

Explanation.—For the purposes of this section,—

(1) ¹[(a) “ Mumbai Municipal Corporation” means the Mumbai Municipal Corporation constituted under the Mumbai Municipal Corporation Act ;

Bom.
III of
1888.

(b) “any other Municipal Corporation” means all the other existing Municipal Corporations, constituted under the City of Nagpur Corporation Act, 1948 or the Bombay Provincial Municipal Corporation Act, 1949, as the case may be ;]

C. P.
and
Berar
II of
1950.
Bom.
LIX of
1949.

(c) “ ‘A’ Class or ‘B’ Class Municipal area” means any Municipal area classified as ‘A’ Class or, as the case may be, ‘B’ Class Municipal area under ²[the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965] ;

Mah.
XL of
1964.

(2) “ peripheral area ” in relation to—

³[(a) Mumbai Municipal Corporation area (excluding the area of the Mumbai City District) and Municipal Corporation areas of the Nagpur and Pune Municipal Corporations means the area within eight kilometres from their periphery ; and

(b) all the other Municipal Corporations areas means the area within five kilometres from their periphery];

(c) any ‘A’ Class or ‘B’ Class Municipal area, means the area within one kilometre from the periphery of each of such ‘A’ Class or ‘B’ Class Municipal areas.

Government
title to mines
and
minerals.

48. (1) ⁴[The right to all minerals] at whatever place found, whether on surface or undergorund, including all derelict or working mines and quarries, old dumps, pits, fields, *bandhas*, *nallas*, creeks, river-beds and such other places, is and is hereby declared to be expressly reserved and shall vest in the State Government which shall have all powers necessary for the proper enjoyment of such rights.

⁵[* * * * *]

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

(3) If the State Government has assigned to any person its right over any minerals, mines or quarries, and if for the proper enjoyment of such right, it is necessary that all or any of the powers specified in sub-sections (1) and (2) should be exercised, the Collector may, by an order in writing, subject to such conditions and reservations as he may specify, delegate such powers to the person to whom the right has been assigned :

Provided that, no such delegation shall be made until notice has been duly served on all persons having rights in the land affected, and their objections have been heard and considered.

¹ These clauses were substituted by Mah. 23 of 1999, s. 2 (3) (a) (i).

² These words were substituted for the words and figures “the Maharashtra Municipalities Act, 1965” *ibid.*, s. 2 (3) (a) (ii).

³ These sub-clauses were substituted for sub-clauses (a), (b) and (c), *ibid.*, s. 2 (3)(b).

⁴ These words were substituted for the words, “unless it is otherwise expressly provided by the terms of the grant made by the State Government, the right to all minerals” by Mah. 16 of 1985, s. 14(a).

⁵ The proviso was deleted, *ibid.*, s. 14 (b).

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

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

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

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

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

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

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

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

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

1957. **49.** (1) If any person (hereinafter called “the applicant”) desires to construct a water course to take water to irrigate his land for the purpose of agriculture from a source of water to which he is entitled (including any source of water belonging to Government from which water is permitted to be taken) but such water course is to be constructed through any land which belongs to or is in possession of another person (hereinafter called “the neighbouring holder”), and if no agreement is arrived at for such construction between the applicant and the neighbouring holder, the person desiring to construct the water course may make an application in the prescribed form to the Tahsildar.

Construction of water course through land belonging to other person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Of Encroachments on Land.

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

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

(2) The person who made such encroachment or who is in unauthorised occupation of the land so encroached upon shall pay, if the land encroached upon forms part of an assessed survey number, assessment for the entire number for the whole period of the encroachment, and if the land has not been assessed, such amount of assessment as would be leviable for the said period in the same village on the same extent of similar land used for the same purpose. Such person shall pay in addition a fine which shall be not less than five rupees but not more than one thousand rupees if the land is used for an agricultural purpose, and if used for a purpose other than agriculture such fine not exceeding two thousand rupees. The person caught hawking or selling any articles shall be liable to pay fine of a sum not exceeding fifty rupees as the Collector may determine.

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

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

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

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

Regularisation
of encroach-
ments.

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

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

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

Value and
land revenue
how
calculated.

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

53. (1) If in the opinion of the Collector any person is unauthorisedly occupying or wrongfully in possession of any land or foreshore vesting in the State Government or is not entitled or has ceased to be entitled to continue the use, occupation or possession of any such land or foreshore by reason of the expiry of the period of lease or tenancy or termination of the lease or tenancy or breach of any of the conditions annexed to the tenure, it shall be lawful for the Collector to ^{1*} evict such person.

Summary
eviction of
person
unauthorisedly
occupying
land vesting
in
Government.

^{1*} * * * * *

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

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

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

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

² Sub-section (1A), was inserted, *ibid.* s. 3(b).

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

Forfeiture
and removal
of property
left over
after
summary
eviction.

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

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

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

Of Relinquishment of Land.

Relinquish-
ment.

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

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

* Section 54A was inserted by Mah. 41 of 1973, s. 2. It remained in force upto 30-11-1978.

The said section 54A reads as under :—

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

54A. Where,—

(a) any person is evicted from any land or foreshore under section 53;

(b) any building or other structure erected on any land or foreshore is forfeited under section 54;

(c) any person who entered unauthorisedly on the land or foreshore, is allowed to stay thereafter on payment of a licence fee for the land, or structure thereon, or both,—

then, without prejudice to any other proceedings which may be taken against any such person, or in respect of the structure given on licence as aforesaid,—

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

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

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

- 56.** The provisions of sections 35 and 55 shall apply, as far as may be, to the holders of alienated land. Relinquish-
ment of
alienated land.
- 57.** If any person relinquishes land, the way to which lies through other land which he retains, the right of way through the land so retained shall continue to the future holder of the land relinquished. Right of way
to relin-
quished land.
- 58.** Nothing in section 55 shall affect the validity of the terms or conditions of any lease or other express instrument under which land is, or may hereafter be held from the State Government. Saving of
operation of
section 55 in
certain cases.
- 59.** Any person unauthorisedly occupying, or wrongfully in possession of any land— Summary
eviction of
person
unauthorisedly
occupying
land.
- (a) to the use or occupation of which by reason of any of the provisions of this Code he is not entitled or has ceased to be entitled, or
- (b) which is not transferable without the previous permission under sub-section (2) of section 36 or by virtue of any condition lawfully annexed to the tenure under the provisions of section 31, 37 or 44,
may be summarily evicted by the Collector.
- 60.** (1) It shall be lawful for the State Government, by notification in the *Official Gazette* from time to time, Power of
State
Government
to suspend
operation of
section 55.
- (a) to suspend the operation of section 55 within any prescribed local area, either generally, or in respect of cultivators or occupants of a particular class or classes, and
- (b) to cancel any such notification.
- (2) During the period for which any notification under clause (a) of sub-section (1) is in force within any local area, such orders shall be substituted for the provisions of which the operation is suspended as the Commissioner shall from time to time direct.
- Protection of certain occupancies from process of Courts.*
- 61.** In any case where an occupancy is not transferable without the previous sanction of the Collector, and such sanction has not been granted to a transfer which has been made or ordered by a civil court or on which the court's decree or order is founded, Occupancy
when not
liable to
process of
civil court ;
court to give
effect to
Collector's
certificate.
- (a) such occupancy shall not be liable to the process of any court, and such transfer shall be null and void, and
- (b) the court, on receipt of a certificate under the hand and seal of the Collector, to the effect that any such occupancy is not transferable without his previous sanction and that such sanction has not been granted, shall remove any attachment or other process placed on or set aside any sale of, or affecting, such occupancy.

Bar of attachment of sale. **62.** Any land which immediately before the date of vesting under the Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950, was recorded as *sir* land shall not be liable to attachment or sale in execution of a decree or order of a court for the recovery of any debt incurred before the date of vesting except where such debt was validly secured by mortgage of, or charge on, the cultivating rights in such *sir* land. M. P. I of 1951.

Bar of foreclosure or attachment or sale of Bhumidharis right. **63.** No decree or order shall be passed for the sale or foreclosure of any right of a person in land held by him immediately before the commencement of this Code in Bhumidhari tenure under the provisions of the Madhya Pradesh Land Revenue Code, 1954, nor shall such right be attached or sold in execution of any decree or order, nor shall a receiver be appointed to manage such holding under section 51 of the Code of civil Procedure, 1908, nor shall such right vest in the court or in a receiver under the Provincial Insolvency Act, 1920. M. P. II of 1955. V of 1908. V of 1920.

CHAPTER IV.

OF LAND REVENUE.

All land liable to pay revenue unless specially exempted. **64.** All land, whether applied to agricultural or other purposes, and wherever situate, is liable to the payment of land revenue to the State Government as provided by or under this Code except such as may be wholly exempted under the provisions of any special contract with the State Government, or any law for the time being in force or by special grant of the State Government.

But nothing in this Code shall be deemed to affect the power of the Legislature of the State to direct the levy of revenue on all land under whatever title they may be held whenever and so long as the exigencies of the State may render such levy necessary.

Liability of alluvial lands to land revenue. **65.** All alluvial lands, newly-formed islands, or abandoned river-beds which vest under any law for the time being in force in any holder of alienated land, shall be subject in respect of liability to the payment of land, revenue to the same privileges, conditions, or restrictions as are applicable to the original holding in virtue of which such lands, islands, or river-beds so vest in the said holder, but no land revenue shall be leviable in respect of any such lands, islands or river-beds until or unless the area of the same exceeds one acre and also exceeds one-tenth of the area of the said original holding.

Assessment of land revenue in cases of diluvion. **66.** Every holder of land paying land revenue in respect thereof shall be entitled, subject to rules as may be made by the State Government in this behalf, to a decrease of assessment if any portion thereof not being less than half an acre in extent, is lost by diluvion and the holder shall, subject to rules made in that behalf, be liable for payment of land revenue on reappearance of the land so lost by diluvion not less than half an acre in extent.

Manner of assessment and alteration of assessment. **67.** (1) The land revenue leviable on any land under the provisions of this Code shall be assessed, or shall be deemed to have been assessed, as the case may be, with reference to the use of the land,—
(a) for the purpose of agriculture,
(b) for the purpose of residence,