



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**THE GOA AGRICULTURAL TENANCY
(AMENDMENT) BILL, 2009**

(Bill No. 19 of 2009)

As
~~To be~~ introduced in the Legislative Assembly of the State of Goa

GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA
JULY, 2009.

The Goa Agricultural Tenancy (Amendment) Bill, 2009

(Bill No. 19 of 2009)

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further to amend the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act No. 7 of 1964)

5 BE it enacted by the Legislative Assembly of the State of Goa Sixtieth Year of the Republic of India, as follows: -

1. *Short title and commencement.*— (1) This Act may be called the Goa Agricultural Tenancy (Amendment) Act, 2009.

10 (2) It shall come into force at once.

2. *Amendment of Title.*— In the Title, “The Goa, Daman & Diu Agricultural Tenancy Act, 1964 (Act No. 7 of 1964)” (hereinafter referred to as the “principal Act”), the figure and words “Daman & Diu” shall be deleted.

15 3. *Amendment of Section 1.*— In Section 1 of the principal Act, in sub-section (1), the figure and words “Daman & Diu” shall be omitted.

20 4. *Amendment of Section 2.*— In Section 2 of the principal Act, (i) for clause (8) the following clause shall be substituted, viz.

“(8) Government “means” the Government of Goa;

(ii) in clause (17), the figure and words “Daman & Diu” shall be omitted.

5. *Amendment of Section 18.*— In Section 18 of the principal Act, in sub-section (4), for the words “by the Collector”, the words “by the Administrative Tribunal” shall be substituted.

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6. *Amendment of Section 18J.*— In Section 18J of the principal Act,—

(i) in sub-section (2), in item (ii)(d), for the expression “the Maharashtra Co-Operative Society Act, 1960, as in force in the Union Territory of Goa, Daman & Diu”, the expression “the Goa Co-Operative Society Act, 2001(Goa Act 36 of 2001) or Societies deemed to be registered thereunder” shall be substituted.

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(ii) after sub-section (2) the following sub-section shall be inserted, viz.

“(2A) Notwithstanding anything contained in any law to the contrary, Order or decree or judgement of any Court, any land disposed by the Mamlatdar by sale to any person or to a Co-operative Society under sub-section (2)”. Such person or Cooperative Society, as the case may be, shall use land so purchased or allow its use for no purpose, other than agriculture”.

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7. *Amendment of section 18K.*— For section 18K of the principal Act, the following section shall be substituted:—

“18K - Notwithstanding anything contained in law to the contrary, or in any agreement, usage, court order, decree or judgement, no land purchased by a tenant under this chapter, shall be transferred by sale, gift, exchange, mortgage, lease, assignment or obtain sanction for

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non-agricultural purpose, without previous sanction of the Mamlatdar”.

Provided that no such sanction shall be necessary where the land is to be mortgaged in favour of the Government or a co-operative society for the purpose of a loan for effecting any improvement of such land or for co-operative farming.”

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8. *Amendment of section 42A.*— In section 42A of the principal Act, after sub-section (3), in Explanation, for the word “include”, the words “deemed purchaser and” shall be inserted

9. *Amendment of section 49.*— For section 49 of the principal Act, the following sections shall be substituted, namely:-

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“49 Appeals.— from every Order including an Order passed under Chapter IIA other than an Interim Order passed by the Mamlatdar or the Tribunal under this Act, an appeal shall lie to the Administrative Tribunal and the Orders of the Administrative Tribunal on such appeal, shall be final”.

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Explanation:— For the purpose of this section, an interim Order shall not include an order passed under sub-section (3) of section 8A of this Act.

10. *Insertion of new section 49A.*— After section 49 of the principal Act, the following section shall be inserted viz.—

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“49A Review.— The Administrative Tribunal, on application of any party, may review its own order and in reference thereto pass such orders as it deems fit”.

Provided that no such application shall be entertained unless the Administrative Tribunal is satisfied that there

has been discovery of new or important matter or evidence which after exercise of due diligence was not within the knowledge of the applicant and could not be produced by him at the time of when the order was made or on account of some mistake or error apparent on the face of the record or for any other sufficient reason:

Provided further that no such Order shall be made under this sub-section, unless a notice has been given to all interested parties and they have been afforded a reasonable opportunity of being heard.

11. *Amendment of section 50.*— In section 50 of the principal Act,—

(1) in sub-section(1),—

(a) for the word “Collector may on his”, the words “Administrative Tribunal may on its” shall be substituted.

(b) for the word “himself”, the word “itself” shall be substituted.

(2) In sub-section (2), the expression “other than an interim order of the Collector”, shall be omitted and for the word “Collector” wherever it occurs, the word “Mamlatdar”, shall be substituted.

12. *Amendment of section 51.*— In sub-section (1) of section 51 of the principal Act, the words “Collector or the” shall be omitted.

13. *Amendment of section 52.*— (a) In section 52 of the principal Act.—

(i) after the words “application for revision”, wherever occur in sub-section (1), the words “or review” shall be inserted.

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(ii) for the word “Collector”, the words “Administrative Tribunal” shall be substituted.

(b) in sub-section (2), after the word “Tribunal”, the figure and word, “Collector” shall be omitted.

14. *Amendment of section 53.*— In section 53 of the principal Act.—

(a) In sub-section(1).—

(i) for the words “or the Collector”, the words “or the Administrative Tribunal” shall be substituted.

(ii) for the words “in revision by the Collector”, the words “in revision or review by the Administrative Tribunal” shall be substituted.

(b) In sub-section(3), for the words “and the Collector”, the words “and the Administrative Tribunal” shall be substituted.

15. *Amendment of section 58.*— In section 58 of the principal Act, in sub-section(2), for the words “Collector or Government”, the words “Administrative Tribunal” shall be substituted.

16. *Amendment of section 58A.*— In section 58A of the principal Act, for the words “the Collector “wherever they occur”, the words, “the Administrative Tribunal” shall be substituted.

17. *Amendment of section 59.*— In section 59 of the principal Act, the figure and words “Tribunal and Collectors”, shall be omitted.

18. *Insertion of new section.*— After section 60B of the principal Act, the following section shall be inserted, namely:—

“60C.— Act not to apply to pending proceedings.— The provisions of the Goa Agricultural Tenancy (Amendment) Act, 2009, shall not apply to the proceedings pending before the Collector or the Administrative Tribunal, as the case may be, on and from the date of enforcement of this Amendment Act, 2009”.

STATEMENT OF OBJECTS AND REASONS

An amendment was required to be carried out to the Agricultural Tenancy Act with a view to remove the provisions of Appeals which lie before the Collector and the provisions should be made so that such Appeal would lie before the Administrative Tribunal, in order to do away with the pendency of matters before the Collectors/Dy. Collectors.

The matter has been examined in the light of the Agricultural Tenancy Act by virtue of Section 49 of the Goa, Daman & Diu Agricultural Tenancy Act, 1964 from every Order including an Order passed under Chapter II A i.e. Fifth Agricultural Tenancy Act, 1976, other than Interim Order passed by the Mamlatdar, or the Tribunal under the Act, an Appeal would lie to the Collector and the Order of the Collector on such Appeal, shall be final subject to revision, if any, by the Administrative Tribunal.

In pursuance of Sub-Section (2) thereof from every original Order other than an Interim Order passed by the Collector, an Appeal would lie to the Administrative Tribunal and Order of the Administrative Tribunal on such Appeal shall be final.

In pursuance of Section 50, a revision is provided where no Appeal lies under the Act or none has filed an Appeal within the period provided for it, the Collector is empowered on his own motion or application made by aggrieved person or a reference made in this behalf by the Government, at any time calls for records of any enquiries or proceedings of Mamlatdar or Tribunal for the purpose of satisfying himself and as to the regularity of the proceedings and pass such Order thereon, as being fit, before the expiry of one year from the date of such Order. The provisions of the Act also provides for appellate power of the Collector

against the Order of Mamlatdar or the Tribunal constituted under Section 43, consisting 3 members called "The Agricultural Land Tribunal".

Section 18K is also amended suitably incorporating in non-obstante clause restricting the right of tenant towards transfer of agricultural land to certain extent.

This Bill seeks to amend the Goa, Daman & Diu Agricultural Tenancy Act, 1964 (Act No. 7 of 1964) so as to do away with the pendency of matters that arise before the Collectors/Dy. Collectors.

This Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

No financial implications are involved in this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

No delegated legislation is involved in this Bill.

Porvorim – Goa
31st July, 2009

JOSE PHILIP D'SOUZA
MINISTER FOR REVENUE

Assembly Hall,
Porvorim – Goa
31st July, 2009

J. N. BRAGANZA
SECRETARY LEGISLATURE

ANNEXURE

Extract of present provisions of Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act No. 7 of 1964).

1. *Short title, extent and commencement.*—(1) This Act may be called the Goa, Daman & Diu Agricultural Tenancy Act, 1964.

2. *Section 1.*—(1) This Act may be called the Goa, Daman & Diu Agricultural Tenancy Act, 1964.

3. *Section 2.*—(8) “Government” means the Government of Goa, Daman & Diu.

(17) “Official Gazette” means the Goa, Daman & Diu Government Gazette;

4. *Section 18.*—(4) Any tenant or landlord taking possession of any land or dwelling house except in accordance with the provisions of sub-section (1) or (2), shall be liable to forfeiture of crops, if any, grown in the land in favour of the landlord or the tenant, as the case may be, in addition to payment of such costs as may be awarded by the Mamlatdar or by the Collector on appeal and also to the penalty, if any, prescribed by or under this Act.

5. *Section 18J.*—(2) The Mamlatdar shall make an order directing that the land or part thereof referred to sub-section(1) shall be disposed of by sale to any person in the following order of priority:

(i) 75% of such land shall be disposed of by sale to persons belonging to the Scheduled Castes and Scheduled Tribes;

(ii) the land remaining after disposal in the manner provided in clause (i) shall be disposed of by sale in the following order of priority, namely:- (ii)(d) A cooperative farming society registered as such under the Maharashtra Co-Operatives Society Act, 1960, as in force in the Union Territory of Goa, Daman and Diu.

6. *Section 18K.*—No land purchased by a tenant under this Chapter shall be transferred by sale, gift, exchange, mortgage, lease or assignment without the previous sanction of the Mamlatdar;

Provided that no such sanction shall be necessary where the land is to be mortgaged in favour of the Government or a Co-operative Society for the purpose of a loan for effecting any improvement of such land.

7. *Section 42A.*—(3) any sum which is payable by a tenant or any other person towards the cost of any such work as is referred to in sub-section (1) shall be recoverable as arrears of land revenue.

8. *Section 49.*— Appeals:— (1) from every order 2(including an order passed under Chapter II-A) other than an interim order passed by the Mamlatdar 3(or the Tribunal) under this Act, an appeal shall lie to the Collector and the orders of the Collector on such appeal shall be final, subject to revision, if any, by 4(the Administrative Tribunal).

(2) from every original order other than an interim order 6 [...] passed by the Collector 7 [...] and appeal shall lie to the 3 Administrative Tribunal and the orders of 8[Administrative Tribunal] on such appeal shall be final.*

9. *Section 50.*— (1) Where no appeal lies under this Act, or none has been filed within the period provided for it, 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 or for the record of any enquiry or the proceedings of any Mamlatdar 1[or Tribunal] for the purpose of satisfying himself as to the legality or propriety of any order passed by and as to the regularity of the proceedings of such Mamlatdar 1[or Tribunal] and pass such order thereon as he deems fit:

Provided that no such record shall be called for after the expiry of one year from the date of such order and no order of such Mamlatdar shall be modified, annulled or reversed unless

opportunity has been given to the interested parties to appear and be heard.

(2) An application for revision may be made to the Administrative Tribunal against any order, other than an interim order of the Collector, on the following grounds only:—

- (a) that the order of the Collector was contrary to law;
- (b) that the Collector has failed to determine some material issue of law; or
- (c) that there was a substantial error in following the procedure provided by this Act, which has resulted in the miscarriage of justice.

10. *Section 51.*—(1) The Collector 3[or the Administrative Tribunal] in appeal or in revision, may confirm, modify or rescind the order in appeal or revision or its execution or may 4[remand the case for disposal with such direction as deemed fit or] pass such other order as may seem legal and just in accordance with the provisions of this Act.

11. *Section 52.*—(1) Every appeal or application or revision under this Act shall be filed within a period of 60 days from the date of the order of the Mamlatdar, Tribunal or Collector, as the case may be in the provisions of Section 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 appeal or application made under this Act to the Mamlatdar, Tribunal, Collector or the 1[Administrative Tribunal] shall bear a Court Fee Stamp of such value as may be prescribed.

12 *Section 53.*—(1) Subject to the other specific provisions in this behalf, the procedure to be followed by the Mamlatdar or the Tribunal or the Collector 3[...] in all inquiries, appeals and proceedings under this Act and in revision by the Collector 2[...] shall be such as may be prescribed;

(3) All enquiries and proceedings before the Mamlatdar, the Tribunal 3[and the Collector] shall be deemed to be judicial proceedings within the meaning of Section 193, 219 & 228 of the Indian Penal Code.

12. *Section 58.*—(2) save as provided under this Act, no Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Mamlatdar, Tribunal, Collector or Government and no order passed by these authorities under this Act shall be question in any Civil or Criminal Court:

13. *Section 58A.*— 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 pleader's fees shall not be allowed as part of the cost in any such proceedings:

Provided also that if any officer of Government is appointed or declared by a Competent Court or is authorized under any law for the time being in force as a guardian, administrator or manager of the property of a person who is under legal disability or is

incompetent or unable to manage or to act, such officer shall be entitled to appear through a representative authorized by him in writing in this behalf in any proceedings before the Mamlatdar or the Collector.

14. Section 59.- The Government shall have the power to issue directions or orders to Mamlatdars, Tribunal and Collectors, to give effect to the provisions of this Act and the rules made thereunder.

Assembly Hall,
Porvorim – Goa.

31st July, 2009.

J. N. BRAGANZA
Secretary Legislature