

The Saurashtra Estate Acquisition Act, 1952

GUJARAT

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Act 3 of 1952

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The Saurashtra Estate Acquisition Act, 1952 Saurashtra Act No 3 of 1952 [Dated 21st January 1952] For Statement of Objects and Reasons, see Saurashtra Government Gazette, 1951 Pages IA, Pages 340-343. The Act was first published in the Gazette on 11th February 1952. An Act to provide for acquisition of certain estates of Girasdars and Barkhalidars and for certain other matters. Whereas it is expedient to acquire certain estates of Girasdars and Barkhalidars of Saurashtra and to provide for certain matters connected therewith-It is hereby enacted as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Saurashtra Estates Acquisition Act, 1952. (2) It extends to the whole of Saurashtra. (3) It shall come into force at once.

2. Definitions.

- In this Act, unless there is anything repugnant to the subject or context:- (a) "Bid land" means such land as on the 17th April 1951 was specifically reserved and was being used by a Girasdar or Birkhalidar for grazing cattle or for cutting grass; (b) "cultivable waste" means cultivable land which has remained uncultivated for a period of three years or more before the 17th April, 1951; (c) "estate" means all land of whatever description or undivided share thereof held by a Girasdar or a Barkhalidar; (d) "gaucher" means land earmarked for the pasture of village cattle and known as gaucher; (e) "land" means land of any description whatsoever and includes benefits arising out of land and things attached to the earth, or permanently fastened to anything attached to the earth; (f) words and expression used, but not defined, in this Act, and defined in the Saurashtra Land Reforms Act, 1951, and the Saurashtra Barkhali Abolition Act, 1951, shall have meanings assigned to them to those Acts,

3. Abolition of Girasdari and Barkhali tenures.

(1)The Government may, from time to time, by notification in the Official Gazette, declare that with effect from such date as may be specified in the notification, all the rights, title and interest of Girasdars or Barkhalidars shall, in respect of any estate or part of an estate comprised in the notification, cease and be vested in the [[State of Gujarat] [These words were substituted for the word 'State' by the Bombay (Saurashtra Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956.]; and all the incidents of the said tenures attaching to any land comprised in such estate or part thereof shall be deemed to have been extinguished.(2)A notification under sub-section (1) may be issued in respect of an estate or part of an Estate or in respect of all estates in any area specified in the notification.(3)Nothing in sub-section (1) shall apply to(a) any land allotted to a Girasdar or a Barkhalidar for personal cultivation under the provisions of the Saurashtra Land Reforms Act, 1951 or the Saurashtra Barkhali Abolition Act, 1951 or to any gharkhed land or(b)any land in respect of which any person (other than the Girasdar or Barkhalidar) becomes or is entitled to become an occupant under any of the aforesaid Acts.

4. Consequences of abolition of Girasdar or Barkhalidar in any Estate.

- When a notification is issued by the Government in respect of an estate or any part thereof under section 3, then, with effect from the date specified in the notification, the following consequences shall, in respect of that estate or part thereof, ensue, namely:-(a)(i)all public roads, lanes, paths, the bridges, ditches, dikes and fences on, or beside the same, the bed of the sea and/or harbours, creeks below high water mark and of rivers streams, nalas, lakes, public wells and tanks, all bounds and palas, standing and flowing water and gaucher;(ii)all cultivable and uncultivable waste lands (excluding land used for building or other non-agricultural purposes).(iii)all bid lands.(iv)all unbuilt village site lands and village site lands on which dwelling houses of artisans and landless labourers are situated and,(v)all schools, Dharmashalas, village choras, public temples and such other public buildings or structures as may be specified in the notification together with the sites on which such, buildings and structures stand;which are comprised in the estates so notified shall, except in so far as any rights of any person other than the Girasdar or the Barkhalidar may be established in and over the same, and except as may otherwise be provided by any law for the time being in force, vest in, and shall be deemed to be, with all rights in or over the same or appertaining thereto, the property of [[State of Gujarat] [These words were substituted for the word 'State' by the Bombay (Saurashtra Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956.]] and all rights held by a Girasdar or the Barkhalidar in such property shall be deemed to have been extinguished, and it shall be lawful for the Collector, subject to the general or special orders of the [Collector] [This word was substituted for the words 'Revenue Commissioner' by Gujarat 15 of 1964, section 4, Schedule], to dispose of them as he deems fit, subject always to the rights of way and of other rights of the public or of individuals legally subsisting.(b)A Girasdar or the Barkhalidar shall, subject to the provisions of this Act, be deemed to be an occupant in respect of all other land held by him.

4A. [Acquisition of occupancy rights and purchase of superstructures by tenants and mortgagee in possession of certain village site lands. [Sections 4A and 4B were inserted by Saurashtra Act, No. XXIV of 1956, section 2.]

(1)Notwithstanding anything contained in clause (b) of section 4 or any other law for the time being in force, a tenant or a mortgagee in possession of village site lands on which buildings or structures other than the dwelling houses of artisans and landless labourers are situated, and which are comprised in an estate in respect of which a notification is issued by the Government under section 3, shall at any time within the period specified in sub-section (2), be entitled to acquire occupancy rights therein, and to purchase the superstructure thereon, if it belongs to the Girasdar or the Barkhalidar, on payment to the Girasdar or the Barkhalidar, as the case may be, an amount which shall be equal to the market value of such lands and the superstructure; Provided that where such tenant or mortgagee in possession is an agriculturist, he shall be entitled to acquire such occupancy rights and to purchase the superstructure thereon, on payment of an amount equal to six times the assessment on such land and the market value of the superstructure. [Explanation: - For the purpose of this sub-section a widow, or a minor or a person who is subject to physical or mental disability, or who is in service as a member of the armed forces, or who holds land less in area than an economic holding, shall be deemed to be an agriculturist notwithstanding that she or he has leased the land to any other person for cultivation or is not otherwise cultivating the land personally.] (2) Such tenant or mortgagee in possession may apply to the Collector in the prescribed form for acquiring and purchasing occupancy rights and superstructure within [three years] [These words were substituted for the words 'two years' by Bombay LXXIX of 1958, Section 2] from the date of the coming into force of the Saurashtra Estates Acquisition (Second Amendment) Act, 1956. (3) On receipt of an application under sub-section (2) the Collector shall, after holding an inquiry in the prescribed manner, pass an order specifying the amount payable by the tenant or the mortgagee in possession, as the case may be, under sub-section (1). (4) The amount determined by the Collector as payable by mortgagee for possession shall be adjusted against the amount found due to him either by the Board under the Saurashtra Agricultural Debtors' Relief Act, 1974, or by any competent Civil Court. (5) The order passed by the Collector under sub-section (3) shall be deemed to be an award for the purpose of section 8, 10 and 12. Explanation. - For the purpose of this section and this section 4B- (1) "tenant" means a person holding village site land on lease from a Girasdar or the Barkhalidar on payment of rent or vero or a person claiming through such Girasdar or the Barkhalidar and in actual and physical possession of such land; (2) "mortgagee in possession" means a person holding village site land on mortgagee from Girasdar or the Brakhalidar, and who is actually residing or carrying on business in or is using for a religious or charitable purpose a building or superstructure constructed on such village site land; (3) "market value" means the value as estimated in accordance with the provisions of sections 23 and 24 of the Land Acquisition Act, 1894, as adapted, in so far as such provisions may be applicable.

4B. Bar to eviction from village site land and superstructure.

- Notwithstanding anything contained in this Act or in any other land for the time being in force, a tenant or a mortgagee in possession shall not be evicted from the village site land and

superstructure thereon, if any, in respect of which he is entitled to make an application for the purchase of occupancy rights in such land and superstructure thereon under section 4A, until such application is made, is disposed of and where no such application is made, until the period fixed for it under sub-section (2) of section 4A has expired.]

4C. [Extension of time for acquisition of occupancy rights in village site lands and for purchasing superstructure under section 4A. [Section 4C was inserted by Gujarat XXIV of 1961, Section 2.]

(1)A tenant or mortgage-in-possession, who, though entitled to acquire the occupancy rights in a village site land and purchase the superstructure thereon under section 4A, has failed to make an application under sub-section (2) of that section within the period specified therein, may, notwithstanding the expiry of such period make an application for acquiring occupancy rights in the village site land and for purchasing the superstructure within a period of one year from the date of the commencement of the Saurashtra Estate Acquisition (Gujarat Amendment) Act, 1961 (Gujarat XXIV of 1961).(2)Subject to the provisions of sub-section (1), the provisions of section 4A and 4B shall mutatis mutandis apply to such tenant or mortgagee-in-possession and to the application, if any, made by him under sub-section (1).]

5. Certain lands not to be acquired.

(1)Notwithstanding anything contained to section 3, or section 4-(a)no bid land which is also uncultivable waste, wadas and kodias shall vest in, and be the property of, the [[State of Gujarat] [These words were substituted for the words 'State' by the Bombay (Saurashtra Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956.]]; (b)[no bid land comprised in the estate of a Girasdar who is considered to be of 13 and C class for the purpose of making rehabilitation grant under the Saurashtra Land Reforms Act, 1951, or of a Barkhalidar, the total area of agricultural land comprised in whole estate does not exceed eight hundred acres, shall vest in, and be the property of the [[State of Gujarat] [This clause was substituted for the Original by Saurashtra Act. No. XXI of 1952, section 2.]]; and](c)no bid land which is also cultivable waste or no village site land shall be acquired unless it is in excess of the requirements of the Girasdar or the Barkhalidar in accordance with the rules to be made in this behalf; and(d)to the case of Girasdar Majmu village, one fourth of the total area of bid land in the village shall not be acquired.(2)If any bid land or village site land is not acquired under the provisions of subsection (1) and such bid land or village site land is used by the Girasdar or Barkhalidar for a different purpose, it shall be liable to be acquired under the provisions of section 4.

6. Restrictions on certain transactions.

- No sale, mortgage or transfer of any kind whatsoever of village site land, cultivable waste land, bid land or uncultivable waste land effected by a Girasdar or the Barkhalidar after the 17th April, 1951, shall be effective so as to confer any rights or remedies on the parties to such transfer or any person claiming under them unless it is confirmed by an officer authorised in this behalf by the

Government.

7. Compensation payable to Girasdars and Barkhalidars for extinguishment of their rights.

(1) Every Girasdar or Barkhalidar having any right in any property which vests in, and becomes the property of, the [[State of Gujarat] [These words were substituted for the word 'State' by the Bombay (Saurashtra Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956.]] under section 4 shall be, entitled to compensation in the manner provided in the following paragraphs, namely:- (a) the Girasdar or the Barkhalidar, as the case may be, shall, within a period of twelve months from the date of vesting [or before the 1st July 1956 whichever is later] [These words and figures were inserted by Saurashtra Act. No. XXII of 1956, Section 2.] apply in writing to the Collector stating the nature of his right, the grounds of his claim and the amount of compensation claimed by him for extinguishment of his rights; [Provided that the Collector may, with the sanction of the State Government, admit an application made after the expiry of the period of limitation laid down in this clause;] [This proviso shall be and shall be deemed always to have been inserted by Bombay XXV of 1959, Section 2.] (b) the Collector, shall hold a formal inquiry in the manner provided in the Code, and if the Collector is satisfied that the applicant had any rights in the land and that such rights have been extinguished under section 4, shall make an award in the manner prescribed in section 11 of the Land Acquisition Act, 1894 as adapted, subject to the following conditions, namely:- (i) If the property acquired is bid land, the amount of compensation shall be equal to eight times the average net income; (ii) If the property acquired is cultivable waste, the compensation shall be equal to the income which the [[State of Gujarat] [These words were substituted for the word 'State' by the Bombay (Saurashtra Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956.]] derives from the property [or part thereof] [These words were inserted by Saurashtra Act No. XXXIV of 1954.] from the assessment levied thereon together with the occupancy price, if any, which the Government receives in this behalf during a period of fifteen years [following the year in which such property or part thereof is leased out and the income is received by the [[State of Gujarat] [These words were substituted for the words 'following the date on which the property vests in the State' by Saurashtra Act No. XXXIV of 1954.]] therefrom;] [[State of Gujarat] [These words were substituted for the word 'State' by the Bombay (Saurashtra Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956.]]; (iii) If the property acquired is uncultivable waste or village site land, the amount of compensation shall be equal to twice the amount of annual assessment leviable in the same village or in an adjoining Khalsa or assessed village for cultivable waste of the same area; (iv) if the property acquired is any school, Dharmashala, Chora, public temple or other public building or structure with the site on which such building or structure stands, the amount of compensation shall be equal to twice the amount of the annual assessment leviable in the same village or in an adjoining Khalsa or assessed village for cultivable waste of the same area as that of the site on which the building or structure stands; (v) if the property is land over which the public has been enjoying or acquired a right of way or any individual has any right of easement, the amount of compensation shall be equal to the amount of the annual assessment leviable in the same village or in an adjoining Khalsa or assessed village for cultivable waste of the same area; (vi) if there are any trees on the land, the amount of compensation shall be the "market value" of such trees. Explanation: - For the purpose of this clause, trees mean cluster of

trees or trees grown and reared by the Girasdar or Barkhalidar, and shall not include stray trees or bushes.(vii)if there is any reclamation Bund or other structure on the kind the amount of compensation shall be the cost of construction, making deductions for the depreciation.Explanation: - For the purposes of this section, the "market value" shall mean the value as estimated in accordance with the provisions of sections 23 and 24 of the Land Acquisition Act, 1894, as adapted, in so far as such provisions may be applicable.(2)Every award made under sub-section (1) shall be in the form prescribed in section 26 of the Land Acquisition Act, 1894, as adapted, and the provisions of the said Act shall, so far as may be, apply to the making of such awards.(3)If there is any dispute as to whether any land is bid land, cultivable waste, or gauchar or not, the decision of the Settlement Commissioner shall be final.

8. Appeal against the Collector's award.

- An appeal shall lie against an award of the Collector to the Saurashtra Revenue Tribunal constituted under the Saurashtra Revenue Tribunal Ordinance, 1949, notwithstanding anything contained in the said Ordinance.

9. Procedure before the Revenue Tribunal.

(1)The Saurashtra Revenue Tribunal shall, after giving notice to the appellant and the Government, decide the appeal and record its decision.(2)In deciding appeals under this Act, the Saurashtra Revenue Tribunal shall exercise all the powers which a Court has, and follow the same procedure which a Court follows in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure, 1908.

10. Limitation.

- Every appeal made under this Act to the Saurashtra Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908 shall apply to the filing of such appeal;

11. Court Fees.

- Notwithstanding anything contained in the Court Fees Act, 1870, as adapted and applied to the State of Saurashtra, every appeal made under this Act to the Saurashtra Revenue Tribunal shall bear a Court fee stamp of such value as may be prescribed.

12. Finality of the award and decision of the Revenue Tribunal.

- The award made by the Collector, subject to an appeal to the Saurashtra Revenue Tribunal, and the decision of the Saurashtra Revenue Tribunal on the appeal shall be final and conclusive and shall not be questioned in any suit or proceeding in any Court.

13. Inquiries and proceedings to be judicial proceedings.

- All inquiries and proceedings before the Collector and the Saurashtra Revenue Tribunal under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code, 1860.

14. Method of compensation for the extinguishment or modification of any other rights.

(1) If any person is aggrieved by any of the provisions of this Act extinguishing or modifying any of his rights in any land other than those in respect of which provision for the payment of compensation has been made under section 7, and if such person proves that such extinguishment or modification amounts to the transference to public ownership of such land or any right in or over such land, such person may apply to the Collector for compensation within a period of twelve months from the date on which such rights are extinguished or modified. (2) The Collector shall, after holding a formal inquiry in the manner provided in the Code, make an award deciding such amount of compensation as he deems reasonable and adequate. In deciding the amount of compensation, the Collector shall be guided by the provisions of sub-section (1) of section 23 and section 24 of the Land Acquisition Act, 1894, as adapted. (3) The provisions of sections 8 to 13 (both inclusive) shall, so far as may be, apply to the proceedings in respect of such award or appeal, as the case may be,

15. Certain mortgages and charges not enforceable against estates acquired.

- Notwithstanding anything contained in any contract or any law for the time being in force, no claim or liability, whether under any decree or order of a Civil Court or otherwise enforceable against a Girasdar or a Barkhalidar for any money which is charged or is secured by a mortgage of any estate which is acquired by Government under the provisions of this Act or which becomes due as a result of the provisions of this Act, shall be enforceable against such acquired estate and every such claim or liability shall be deemed to be a charge on the compensation payable to the Girasdar or the Barkhalidar in respect of such estate.

16. Rules.

(1) The Government may, by notification published in the Official Gazette make rules for carrying out the purposes of this Act; (2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for the following matters:-(a) [the form of application to be made to the Collector under Sub-section (2) of section 4A; [Clauses (a) and (b) were inserted by Saurashtra Act. No. XLIV of 1956 section 3.](b) the manner of inquiry to be held under sub-section (3) of section 4A;](c) [the value of Court-fee stamp payable on an appeal to the Saurashtra Revenue Tribunal under section 11; [Original clauses (a), (b) and (c) were relettered as clause (c), (d) and (c), by Saurashtra Act. No. XLIV of 1956 section 3.](d) the area of village site land to be left to a Girasdar or Barkhalidar for his requirements; and (e) any other matter which is to be or may be prescribed under this Act;](3) Rules made under this section shall be subject to the condition of previous

publication.

17. Application of the Code to Girasdari or Barkhalidar lands.

- Subject to the provisions of this Act, the provisions of the Code apply and are hereby declared to apply to all Girasdari or Barkhali lands.

18. Repeal and Amendment.

- In section 19 of the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949, (Ordinance No. XLI of 1949)-(a)in sub-section (1), for the words "Subject to the provisions of sub-sections (2) and (3)" the word "The" shall be substituted(b)sub-section (2) and (3) shall be omitted