

MAHARASHTRA ACT No.XLI OF 1966

[THE MAHARASHTRA LAND REVENUE CODE. 1966]

[Received the assent of the President on the 22nd day of December 1966;
assent first published in the Maharashtra Government Gazette, Part IV.
on the 30th day of December 1966.]

Amended by Mah. 30 of 1968. Amended by Mah.41 of 1973 (1-12-1973)

Amended by Mah. 8 of 1969. Amended by Mah. 35 of 1974 \$(6-7-1974)

Amended by Mah. 11 of 1976 (14-4-1976)

Amended by Mah. 44 of 1969. Amended by Mah. 18 of 1976 (26-4-1976)

Amended by Mah. 35 of 1976 (30-7-1976)

Amended by Mah. 4 of 1970. Amended by Mah. 12 of 1977 (19-3-1977)

Amended by Mah. 30 of 1977 (16-8-1977)

Amended by Mah. 20 of 1970. Amended by Mah. 8 of 1979.

Amended by Mah. 36 of 1971. Amended by Mah. 47 of 1981 @ (29-7-1981)

Amended by Mah. 5 of 1982(5-2-1982)

Amended by Mah. 16 of 1985. Amended by Mah. 32 of 1986 (1-12-1986)

Amended by Mah. 1 of 1991 *(1-1-1991)

Amended by Mah. 26 of 1994 @@ (2-2-1994)

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1.For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1965, Part V Extra, pages 756-763, for Report of the Joint Committee, see ibid. 1966, Part V, pages 219-353.

+ Maharashtra Ordinance No. III of 1970 was repealed by Mah. 20 of 1970, s.3.

*This indicates the date of commencement of Act.

\$ Maharashtra Ordinance No. XIII of 1974 was repealed by Mah. 35 of 1974, s.10.

@ Maharashtra Ordinance No. VIII of 1981 was repealed by Mah. 47 of 1981, s.14.

Section 2 of Mah. 47 of 1981 reads as under:-

Mah. XLI Of 1966

Constitution of the Bombay Division under Mah. XLI Of 1966

"2. On the date of commencement of this Act, notwithstanding anything contained in the Constitution Maharashtra Land Revenue Code, 1966 or in any notification or order issued thereunder, the City of Bombay shall be deemed to be constituted a district, the Bombay Suburban District shall be deemed to be excluded from the Konkan Division, and a new Division to be called the Bombay Division. Division shall be deemed to be duly constituted under the said Code consisting of the districts under Mah. of the City of Bombay and the Bombay Suburban District, which areas may subsequently be altered and divided into two or more districts, with such names, as may be specified by the State Government by notification in the *Official Gazette*."

Section 10 of Mah. 5 of 1982 reads as under:-

Validation of delegation of powers of Collector to Additional Tahsildars under section 3 of Mah. XLI of 1966 and of their proceedings.

" 10. Notwithstanding anything contained in section 13 or in any other provisions of the Land Revenue Code and notwithstanding any judgment, declare or order of any Court or Tribunal, the Additional Tahsildars, who during any period or periods before the commencement of this Act, exercised any powers of the Collector under sub-section (3) of section 36 or any other provisions of the said Code, delegated to them by the Collector under the proviso to sub-section (1) of the said section 13, shall be deemed to have been validly delegated to them by the Collector during the said periods; and, accordingly, any proceedings conducted, order passed, sanctions given, certificates issued, declarations made or other action taken by any of the said Additional Tahsildars during the said periods, in the exercise of the powers of the Collector or in the purported exercise of 1966 of the powers of the Collector, shall be deemed to have been validly and effectively conducted, passed, given, issued, made or taken, as the case may be, as if the powers had been duly delegated to them for such purposes, and shall not be called in question in any proceedings before any Court or Tribunal merely on the ground that the powers were not duly delegated to them or that they had no jurisdiction."

* Section 7 of Mah. 1 of 1991 reads as under:-

Initiation of proceedings for restoration of lands to tribal transferor.

" 7. For the removal of doubt it is hereby declared that, notwithstanding anything contained in any law for the time being in force, or any judgment or decree or order of any Court, Tribunal or authority, where the Collector had not initiated suo motu proceedings or a tribal transferor had not made any application during the period specified in section 36 or 36A of the said Code, or section 3 or 4 of the principal Act, as they stood prior to amendments made by this Act, for restoration of land under the provisions aforesaid, it shall be competent for the Collector to suo motu initiate any proceedings, or for the tribal transferor to make an application, under the provisions of the said Code or the principal Act, as amended by this Act, for restoration of land to the tribal transferors."

@ @ Maharashtra Ordinance No. II of 1994 was repealed by Mah. 26 of 1994, s.5.

**An Act to unify and amend the Law relating to land and land revenue in the
State of Maharashtra**

WHEREAS it is expedient to unify and amend the law relating to land and land revenue in the State of Maharashtra and to provide for matters connected there with ; It is hereby enacted in the Sixteenth Year of the Republic of India as follows :-

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**Chapter III.
Of Lands.**

20. Title of State in all lands, public roads, etc. which are not property of others.

(1) All public roads, lanes and paths, the bridges, ditches, dikes and fences on, or beside the same, the bed of the sea and of harbours and creeks below the high water mark, and of rivers, streams, nallas, takes and tanks and all canals and watercourses, and all standing and flowing water, and all lands wherever situated, which are not the property of persons legally capable of holding property, and except in so far as any rights of such persons may be established, in or over the same, and except as may be otherwise provided in any law for the time being in force are and are hereby declared to be, with all rights in or over the same, or appertaining thereto, the property of the State Government and it shall be lawful for the Collector, subject to the order of the Commissioner, to dispose of them in such manner as may be prescribed by the State Government in this behalf, subject always to the rights of way, and all other rights or the public or of individuals legally subsisting.

Explanation. In this section, "high water-mark" means the highest point reached by ordinary spring tides at any season of the year.

(2) Where any property or any right in or over any property is claimed by or on behalf of the Government or by any person as against the Government, it shall be lawful for the Collector or a survey officer, after formal inquiry of which due notice has been given, to pass an order deciding the claim.

(3) An order passed by the Collector or survey officer under sub-section (1) or sub-section (2) shall be subject to one appeal and revision in accordance with the provisions of this Code.

(4) Any suit instituted in any civil court after the expiration of one year from the date of any order passed under sub-section (1) or sub-section (2) or, if appeal has been made against such order within the period of limitation, then from the date of any order passed by the appellate authority, shall be dismissed (though limitation has been not set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order, provided that in the case of an order under sub-section (2) the plaintiff has had due notice of such order.

(5) Any person shall be deemed to have had due notice of an inquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by the State Government.

21. Extinction of rights of public in or over any public-road, lane or path not required for use of public.

(1) Whenever it appears to the Collector that any public road, lane or path which is the property of the State Government or part thereof (hereinafter in this section referred to as the Government road), is not required for the use of the public, the Collector may, by a notification published in the Official Gazette, make a declaration to that effect and state in such declaration that it is proposed that the rights of the public in or over such Government road (of which the situation and limits as far as practicable are specified) shall subject to the existing private rights, if any, be extinguished.

*See now the Code of Criminal Procedure, 1973 (2 of 1974).

(2) On the publication of such notification, the Collector shall, as soon as possible, cause public notice of such declaration to be given at convenient places on, or in the vicinity of, such Government road, and shall invite objections to the proposal aforesaid.

(3) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over such Government road, or having any other interest or right which, is likely to be adversely affected by the proposal may, within ninety days after the issue of the notification under sub-section (1), state to the Collector in writing his objections to the proposal, the nature of such interest or right.

Provided that, the Collector may allow any person to make such a statement after a period of ninety days aforesaid if he is satisfied that such person had sufficient cause for not making it within that period.

(4) of 1894.

The Collector shall give every person who was made a statement to him an opportunity of being heard either in person or by legal practitioner and shall after hearing all such persons in such manner and after making such further inquiry if any, as he thinks necessary, is satisfied that the Government road is not required for the use of the public, make a declaration which shall be published in the Official Gazette that all rights of the public, in or over such Government road are extinguished, and all such rights shall thereupon be extinguished, and such Government road shall, subject to any existing private rights, be at the disposal of the Government with effect from the date of such declaration. The Collector shall also determine the amount of compensation, if any, which should, in his opinion, be given in any case in respect of any substantial loss or damage likely to be caused by the proposed extinction of the rights of the public as aforesaid. The provisions of sections 9, 10, 11, 12, 13, 14, and 15 of the Land Acquisition Act, 1894, shall, so far as may be, apply to the proceedings held by the Collector for the determination of the amount of compensation under this sub-section.

Provided that, no compensation shall be awarded for the extinction or diminution of the right of public highway over such Government road.

(5) The decision of the Collector under sub-section (4) as respects the extinguishment of the rights of the public on or over Government road and the amount of compensation and the persons to whom such compensation, if any, is payable shall, subject to the decision of the Commissioner in appeal, be final; and payments of compensation shall be made by the Collector to such persons accordingly.

Provided that, if payment is not made within six months from the date of the final order, the Collector shall pay the amount awarded with interest thereon at the rate of six per cent per annum from the date of the final order.

22.Lands may be assigned for special purposes, and when assigned, shall not be otherwise used without sanction of Collector.

Subject to the general orders of the State Government, it shall be lawful for a survey officer during the course of survey operations under this Code, and at any other time for the Collector, to set apart unoccupied lands (not in the lawful occupations of any person), in village or parts thereof for forest or fuel reserve, for free pasturage of village cattle or for grass or fodder reserve, for burial or cremation ground, for gaathan, for camping ground, for threshing floor, for bazaar, for skinning ground, for public purposes such as roads, lanes, parks, drains or for any other public purpose; and, the lands assigned shall not be otherwise used without the sanction of the Collector and in the disposal of lands under section 20 due regard shall be had to all such special assignments.

23.Regulation of use of pasturage.

The right of grazing on free pasturage lands shall extend only to the cattle of the village or village to which such lands belong or have been assigned, and shall be regulated according to rules made by the State Government in this behalf. The Collector's decision in any case of dispute as to the right of grazing aforesaid shall, subject to one appeal only according to the provisions of this Code, be conclusive.

24.Recovering value of natural products unauthorisedly removed from certain lands.

Any person who unauthorizedly removes from any land which is set apart for a special purpose or from any land which is the property of Government, any natural product (not being trees) shall be liable to the Government for the value thereof, and in addition, to a fine not exceeding five times the value, of the natural product so removed. Such value and fine shall be recoverable from him as an arrear of land revenue.

25.Right to trees in holdings.

(1)With effect from the commencement of this Code, the right to all trees standing or growing on any occupied land shall vest in the holder thereof but if the State Government is of opinion that it is necessary to prohibit or regulate the cutting of certain trees for preventing erosion of soil, it may by rules prohibit or regulate the cutting of such trees.

(2)Nothing in sub-section (1) shall affect in any area any right in trees in the holding of an occupant in favour of any person existing on the 1st day of October 1955, but the occupant may apply to the Collector to fix the value of such right and purchase the right through the Collector in such manner as may be prescribed.

(3)Any sale or agreement for sale of trees, made by any person before the commencement of this Code in anticipation of the vesting such trees in him by virtue of the provisions of this section shall be void, and any consideration given for such sale or agreement shall be refunded.

26. Trees and forests vesting in Government.

The right to all trees, brushwood, jungle or other product growing on land set apart for forest reserves under section 22, and to all trees, brushwood, jungle or other natural product, wherever

growing, except in so far as the same may be the property of persons capable of holding property, vests in the State Government and such trees, brushwood, jungle or other natural product shall be preserved or disposed of in such manner as the State Government may from time to time prescribe, by rules made in this behalf.

27.Recovery of value of trees, etc. unauthorizedly appropriated.

Any person who shall unauthorizedly fell and appropriate any tree or any portion thereof which is the property of the Government shall be liable to the Government for the value thereof, which shall be recoverable from him as an arrear of land revenue, in addition to any penalty to which he may be liable under the provisions of this Code for the occupation of the land or otherwise and notwithstanding any criminal proceedings which may be instituted against him in respect of his said appropriation of Government property.

28.Regulation of cutting and supply of wood, etc.

(1)Where trees are standing any reserved forest, the villagers in general may take firewood, and agriculturists such wood as may be required for agricultural implements, without payment of any tax but subject to rules made by the State Government.

(2)In lands which have been set apart under section 22 for forest reserves subject to the privileges of the villagers or of certain classes of person to cut firewood or timber for domestic or other purposes, and in all other cases in which such privileges exist in respect of any alienated land, the exercise of the said privileges shall be regulated by rules made by the State Government in this behalf. In case of dispute as to the mode or time of exercising any such privileges, the decision of the Collector shall, subject to one appeal only in accordance with the provisions of this Code, be final.

29.Of the Grant of land

Classes of persons holding land.

(1)There shall be under this Code the following classes of persons holding land from the State, that is to say

- (a)Occupants - Class I,
- (b)Occupants - Class II,
- (c)Government lessees.

(2)Occupants - Class I shall consist of persons who

- (a)hold unalienated land in perpetuity and without any restrictions on the right to transfer ;
- (b)immediately before the commencement of this Code hold land in full occupancy or Bhumiswami rights without any restrictions on the right to transfer in accordance with the provisions of any law relating to land revenue in force in any part of the State immediately before such commencement; and
- (c)if they hold land in Bhumidhari rights in any local area in Vidarbha which has not been excepted under section 150 of the Madhya Pradesh Land Revenue Code, 1954 and are permitted hereafter subject to rules made by the State Government in this behalf, on payment of a premium (not exceeding three times the assessment payable in respect of such land) to be included in Occupants- Class I.

(3)Occupants- Class II shall consist of persons who,

- (a) hold unalienated land in perpetuity subject to restrictions on the right to transfer ;
- (b) immediately before the commencement of this Code hold

(i) land in Vidarbha in Bhumiswami rights with restrictions on the right to transfer or in Bhumidhari rights under the Madhya Pradesh Land Revenue Code, 1954; and

(ii) Elsewhere hold land in occupancy rights with restrictions on the right to transfer under any other law relating to land revenue; and

(c) before the commencement of this Code have been granted rights in unalienated land under leases which entitle them to hold the land in perpetuity, or for a period not less than fifty years with option to renew on fixed rent, under any law relating to land revenue and in force before the commencement of this Code; and all provisions of this Code relating to the rights, liabilities and responsibilities of Occupants- Class II shall apply to them as if they were Occupants-Class II under this Code.

30. Occupation of unalienated land granted under provisions of the code.

Where any unoccupied land which has not been alienated, is granted to any person under any of the provisions of this Code, it shall be the duty of the Tahsildar of without delay to call upon such person to enter upon the occupation of such land in accordance with the terms of the grant.

31. Unoccupied land may be granted on conditions.

It shall be lawful for the Collector subject to such rules as may from time to time be made by the State Government in this behalf, to require the payment of a price for unalienated land or to sell the same by auction, and to annex such conditions to the grant as may be prescribed by such rules before land is entered upon under section 30. The price (if any) paid for such land shall include the price of the Government right to all trees thereon and shall be recoverable as an arrear of land revenue.

32. Grant of alluvial land vesting in Government .

(1) When it appears to the Collector that any alluvial land, which vests under any law for the time being in force in the State Government, may with due regard to the interests of the public revenue be disposed of, he shall, subject to the rules made by the State Government in this behalf, offer the same to the occupation (if any) of the bank or shore on which such alluvial land has formed. The price of the land so offered shall not exceed three times the annual assessment thereof.

(2) If the occupant does not accept the offer, the Collector may dispose of the land without any restrictions as to price.

Explanation. - For the purpose of this section, notwithstanding anything contained in clause (24) of section 2, if the bank or shore has been mortgaged with possession, the mortgagor shall be deemed to be the occupant thereof.

33. Temporary right to alluvial lands of small extent.

When alluvial land forms on any bank or shore, the occupant, if any, or such bank or shore shall be entitled to the temporary use thereof unless or until the area of the same exceeds one acre. When the area of the alluvial land exceeds one acre, it shall be at the disposal of the Collector subject to the provisions of section 32.

34. Disposal of intestate occupancies.

(1) If an occupant dies intestate and without known heirs, the Collector shall take possession of his occupancy and may lease it for a period of one year at a time.

(2) If within three years of the date on which the Collector takes possession of the occupancy, any claimant applies for the occupancy, being restored to him, the Collector may, after such enquiry as he thinks fit, place such claimant in possession of the occupancy or reject his claim.

(3) The order of the Collector under sub-section (2) shall not be subject to appeal or revision but any person whose claim is rejected under sub-section (2) may, within one year from the date of the communication of the order of the Collector, file a suit to establish his title, and if such suit is filed, the Collector shall continue to lease out the land as provided in sub-section (2), till the final decision of the suit.

(4) If no claimant appears within three years from the date on which the Collector took possession of the occupancy or if a claimant whose claim has been rejected under sub-section (2) does not file a suit within one year as provided in sub-section (3), the Collector may sell the right of the deceased occupant in the occupancy by action.

(5) Notwithstanding anything contained in any law for the time being in force, a claimant, who establishes his title to the occupancy which has been dealt with in accordance with the provisions of this section, shall be entitled only to the rents payable under sub-section (1) and the sale proceeds realised under sub-section (4), less all sums due on the occupancy on account of land revenue and the expenses of management and sale.

35. Disposal of relinquished or forfeited sub-division.

(1) If any sub-division of a survey number is relinquished under section 55, such sub-division of a survey number shall be treated as Government waste land, and it shall be disposed of by the Collector in the manner provided in sub-section (2).

(2) The Collector shall, subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, offer such-division at such price not exceeding twenty-four times the assessment thereof as he may consider to be worth to the occupants or the other sub-divisions of the same survey number in such order as in his discretion he may deem fit; so however that the total holding of the grantee does not exceed the ceiling fixed in that behalf under any law for the time being in force in the State. In the event of all such occupants refusing to accept the offer, the sub-division shall be disposed of by the Collector, subject to the rules made by the State Government in that behalf, in the manner provided by section 31.

(3) If any sub-division of a survey number is forfeited for default in payment of land revenue, the Collector shall take possession of the sub-division and may lease such sub-division to the former occupant thereof or to the occupant of the other sub-divisions of the same survey number or to any other person for a period of one year at a time, so, however, that the total holding of such holder does not exceed the ceiling referred to in sub-section (2).

(4) If within three years of the date on which the Collector takes possession of the sub-division under sub-section (3), the former occupant thereof applies for the restoration of the occupant of the sub-divisions, the Collector may restore the sub-division to the occupant on the occupant pay in the arrears of land revenue and a penalty equal to three times the assessment. If the occupant fails to get the occupancy of the sub-division restored to him within period aforesaid, the sub-division shall be disposed of by the Collector in the manner provided by sub-section (2).

Explanation. - For the purposes of this section, notwithstanding anything contained in clause (23) of section 2, if any of the other sub-divisions have been mortgaged with possession, the mortgagers shall be deemed to be the occupants thereof.

36. Occupancy to be transferable and heritable subject to certain restrictions.

(1) An occupancy shall, subject to the provisions contained in section 27 and to any conditions lawfully annexed to the tenure, and save as otherwise provided by law, be deemed an heritable and transferable property.

(2) Notwithstanding anything contained in the foregoing sub-section occupancies of persons belonging to the Scheduled Tribes (hereinafter referred to as the 'Tribals') (being occupancies wherever situated in the State) shall, not be transferred except with the previous sanction of the Collector.

Provided that nothing in this sub-section shall apply to transfer of occupancies made in favour of persons other than the Tribals (hereinafter referred to as the 'non-Tribals') on or after the commencement of the Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1974).

(3) Mah. XXXV of 1974.

Where an occupant belonging to a Scheduled Tribe in contravention of sub-section (2) transfers possession of his occupancy, the transferor or any person who if he survives the occupant without nearer heirs would inherit the holdings, may, 2 (within thirty years) of such transfer of possession, apply to the Collector to be placed in possession subject so far as the Collector may, in accordance with the rules made by the State Government in this behalf, determine to his acceptance of the liabilities for arrears of land revenue or any other dues which form a charge on the holding, 3 (and, notwithstanding anything contained in any law for the time being in force, the collector shall) dispose of such application in accordance with the procedure which may be prescribed.

²(Provided that, where a Tribal in contravention of sub-section (2) or any law for the time being in force has, at any time before the commencement of the Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1974 transferred possession of his occupancy to a non-Tribal and such occupancy is in the possession of such non-Tribal or his successor-in-interest, and has not been put to any non-agricultural use before such commencement, then, the Collector shall, notwithstanding anything contained in any law for the time being in force, either suo motu at any time or on application by the Tribal (or his successor-in-interest) made at any time 5 (within thirty years) of such commencement, after making such inquiry as he thinks fit, declare the transfer of the occupancy to be invalid, and direct that the occupancy shall be taken from the possession of such non-Tribal or his successor-in-interest and restored to the Tribal or his successor-in-interest.

1 Sub-section (2) was substituted for the original by Man. 35 of 1974, s. 2(1).

2 These words were substituted for the words "within two years" by Mah. 1 of 1991, s. 2(a)(i).

3 These words were substituted for the word, "and the collector shall" *ibid.*, s. 2(a)(ii).

4 These provisos were added, by Mah. 35 of 1974, s. 2(2).

5 These words were substituted for the words, "within two years" by Mah. 1 of 1991, s. 2(b),

6 The explanation was deleted by Mah. 11 of 1976, s. 3. Second Schedule.

¹(Provided further) that where transfer of occupancy of a Tribal has taken place before the commencement of the said Act in favour of a non-Tribal, who was rendered landless by reason of acquisition of his land for a public purpose, only half the land involved in the transfer shall be restored to the Tribal.

²(3A) Where any Tribal (or his successor - in -interest) to whom the possession of the occupancy is directed to be restored under the first proviso to sub-section (3) expresses his unwillingness to accept the same, the Collector shall, after holding such inquiry as he thinks fit, by order in writing, declare that the occupancy together with the standing crops thereon, if any shall effect from the date of the order, without further assurance, be deemed to have been acquired and vest in the State Government.

(3B) On the vesting of the occupancy under sub-section (3A), the non-Tribal shall, subject to the provisions of sub-section (3C), be entitled to receive from the State Government an amount equal to 48 times the assessment of the land plus the value of improvements, if any, made by the non-Tribal therein to be determined by the Collector in the prescribed manner.

Explanation. - In determining the value of any improvements under this sub-section, the Collector shall have regard to

- (i) the labour and capital provided or spent on improvements ;
- (ii) the present condition of the improvements ;
- (iii) the extent to which the improvements are likely to benefit the land during the period of ten years next following the year in which such determination is made ;
- (iv) such other factors as may be prescribed.

(3C) Where there are persons claiming encumbrances on the land, the Collector shall apportion the amount determined under sub-section (3B) amongst the non-Tribal and the person claiming such encumbrances, in the following manner, that is to say-

- (i) if the total value of encumbrances on the land is less than the amount determined under sub-section (3B), the value of encumbrances shall be paid to the holder thereof in full;

1 These words were substituted of the word "Provided" by Mah. 11 of 1976,s.3, Second Schedule.

2 Sub-section (3A) to (3D) were deemed always to have been inserted by Mah.30 of 1977, s. 2.

- (ii) if the total value of encumbrances on the land exceeds the amount determined under sub-section (3B), the amount shall be distributed amongst the holders of encumbrances in the order of priority.

Provided that, nothing in this sub-section shall affect the right of holder of any encumbrances to proceed to enforce against the non-Tribal his right in any other manner or under any other law for the time being in force.

(3D) The land vested in the State Government under sub-section (3A) shall, subject to any general or special orders of the State Government in that behalf, be granted by the collector to any other Tribal residing in the village in which the lands is situate or within five kilometers thereof and who is willing to accept the occupancy in accordance with the provisions of this Code and the rules and orders made thereunder and to undertake to cultivate the land personally, so, however,

that the total land held by such Tribal, whether as owner or tenant, does not exceed an economic holding within the meaning of sub-section (6) of section 36 A.)

(4)XIX of 1883. XII of 1984. Bom.III of 1928. 23 of 1955. 5 of 1970.

Notwithstanding anything contained in sub-section (1) or in any other provisions of this Code, or in any law for the time being in force it shall be lawful for an Occupant - Class II - to mortgage his property in favour of the State Government in consideration of a loan advanced to him by the State Government under the Land Improvement Loan Act, 1883, the Agriculturists Loans Act, 1884, or the Bombay Non-Agriculturists Loans Act, 1928 or in favour of a co-operative society¹ for the State Bank of India constituted under section 3 of the State Bank of India Act, 1955, or a corresponding new bank within the meaning of clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. or the Maharashtra State Financial Corporation established under the relevant law in consideration of a loan advanced to him by such co-operative² (society, State Bank of India, corresponding new Bank, or as the case may be, Maharashtra State Financial Corporation), and without prejudice to any other remedy open to the State Government,³ (The co-operative society, the State Bank of India, the corresponding new bank, or as the case may be, the Maharashtra State Financial Corporation) in the event of such occupant making default in payment of such loan in accordance with terms on which such loan is granted, it shall be lawful for the State Government,³ (the co-operative society, the State Bank of India, the corresponding new Bank, or as the case may be, the Maharashtra State Financial Corporation) to cause the occupancy to be attached and sold and the proceeds to be applied towards the payment of such loan. The Collector may,⁴ (on the application of the co-operative society, the State Bank of India, the corresponding new bank or the Maharashtra State Financial Corporation), and payment of the premium prescribed by the State Government in this behalf, by order in writing reclassify the occupant as Occupant-Class J; and on such reclassification, the occupant shall hold the occupancy of the land without any restriction on transfer under this Code.

Explanation. - For the purposes of this section, "Scheduled Tribes " means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Maharashtra under Article 342 of the Constitution of India⁵ (and persons, who belong to the tribes or Tribal communities, or parts of, or groups within tribes or tribal communities specified in part VIIA of the Schedule to the Order 6 (made under) the said article 342, but who are not resident in the localities specified in that Order who nevertheless need the protection of this section and section 36A (and it is hereby declared that they do need such protection) shall, for the purposes of those sections be treated in the same manner as members of the Scheduled Tribes.)

⁷36A.Restrictions on transfers of occupancies by Tribals. Mah. XXXV of 1974.

(1)Notwithstanding anything contained in sub-section (1) of section 36, no occupancy of a Tribal shall, after the commencement of the Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act., 1974, be transferred in favour of any non-Tribal by way of sale (including sales in execution of a decree of a Civil Court or an award or order of any Tribunal or authority), gift, exchange, mortgage, lease or otherwise, except on the application of such non-Tribal and except with the previous sanction-

(a) in the case of a lease or mortgage for a period not exceeding 5 years, of the Collector; and
(b) in all other cases, of the Collector with the previous approval of the State Government.

Provided that, no such sanction shall be accorded by the Collector unless he is satisfied that no Tribal residing in the village in which the occupancy is situate or within five kilometers thereof is prepared to take the occupancy from the owner on lease, mortgage or by sale or otherwise.

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- 1 These words were inserted by Mah. 36 of 1971, s. 2(a).
 - 2 These words were inserted , ibid, s. 2(b).
 - 3 These were substituted for the words "or as the case may be, the co-operative society" ibid,s. 2(c).
 - 4 These words were substituted for the words "on the application of the society", ibid, s. 2(d).
 - 5 This portion was added by Mah. 35 of 1974, s. 2(3).
 - 6 These words were substituted for the words "made and" by Mah. 11 of 1976, s. 3, Second Schedule.
 - 7 Sections 36 A, 36B and 36C were inserted by Mah. 35 of 1974,s.3.

(2)The previous sanction of the Collector may be given in such circumstances and subject to such conditions as may be prescribed.

(3)On the expiry of the period of the lease or, as the case may be, of the mortgage, the Collector may, notwithstanding anything contained in any law for the time being in force, or any decree or order of any court or award or order of any Tribunal, or authority, either suo motu or on application made by the Tribal in that behalf, restore possession of the occupancy to the Tribal.

(4)Where, on or after the commencement of the Maharashtra Land Revenue Code and Tenancy Laws (Amendment)Act, 1974, it is noticed that any occupancy has been transferred in contravention or sub-section (1) 1(the Collector shall, notwithstanding anything contained in any law for the time being in force, either suomotu or on an application made by any person interested in such occupant, within thirty years) from the date of the transfer of occupancy hold an inquiry in the prescribed manner and decide the matte.

(5)Where the Collector decides that any transfer of occupancy has been made in contravention of sub-section (1), he shall declare the transfer to be invalid, and thereupon, the occupancy together with the standing crops thereon, if any, shall vest in the State Government free of all encumbrances and shall be disposed of in such manner as the State Government may, from time to time direct.

(6)Where an occupancy vested in the vested in the State Government under sub-section (5) is to be disposed of, the Collector shall give notice in writing to the Tribal-transferor requiring him to be state within 90 days from the date of receipt of such notice whether or not he is willing to purchase the land. If such Tribal - transferor agrees to purchase the occupancy, then the occupancy may be granted to him if he pays the prescribed purchase price and undertakes to cultivate the land personally; so however that the total land held by such Tribal-transferor, whether as owner or tenant, does not as for as possible exceed an economic holding.

Explanation. - For the purpose of this section, the expression `` economic holding" means 6.48 hectares (16 acres) of jirayat land, or 3.24 hectares (8acres) of seasonally irrigated land, or paddy or rice land, or 1.62 hectares (4 acres) of perennially irrigated land, and where the land held by any person consists of two or more kinds of land, the economic holding shall be determined on the basis of one hectare of perennially irrigated land being equal to 2 hectares of seasonally irrigated land or paddy or rice land or 4 hectares of jirayat land.

36B.Damages for use and occupation of occupancies in certain cases.

A non-Tribal who after the occupancy is ordered to be restored ²(under either of the provisos) to sub-section (3) of section 36 or after the occupancy is vested in the State Government ³(under sub-section (3A) of section 36 or)under sub-section (5) of section 36A continues to be in possession of the occupancy, then the non-Tribal shall pay to the Tribal in the former case, and to

the State Government in the latter case, for the period from the year (following the year in which the occupancy is or is ordered to be restored to the Tribal or is vested in the State Government as aforesaid) till possession of the occupancy is given to the Tribal or the State Government, such amount for the use and occupation of the occupancy as the Collector may fix in the prescribed manner.

¹36 BB. Notwithstanding anything contained in this Act or any law for the time being in force, no pleader shall be entitled to appear on behalf of any party in any proceedings under section 36, 36A or 36B before the Collector, the Commissioner of the State Government.

Provided that, where a party is a minor or lunatic, his guardian may appear, and in the case of any other person under disability, his authorised agent may appear, in such proceedings.

Explanation. - For the purpose of this section, the expression 'pleader' includes, an advocate, vakil or any other legal practitioner).

36C. Bom. II of 1906.

(1) Bar of Jurisdiction of Civil Court or authority.

No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under sections 36, 36A or 36B required to be settled, decided or dealt with by the Collector.

Explanation. - For the purpose of this section, a Civil Court shall include a Mamlatdar's Court under the Mamlatdar's Court Act, 1906.

(2) No Civil Court or authority shall entertain an appeal or application against an order of the Collector under sections 36, 36A or 36B unless the appellant or applicant deposits such security as in the opinion of the Court or authority is adequate.)

1 This portion was substituted for the portion beginning with the words "the collector shall" and ending with the words "three years" by Mah. 1 of 1991, s. 3.

2 These words were substituted for the words "under the proviso" *ibid*, s.3.

3 These words, brackets, figures and letter were deemed always to have been inserted by Mah. 30 of 1977, s. 3. Pleaders, etc., excluded from appearance.

37. Occupants rights are conditional.

An occupant is entitled to the use and occupation of his land in perpetuity conditionally on the payment of the amount due on account of the land revenue for the same, according to the provisions of this Code, or of any rules made under this Code or of any other law for the time being in force, and on the fulfillment of any other terms or conditions lawfully annexed to his tenure.

38. Power to grant leases.

It shall be lawful for the Collector at any time to lease under grant or contract any unalienated unoccupied land to any person, for such period, for such purpose and on such conditions as he may, subject to rules made by the State Government in this behalf, determine, and in any such case the land shall, whether a survey settlement has been extended to it or not, be held only for

the period and for the purpose and subject to the conditions so determined. The grantee shall be called a Government lessee in respect of the land so granted.

39. Occupant to pay land revenue and Government lessee to pay rent fixed.

Every occupant shall pay as land revenue the assessment fixed under the provisions of this Code and rules made thereunder; and every Government lessee shall pay as land revenue lease money fixed under the terms of the lease.

40. Saving of powers of Government.

Nothing contained in any provision of this Code shall derogate from the right of the State Government to dispose of any land, the property of Government, on such terms and conditions as it deems fit.

41. Of Use of Land

Uses to which holder of land for purposes of agriculture may put his land.

²((1)) ³(Subject to the provisions of this section, holder of any land) assessed or held for the purpose of agriculture is entitled by himself, his servants, tenants, agents or other legal representatives to erect farm ⁴(building), construct wells or tanks or make any other improvements thereon for the better cultivation of the land, or its more convenient use for the purpose aforesaid.

1 Section 36BB was inserted by Mah. 12 of 1977, s. 2.

2 Section 41 was renumbered as sub-section (1) of that section, by Mah. 32 of 1986, s. 2.

3 These words were substituted for the words "A holder of any land", *ibid.*, s. 2 (a) (i).

4 This word was substituted for the word "buildings " *ibid.*, s. 2 (a)

(2).Mah. XXXII of 1986.

¹((2) From the date of commencement of the Maharashtra Land Revenue Code (Amendment) Act, 1986 (hereinafter in this section referred to as "such commencement date") before erection any farm building or carrying out any work or renewal of, re-construction of, alterations in, or additions to, any such farm building, or any farm building erected before such commencement date on any land which is situated,-

(a) within the limits of-

(i) the Municipal Corporation of Greater Bombay,

(ii) the Corporation the City of Pune,

(iii) the Corporation of the City of Nagpur, and the area within eight kilometers from the periphery of the limits of each of these corporations;

(b) within the limits of any other municipal corporation constituted under any law for the time being in force and the area within five kilometers from the periphery of the limits of each such municipal corporation;

(c) within the limits of the 'A' Class municipal councils and the area within three kilometers from the periphery of the limits of each such municipal council;

(d) within the limits of the 'B' and 'C' Class municipal councils ; or

(e) Mah. XXXII of 1966.

within the area covered by the Regional Plan, town planning scheme, or proposals for the development of land (within the notified area) or (an area designated as) the site of the new town, whether each of these being in draft or final, prepared, sanctioned or approved under the Maharashtra Regional and Town Planning Act, 1966; the holder or any other person referred to in sub-section (1), as the case may be, shall, notwithstanding anything contained in sub-clauses (d) and (e) of clause (14) of section 2, make an application, in the prescribed form, to the Collector for permission to erect such farm building or to carry out any such work of renewal, re-construction, alterations or additions as aforesaid.

(3) The Collector may, subject to the provisions of sub-section (4) and such terms and conditions as may be prescribed, grant such permission for erection of one or more farm buildings having a plinth area not exceeding the limits specified below:-

(i) if the area of the agricultural holding on which one or more farm buildings are proposed to be erected exceeds 0.4 hectare but does not exceed 0.6 hectare, the plinth area of all such buildings shall not exceed 150 square metres; and

(ii) if the area of the agricultural holding on which one or more farm buildings are proposed to be erected is more than 0.6 hectare, the plinth area of all such buildings shall not exceed one-fortieth area of that agricultural holding or 400 square metres, whichever is less:

Provided that, if one or more farm buildings proposed to be erected are to be used, either fully or in part, for the residence of members of the family, servants or tenants of the holder, the plinth area of such buildings or buildings proposed to be used for residential purpose shall not exceed 150 square metres, irrespective of the fact that the area of the agricultural holding on which such building or buildings are proposed to be erected exceeds 0.6 hectare.

(4) The Collector shall not grant such permission –

(a)

(i) if the area of the agricultural holding on which such building is proposed to be erected is less than 0.4 hectare;

(ii) if the height of such building from its plinth level exceeds 5 metres and the building consists of more than one floor, that is to say, more than ground floor;

(iii) for erection of more than one farm building for each of the purposes referred to in clause (9) of section 2;

(b) if any such work of erection involves renewal or re-construction or alternations or additions to an existing farm building beyond the maximum limit of the plinth area specified in sub-section (3) or beyond the limit of the height of 5 meters from the plinth level and a ground floor.

Explanation.-- For the purposes of sub-sections (3) and (4), if only one farm building is proposed to be erected on an agricultural holding, "plinth area" means the plinth area of that building, and if more than one farm buildings are proposed to be erected on an agricultural holding, "plinth area" means the aggregate of the plinth area of all such buildings.

(5) Mah. XXX-VII of 1966.

Where an agricultural holding is situated within the limits of any municipal corporation or municipal council constituted under any law for the time being in force, the provisions of such law or of any rules or bye-laws made thereunder, or of the Development Control Rules made under the provisions of the Maharashtra Regional and Town Planning Act, 1966, or any rules, made by the

1Sub-section (2) to (6) were added by Mah. 32 of 1986, s. 2(b).

State or Central Government in respect of regulating the building and control lines for different portions of National or State highways or major or other district roads or village roads shall, save as otherwise provided in this section, apply or continue to apply to any farm building or buildings to be erected thereon or to any work of renewal or reconstruction or alterations or additions to be carried out to the existing farm building or buildings thereon, as they apply to the building permissions granted or regulated by or under such law or Development Control Rules or rules in respect of regulating the building and control lines of highways or roads.

(6)Any land used for the erection of a farm building or for carrying out any work of renewal, reconstruction, alterations or additions to a farm building aforesaid in contravention of the provisions of this section shall be deemed to have been used for non-agricultural purpose and the holder or, as the case be may be, any person referred to in sub-section (1) making such use of land shall be liable to the penalties or damages specified in sections 43 or 45 or 46, as the case may be.]

42.Permission for non-agricultural use.

No land used for agriculture shall be used for any non-agricultural purpose; and no land assessed for one non-agricultural purpose shall be used for any other non-agricultural purpose or for the same non-agricultural purpose but in relaxation of any of the conditions imposed at the time of the grant or permission for non-agricultural purpose, except with the permission of the Collector.

43.Restriction on use.

Subject to the rules made by the State Government in this behalf the Collector or a Survey Officer may regulate or prohibit the use of land liable to the payment of land revenue for purposes such as, cultivation of unarable land in a survey number assigned for public purpose, manufacture of salt from agricultural land, removal of earth, stone, kankar, murum or any other material from the land assessed for the purpose of agriculture only, so as to destroy or materially injure the land for cultivation, removal of earth, stone (other than loose surface stone), kankar, murum or any other material from the land assessed as a building site, excavation of land situated within a gaathan; and such other purposes as may be prescribed; and may summarily evict any person who uses or attempts to use the land for any such prohibited purpose.

44.Procedure for conversion of use of land from one purpose to another.

(1)If an occupant of unalienated land or a superior holder of alienated land or a tenant of such land--

(a)which is assessed or held for the purpose of agriculture, wishes to use it for a non-agricultural purpose, or

(b)if land is assessed or held for a particular non-agricultural purpose, wishes to use it for another non-agricultural purpose, or

(c) desires to use it for the same non-agricultural purpose for which it is assessed but in relaxation of any of the conditions imposed at the time of grant of land or permission for such non-agricultural purpose, such occupant or superior holder or tenant shall, with the consent of the tenant, or as the case may be, of the occupant or superior holder, apply to the Collector for permission in accordance with the form prescribed.

(2) The Collector, on receipt of an application,--

(a) shall acknowledge the application within seven days;

(b) may, unless the Collector directs otherwise, return the application if it is not made by the occupant or superior holder or as the case may be, the tenant or if the consent of the tenant, or as the case may be, of the occupant or superior holder has not been obtained, or if it is not in accordance with the form prescribed,

(c) may, after due enquiry, either grant the permission on such terms and conditions as he may specify subject to any rules made in this behalf by the State Government; or refuse the permission applied for, if it is necessary so to do to secure the public health, safety and convenience or if such use is contrary to any scheme for the planned development of a village, town or city in force under any law for the time being in force and in the case of land which is to be used as building sites in order to secure in addition that the dimensions, arrangement and accessibility of the sites are adequate for the health and convenience of the occupiers or are suitable to the locality; where an application is rejected, the Collector shall state the reasons in writing of such rejection.

(3) If the Collector fails to inform the applicant of his decision within ninety days from the date of acknowledgement of the application, or from the date of receipt of the application-- if the application is not acknowledged, or within fifteen days from the date of receipt of application for a temporary change of user or where an application has been duly returned for the purposes mentioned in clause (b) of sub-section (2), then within ninety days ¹[or as the case may be, within fifteen days] from the date on which it is again presented duly complied with, the permission applied for shall be deemed to have been granted, but subject to any conditions prescribed in the rules made by the State Government in respect of such user.

(4) The person to whom permission is granted or deemed to have been granted under this section shall inform the Tahsildar in writing through the village officers the date on which the change of user of land commenced, within thirty days from such date.

(5) If the person fails to inform the Tahsildar within the period specified in sub-section (4), he shall be liable to pay in addition to the non-agricultural assessment such fine as the Collector may, subject to rules made in this behalf, direct but, not exceeding five hundred rupees.

¹These words were inserted by Mah. 4 of 1970, s. 3.

(6) When the land is permitted to be used for a non-agricultural purpose, a sanad shall be granted to the holder thereof in the form prescribed under the rules. It shall be lawful for the Collector either of his own motion or on the application of a person affected by the error, to direct at any time the correction of any clerical or arithmetical error in the sanad arising from any accidental slip or omission.

¹[44 A. No permission required for bona fide industrial use of land.

(1) Notwithstanding anything contained in section 42 or 44, where a person desires to convert any land held for the purpose of agriculture or held for a particular non-agricultural purpose, situated,--

(i)Mah. XXXVII of 1966. within the industrial zone of a draft or final regional plan or draft, interim or final development plan or draft or final town planning scheme, as the case may be, prepared under the Maharashtra Regional and Town Planning Act, 1966, or any other law for the time being in force; or within the agricultural zone of any of such plans or schemes and the development control regulations or rules framed under such Act or any of such laws permit industrial use of land; or

(ii)within the area where no plan or scheme as aforesaid exists, for a bona fide industrial use, then no permission for such conversion of use of land shall be required, subject to the following conditions, namely :-

(a)the person intending to put the land to such use has a clear title and proper access to the said land;

(b)such person has satisfied himself that no such land or part thereof is reserved for any other public purpose as per the Development plan (where such plan exists) and the proposed bona fide industrial use does not conflict with the overall scheme of the said Development plan;

(c)I of 1894. Mah.III of 1962. no such land or part thereof is notified for acquisition under the Land Acquisition Act, 1894 or the Maharashtra Industrial Development Act, 1961 or covers the alignment of any road included in the 1981-2001 Road Plan or any subsequent Road Plan prepared by the State Government;

(d)such person ensures that the proposed industry does not come up within thirty metres of any railway line or within fifteen metres of a high voltage transmission line;

(e)there shall be no contravention of the provisions of any law, or any rules, regulations or orders made or issued, under any law for the time being in force, by the State or Central Government or any local authority, statutory authority, Corporation controlled by the Central or State Government or any Government Company pertaining to management of Coastal Regulation Zone, or of the Ribbon Development Rules, Building Regulations, or rules or any provisions with regard to the benefitted zones of irrigation project and also those pertaining to environment, public health, peace or safety.

(2)The person so using the land for a bona fide industrial use shall give intimation of the date on which the change of user of land has commenced and furnish other information, in the prescribed form, within thirty days from such date, to the Tahsildar through the village officers, and shall also endorse a copy thereof to the Collector:

Provided that, where such change of user of land has commenced before the rules prescribing such form are published finally in the Official Gazette, such intimation and information shall be furnished within thirty days from the date on which such rules are so published.

(3)(a)If the person fails to inform the Tahsildar and the Collector, as aforesaid, within the period specified in sub-section (2) or on verification it is found from the information given by him in the prescribed form that, the use of land is in contravention of any of the conditions specified in sub-section (1), he shall be liable to either of, or to both, the following penalties, namely :-

(i)to pay in addition to the non-agricultural assessment which may be leviable by or under the provisions of this Code, such penalty not exceeding rupees ten thousand; as the Collector may, subject to the rules, if any, made by the State Government in this behalf direct:

Provided that, the penalty to levied shall not be less than twenty times the non-agricultural assessment of such land irrespective whether it does or does not exceed rupees ten thousand;

(ii)to restore the land to its original use.

(b) Where there has been a contravention of any of the conditions specified in sub-section (1), such person shall, on being called upon by the Collector, by notice in writing, be required to do

anything to stop such contravention as directed by such notice and within such period as specified in such notice; and such notice may also require such person to remove any structure, to fill up any excavation or to take such other steps as may be required in order that the land may be used for its original purpose or that the conditions may be satisfied within the period specified in the notice.

(4)(a) If any person fails to comply with the directions or to take steps required to be taken within the period specified in the notice, as aforesaid, the Collector may also impose on such person a further penalty not

1 Section 44A was inserted by Mah. 26 of 1994, s. 2.

exceeding five thousand rupees for such contravention, and a daily penalty not exceeding one hundred rupees for each day during which the contravention continues.

(b) It shall be lawful for the Collector himself to take or cause to be taken such steps as may be necessary; and any cost incurred in so doing shall be recoverable from such person as if it were an arrear of land revenue.

(5) As soon as an intimation of use of land for bona fide industrial use is received under sub-section (2) and on verification it is found that the holder of the land fulfills all the conditions specified in sub-section (1), a sanad shall be granted to the holder thereof in the prescribed form.

Where there is any clerical or arithmetical error in the sanad arising from any accidental slip or omission, it shall be lawful for the Collector either of his own motion or on the application of a person affected by the error to direct at any time the correction of any such error.

Explanation.-- For the purposes of this section "bona fide industrial use" means the activity of manufacture, preservation or processing of goods, or any handicraft, or industrial business or enterprise, carried on by any person, and shall include construction of industrial buildings used for the manufacturing process or purpose, or power projects and ancillary industrial usages like research and development, godown, canteen, office-building of the industry concerned or providing housing accommodation to the workers of the industry concerned, or establishment of an industrial estate including co-operative industrial estate, service industry, cottage industry, gramodyog units or gramodyog Vasahats.]

45. Penalty for so using land without permission.

(1) If any land held or assessed for one purpose is used for another purpose--

(a) without obtaining permission of the Collector under section 44 or before the expiry of the period after which the change of user is deemed to have been granted under that section, or in contravention of any of the terms and conditions subject to which such permission is granted; or
(b) in contravention of any of the conditions subject to which any exemption or concession in the payment of land revenue in relation to such land is granted, the holder thereof or other person claiming through or under him, as the case may be, shall be liable to the one or more of the following penalties, that is to say,--

(i) to pay non-agricultural assessment on the land leviable with reference to the altered use;
(ii) to pay in addition to the non-agricultural assessment which may be leviable by or under the provisions of this Code such fine as the Collector may, subject to rules made by the State

Government in this behalf, direct;

(iii) to restore the land to its original use or to observe the conditions on which the permission is granted within such reasonable period as the Collector may by notice in writing direct; and such notice may require such person to remove any structure, to fill up any excavation or to take such other steps as may be required in order that the land may be used for its original purpose or that the conditions may be satisfied.

(2) If any person fails within the period specified in the notice aforesaid to take steps required by the Collector, the Collector may also impose on such person a penalty not exceeding three hundred rupees for such contravention, and a further penalty not exceeding thirty rupees for each day during which the contravention is persisted in. The Collector may himself take those steps or cause them to be taken; and any cost incurred in so doing shall be recoverable from such person as if it were an arrear of land revenue.

Explanation.-- Using land for the purpose of agriculture where it is assessed with reference to any other purpose shall not be deemed to be change of user.

46. Responsibility of tenant or other person for wrongful use.

If a tenant of any holder or any person claiming under or through him uses land for a purpose in contravention of the provisions of sections 42, 43 or 44 without the consent of the holder and thereby renders the holder liable to the penalties specified in sections 43, 44 or 45, the tenant or the person, as the case may be, shall be responsible to the holder in damages.

47. Power of State Government to exempt land from provisions of ¹[sections 41, 42,] 44, 45, or 46.

Nothing in ¹[section 41, 42,] 44, 45 or 46 shall prevent--

(a) the State Government from exempting any land or class of lands from the operation of any of the provisions of those sections, in the State Government is of opinion that it is necessary, in the public interest for the purpose of carrying out any of the objects of this Code to exempt such land or such class of lands; and

(b) the Collector from regularising the non-agricultural use of any land on such terms and conditions as may be prescribed by him subject to rules made in this behalf by the State Government.

²[47 A. Liability for payment of conversion tax by holder for change of user of land.

¹The word and figures were substituted for the word and figures "section 42" by Mah. 32 of 1986, s. 3.

²Section 47A was inserted by Mah. 8 of 1979, s. 2.

(1) There shall be levied and collected additional land revenue, to be called the conversion tax, on account of change of user of lands.

(2) Where any land assessed or held for the purpose of agriculture is situated within the limits of Greater Bombay excluding the City of Bombay or of the Cities of Nagpur, Pune, Kolhapur or Solapur or of any 'A' Class or 'B' class municipal area or of any peripheral area of any of them, and--

(a) is permitted, or deemed to have been permitted under sub-section (3) of section 44, to be used for any non-agricultural purpose; ³*

(b) is used for any non-agricultural purpose, without the permission of the Collector being first obtained, or before the expiry of the period referred to in sub-section (3) of section 44, and is regularised under clause (b) of ⁴[section 47; or]

⁵[(c) in put to a bona fide industrial use as provided in section 44A,--] then, the holder of such land shall, subject to any rules made in this behalf, be liable to pay to the State Government, the conversion tax, which shall be equal to three times the non-agricultural assessment leviable on such land, in accordance with the purpose for which it is so used or permitted to be used.

(3) Where, any land assessed or held for any non-agricultural purpose is situated in any of the areas referred to in sub-section (2), and--

(a) is permitted, or deemed to have been permitted under sub-section (3) of section 44, to be used for any other non-agricultural purpose; ^{6*}

(b) is used for any other non-agricultural purpose, without the permission of the Collector being first obtained, or before the expiry of the period referred to in sub-section (3) of section 44, and is regularised under clause (b) of ⁷[section 47; or]

⁸[(c) is put to a bona fide industrial use as provided in section 44A,--] then, the holder of such land shall, subject to any rules made in this behalf, be liable to pay to the State Government, the conversion tax, which shall be equal to three times the non-agricultural assessment leviable on such land, in accordance with the purpose for which it is so used or permitted to be used.

3 The word "or" was deleted by Mah. 26 of 1994, s. 3(a)(i).

4 These words and figures were substituted for the word and figures "section 47" *ibid.*, s. 3(a)(ii).

5 This clause was inserted *ibid.*, s. 3(a)(iii).

6 The word "or" was deleted *ibid.*, s. 3(b)(i).

7 These words and figures were substituted for the word and figures "section 47, *ibid.*, s.3(b)(ii).

8 This clause was inserted *ibid.*, s. 3(b)(iii).

Explanation.-- For the purposes of this section,--

(1) C.P. and Berar II of 1950.

(a) "City of Nagpur" means the City of Nagpur as constituted under the City of Nagpur Corporation Act, 1948;

(b) Bom. LIX of 1949.

"Cities of Pune, Kolhapur and Solapur" means the Cities of Pune, Kolhapur and Solapur as constituted under the Bombay Provincial Municipal Corporations Act, 1949;

(c) Mah. XL of 1965.

"A' Class or 'B' Class municipal area" means any municipal area classified as 'A' Class or, as the case may be, 'B' Class municipal area under *the Maharashtra Municipalities Act, 1965;

(2) "peripheral area" in relation to—

(a) Greater Bombay, excluding City of Bombay, means the area within eight kilometres from its periphery;

(b) the Cities of Pune and Solapur, means the area within five kilometres from the periphery of each of those Cities;

(c) the Cities of Nagpur and Kolhapur, means the area within one kilometre from the periphery of each of those Cities; and

(d) any `A' Class or `B' Class municipal area, means the area within one kilometre from the periphery of each of such `A' Class or 'B' Class municipal areas.

48. Government title to mines and minerals

¹[The right to all minerals] at whatever place found, whether on surface or underground, including all derelict or working mines and quarries, old dumps, pits, fields, bandhas, nallas, creeks, river-beds and such other places, is and is hereby declared to be expressly reserved and shall vest in the State Government which shall have all powers necessary for the proper enjoyment of such rights.²[****]

¹ These words were substituted for the words, "unless it is otherwise expressly provided by the terms of the grant made by the State Government the right to all minerals" by Mah. 16 of 1985, s. 14(a).

² The proviso was deleted, *ibid*, s.14(b).

Now, see the Maharashtra Municipal Councils, Nagarpanchayats and Industrial Townships Act, 1965.

(2) The right to all mines and quarries includes the right of access to land for the purpose of mining and quarrying and the right to occupy such other land as may be necessary for purposes subsidiary thereto, including the erection of officers, workmen's dwellings and machinery, the stacking of minerals and deposit of refuse, the construction of roads, railways or tram-lines, and any other purposes which the State Government may declare to be subsidiary to mining and quarrying.

(3) If the State Government has assigned to any person its right over any minerals, mines or quarries, and if for the proper enjoyment of such right, it is necessary that all or any of the powers specified in sub-sections (1) and (2) should be exercised, the Collector may, by an order in writing, subject to such conditions and reservations as he may specify, delegate such powers to the person to whom the right has been assigned: Provided that, no such delegation shall be made until notice has been duly served on all persons having rights in the land affected, and their objections have been heard and considered.

(4) of 1894.

If, in the exercise of the right herein referred to over any land, the rights of any persons are infringed by the occupation or disturbance of the surface of such land, the State Government or its assignee shall pay to such persons compensation for such infringement and the amount of such compensation shall, in the absence of agreements, be determined by the Collector or, if his award is not accepted, by the civil court, in accordance with the provisions of the Land Acquisition Act, 1894.

(5) No assignee of the State Government shall enter on or occupy the surface of any land without the previous sanction of the Collector unless compensation has been determined and tendered to the persons whose rights are infringed:

Provided that, it shall be lawful for the Collector to grant interim permission pending the award of the civil court in cases where the question of determining the proper amount of compensation is referred to such court under sub-section (4).

(6) If an assignee of the State Government fails to pay compensation as provided in sub-section (4), the Collector may recover such compensation from him on behalf of the persons entitled to it, as if it were an arrear of land revenue.

(7) Any person who without lawful authority extracts, removes, collects, replaces, picks up or disposes of any mineral from working or derelict mines, quarries, old dumps, fields, bandhas (whether on the plea of repairing or constructions of bund of the fields or an any other plea), nallas, creeks, river-beds, or such other places wherever situate, the right to which vests in, and has not been assigned by the State Government shall, without prejudice to any other mode of action that may be taken against him, be liable, on the order in writing of the Collector, to pay penalty not exceeding a sum determined, at three times the market value of the minerals so extracted, removed, collected, replaced, picked up or disposed of, as the case may be;

Provided that, if the sum so determined is less than one thousand rupees the penalty may be such larger sum not exceeding one thousand rupees as the Collector may impose.

(8) Without prejudice to the provision in sub-section (7), the Collector may seize and confiscate any mineral extracted, removed, collected, replaced, picked up or disposed of from any mine, quarry or other place referred, to in sub-section (7) the right to which vests in, and has not been assigned by, the State Government.

(9) The State Government may make rules to regulate the extraction and removal of minor minerals required by inhabitants of a village, town or city for their domestic, agricultural or professional use on payment of fees or free of charge as may be specified in the rules.

LXVII of 1957.

Explanation.--

For the purposes of this section, "minor minerals" means the minor minerals in respect of which the State Government is empowered to make rules under section 15 of the Mines and Minerals (Regulation and Development) Act, 1957.

49. Construction of water course through land belonging to other person.

(1) If any person (hereinafter called "the applicant") desires to construct a water course to take water to irrigate his land for the purpose of agriculture from a source of water to which is he entitled (including any source of water belonging to Government from which water is permitted to be taken) but such water course is to be constructed through any land which belongs to or is in possession of another person (hereinafter called "the neighbouring holder"), and if no agreement is to arrived at for such construction between the applicant and the neighbouring holder, the person desiring to construct the water course may make an application in the prescribed form to the Tahsildar.

Explanation.--

For the purposes of this section, the neighbouring holder includes the person to whom the land belongs and all persons holding through or under him.

(2) On receipt of the application, if the Tahsildar after making an enquiry and after giving the neighbouring holder and all other persons interested in the land, an opportunity of stating any objection to the application, is satisfied that for ensuring the full and efficient use for a agriculture of the land belonging to the applicant it is necessary to construct the water course, he may by order in writing, direct the neighbouring holder to permit the applicant to construct the water course on the following conditions :-

(i) The water course shall be constructed through such land in such direction and by manner as is agreed upon by the parties, or failing agreement, as directed by the Tahsildar, so as to cause as little damage to the land through which it is constructed, as may be possible.

(ii) Where the water course consists of pipes laid under or over the surface, it shall, as far as possible, be along the shortest distance through such land, regard being had to all the circumstances of the land of the neighbouring holder. Where the water course consists of underground pipes, the pipes shall be laid at a depth not less than half a metro from the surface of the land.

(iii) Where the water course consists of a water channel, the width of the channel shall not be more than is absolutely necessary for the carriage of water, and in any case shall not exceed one and one-half metres.

(iv) The applicant shall pay to the neighbouring holder--

(a) Such compensation for any damage caused to such land by reason of the construction of any water course injuriously affecting such land and

(b) such annual rent as the Tahsildar may decide to be reasonable in cases where the water course consists of a water channel and pipes laid over the surface; and where it consists of underground pipes, say, at a rate of 25 paise for every ten metres or a fraction thereof for the total length of land under which the underground pipe is laid.

(v) The applicant shall maintain the water course in a proper state of repair.

(vi) Where the water course consists of underground pipes, the applicant shall--

(a) cause the underground pipe to be laid with the least practicable delay; and

(b) dig up no more land than is reasonably necessary for the purpose of laying the underground pipe and any land so dug up shall be filled in, reinstated and made good by the applicant at his own cost for use by the neighbouring holder.

(vii) Where the applicant desires to lay, repair or renew the pipe, he shall do so after reasonable notice to the neighbouring holders of his intention so to do and in so doing shall cause as little damage as possible to the land or any crops standing thereon.

(viii) Such other conditions as the Tahsildar may think fit to impose.

(3) An order made under sub-section (2) shall direct how the amount of compensation shall be apportioned among the neighbouring holders and all persons interested in the land.

(4) Any order made under sub-section (2) shall be final and be a complete authority to him or to any agent or other person employed by him for the purpose to enter upon the land specified in the order with assistants or workmen and to do all such work as may be necessary for the construction of the water course and for renewing or repairing the same.

(5) If the applicant in whose favour an order under sub-section (2) is made--

(a) fails to pay the amount of compensation or the amount of rent, it shall be recovered as an arrear of land revenue, on an application being made to the Tahsildar by the person entitled thereto;

(b) fails to maintain the water course in a proper state for repairs, he shall be liable to pay such compensation as may be determined by the Tahsildar for any damage caused on account of such failure.

(6) If a person intends to remove or discontinue the water course constructed under the authority conferred on him under this section, he may do so after giving notice to the Tahsildar and the neighbouring holder.

In the event of removal or discontinuance of such water course, the person taking the water shall fill in and reinstate the land at his own cost with the least practicable delay. If he fails to do so, the neighbouring holder may apply to the Tahsildar who shall require such person to fill in and reinstate the land.

(7) The neighbouring holder or any person, on his behalf shall have the right to the use of any surplus water from the water course on payment of such rates as may be agreed upon between the parties, and on failure of agreement, as may be determined by the Tahsildar. If a dispute arises whether there is or is no surplus water in the water course, it shall be determined by the Tahsildar, and his decisions shall be final.

(8) There shall be no appeal from any order passed by a Tahsildar under this section. But the Collector may call for the examine the record of any case and if he considers that the order passed by the Tahsildar is illegal or improper, he may, after due notice to the parties, pass such order as he deems fit.

(9) The orders passed by the Tahsildar or Collector under this section shall not be called in question in any Court.

(10) Where any person, who after a summary inquiry before the Collector or a Survey Officer, Tahsildar or Naib-Tahsildar is proved to have wilfully injured or damaged any water course duly constructed or laid under this section, he shall be liable to a fine not exceeding one hundred rupees every time for the injury or damage so caused.

50. Of Encroachments on Land.

Removal of encroachments on land vesting in Government; provisions for penalty and other incidental matters.

(1) In the event of any encroachment being made on any land or fore-shore vested in the State Government (whether or not in charge of any local authority) or any such land being used for the purpose of hawking or selling articles without the sanction of the competent authority, it shall be lawful for the Collector to summarily abate or remove any such encroachment or cause any article whatsoever hawked or exposed for sale to be removed; and the expenses incurred therefore shall be leviable from the person in occupation of the land encroached upon or used as aforesaid.

(2) The person who made such encroachment or who is in unauthorised occupation of the land so encroached upon shall pay, if the land encroached upon forms part of an assessed survey number, assessment for the entire number for the whole period of the encroachment, and if the land has not been assessed, such amount of assessment as would be leviable for the said period in the same village on the same extent of similar land used for the same purpose. Such person shall pay in addition a fine which shall be not less than five rupees but not more than one

thousand rupees if the land is used for an agricultural purpose, and if used for a purpose other than agriculture such fine not exceeding two thousand rupees. The person caught hawking or selling any articles shall be liable to pay fine of a sum not exceeding fifty rupees as the Collector may determine.

(3)The Collector may, by notice duly served under the provisions of this Code, prohibit or require the abatement or removal of encroachments on any such lands, and shall fix in such notice a date, which shall be a reasonable time after such notice, on which the same shall take effect.

(4)Every person who makes, causes, permits or continues any encroachment on any land referred to in a notice issued under sub-section (3), shall in addition to the penalties specified in sub-section (2), be liable at the discretion of the Collector to a fine not exceeding twenty-five rupees in the case of encroachment for agricultural purposes and fifty rupees in other cases for every day during any portion of which the encroachment continues after the date fixed for the notice to take effect.

(5)An order passed by the Collector under this section shall be subject to appeal and revision in accordance with the provisions of this Code.

(6)Nothing contained in sub-sections (1) to (4) shall prevent any person from establishing his rights in a civil court within a period of six months from the date of the final order under this Code.

51.Regularisation of encroachments.

Nothing in section 50 shall prevent the Collector, if the person making the encroachment so desires, to charge the said person a sum not exceeding five times the value of the land so encroached upon and to fix an assessment not exceeding five times the ordinary annual land revenue thereon and to grant the land to the encroacher on such terms and conditions as the Collector may impose subject to rules made in this behalf; and then to cause the said land to be entered in land records in the name of the said person:

Provided that, no land shall be granted as aforesaid, unless the Collector gives public notice of his intention so to do in such manner as he considers fit, and considers any objections or suggestions which may be received by him before granting the land as aforesaid. The expenses incurred in giving such public notice shall be paid by the person making the encroachment; and on his failure to do so on demand within a reasonable time, shall be recovered from him as an arrear of land revenue.

52.Value and land revenue how calculated.

(1)For the purposes of sections 50 and 51, the value of land that has been encroached upon shall be fixed by the Collector according to the market value of similar land in the same neighbourhood at the time of such valuation; and the annual revenue of such land shall be assessed at the same rate as the land revenue of similar land in the vicinity.

(2)The Collector's decision as to the value of land and the amount of land revenue or assessment payable for the land encroached upon shall be conclusive, and in determining the amount of land revenue, occupation for a portion of year shall be counted as for a whole year.

53.Summary eviction of person unauthorisedly occupying land vesting in Government.

(1) If in the opinion of the Collector any person is unauthorisedly occupying or wrongfully in possession of any land or foreshore vesting in the State Government or is not entitled or has

ceased to be entitled to continue the use, occupation or possession of any such land or foreshore by reason of the expiry of the period of lease or tenancy or termination of the lease or tenancy or breach of any of the conditions annexed to the tenure, it shall be lawful for the Collector to 1* evict such person.

²[(1-A) Before evicting such person, the Collector shall give him a reasonable opportunity of being heard and the Collector may make a summary enquiry, if necessary. The Collector shall record his reasons in brief for arriving at the opinion required by sub-section (1).]

1The words "summarily" and "in the manner provided in sub-section (2)" were deleted by s. Mah 36 of 1971, s. 3(a).

1 Sub-section (1A) was inserted, *ibid.*, 3(b).

(2)³[The Collector shall on his finding as aforesaid, serve] a notice on such person requiring him within such time as may appear reasonable after receipt of the said notice to vacate the land or foreshore, as the case may be, and if such notice is not obeyed, the Collector may remove him from such land or foreshore.

(1) A person unauthorisedly occupying or wrongfully in possession of land after he has ceased to be entitled to continue the use, occupation or possession by virtue of any of the reasons specified in sub-section (1), shall also be liable at the discretion of the Collector to pay a penalty not exceeding two times the assessment or rent for the land, for the period of such unauthorised use or occupation.

54. Forfeiture and removal of property left over after summary eviction.

(1) After summary eviction of any person under section 53, any building or other construction erected on the land or foreshore or any crop raised in the land shall, if not removed by such person after such written notice as the Collector may deem reasonable, be liable to forfeiture or to summary removal.

(2) Forfeitures under this section shall be adjudged by the Collector and any property so forfeited shall be disposed of as the Collector may direct; and the cost of the removal of any property under this section shall be recoverable as an arrear of land revenue.

*54A. [This section has ceased to be in force with effect from 1st December 1978].

Of Relinquishment of Land

55. Relinquishment.

An occupant may relinquish his land, that is, resign, in favour of the State Government, but subject to any rights, tenures, encumbrances or equities lawfully subsisting in favour of any person other than the Government or the occupant, by giving notice in writing to the Tahsildar not less than thirty days before the date of commencement of the agricultural year, and thereupon, he shall cease to be an occupant from the agricultural year next following such date:

Provided that, no portion of land which is less in extent than a whole survey number or subdivision of a survey number may be relinquished.

3) These words were substituted for the words "The Collector shall serve", *ibid.*, s.3(c).

* Section 54A was inserted by Mah. 41 of 1973, s. 2. It remained in force upto 30.11.1978.

The said section 54A reads as under:-

"54A. Additional temporary powers for termination of licences, and removal of any building or other structure on any land or foreshore which is forfeited and of persons re-entering or remaining on the land or foreshore after eviction.

Where--

(a) any person is evicted from any land or foreshore under section 53;
(b) any building or other structure erected on any land or foreshore is forfeited under section 54;
(c) any person who entered unauthorisedly on the land or foreshore is allowed to stay thereafter on payment of a licence fee for the land, or structure thereon or both,--then, without prejudice to any other proceeding which may be taken against any such person, or in respect of the structure given on licence as aforesaid,--

(1) the Collector or any officer of Government authorised by the Collector may, notwithstanding anything contained in any law, or in any contract or agreement, for the time being in force, at any time by order direct that the licence or permission (if any) granted to any such person shall be deemed to be terminated forthwith;

(2) the Collector may, by written notice, which shall not be of less duration than 24 hours, require any person for the time being in occupation of the forfeited structure to show sufficient cause, or or before such day and hour as shall be specified in such notice, why the forfeited building or other structure shall not be pulled down or removed; and if such person fails to show cause, on or before the specified day and hour, to the satisfaction of the Collector, the Collector may pull down or remove the building or other structure, as the case may be and,

(3) no person (including the person evicted) shall, without the previous permission of the Collector, enter on, or be on or in, or pass over, any such land or foreshore; and if any person enters on or remains on or in or passes over the land or foreshore in contravention of this section, he may be removed therefrom by the Collector or officer authorised, and the Collector or officer authorised may take all such assistance as is necessary for the purpose."

56. Relinquishment of alienated Land.

The provisions of sections 35 and 55 shall apply, as far as may be, to the holders of alienated land.

57. Right of way to relinquished Land.

If any person relinquishes land, the way to which lies through other land which he retains, the right of way through the land so retained shall continue to the future holder of the land relinquished.

58. Saving of operation of section 55 in certain case.

Nothing in section 55 shall affect the validity of the terms or conditions of any lease or other express instrument under which land is, or may hereafter be held from the State Government.

59. Summary eviction of person unauthorisedly occupying Land.

Any person unauthorisedly occupying, or wrongfully in possession of any land--

- (a) to the use or occupation of which by reason of any of the provisions of this Code he is not entitled or has ceased to be entitled, or
- (b) which is not transferable without the previous permission under sub-section (2) of section 36 or by virtue of any condition lawfully annexed to the tenure under the provisions of section 31, 37 or 44, may be summarily evicted by the Collector.

60. Power of State Government to suspend operation of section 55.

(1) It shall be lawful for the State Government, by notification in the Official Gazette from time to time,--

- (a) to suspend the operation of section 55 within any prescribed local area, either generally, or in respect of cultivators or occupants of a particular class or classes, and
- (b) to cancel any such notification.

(2) During the period for which any notification under clause (a) of sub-section (1) is in force within any local area, such orders shall be substituted for the provisions of which the operation is suspended as the Commissioner shall from time to time direct.

Protection of certain occupancies for process of courts

61. Occupancy when not liable to process of civil Court; court to give effect to Collector's certificate.

In any case where an occupancy is not transferable without the previous sanction of the Collector, and such sanction has not been granted to a transfer which has been made or ordered by a civil court or on which the court's decree or order is founded,--

- (a) such occupancy shall not be liable to the process of any court, and such transfer shall be null and void, and
- (b) the court, on receipt of a certificate under the hand and seal of the Collector to the effect that any such occupancy is not transferable without his previous sanction and that such sanction has not been granted, shall remove any attachment or other process placed on or set aside any sale of, or affecting, such occupancy.

62. M.P.I of 1951.

Bar of attachment or sale.

Any land which immediately before the date of vesting under the Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950, was recorded as sir land shall not be liable to attachment or sale in execution of a decree or order of a court for the recovery of any debt incurred before the date of vesting except where such debt was validly secured by mortgagee of, or charge on, the cultivating rights in such sir land.

63. M.P.II of 1955. V of 1908. V of 1920.

Bar of foreclosure or attachment of sale of Bhumidhari's right.

No decree or order shall be passed for the sale or foreclosure of any right of a person in land held by him immediately before the commencement of this Code in Bhumidhari tenure under the provisions of the Madhya Pradesh Land Revenue Code, 1954, nor shall such right be attached or sold in execution of any decree or order, nor shall a receiver be appointed to manage such holding under section 51 of the Code of Civil Procedure, 1908, nor shall such right vest in the court or in a receiver under the Provincial Insolvency Act, 1920.

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