

such other officer may cause him to be apprehended, and may send him with a warrant, in the form of Schedule A, to be confined in a civil jail till he discharges the sums or delivers up the papers or property demanded from him :

Provided that, no person shall be detained in confinement by virtue of any such warrant for a longer period than one calendar month.

Public  
moneys may  
also be  
recovered  
as arrears  
of revenue ;  
and search  
warrant may  
be issued  
for recovery  
of papers or  
property.

**18.** (1) The Collector of his own motion if the officer or other person is or was serving in his department and district, and upon the application of the Superintendent of Land Records if such officer or person is or was serving in the survey department in his district, may also take proceedings to recover any public moneys due by him in the same manner and subject to the same rules as are laid down in this Code for the recovery of arrears of land revenue from defaulters and for the purposes of recovering public papers or other property of the Government may issue a search warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the provisions of Chapter VII of the \*Code of Criminal procedure, 1898.

(2) It shall be the duty of all persons in possession of such public moneys, papers or other property of the Government to make over the same forthwith to the Collector, and every person knowing where any such property is concealed shall be bound to give information of the same to the Collector.

Officer or  
person in jail  
may secure  
his release  
by furnishing  
security.

**19.** If an officer or other person referred to in section 17 against whom a demand is made shall give sufficient security in the form in Schedule B, the Collector shall cause such officer or person if in custody to be liberated and countermand the sale of any property that may have been attached and restore it to the owner.

### CHAPTER III.

#### OF LANDS.

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The Collector shall give every person who has made a statement to him an opportunity of being heard either in person or by legal practitioner and shall, after hearing all such persons in such manner and after making such further

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

1 of  
1894.

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

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

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

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

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

Regulation of use of pasturage.

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

Recovering value of natural products unauthorisedly removed from certain lands.

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

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

Right to trees inholdings.

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

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

**26.** The right to all trees, brushwood, jungle or other natural product growing on land set apart for forest reserves under section 22, and to all trees, brushwood, jungle or other natural product, wherever growing, except in so far as the same may be the property of persons capable of holding property, vests in the State Government and such trees, brushwood, jungle or other natural product shall be preserved or disposed of in such manner as the State Government may from time to time prescribe, by rules made in this behalf.

Trees and forests vesting in Government.

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

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

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

Regulation of cutting and supply of wood, etc.

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

#### *Of the Grant of land*

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

Classes of persons holding land.

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

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

(a) hold unalienated land in perpetuity and without any restrictions on the right to transfer,

(b) immediately before the commencement of this Code hold land in full occupancy or *Bhumiswami* rights without any restrictions on the right to transfer in accordance with the provisions of any law relating to land revenue in force in any part of the State immediately before such commencement, and

<sup>1</sup>[(c) notwithstanding any notification or order issued under section 150 of the Madhya Pradesh Land Revenue Code, 1954, are holders of land in *Bhumidhari* rights in any local area in Vidarbha and are permitted hereafter, subject to the rules made by the State Government in this behalf, on payment of a premium (not exceeding three times the assessment payable in respect of such land) to be included in Occupants—Class I.]

M. P. II  
of  
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(3) Occupants—Class II shall consist of persons who—

(a) hold unalienated land in perpetuity subject to restrictions on the right to transfer ;

(b) immediately before the commencement of this Code hold—

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

M. P. II  
of  
1955.

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

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

Occupation  
of  
unalienated  
land granted  
under  
provisions of  
the Code.

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

Unoccupied  
land may be  
granted on  
conditions.

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

Grant of  
alluvial land  
vesting in  
Government.

**32.** (1) When it appears to the Collector that any alluvial land, which vests under any law for the time being in force in the State Government, may with due regard to the interests of the public revenue be disposed of, he shall, subject

<sup>1</sup> This clause was substituted for the original by Mah. 6 of 1998, s. 2.

to the rules made by the State Government in this behalf, offer the same to the occupant (if any) of the bank or shore on which such alluvial land has formed. The price of the land so offered shall not exceed three times the annual assessment thereof.

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

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

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

Temporary right to alluvial lands of small extent.

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

Disposal of intestate occupancies.

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

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

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

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

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

Disposal of relinquished or forfeited sub-division.

Bom. LXII of 1947. (2) The Collector shall, subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, offer such sub-division at such price not exceeding twenty-four times the assessment thereof as he may



consider to be worth to the occupants of the other sub-divisions of the same survey number in such order as in his discretion he may deem fit ; so however that the total holding of the grantee does not exceed the ceiling fixed in that behalf under any law for the time being in force in the State. In the event of all such occupants refusing to accept the offer, the sub-division shall be disposed of by the Collector, subject to the rules made by the State Government in that behalf, in the manner provided by section 31.

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

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

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

Occupancy  
to be  
transferable  
and heritable  
subject to  
certain  
restrictions.

**36.** (1) An occupancy shall, subject to the provisions contained in section 72 and to any conditions lawfully annexed to the tenure, and save as otherwise provided by law, be deemed an heritable and transferable property.

<sup>1</sup>[(2) Notwithstanding anything contained in the foregoing sub-section occupancies of persons belonging to the Scheduled Tribes (hereinafter referred to as the 'Tribals') (being occupancies wherever situated in the State), shall not be transferred except with the previous sanction of the Collector :

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

(3) Where an occupant belonging to a Scheduled Tribe in contravention of sub-section (2) transfers possession of his occupancy, the transferor or any person who if he survives the occupant without nearer heirs would inherit the holdings, may, <sup>2</sup>[within thirty years] of such transfer of possession, apply to the Collector to be placed in possession subject so far as the Collector may, in accordance with the rules made by the State Government in this behalf, determine to his acceptance of the liabilities for arrears of land revenue or any other dues

Mah.  
XXXV  
of  
1974.

<sup>1</sup> Sub-section (2) was substituted for the original by Mah. 35 of 1974, s. 2(1).

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

which form a charge on the holding, <sup>1</sup>[and, notwithstanding anything contained in any law for the time being in force, the Collector shall] dispose of such application in accordance with the procedure which may be prescribed :

<sup>2</sup>[Provided that, where a Tribal in contravention of sub-section (2) or any law for the time being in force has, at any time before the commencement of the Maharashtra land Revenue Code and Tenancy Laws (Amendment) Act, 1974 transferred possession of his occupancy to a non-Tribal and such occupancy is in the possession of such non-Tribal or his successor-in-interest, and has not been put to any non-agricultural use before such commencement, then, the Collector shall, notwithstanding anything contained in any law for the time being in force, either *suo motu* at any time or on application by the Tribal (or his successor-in-interest) made at any time <sup>3</sup>[within thirty years] of such commencement, after making such inquiry as he thinks fit, declare the transfer of the occupancy to be invalid, and direct that the occupancy shall be taken from the possession of such non-Tribal or his successor-in-interest and restored to the Tribal or his successor-in-interest.

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<sup>5</sup>[Provided further] that where transfer of occupancy of a Tribal has taken place before the commencement of the said Act in favour of a non-Tribal, who was rendered landless by reason of acquisition of his land for a public purpose, only half the land involved in the transfer shall be restored to the Tribal.

<sup>6</sup>[(3A) Where any Tribal (or his successor-in-interest) to whom the possession of the occupancy is directed to be restored under the first proviso to sub-section (3) expresses his unwillingness to accept the same, the Collector shall, after holding such inquiry as he thinks fit, by order in writing, declare that the occupancy together with the standing crops therein, if any, shall with effect from the date of the order, without further assurance, be deemed to have been acquired and vest in the State Government.

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

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

- (i) the labour and capital provided or spent on improvements;
- (ii) the present condition of the improvements;

<sup>1</sup> These words were substituted for the words, "and the Collector shall" by Mah. 1 of 1991, s. 2(a)(ii).

<sup>2</sup> These provisos were added, by Mah. 35 of 1974, s. 2(2).

<sup>3</sup> These words were substituted for the words, "within two years" by Mah. 1 of 1991, s. 2(b).

<sup>4</sup> The explanation was deleted by Mah. 11 of 1976, s. 3, Second Schedule.

<sup>5</sup> These words were substituted of the word "Provided" by Mah. 11 of 1976, s. 3, Second Schedule.

<sup>6</sup> Sub-sections (3A) to (3D) were deemed always to have been inserted by Mah. 30 of 1977. s. 2.



(iii) the extent to which the improvements are likely to benefit the land during the period of ten years next following the year in which such determination is made ;

(iv) such other factors as may be prescribed.

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

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

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

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

(3D) The land vested in the State Government under sub-section (3A) shall, subject to any general or special orders of the State Government in that behalf, be granted by the Collector to any other Tribal residing in the village in which the lands is situate or within five kilometres thereof and who is willing to accept the occupancy in accordance with the provisions of this Code and the rules and orders made thereunder and to undertake to cultivate the land personally, so, however, that the total land held by such Tribal, whether as owner or tenant, does not exceed an economic holding within the meaning of sub-section (6) of section 36A.]

(4) Notwithstanding anything contained in sub-section (1) or in any other provisions of this Code, or in any law for the time being in force it shall be lawful for an Occupant—Class II—to mortgage his property in favour of the State Government in consideration of a loan advanced to him by the State Government under the Land Improvement Loan Act, 1883, the Agriculturists Loans Act, 1884, or the Bombay Non-Agriculturists Loans Act, 1928, or in favour of a co-operative society <sup>1</sup>[or the State Bank of India constituted under section 3 of the State Bank of India Act, 1955, or a corresponding new bank within the meaning of clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or the Maharashtra State Financial Corporation established under the relevant law] in consideration of a loan advanced to him by such co-operative <sup>2</sup>society, State Bank of India, corresponding new bank, or as the case be, Maharashtra State Financial Corporation], and without prejudice to any other remedy open to the State Government, <sup>3</sup>[The co-operative society, the State Bank of India, the corresponding new bank, or as the case may be, the Maharashtra State Financial Corporation] in the event of such occupant making default in payment of such loan in accordance with terms on which such loan is granted, it shall be lawful for the State Government, <sup>3</sup>[the co-operative society, the State Bank of India,

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<sup>1</sup> These words were inserted by Mah. 36 of 1971, s. 2(a).

<sup>2</sup> These words were inserted, *ibid.*, s. 2(b).

<sup>3</sup> These words were substituted for the words "or as the case may be, the co-operative society", *ibid.*, s. 2(c).

the corresponding new bank, or as the case may be, the Maharashtra State Financial Corporation] to cause the occupancy to be attached and sold and the proceeds to be applied towards the payment of such loan.

The Collector may,<sup>1</sup>[on the application of the co-operative society, the State Bank of India, the corresponding new Bank or the Maharashtra State Financial Corporation], and payment of the premium prescribed by the State Government in this behalf, by order in writing reclassify the occupant as Occupant—Class I ; and on such re-classification, the occupant shall hold the occupancy of the land without any restriction on transfer under this Code.

*Explanation.*—For the purposes of this section, “Scheduled Tribes” means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Schedule Tribes in relation to the State of Maharashtra under Article 342 of the Constitution of India <sup>2</sup>[and persons, who belong to the tribes or Tribal communities, or parts of, or groups within tribes or tribal communities, specified in part VIIA of the Schedule to the Order <sup>3</sup>[made under] the said article 342, but who are not resident in the localities specified in that Order who never the less need the protection of this section and section 36A (and it is hereby declared that they do need such protection) shall, for the purposes of those sections be treated in the same manner as members of the Scheduled Tribes].

Mah.  
XXXV  
of  
1974.

<sup>4</sup>[**36A.** (1) Notwithstanding anything contained in sub-section (1) of section 36, no occupancy of a Tribal shall, after the commencement of the Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1974, be transferred in favour of any non-Tribal by way of sale (including sales in execution of a decree of a Civil Court or an award or order of any Tribunal or authority), gift, exchange, mortgage, lease or otherwise, except on the application of such non-Tribal and except with the previous sanction—

Restrictions  
on transfers  
of  
occupancies  
by Tribals.

(a) in the case of a lease or mortgage for a period not exceeding 5 years, of the Collector ; and

(b) in all other cases, of the Collector with the previous approval of the State Government :

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

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

<sup>1</sup> These words were substituted for the words, “on the application of the society”, by Mah. 36 of 1971, s. 2(d).

<sup>2</sup> This portion was added, by Mah. 35 of 1974, s. 2(3).

<sup>3</sup> These words were substituted for the words “made and” by Mah. 11 of 1976, s. 3, Second Schedule.

<sup>4</sup> Sections 36A, 36B and 36C were inserted by Mah. 35 of 1974, s. 3.

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

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

Mah.  
XXXV  
of  
1974.

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

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

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

Damages for  
use and  
occupation of  
occupancies  
in certain  
cases.

**36B.** A non-Tribal who after the occupancy is ordered to be restored <sup>2</sup>[under either of the provisos] to sub-section (3) of section 36 or after the occupancy is vested in the State Government <sup>3</sup>[under sub-section (3A) of section 36 or] under sub-section (5) of section 36A continues to be in possession of the occupancy, then the non-Tribal shall pay to the Tribal in the former case, and to the State Government in the latter case, for the period from the year (following the year in which the occupancy is or is ordered to be restored to the Tribal or is vested in the

<sup>1</sup> This portion was substituted for the portion beginning with the words “the Collector shall” and ending with the words “three years” by Mah. 1 of 1991, s. 3.

<sup>2</sup> These words were substituted for the words “under the proviso”, *ibid.*, s. 4.

<sup>3</sup> These words, brackets, figures and letter were deemed always to have been inserted by Mah. 30 of 1977, s. 3.

State Government as aforesaid) till possession of the occupancy is given to the Tribal or the State Government, such amount for the use and occupation of the occupancy as the Collector may fix in the prescribed manner.

<sup>1</sup>[**36BB.** 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 sections 36, 36A or 36B before the Collector, the Commissioner or the State Government :

Pleaders, etc.,  
excluded  
from  
appearance.

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

*Explanation.*—For the purpose of this section, the expression ‘pleader’ includes, an advocate, vakil or any other legal practitioner].

**36C.** (1) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under section 36, 36A or 36B required to be settled, decided or dealt with by the Collector.

Bar of  
jurisdiction  
of Civil Court  
or authority.

*Explanation.*—For the purpose of this section, a Civil Court shall include a Mamlatdar’s Court under the Mamlatdar’s Court Act, 1906.

Bom. II  
of  
1906.

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

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

Occupants’  
rights are  
conditional.

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

Power to  
grant leases.

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

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

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

Saving of  
powers of  
Government.

<sup>1</sup> Section 36BB was inserted by Mah. 12 of 1977, s. 2.