

The Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975

GOA

India

The Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975

Act 1 of 1976

- Published on 14 April 1960
- Commenced on 14 April 1960
- [This is the version of this document from 14 April 1960.]
- [Note: The original publication document is not available and this content could not be verified.]

The Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975(Act No. 1 of 1976)LD/Bill/10/75-76. - An Act to provide for better protection to mundkars against eviction from their dwelling houses and for granting them the right to purchase the same and to make certain other provisions connected therewith -Whereas it is expedient to give better protection to the mundkars against eviction from their dwelling houses and to grant them the right to purchase such houses with the sites where such houses have been built at a reasonable price;Whereas it is expedient to abolish the system of free service rendered by mundkars and turn it into remunerated one;Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-sixth Year of the Republic of India as follows:

Chapter I

Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975.(2)It extends to the whole of the district of Goa of the Union territory of Goa, Daman and Diu.(3)It shall [come into force on such date] [It came into force in the District of Goa w.e.f. 12-3-1976 by Notification No. RD/MND/ACT/241/66-76 dated 10-3-1973. See Notification, at page 62.] as the Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires-(a)"Administrative Tribunal" means the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965;(b)"agricultural labourer" means a person whose principal means of livelihood is the income he gets as wages either in cash or in kind in connection with the agricultural operations he performs;(c)"agriculture" with its grammatical variations and cognate expressions, includes horticulture, the raising of crops of coconut, arecanut, cashew or mango gardens and dairy farming;(d)"agricultural land" means the land used either for the purpose of agriculture or for purposes ancillary thereto;(e)"appointed date" means the date on which this Act comes into force;(f)"bhatkar" means a person who owns the land on which the mundkar has a dwelling house;(g)"Chief Town Planner" means an officer appointed by the Government to enforce Town Planning Regulations in the Union territory of Goa, Daman and Diu;(h)"Collector" means the Collector of the district and includes any other officer appointed by the Government to exercise and perform the powers and functions of a Collector under this Act;(i)"dwelling house" means the house in which mundkar resides with a fixed habitation [* * *] [The words 'whether such house was constructed by the mundkar at his own expense or at the bhatkar's expense or with financial assistance from the bhatkar' omitted by the Amendment Act 10 of 1985.] and includes-(i)(a)the land on which the dwelling house is standing and the land around and appurtenant to such dwelling house, subject to a maximum limit of five meters, if the land is [on the appointed date] [Inserted by the Amendment Act 2 of 1996. However Hon'ble High Court of Bombay at Goa in the Writ Petition No. 86 of 1997 by the Judgement dated 16th December, 2003 hold that the Act are ultravires Article 14 read with Article 13 (2) of the Constitution of India. Thereafter same provisions were made by the Amendment Act 11 of 2005 and come into force on the day from which earlier amendment was made in to force.] within the jurisdiction of a village panchayat, and two metres, if it is not within such jurisdiction, from the outer walls of the dwelling house:Provided that, where the distance between the outer walls of the dwelling house of the mundkar and of the house of the bhatkar, or between the outer walls of the dwelling house of a mundkar and of the dwelling house or houses of one or more mundkars, is less than double the aforesaid limit the land appurtenant to such dwelling house shall be half of the land lying between the outer walls of the dwelling house of such mundkar and the bhatkar or between the outer walls of the dwelling house of such mundkar and the outer walls of the dwelling house or houses of such other mundkar or mundkars, as the case may be; or(b)three hundred square metres of land including the land on which the dwelling house is standing:Provided that where [on the appointed date] [Inserted by the Amendment Act 2 of 1996. However Hon'ble High Court of Bombay at Goa in the Writ Petition No. 86 of 1997 by the Judgement dated 16th December, 2003 hold that the Act are ultravires Article 14 read with Article 13 (2) of the Constitution of India. Thereafter same provisions were made by the Amendment Act 11 of 2005 and come into force on the day from which earlier Amendment was made in to force.] the dwelling house is within the jurisdiction of a municipal council, the dwelling house shall include two hundred square metres of land including the land on which the dwelling house is standing:Provided further that where there is on the appointed date in the property of the bhatkar, the house of the bhatkar or a dwelling house of one or more than one mundkar, and the total extent of the land is inadequate to provide each of them the extent indicated in this clause, the dwelling house shall include, in the absence of any agreement, the land apportioned in equal shares, as far as practicable,

by the Mamlatdar. Explanation I. - The option contemplated under this clause shall be exercised by the Mundkar in the manner prescribed. Explanation II. - For the purpose of this clause "house" means an entity in itself and shall not include a Dharmashala or such other building belonging to or in possession of a religious or charitable institution and is used for temporary accommodation and such other building as may be meant for letting out on hire and a portion of which has been let out. (ii) the cattle shed, stable, pig-sty, workshop or such other structure connected with the business or profession of the mundkar; and (iii) the customary easement, if any, which the residents of the dwelling house have been enjoying for access to a public road or a well or any other place; (j) "factory" has the meaning assigned to it in clause (m) of section 2 of the Factories Act, 1948; Central Act (k) "Government" means the Administrator of the Union territory of Goa, Daman and Diu appointed by the President under article 239 of the Constitution; (l) "local authority" means a municipal council established under the Goa, Daman and Diu Municipalities Act, 1969 or a village panchayat established under the Goa, Daman and Diu Village Panchayats Regulation, 1962; (m) "Mamlatdar" has the meaning assigned to it in clause (c) of section 2 of the Goa, Daman and Diu Mamlatdar's Court Act, 1966; 9 of 1966. (n) "member of the family" means - (i) in relation to a mundkar who is an individual, his spouse, son, unmarried daughter and includes father, mother, grandson, widowed daughter, widowed granddaughter solely dependent on the mundkar for maintenance; (ii) in relation to a mundkar who is a joint Hindu family, the members of such a family; (iii) in relation to joint owners other than a joint Hindu family, the members of the family as indicated in sub-clause (i) in relation to each of such joint owners; (o) "mine" has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952; (p) "mundkar" means a person who, with the consent of the bhatkar or the person acting or purporting to act on behalf of the bhatkar lawfully resides with a fixed habitation in a dwelling house with or without obligation to render any services to the bhatkar and includes a member of his family but does not include - (i) a person paying rent to the bhatkar for the occupation of the house; (ii) a domestic servant or a chowkidar who is paid wages and who resides in an out-house, house-compound or other portion of his employer's residence; (iii) a person employed in a mill, factory, mine, workshop or a commercial establishment and is residing in the premises belonging to the owner or person in charge of such mill, factory, mine, workshop or commercial establishment, in connection with his employment in such mill, factory, mine workshop or commercial establishment; and (iv) a person residing in the whole or part of a house belonging to another person or in an out-house existing in the compound of the house, as a care-taker of the said house or for purposes of maintaining it in habitable condition. Explanation. - A person shall be deemed to be lawfully residing with the consent of the bhatkar in a dwelling house if such person resides in it for a period exceeding one year prior to the appointed date and the bhatkar has not initiated any proceedings, during the said period of one year, to evict such person from the dwelling house, through a competent court of law, on the ground that such person was a trespasser or, having so initiated such proceedings, does not succeed in obtaining a decree for the eviction of such person. (q) "person" includes a joint Hindu Family; (r) "prescribed" means prescribed by rules made under this Act; (s) "Provedoria de Assistencia Publica" means the Institute of Public Assistance established under the enactment Legislative Diploma No. 1984 dated 14th April, 1960; (t) "village artisan" means a person whose principal means of livelihood is the income he derives from working as an artisan in a village.

Chapter II

Rights and Liabilities

3. Rights of a mundkar to be heritable.

- The rights of a mundkar in his dwelling house shall be heritable and shall not be transferable.

4. Bar to eviction from a dwelling house and restoration of possession.

(1)Notwithstanding anything to the contrary provided in any custom, usage, contract, decree or order of any court or tribunal or any law, no mundkar shall be evicted from his dwelling house except in accordance with the provisions of this Act.(2)Any mundkar, who was in occupation of a dwelling house on the 4th February, 1971 and was evicted from such dwelling house thereafter but before the appointed date, shall be entitled to the restoration of such dwelling house, if-(i)he makes an application to the Mamlatdar, in the prescribed form, within one year from the appointed date, for the restoration of such dwelling house; and(ii)the bhatkar is not able to prove that-(a)the mundkar was evicted from the dwelling house in execution of an order of the Mamlatdar or the Administrative Tribunal or a Civil Court; or(b)the mundkar was paid by the bhatkar any consideration in cash or kind or given an alternative site for the construction of a dwelling house or an alternative dwelling house; or(c)the dwelling house has been destroyed, dismantled or removed.Explanation. - For the purposes of sub-clause (c) if it is proved to the satisfaction of the Mamlatdar that the dwelling house was destroyed, dismantled or removed in order to defeat the purposes of this Act, the bhatkar shall be liable to provide a similar dwelling house at his own cost in the same property and if not possible in his own nearest property. [* * *] [The expression 'If the bhatkar does not possess such land the Mamlatdar may provide for the same following the provisions under section 16.' Omitted by the Amendment Act 1 of 1977.](3)Any mundkar, who is in possession of a dwelling house on the appointed date but is evicted thereafter in contravention of the provisions of this Act, may, within one year from the date of his eviction, apply to the Mamlatdar in the prescribed form, for the restoration of his dwelling house.(4)On receipt of an application under sub-section (2) or sub-section (3), the Mamlatdar shall, after holding such inquiry as may be prescribed, decide whether the applicant is entitled to the restoration of the dwelling house and may pass such order thereon as he deems fit. The Mamlatdar may also order that the bhatkar, who unlawfully evicted the mundkar, shall pay such compensation to the mundkar as is payable by the bhatkar to him under sub-section (7).(5)No order under sub-section (4) shall be passed by the Mamlatdar, unless the person against whom the order is proposed to be passed has been given a reasonable opportunity of being heard in the matter.(6)Notwithstanding anything contained in the foregoing provisions, where the Collector is satisfied that a mundkar has, for reasons beyond his control, omitted to take steps for restoration of possession within the time limit specified in sub-section (2) or sub-section (3), as the case may be, he may, on his own motion or on the application made by the mundkar, within one month from the date the omission is known to him, condone the delay and direct the Mamlatdar to pursue the matter for the restoration of the dwelling house and he may after holding such inquiry as may be prescribed, pass such order thereon as he deems fit:Provided that, no action shall be taken by the Collector under this sub-section, after a

period of one year from the time limit specified in sub-section (2) or sub-section (3), as the case may be.(7)Any person, who evicts or causes the eviction of a mundkar, in contravention of sub-section (1), or, in any manner, disturbs or interferes with the customary easement or other right which a mundkar is entitled to enjoy under section 6, shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both and shall be liable also to pay compensation to the mundkar for the damages caused to him by his eviction, or the disturbance or interference with the customary easement or other rights which he is entitled to enjoy.(8)Any person, who attempts to contravene or abets the contravention of the provisions of sub-section (1), of section 6, shall be deemed to have contravened the said provisions.(9)Any person who does not restore the possession to the mundkar in pursuance of an order made under sub-section (4) or sub-section (6), shall, in addition to any other penalty to which he may be liable, be summarily removed by the Mamlatdar, who thereupon, shall restore the possession to the mundkar.

5. Relief in certain cases of threatened wrongful dispossession.

(1)Any mundkar in possession of his dwelling house, who apprehends that he may be dispossessed of the dwelling house by or on behalf of the bhatkar contrary to the provisions of this Act, may, in the prescribed manner, apply to the Mamlatdar for an order safeguarding his right to possession.(2)On receipt of such application, if the Mamlatdar after holding such inquiry as may be prescribed, is satisfied that the applicant is entitled to continue in possession, he may, by order, direct the bhatkar or the person acting or purporting to act on behalf of the bhatkar to refrain from disturbing the possession of the mundkar otherwise than in accordance with the law.(3)In any proceeding under this section, if it is proved to the satisfaction of the Mamlatdar, by affidavit or otherwise, that the bhatkar or the person acting or purporting to act on behalf of the bhatkar is threatening the mundkar with the aim of evicting him from his dwelling house, the Mamlatdar may, by order, grant a temporary injunction restraining the bhatkar or such person from evicting mundkar or threatening him or otherwise causing him injury, until the final disposal of the pending proceeding or until further orders.(4)The Mamlatdar shall in all cases, except where it appears that the object of granting injunction would be defeated by the delay, before granting an injunction direct that notice of the application be given to the opposite party.

6. Right of mundkar to enjoy supply of power or water or any customary easement, etc.

(1)(a)Notwithstanding anything contained in any law or in any contract, or in any judgement, decree or order of any court or tribunal, no bhatkar, either by himself or through any person acting or purporting to act on his behalf shall, without just or sufficient cause, cut off, withhold, or interfere with any supply of electricity or water or any customary easement enjoyed by the mundkar, immediately before the appointed date in respect of his dwelling house.(b)If any such supply or easement is interrupted by any act or omission of the bhatkar, the mundkar, within six months from the date on which the cause of action arose, may make an application to the Mamlatdar for an order directing the restoration of such supply or customary easement and the Mamlatdar may, after holding such inquiry as may be prescribed, pass such order as he considers fit.(2)When any

mundkar apprehends that the bhatkar may act in contravention of the provisions of sub-section (1), he may apply to the Mamlatdar for the grant of an injunction restraining the bhatkar from so acting and, on such application, the Mamlatdar, if he is satisfied that it is so required in the interests of justice, grant an injunction or pass such order as he deems fit.(3)If in any proceeding under this section it is proved to the satisfaction of the Mamlatdar by an affidavit or otherwise that an order of temporary injunction is required to be passed to prevent the contravention of the provisions of sub-section (1) the Mamlatdar may pass such order in the interest of justice.(4)The Mamlatdar shall in all cases, except where it appears that the object of granting an injunction would be defeated by the delay, before granting an injunction direct notice of the application be given to the opposite party.(5)In the enjoyment of any right of supply or customary easement, the mundkar shall not disturb the bhatkar in the enjoyment of the adjoining portion of his property around the mundkar's dwelling house. If the mundkar so disturbs the bhatkar, he shall be liable to pay to the bhatkar the compensation for the loss caused thereby as may be fixed by the Mamlatdar in the prescribed manner.[Provided that the Mundkar may, subject to such conditions as may be prescribed, obtain electricity supply or supply of pipe water from any public source or any other facility under any scheme formulated by the Government though providing of such supply or facility involves use of the adjoining portion:Provided further that for any damage caused to such property by reason of such use, the bhatkar or such other person shall be entitled to such compensation as may be fixed by the Mamlatdar in the prescribed manner.] [Inserted by the Amendment Act 9 of 1991.]

7. Mundkar to have right to repair, maintain and improve his dwelling house.

- A mundkar shall have a right to maintain, repair, improve or reconstruct his dwelling house without, in any way, increasing the plinth area thereof. He shall have, also, the right to have electricity supply and supply of pipe water, on the same terms and conditions as are applicable to any owner of a house.[Explanation - The term "improve" shall include construction within the dwelling house like sump tank or overhead tank, water cistern, bathroom, toilet, septic tank, soak pit and the like subject to obtaining necessary permission from the concerned authorities.] [Inserted by the Amendment Act 9 of 1991.]

7A. [Mundkar to have right to reconstruct, rebuild his dwelling house. [Inserted by the Amendment Act 2 of 1993.]

- A Mundkar shall have a right to reconstruct, rebuild his dwelling house using the same existing plinth area of his old demolished house, without producing the N.O.C. from the Bhatkar.]

8. Mundkar to have right to use the dwelling house for business, etc.

- A mundkar shall use his dwelling house primarily for his residence. However he shall have the right to utilise a portion of his dwelling house without shifting his residence, for any trade or vocation or business as may be permissible under the laws in force from time to time.

8A. [Declaration of right. [Inserted by the Amendment Act 18 of 1978.]

(1) If any person is entitled to any right under this Act he may move the Mamlatdar by an application for a declaration for such a right. (2) On receipt of such an application, the Mamlatdar may after holding such enquiry as may be prescribed, pass such order as he considers fit.]

9. Transfer of property by bhatkar.

- If the bhatkar sells, exchanges, mortgages, or leases, or in any manner transfers, his property where the dwelling house is situated, the right of the mundkar in the dwelling house shall not, in any way, be affected by such transfer.

10. Lease holder of a mundkar how to be dealt.

- Where a person not being a member of the family of a mundkar has been in occupation of a part of the dwelling house on the appointed date, he shall be deemed to be a tenant of the mundkar. In such cases, the provisions of the law governing the relations of landlord and tenant of residential premises, for the time being in force in the area in which the dwelling house is situated, shall apply to such tenant.

11. Free services by mundkars to be abolished.

- Notwithstanding anything existing in any custom, usage, contract, decree or order of any court or tribunal or in any law in force, all mundkars shall, as from the appointed date, be free to render or not to render to the bhatkar any service as agricultural labourer, domestic servant, watch and ward or in any other capacity and, for every service so rendered the mundkar shall be entitled to be paid by the bhatkar such remuneration as may be mutually agreed upon by them.

12. Grounds on which a mundkar can be evicted from his dwelling house.

(1) No mundkar shall be liable to be evicted from his dwelling house, except on any one or more of the following grounds namely:-(a) that he has transferred his interest in the dwelling house after the appointed date; (b) that neither the mundkar nor any member of his family has been residing in the dwelling house for a continuous period of two years; (2) A bhatkar who seeks to evict the mundkar on any of the grounds specified in sub-section (1), shall, within six months from the date the cause of action arose, apply in the prescribed form to the Mamlatdar for an order of eviction against the mundkar. (3) On receipt of an application under sub-section (2), the Mamlatdar shall after issuing a notice to the mundkar and after holding an inquiry, pass such order thereon as he deems fit. (4) The mundkar evicted from his dwelling house under this section shall be entitled to remove any material belonging to him and used in the dwelling house, unless the bhatkar, at any stage, offers to pay to the mundkar the value of such materials as may be fixed by the Mamlatdar or agreed upon between the bhatkar and the mundkar and pays such value in cash within six months from the date the order of eviction becomes final.

13. Transfer of pending suit or other proceedings for eviction.

(1) All suits, appeals, proceedings in execution of decree or order and other proceedings for the eviction of a mundkar or a person who has therein claimed to be a mundkar or for the curtailment or for the non-enjoyment of any right mentioned in sub-section (1) of section 6, pending in any court, on the appointed date, shall be transferred to the Mamlatdar within whose jurisdiction the dwelling house, from which the eviction is sought, is situated. (2) The Mamlatdar, to whom a suit, appeal, proceeding in execution or other proceeding is so transferred under sub-section (1), shall inquire into and first decide the question whether the person to be evicted is a mundkar or not and if his decision is that such person is not a mundkar, the suit, appeal, proceeding in execution or other proceeding shall be re-transferred to the court from which it was transferred to the Mamlatdar. (3) If the Mamlatdar decides that the person to be evicted is a mundkar, he shall declare the suit to abate and direct the bhatkar to make a fresh application under this Act, if the bhatkar so desires.

14. Surrender by mundkar.

(1) Any mundkar may surrender his right over the dwelling house if the following conditions are satisfied:-(i) it is made by the mundkar in writing and is admitted by him before the Mamlatdar; (ii) it is made voluntarily and in good faith to the satisfaction of the Mamlatdar; (iii) it is approved by the Mamlatdar. (2) Where the Mamlatdar is of the opinion that the conditions mentioned in sub-section (1) are not satisfied, he may, after giving a reasonable opportunity to the bhatkar to show cause against taking action under this sub-section, and after holding such inquiry as he may deem fit, by order, refuse to approve the surrender.

15. Right of mundkar to purchase the dwelling house.

(1) Notwithstanding anything to the contrary contained in any law for the time being in force, a mundkar shall, subject to the provisions of this Act have the right to purchase the dwelling house occupied by him. (2) The maximum extent of land around or appurtenant to the dwelling house which a mundkar is entitled to purchase under this section shall be as indicated under sub-clause (i) of clause (i) of section 2. (3) The purchase price payable by the mundkar for his dwelling house shall be the market value of the dwelling house purchased [as prevailing on the appointed date] [Inserted by the Amendment Act 6 of 1995. However Hon'ble High Court of Bombay at Goa in the Writ Petition No. 86 of 1997 by the Judgement dated 16th December, 2003 hold that the Act are ultravires Article 14 read with Article 13 (2) of the Constitution of India. Thereafter same provisions were made by the Amendment Act 11 of 2005 and came into force on the day from which earlier amendment was made in to force.] and the improvement thereon, other than the improvement, if any, belonging to the mundkar: Provided that, when the house, hut or any structure with its materials belong, wholly or partly, to the mundkar, [the corresponding value shall be deducted from the market value and, in such case, the purchase price shall be the balance left after deducting the corresponding value from the market value: [Provided further that-] [(a) when a mundkar has been permitted to occupy the dwelling house by the bhatkar for the purpose of cultivation of, or for the purpose of watching and protecting, an agricultural land of the bhatkar and is actually rendering such service and continues to render such service with or without remuneration; or (b) where a

mundkar is an agricultural labourer or a village artisan; or(c)where the annual income of a mundkar, being a person belonging to Scheduled Castes or the Scheduled Tribes and not falling under clause (a) or clause (b), from all sources does not exceed rupees three thousand and six hundred;then, the purchase price payable by such mundkar and a member of his family shall be twenty percent of the market value payable.Explanation. - For the purposes of this sub-section-(a)"Scheduled Castes" means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 of the Constitution to be Scheduled Castes in relation to the Union territory of Goa, Daman and Diu;(b)"Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 of the Constitution to be Scheduled Tribes in relation to the Union territory of Goa, Daman and Diu.](4)The purchase price payable under sub-section (3) in respect of the dwelling house shall be paid in not more than ten equal annual instalments:Provided that, it shall be open to the mundkar to pay the entire purchase price in lumpsum, in which case, the amount payable shall be only ninety per cent of the purchase price.(5)The market value of the dwelling house, shall be decided by the Mamlatdar, after making such inquiry as he deems necessary and in the prescribed manner.

16. Procedure for purchase under section 15.

(1)A mundkar willing to purchase the dwelling house occupied by him shall apply to the Mamlatdar within whose jurisdiction the dwelling house is situated.(2)An application under sub-section (1) shall be in such form and shall contain such particulars as may be prescribed.(3)The Mamlatdar shall, after giving notice to the bhatkar of the land in which the dwelling house is situated and any other person interested in the land and after such inquiry as may be prescribed, pass such orders on the application as he deems fit.(4)An order under sub-section (3), allowing an application shall specify-(i)the extent and measurement of land corresponding to the dwelling house which the mundkar is entitled to purchase;(ii)the purchase price payable by the mundkar and the mode of payment;(iii)the amount due to the bhatkar or other persons interested in the land;(iv)the value of encumbrances subsisting or claims for maintenance or alimony charged on the land allowed to be purchased by the mundkar;(v)the amount payable to the holder of the encumbrance or the person entitled to the maintenance or alimony and the order of priority in which amount is payable;(vi)such other particulars as may be prescribed.(5)Where the right, title and interest of the person in possession of the land in which the dwelling house is situated or any other person interested in the land form part of the security for any encumbrance or charge for maintenance or alimony the Mamlatdar shall, for the purpose of determining the value of the encumbrance or charge for the maintenance or alimony relating to the portion in respect of which purchase is allowed, apportion the entire encumbrance or charge for the maintenance or alimony between the land in which the dwelling house is situated and the portion allowed to be purchased, in proportion to the value of the two portions.(6)The purchase price payable by the mundkar shall be distributed according to the following provisions:-(a)Where the right, title and interest of the bhatkar is subject to any encumbrance or charge for maintenance or alimony, the purchase price shall be first paid to such person interested in such encumbrance or charge for maintenance or alimony, in the order of priority fixed under clause (v) of sub-section (4) and the balance of the amount, if any, shall be paid to the bhatkar.(b)If the total amount of such encumbrance, maintenance or alimony is more than

the compensation payable to the bhatkar, the whole amount shall be reserved for payment to the holder of the encumbrance or the person entitled to the maintenance or alimony and no amount shall be paid to the bhatkar. After this is done, the dwelling house of the mundkar shall be declared free from any encumbrance or charge for maintenance or alimony.(c)Where a person entitled to the purchase price or the value of the encumbrance, maintenance or alimony dies before it is paid to him it shall be paid to his legal representatives.(d)Where the person entitled to receive the purchase price or the value of the encumbrance is a private trust or endowment or a minor or a person suffering from legal disability or a limited owner, the purchase price or the value of the encumbrance may, notwithstanding anything contained in any law for the time being in force, but subject to any general directions that the Government may give, be deposited for and on behalf of such person with such authority or bank as may be prescribed.(e)Where before any court or other authority any suit or other legal proceeding is pending which directly or indirectly affects or is likely to affect the right of any person to receive the whole or part of the purchase price or the amount of encumbrance or maintenance or alimony payable under this section, the court or other authority may require the Mamlatdar to place at its disposal the amount so payable and thereupon the same shall be disposed of in accordance with the orders of such court or other authority.(7)When an application under sub-section (1) has been allowed and the purchase price is determined by an order of the Mamlatdar under sub-section (3), the mundkar shall deposit with the Mamlatdar,(i)where the purchase price is proposed to be paid in a lumpsum the entire amount due, within one year; or(ii)where the purchase price is proposed to be paid in instalments, the first instalment thereof, within six months from the date on which the order of the Mamlatdar under sub-section (3) has become final. The second and subsequent instalment shall be deposited with the Mamlatdar with intervals of one year and in the manner prescribed:Provided that the Mamlatdar may, on application by the mundkar before the expiry of one year or six months, as the case may be, extend the period for making such deposit:Provided further that the Mamlatdar may, on application by the mundkar, before the expiry of one year or six months, as the case may be extend the period for making such deposit, so however that the period so extended shall not exceed three months.(8)After the order of the Mamlatdar under sub-section (3) has become final and on the deposit of the last instalment of the purchase price or on the deposit of the purchase price in a lumpsum, the Collector shall issue a certificate of purchase in such form and containing such particulars as may be prescribed, and thereupon the right, title and interest of the bhatkar shall, in respect of the dwelling house allowed to be purchased, vest in the mundkar free from all encumbrances or charges.(9)[Where a mundkar fails to deposit the first instalment or the subsequent instalments or the lumpsum, as the case may be, on or before the due date, the amount due shall bear an interest of six percent per annum.] [Substituted in place of 'Where a mundkar fails to deposit the first instalment or the lumpsum, as the case may be, on or before the due date, the amount due shall bear an interest of six percent per annum' by the Amendment Act 1 of 1977.][* * *] [Sub-section 10 omitted.]

17. Mundkar's right to alienate.

(1)A mundkar shall not be entitled to alienate, by sale the dwelling house purchased by him, in pursuance of the provisions of this Act, within a period of three years from the date of issue of certificate of purchase and any transaction made in contravention thereto shall be null and void.(2)When mundkar intends to sell the dwelling house purchased by him after the expiry of the

period mentioned in sub-section (1) he shall give notice of his intention to the bhatkar in the prescribed manner and shall specify the price at which the sale is to take place and call upon him to state within ninety days of the receipt of the notice whether he is willing to buy the dwelling house at the price specified.(3)The bhatkar may within ninety days of the receipt of the notice signify in the prescribed manner his readiness to purchase the land at the price specified in the notice and thereupon a contract to purchase the land at the said price shall be deemed to have been concluded between the bhatkar and the mundkar.(4)If the bhatkar fails within the period specified in sub-section (2) to signify his acceptance as provided in sub-section (3), the mundkar shall be free to sell the dwelling house to any person at a price not lower than that set out in the notice.(5)Any sale by a mundkar to a person other than the bhatkar without giving the notice required by sub-section (2), or before the expiry of the period of the said notice or at a price lower than that set out in the notice as the case may be shall be void.

18. Grant of loan by Government to a mundkar regarding his dwelling house.

(1)The Government may, subject to due appropriation being made in this behalf, grant, on such terms and conditions as may be prescribed, a loan to a mundkar for the purchase of his dwelling house under section 15.(2)The Government may, when it considers necessary so to do, also arrange the required loan assistance to a mundkar from the Life Insurance Corporation or other institution advancing loans for housing purposes.

19. Bar to attachment, seizure or sale by process of court.

- The interest of mundkar in his dwelling house shall not be liable to be attached, seized, or sold in execution of a decree or order of a Civil Court.

Chapter III

Power, functions, appeals, etc. and maintenance of registers

20. Commencement of proceedings.

- Save as otherwise expressly provided by or under this Act, all inquiries and original proceedings before the Mamlatdar shall be commenced by an application which shall contain the following particulars:-(a)the name, age, profession and place of residence of the applicant and the opposite parties;(b)a short description and situation of the dwelling house in respect of which the application is being made;(c)the circumstances out of which the cause of action arose;(d)a list of the applicant's documents, if any, and of his witnesses, and whether such witnesses are to be summoned to attend or whether the applicant will produce them on the day of the hearing; and(e)such other particulars as may be prescribed.

21. Procedure.

(1) Subject to the other provisions of this Act in this behalf, the procedure to be followed by the Mamlatdar, the Collector, the Administrative Tribunal or the Government in all inquiries, appeals, applications for revision and other proceedings under this Act shall be such as may be prescribed. (2) Every decision or order passed under this Act shall be recorded in the form of an order which shall state the reasons therefor. (3) All inquiries and proceedings before the Mamlatdar, the Collector, the Administrative Tribunal or the Government shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

22. Execution of order for payment of money or restoring possession.

(1) Any sum, the payment of which has been directed by an order of the Mamlatdar, the Collector, the Administrative Tribunal or the Government, including an order awarding costs, shall be recoverable from the person ordered to pay the same as arrears of land revenue. (2) An order of the Mamlatdar evicting the mundkar from his dwelling house or restoring to him the possession or use of any land or dwelling house or the enjoyment of the customary easement or supply of electricity or water shall be executed in such manner as may be prescribed and by using such force as may be necessary. (3) An order or decision of the Mamlatdar in execution proceedings shall, subject to appeal or revision, if any, be final.

23. Power to transfer proceedings.

- The Collector, may, after due notice to the parties, by order in writing, transfer any proceedings under this Act pending before a Mamlatdar, from such Mamlatdar to any other Mamlatdar and the Mamlatdar to whom the proceedings are so transferred shall thereupon exercise jurisdiction under this Act in such proceedings.

24. Appeal.

- From every original order, other than an interim order, passed by the Mamlatdar or the Collector under this Act, an appeal shall lie to the Collector or the Administrative Tribunal respectively and the order of the Collector or the Administrative Tribunal, as the case may be shall be subject to revision if any, under section 25 of this Act, be final. Explanation. - (1) For the purpose of this section "interim order" shall not include injunction order and such orders shall be subject to appeal and revision.

25. Revision.

(1) From every order, other than an interim order, passed in appeal under section 24 or under sub-section (2), a revision shall lie to the Administrative Tribunal or the Government, respectively and the order of the Administrative Tribunal or the Government, as the case may be, on such revision shall be final. (2) Save as otherwise expressly provided under this Act, where no appeal lies

under this Act, the Collector may, on his own motion or on an application made by an aggrieved person, or on a reference made in this behalf by the Government, at any time, call for the record of any inquiry or proceedings of any Mamlatdar for the purpose of satisfying himself as to the legality or propriety of any order passed by the Mamlatdar and as to the regularity of the proceedings and pass such order thereon as he deems fit: Provided that no such record shall be called for, after the expiry of six months from the date of such order and no order of such Mamlatdar shall be modified, annulled or reversed unless reasonable opportunity has been given to the interested parties to appear and be heard.

26. Extent of powers in appeal or revision.

(1) The Collector or the Administrative Tribunal or the Government in appeal or in revision, may, confirm, modify or rescind the order in appeal or revision, or may pass such other order as may be legal and just in accordance with the provisions of this Act. (2) The orders passed in appeal or revision shall be executed in the manner provided for the execution of the orders of the Mamlatdar under this Act.

27. Powers of Civil Courts to be exercised in conduct of inquiries and proceedings under this Act.

- The Mamlatdar, the Collector, the Administrative Tribunal or the Government shall exercise in all inquiries, proceedings, appeals or revisions, the powers as are exercised by the concerned trial court, appellate court or a court exercising revisional jurisdiction, under the Code of Civil Procedure, 1908.

28. Limitation and court fees.

(1) Every appeal or application for revision under this Act shall be fixed within a period of sixty days from the date of the communication of the order of the Mamlatdar, the Collector or the Administrative Tribunal, as the case may be, and the provisions of sections, 4, 5, 12 and 14 of the Limitation Act, 1963, shall apply to the filing of such appeal or application for revision. (2) Notwithstanding anything contained in the Court Fees Act, 1870, every application, appeal, or revision made under this Act to the Mamlatdar, the Collector, the Administrative Tribunal or the Government shall bear a court fee stamp of such value as may be prescribed.

29. Register of mundkars.

(1) In respect of every village, the Government shall cause a register of mundkars to be prepared and maintained in the prescribed manner. (2) The register shall contain the following particulars, namely:-(a) the particulars and description of the dwelling house; (b) the location of the dwelling house; (c) the name and address of the bhatkar; (d) the name and address of the mundkar; (e) the nature and extent of service, rendered to the bhatkar or the amount of ground rent if any paid; (f) the occupation of the mundkar; (g) the rights referred to under section 6; and (h) such other particular as may be prescribed. (3) The register shall be prepared and maintained by the Mamlatdar after such

inquiry as may be prescribed.(4)The Mamlatdar shall, before the preparation of the register, publish a notice, in every revenue village inviting applications from the mundkars for registration and to be presented before such date as may be specified in the notice or such further time as may be allowed by him:Provided that if, at any time after the publication of the notice, it is found that a mundkar has failed to apply for registering his name the talathi within whose jurisdiction the dwelling house is situated may, after making such inquiry as he considers necessary, propose to the Mamlatdar to enter the name of such mundkar in the concerned register of mundkars and the Mamlatdar shall dispose of the same as provided under subsection (5).[Explanation. - The expression 'revenue village' includes villages in the municipal areas.] [Inserted by the Amendment Act 4 of 1998.](5)On receipt of the application within the time specified in the notice or within such further time as may be allowed by him, the Mamlatdar shall, give notice to the bhatkar and any other person interested in the land in which the dwelling house situate calling upon them to file objections, if any and requiring them to appear at a time and date specified in the notice for inquiry into the application.(6)On the dates specified in the notice or any other date to which the enquiry may be adjourned, the Mamlatdar shall hear such of the persons who appear and after such inquiry as may be prescribed, register the mundkar or reject the application.(7)The order of the Mamlatdar under sub-section (6) shall be served on the interested persons and shall also be published in the notice boards of the village Office of the village in which the dwelling house is situate [* * *] [The words 'and also in the local newspapers' omitted by the Amendment Act 12 of 1990.](8)Any person aggrieved by the registration of a mundkar or by the refusal to register a person claiming to be a mundkar may, within sixty days from the date of registration or refusal, as the case may be, file an appeal to the Collector.(9)On receipt of an appeal under sub-section (8) the Collector may call for the records of any proceeding under sub-section (6) and may make such inquiry or cause such inquiry to be made and may pass such orders thereon as he deems fit:Provided that no order prejudicial to any person shall be passed without giving him a reasonable opportunity of being heard.

30. Presumptive value of the record.

- An entry made in the register of mundkars prepared in accordance with the provisions of this Act and the rules made thereunder shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted thereafter.

Chapter IV

Miscellaneous

31. Protection of action taken under the Act and bar of jurisdiction of Courts.

(1)No suit, prosecution or other legal proceeding shall lie against any officer for anything in good faith, done or intended to be done under this Act.(2)No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined, by the Mamlatdar or the Collector or the Government or the Administrative Tribunal and no order passed by such authority under this Act

shall be questioned in any Civil or Criminal Court.

32. Suits involving issues required to be decided under this Act.

(1) If any suit instituted in any Civil Court involves any issues which are required to be settled, decided or dealt with by the Mamlatdar or the Collector under this Act the Civil Court shall stay the suit and refer such issues to the Mamlatdar or the Collector, as the case may be, for determination. (2) On receipt of such reference from the Civil Court, the Mamlatdar or the Collector shall deal with and decide such issues in accordance with the provisions of this Act and shall communicate his decisions to the Civil Court and such Court shall thereupon decide the suit in accordance with the procedure applicable thereof.

33. Bar on appearance by pleaders.

- 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 this Act before the Mamlatdar or the Collector: Provided that the Mamlatdar or the Collector may, in the interest of justice and for reasons to be recorded in writing, allow the parties to be represented at their own cost by a pleader: Provided further that the fees for the pleader shall not be allowed as part of the costs in any such proceedings: Provided also that if any officer of the Government is appointed or declared by a competent court or is authorised under any law for the time being in force as a guardian, administrator or manager of the property of a person who is under a legal disability or is incompetent or unable to manage or to act, such officer shall be entitled to appear through a representative authorised by him in writing in this behalf in any proceedings before the Mamlatdar or the Collector. Explanation. - For the purpose of this section, the term "pleader" includes an advocate, attorney, Vakil or any legal practitioner.

34. Penalty.

(1) Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall, on conviction by a first class judicial magistrate, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both. (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 every offence under this Act shall be cognizable and such offence may, with the permission of the Court be compounded.

35. Offences by companies.

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence

was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purposes of this section-(a)"company", means any body corporate and includes a firm or other association of individuals; and(b)"director", in relation to a firm means a partner in the firm.

36. Power to give directions.

(1)The Government shall have power to issue directions or orders to the Mamlatdar or the Collector to give effect to the provisions of this Act and the rules made thereunder.(2)Any such direction shall be published in the Official Gazette and shall be laid as soon as may be, after it is issued before the Legislative Assembly of Goa, Daman and Diu while it is in session for a period of thirty days.

37. Delegation of powers.

- The Government may, by notification in the Official Gazette, delegate all or any of the powers and duties conferred upon itself or upon any officer or authority under this Act, to any other authority, body or persons, subject to such conditions and restrictions, if any, as may be specified in the notification.

38. Act to over-ride other laws, etc.

- The provisions of this Act shall have effect notwithstanding anything in any other law or any custom or usage or decree or order of a court, or any agreement or contract, express or implied, inconsistent with the provisions of this Act.

39. Exemptions.

- Nothing in this Act shall apply to the land owned or held by Government, Government of any other state in India, Government of India, a local authority or Provedoria da Assistencia Publica.[Explanation. - The expression "the land owned or held by the Government" does not includes the land vested in the custodian under the Goa, Daman and Diu Administration of Evacuee Property Act, 1964 (Act No. 6 of 1964.)) [Inserted by the Amendment Act 41 of 2001.]

40. Power to make rules.

(1)The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.(2)Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly of Goa, Daman and Diu while it is in session for a total period of thirty days

which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or the Legislative Assembly agrees that the rule should not be made and notifies such decision in the Official Gazette, the rule shall, from the date of such notification, have effect only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

41. Repeal and saving.

- On and from the appointed date-(a)"Diploma Legislative No. 1952 of 26th November, 1959" as in force on that date shall stand repealed and any proceedings pending thereunder before the "Mamlatdar" or any other authority shall abate,(b)section 17 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 shall stand repealed,(c)the Goa, Daman and Diu (Protection from Eviction of Mundkars, Agricultural Labourers and Village Artisans) Act, 1971 shall stand repealed and the provisions of sections 6 and 24 of the General Clauses Act, 1897; as applied to the Union territory of Goa, Daman and Diu by the Goa, Daman and Diu General Clauses Act, 1965 shall apply to such repeal.