

Provided that no such record shall be called for after the expiry of one year from the date of such order.”.

(26) Amendment of section 51 -

“51. Extent of powers in appeal or revision.— (1) The District Court in appeal or in revision, as the case may be, may confirm, modify or rescind the order in appeal or revision or its execution or may remand the case for disposal with such direction as deemed fit or pass such other order as may seem legal and just in accordance with the provisions of this Act.

(2) The orders passed in appeal or revision shall be executed in the manner provided for the execution of the orders under this Act.”.

(27) Amendment of section 51A -

“51A. Finality of decisions of Collector.— Every order or decision of the Collector, against the order of the Mamlatdar or Tribunal, passed before the commencement of the Goa Agricultural Tenancy (Amendment) Act, 2014, shall be final and conclusive.”.

(28) Amendment of section 52 -

52. Limitation and Court Fees.— (1) Every appeal or application for revision under this Act shall be filed within a period of sixty days from the date of the order of the Mamlatdar, Tribunal or Court of Senior Civil Judge, as the case may be and the provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963, shall apply to the filing of such appeal or application for revision.

“(2) Notwithstanding anything contained in the Court-fees Act, 1870 (7 of 1870), every application made to the Mamlatdar, or the Tribunal, or the Collector, or the Court of Senior Civil Judge, and every appeal or application made to the District Court, under this Act, shall bear a court-fee stamp of such value as may be prescribed.”.

(29) Amendment of section 53 -

53. Procedure.— (1) Subject to the other specific provisions in this behalf, the procedure to be followed by the Mamlatdar or the Tribunal or the Collector in all inquiries, appeals and proceedings under this Act shall be such as may be prescribed;

(2) Every decision or order passed under this Act shall be recorded in the form of an order which shall state the reasons therefore.

(3) All inquiries and proceedings before the Mamlatdar, the Tribunal, and the Collector shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

(30) Amendment of section 59 -

59. Power to give directions.— The Government shall have power to issue directions or orders to Mamlatdars, Tribunal, Collectors and Court of Senior Civil Judge, to give effect to the provisions of this Act and the rules made there under.

Porvorim, Goa
24th July, 2017

N.B. SUBHEDAR
SECRETARY