

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,¹[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 ²[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 ³[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.

⁴[**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.

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

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

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

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