

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

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<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).