

# **The Maharashtra Land Revenue (Transfer of Occupancy by Tribals to Non-Tribals) Rules, 1975**

MAHARASHTRA

India

## **The Maharashtra Land Revenue (Transfer of Occupancy by Tribals to Non-Tribals) Rules, 1975**

### **Rule**

### **THE-MAHARASHTRA-LAND-REVENUE-TRANSFER-OF-OCCUPANCY- of 1975**

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The Maharashtra Land Revenue (Transfer of Occupancy by Tribals to Non-Tribals) Rules, 1975 Published vide Notification No. G.N., R.& F.D., No. Revenue 1074/208094-L-9, dated 2nd October, 1975 (M.G., Part 4B, page 964) In exercise of the powers conferred by sub-sections (2), (4) and (6) of Section 36A, Section 36B and section 328 of the Maharashtra Land Revenue Code, 1966 (Maharashtra XLI of 1966), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules, the same having been previously published as required by sub-section (1) of Section 329 of the said Code, namely:-

#### **1. Short Title.**

- These rules may be called the Maharashtra Land revenue (Transfer of Occupancy by Tribals to Non-Tribals) Rules, 1975.

#### **2. Definitions.**

- In these rules, unless the context requires, otherwise,-(a)"Code" means the Maharashtra Land Revenue Code, 1966;(b)"Form" means a form appended to these rules;(c)"section" means a section of the code;(d)words and expressions used but not defined in these rules shall have the same meanings as defined in the Code.

### **3. Application for transfer of Occupancy under Section 36A and procedure for disposal thereof.**

(1) As soon as may be after an application under Section 36A is received by the Collector from a non-Tribal for transfer in his favour of an occupancy of a land belonging to Tribal, the Collector shall issue a public notice in Form A contain the details of the land in respect of which the application is made, the nature of transfer i.e. sale, gift, exchange, mortgage, lease or otherwise and the consideration proposed to be paid therefor and call upon the other Tribal, who are willing to have the occupancy transferred to them on payment of the same consideration as offered by the non-Tribal to submit to him within one month from the date of publication of the notice application indicating willingness to accept the transfer of land at the same consideration as mentioned in the public notice. (2) The public notice under sub-rule (1) shall be published in the village in which the land is situated and also in the village within a radius of five kilometres thereof by beat of drum. Copies of the notice shall also be affixed on the notice board in the office of the Collector, the sub-Divisional officer, the Tahsildar and of the village Panchayat and also village chavdi and at any prominent place in the village. A copy of the notice shall also be sent to an association or similar other organisation of the Tribals, if any working in the taluka with a request to forward to the Collector application of any Tribal, willing to have the occupancy of land transferred in his favour. (3) After expiry of the period referred to in sub-rule (1) the Collector shall consider the application, if any, received by him, and if he finds that any of the Tribals residing in the village in which the land is situated or in any of the village within radius of 5 Kilometers is willing to have the occupancy transferred in his favour for the same consideration as offered by the non-Tribal. He shall simultaneously inform the Tribal transferor the names of the Tribal who are willing to have the occupancy transferred to them and advise him to transfer the occupancy to any one of them [as he may choose] [Substituted by G.N. of 6.8.1976.]

### **4. Sanction of Collector under Section 36A for transfer.**

(1) Under Section 36A, the Collector may subject to the provision of Rule 3, give sanction for—(a) the sale of the land where it is being sold—(i) for any bona fide non-agricultural purpose, or (ii) in execution of a decree of a civil court or for the recovery of arrears of land revenue under the provision of the Code; Provided that, no sanction for sale shall be given under sub-clause (ii) of clause (a) of this sub-rule if the tribal is likely to be rendered landless as a result of the sale; (b) the lease of the land, where the land is being leased by a lessor who is minor or widow or a person under any physical or mental disability; (c) the mortgage of the land, where the land is being mortgaged for purposes of raising a loan for the development of the land; (d) the exchange of the land where the land is being exchanged—(i) for land equal or nearly equal value owned and cultivated personally by a member of the Tribal's family, or (ii) for land of equal or nearly equal value in the same village owned and cultivated personally by another landowner with a view to forming compact block of his holding or better management thereof; Provided that, the total land held and cultivated personally by any one whether as owner or tenant or partly as tenant does not exceed an economic holding as a result of the exchange; (e) the transfer of the land by way of sale or lease—(i) if the land is required by an industrial undertaking in connection with any bona fide industrial operations carried on or to be carried on by such undertaking; (ii) if the land required for the benefit of any educational or

charitable institution;(iii)if the land is required for the benefit of a co-operative society;(f)[ the sale of the land where it is being sold to a person who has been or is likely to be rendered landless on account of compulsory acquisition of his land for any public purpose; [Inserted by G.N. of 7.4.1978.]Provided that, no sanction for the sale shall be given under clause (f), if the Tribal is likely to be rendered landless as a result of the sale.Explanation - for the purpose of the proviso to clause (f), a person shall be deemed to be landless if he is a landless person within the meaning of that expression as defined in clause (17) of Section 2 of the Maharashtra Agricultural Land (Ceiling on Holdings) Act, 1961.](2)Where sanction is given for lease or mortgage, as the case may be in the circumstances specified in clause (b) or (c) of sub-rule (1), it shall be subject to the condition that the land shall not be put to any non-agricultural use.

## **5. Enquiry by Collector under sub-section (4) of Section 36A.**

(1)The Collector shall, suo-motu or on an application of any person interested in the occupancy transferred in contravention of sub-section (1) of section 36A, hold an inquiry in the manner provided in sub-rule (3) to (5).(2)The application referred to in sub-rule (1) shall contain the following particulars, namely-(i)Name of the applicant;(ii)Survey number, area and assessment of the land;(iii)The same of the village, taluka and district in which the land is situate;(iv)The name of the transferor and transferee;(v)The date of the transfer;(vi)Circumstances in which the transfer was made.(3)After receipt of the application or suo-motu on the basis of the record, if any, available with him, if the Collector thinks that there is reasonable ground for believing that the Collector's sanction was not taken for the transfer (which ground he shall record in writing), the Collector shall cause notices in Form 'B' to be served on the transferor (if he is not the applicant) and on the transferee, calling upon them show cause why the transfer should not be declared invalid, and the notice shall specify the date for hearing the application.(4)On the date fixed for hearing or on any other date to which the hearing may be adjourned the Collector may examine the parties, and after recording the statements of witness, if any and after making such enquiry as he may consider necessary, shall record a finding whether or not the transfer is made with the previous sanction of the Collector as required by sub-section (1) of Section 36A. If the finding is that the transfer is made with the previous sanction of the Collector, the application, if any, shall be rejected. If the finding is that the transfer is made without the previous sanction of the Collector, the Collector shall declare the transfer to be invalid under sub-section (5) of Section 36A.(5)The decision of the Collector shall be communicated to the parties concerned.

## **6. Form of notice to be given to the Tribal transferor under sub-section (6) of Section 36A.**

- The notice to be given to the Tribal transferor under sub-section (6) of section 36A shall be in Form C.

## **7. Purchase price of occupancy.**

- The purchase price of the occupancy to be purchased by the Tribal transferor under sub-section (6)

of Section 36A shall be an amount equal to 48 times the assessment of the land.

## 8. Damages for use and occupation of occupancy under Section 36.

- The amount to be paid by a non-Tribal for the use and occupation of the occupancy under Section 36B shall be determined by the Collector in the following manner namely:-(1)The Collector shall give a notice to the non-Tribal in Form 'D' calling upon him to file a statement within one month from the date of the notice indicating therein the gross income derived and the expenditure incurred by him on cultivation on the said occupancy during 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 till possession of occupancy is given (hereinafter referred to in this rule as the 'said period').(2)After receipt of the statement or if the same is not filed by the non-Tribal, then suo-motu, the Collector shall after giving the non-Tribal a reasonable opportunity of being heard and after holding such enquiry as he deems fit, determine regard being had to the statement, if any filed by non-Tribal-(a)the total gross income derived by the non-Tribal during the said period taking into account the following factors;(i)the crops raised in the land during the said period;(ii)the average market prices of the said crops during the said period;(b)the total expenditure which the Non-Tribal had to incur on cultivation of the said land during the said period taking into account the following factors-(i)The average cost of cultivation of the said crops during the said period;(ii)The expenditure that may have to be incurred in selling of the said crops;(iii)The land revenue, the irrigation cess and other cesses or imposts which were required to be paid by non-Tribal during the said period.(3)The difference between the total gross income and the total expenditure shall then be determined as the amount to be paid by non-Tribal for the use and occupation of the occupancy. Form 'A' (See Rule 3) Public notice under Rule 3 of the Maharashtra Land Revenue (Transfer Occupancy by Tribals in Non-Tribals) Rules, 1975 Whereas an application has been received by the Collector of ..... For taking on ..... sale/ mortgage etc./ lease of the occupancy of the land mentioned in the schedule appended hereto and belonging to Shri. .... a Tribal resident of village ..... taluka ..... District ..... And whereas the application has offered to Shri ..... the said lands are to be leased at a rent of Rs. .... p.a. a sum of Rs. .... By way of consideration in respect of the said lands; And whereas if any Tribal residing the village ..... or within five Kilometers thereof is prepared to take over the occupancy from the owner on sale/ mortgage etc./ lease he is to given precedence under the provision of the proviso to sub-section (1) of Section 36A; Now, thereof, all Tribals who are residents of the village or who are residing within a radius of five kilometers thereof and are prepared to take the occupancy from Shri ..... on sale / mortgage etc./ lease and to pay therefor a sum of Rs. .... By way of consideration are hereby called upon to submit to the undersigned within one month from the date of publication of this notice, application for having the mortgage/ sale etc./ lease made in their favour/ on payment of Rs. .... / on a rent of Rs. .... p.a.

## Schedule

Description of the Occupancy

District	Taluka	Village	Survey No.	Pot Hissa No.	Area	Assessment	Name of the Tribal transferee
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
					H.A. (A.g)	Rs. P.	

Collector .....Place .....Form 'B'[See Rule 5(3)]Notice to be issued to the transferee and transferor under sub-rule (3) of Rule 5 Notice

Whereas| it has been brought to my noticeI have notice| that the occupancy described in the schedule hereto, situated in village ..... Taluka ..... District .....

originally belonging to you Shri. .... resident of ..... has been transferred to| Shri resident ofyou| on or about the ..... day of ..... 19

And whereas there is reason to believe that the said transfer has been made in contravention of the provisions of sub-section (1) of section 36A of the Maharashtra Land Revenue Code, 1966;Now, therefore, I hereby call upon you to show cause why the transfer of the said occupancy should not be declared as invalid and possession thereof taken by the State Government, by appearing [personally or through your authorised agent (other than pleader)] [Substituted by G.N. of 29.11.1977.] at ..... on ..... day of ..... 19 .....

## Schedule 2

Description of Land

District	Taluka	Village	Survey No.	Pot Hissa No.	Area	Assessment	Name of the Original Tribal transferee	Name of the non-Tribal transferee
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
					H.A. (A.g)	Rs. P.		

[Seal of the Collector]Collector .....Place .....To,ShriForm 'C'(See Rule 6)Notice to be issued to the Tribal transferor under sub-section (6) of section 36A of the Maharashtra Land Revenue Code, 1966.NoticeWhereas the occupancy mentioned in the Schedule hereto was transferred by you to Shri ..... of village ..... taluka ..... On .....And whereas the transfer of the said occupancy has been declared to be invalid under sub-section (5) of Section 36A of the Maharashtra Land Revenue Code, 1966, and the same stands vested in the State Government.And whereas the said occupancy is to be disposed of under sub-section (6) of Section 36A of the said Code.Now, therefore, I call upon you to state in writing within 90 days from the date of receipt of this notice whether or not you are willing to purchase the said land at a purchase price of Rs. .... and on the condition that you undertake to cultivate it personally.

## Schedule 3

### Description of Land

District	Taluka	Village	Survey No.	Pot Hissa No.	Area	Assessment	Name of the Original Tribal transferor	Name of the non-Tribal transferee
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
					H.A. (A.g)	Rs. P.		

[Seal of the Collector]Collector of .....Date .....ToShriForm 'D'(See Rule 8)Notice to be issued to the non-Tribal for filling a statement of income and expenditureNoticeWhereas the occupancy of the lands mentioned in the Schedule has been ordered to be transferred in favour of Shri ..... resident of village ..... Taluka ..... under the order No. .... dated ..... of the Collector of .....And whereas, the possession of the occupancy was given by you to Shri ..... of village ..... taluka ..... the Government of Maharashtra ..... on ..... By virtue of which the possession of the occupancy had remained with you during the period from ..... to.....And whereas, in accordance with the provisions of Section 36B of the Maharashtra Land Revenue Code, 1966, you are required to pay to Shri ..... Of village ..... taluka ..... the Government of Maharashtra the amount for the use and occupation of the land as may be fixed by me;Now, therefore, I call upon you to file on or before ..... a statement regarding the gross income derived and the gross expenditure incurred by you in respect of the said occupancy during the period from ..... to ..... If no statement is filed on or before ..... It will be presumed that you do not intend to file such a statement and the amount will be determined in accordance with the provisions of Rule 8 of the Maharashtra Land Revenue (Transfer of Occupancy by Tribals to non-Tribals) Rules, 1975.

## Schedule 4

### Description of Land

District	Taluka	Village	Survey No.	Gat No.	Pot Hissa No.	Area	Assessment
(1)	(2)	(3)	(4)		(5)	(6)	(7)
						H.A. (A.g)	Rs.P

[Seal of the Collector]Collector of .....Date .....ToShri