



LEGISLATIVE ASSEMBLY STATE OF GOA

**THE GOA MUNDKARS
(PROTECTION FROM EVICTION)
(AMENDMENT) BILL, 2009**

(Bill No. 20 of 2009)

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

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

The Goa Mundkars (Protection from
Eviction)(Amendment) Bill, 2009

(Bill No. 20 of 2009)

A

BILL

5 *further to amend the Goa, Daman and Diu
Mundkars (Protection from Eviction) Act, 1975
(Act No.1 of 1976);*

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

10 1. *Short title and commencement.*— (1) This Act
may be called the Goa Mundkars(Protection from
Eviction)(Amendment) Act,2009;

(2) It shall come into force at once.

15 2. *Amendment of title of the Act.*— In the title
“The Goa, Daman and Diu Mundkars (Protection
from Eviction) Act,1975 (Act No. 1 of 1976)
(hereinafter referred to as the “principal Act”), the
figure and the words, “Daman and Diu” shall be
omitted.

3. *Amendment of section 1.—*

20 In sub-section (1) of the principal Act,—

(i) the figure and the words, “Daman and Diu”
shall be omitted.

(ii) In sub-section (2), for the expression "the whole of the district of Goa of Union Territory of Goa, Daman and Diu", the expression "the whole of the State of Goa" shall be substituted.	
4. Amendment of section 2.— In section 2 of the principal Act,—	5
(i) after clause(g), for the expression "in the Union Territory of Goa, Daman and Diu", the expression "in the State of Goa" shall be substituted.	10
(ii) for clause(k), the following clause shall substituted, namely:—	
"(k)" "Government" means the Government of Goa;	
(iii) In clause (l), for the expression "the Goa, Daman and Diu Village Panchayat Regulation, 1962", the expression "the Goa, Panchayat Raj Act, 1994 (Goa Act No. 14 of 1994)";	15
5. Amendment of section 16.— In section 16 of the principal Act, in sub-section(8), for the word "Collector", the word "Mamlatdar" shall be substituted.	20
6. Amendment of section 21.— In section 21 of the principal Act,—	
(i) in sub-section(1), after the words "Mamlatdar", the figure and words "the Collector" shall be omitted.	25
(ii) after the word "revision", the word "or review", shall be substituted.	
(iii) in sub-section(3), the figure and words "the Collector" shall be omitted.	30

7. Amendment of section 22.— In section 22 of the principal Act,—	
(i) in sub-section(1), the figure and words, "the Collector" shall be omitted.	
(ii) in sub-section(3), after the words "revision", the words "or review" shall be substituted.	5
8. Amendment of section 23.— In section 23 of the principal Act, for the word "Collector", the words "Administrative Tribunal" shall be substituted.	10
9. Amendment of section 24.— For section 24 of the principal Act, the following section shall be substituted:—	
"24 Appeal.— From every original order, other than an interim order, passed by the Mamlatdar under this Act, an appeal shall lie to the Administrative Tribunal and the order of the Administrative Tribunal, shall be final".	15
Explanation : For the purpose of this section, "interim order" shall not include injunction order and such orders shall be subject to an appeal.	20
10. Insertion of new section.— After section 24 of the principal Act, the following section shall be inserted, namely:	25
"24A 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 and important matter or evidence which after the exercise of due diligence was not within his knowledge of the applicant and could not be produced by him at the time 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 25.*— In heading of section 25 of the principal Act,—

(1) in sub-section(1),—

(i) in the first paragraph, the figure "(1)" shall be deleted.

(ii) for the expressions "From every order other than an interim order", the expression "From every order passed by the Mamlatdar where no appeal lies under this Act", shall be substituted.

(iii) the words "or the Government respectively", shall be omitted.

(iv) the expression "or the Government, as the case may be," shall be omitted.

(2) sub-section(2) shall be omitted.

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12. *Amendment of section 26.*— In section 26 of the principal Act,—

(i) For sub-section(1),- the following sub-section shall be substituted, namely:-

5 "(1) the Administrative Tribunal in appeal or in revision, may, confirm, modify or rescind the order or may pass such order as may be legal and just in accordance with the provision of this Act".

10 13. *Amendment of section 27.*— For section 27 of the principal Act, the following section shall be substituted:—

15 "27.— powers of Civil Court to be exercised in the conduct of inquiries and proceedings under this Act".— The Mamlatdar or Administrative Tribunal shall exercise in all inquiries, proceedings, appeals, revisions or reviews, the powers as are exercised by the concerned trial court, appellate court or revisional court or a Court exercising review jurisdiction, under the Code of the Civil Procedure,1908 (Central Act 5 of 1908)".

20 14. *Amendment of section 28.*— In section 28 of the principal Act.—

25 (i) in sub-section(1), for the expression "application for revision", the expression "application for revision or review" shall be substituted.

(ii) the figure and words "the Collector" shall be omitted.

(iii) for the words "application for revision", the words "application for revision or review" shall be substituted.	
(iv) In sub-section(2),-	
(i) for the word "for revision", the words "revision or review", shall be substituted.	5
(ii) for figure and words "the Collector, Administrative Tribunal or the Government", the words "or the Administrative Tribunal" shall be substituted.	10
15. Amendment of section 29.— In section 29 of the principal Act,—	
(i) in sub-section(8), for the word "Collector", the words "Administrative Tribunal" shall be substituted.	15
(ii) in sub-section(9), for the word "Collector", the words "Administrative Tribunal" shall be substituted.	
16. Amendment of section 31.— In section 31 of the principal Act, in sub-section(2), the words "the Collector" or the "Government" shall be omitted.	20
17. Amendment of section 32.— In section 32 of the principal Act,—	
(i) in sub-section(1), for the word "Collector" wherever it occurs, the word "Administrative Tribunal" shall be substituted.	25
(ii) in sub-section(2), for the word "Collector", the words "Administrative Tribunal" shall be substituted.	

18. Amendment of section 33.— In section 33 of
the principal Act, for the word "Collector",
wherever it occurs, the word "Administrative
Tribunal" shall be substituted.

5 19. Amendment of section 36.— In section 36 of
the principal Act,—

(i) in sub-section(1), the words "or the
Collector" shall be omitted.

10 (ii) in sub-section(2), for the expression "the
Legislative Assembly of Goa, Daman and Diu",
the expression "the Legislative Assembly of the
State of Goa" shall be substituted.

20 20. Insertion of new section.— After section 39
of the principal Act, the following section shall be
15 inserted, namely:

"39A Act not to apply to pending
proceedings.— the provisions of the Goa
Mundkars (Protection from Eviction)
(Amendment) Act, 2009, shall not apply to the
20 proceedings pending before the Collector or
Administrative Tribunal, as the case may be, on
and from the date of commencement of this
Amendment Act, 2009".

21. Amendment of section 40.— In section 40 of
25 the principal Act, in sub-section (2), for the
expression "Legislative Assembly of Goa, Daman
and Diu", the expression "Legislative Assembly of
the State of Goa" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

An amendment was required to be carried out to the Goa Mundkars (Protection from Eviction) Act, 1975 to provide only an Appeal before the Administrative Tribunal against the Order of the Mamlatdar and removing the appellate powers of the Collector and revisional powers of the Administrative Tribunal thereby retaining the power of revision before the Government under Section 25 against the Order of Administrative Tribunal.

After examining the matter in the light of the Goa, Daman and Diu Mundkar (Protection from Eviction) Act, Section 21 of the Goa, Daman & Diu (Protection from Eviction) which provides for every decision or Order passed by the Mamlatdar, the Collector or the Administrative Tribunal or the Government in all inquiries or proceedings under the Act, shall be deemed to be judicial proceedings within the meaning of Section 193, 219 and 228 of Indian Penal Code (Central Act 45 of 1860).

Section 24 stipulates that appeal from every original Order other than Interim Order passed by the Mamlatdar or the Collector under the Act, would lie before the Collector or the Administrative Tribunal, respectively, as the case may, and the Order of the Collector and the Administrative Tribunal, shall subject to revision, if any, under Section 25 of the Act, be final.

Section 25 of the Act, 1975 further stipulates that from every order other than Interim Order passed in appeal under Section 24 or sub-section (2), a revision would lie to the Administrative Tribunal

or the Government, respectively and the Order of Administrative Tribunal or the Government, as the case may be, on such revision, shall be final. It is, therefore, provision of Section 24 and Section 25 of the Act, have been modified suitably, alongwith consequential changes in various sections, thereby powers exercised by the Collector as an Appellate Authority have been conferred on the Administrative Tribunal. Certain consequential changes have been carried out in view of conferment of Statehood to the Goa. The retention of revision before the Government under Section 25 against the Order of the Administrative Tribunal, as per the existing provisions of Section 25, every Order other than Interim Order, passed in Appeal under Section 24 or under sub-section (2), a revision would lie to the Administrative Tribunal or the Government, respectively and the Order of the Administrative Tribunal or the Government, as the case may be, on such revision, shall be final

By virtue of Section 27 of the Act, 1975, the Mamlatdar, the Collector, the Administrative Tribunal or the Government would exercise in all inquiries, proceedings, appeals, revision, the powers as exercised by the Trial Court, Appellate Court or the Court exercising revisional jurisdiction under the Court of Civil Procedure. Considering the above facts, the revisional power of the Government is done away with and a review is provided in place of revision by the Administrative

Tribunal and therefore, the Administrative Tribunal will be exercising the powers of the Appellate Authority as well as Reviewing Authority.

Again, a provision also stands incorporated and suitably modified during certain types of cases as prevalent under Order 47 of C.P.C. for the purpose of review of the Administrative Tribunal. Similarly, a provision regarding pending proceedings which were earlier brought within the purview of the Amendment Act, 2009 has now been brought within the jurisdiction of the Collector, as a result, the Collector would continue the exercise of powers under the Mundkar Act, 1975, on an after commencement of the Amendment Act, 2009 and Appeal against the Order of the Mamlatdar would lie before the Collector.

This Bill seeks to amend the Goa Mundkars (Protection from Eviction) Act, 1975 to provide only an appeal before the Administrative Tribunal against the Order of the Mamlatdar and removing the appellate powers of the Collector and revisional powers of the Administrative Tribunal thereby retaining the powers of the revision before the Government under Section 25 against the Order of the Administrative Tribunal.

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 & Diu Mundkars (Protection from Eviction) Act, 1975 (Act No. 1 of 1976).

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa, Daman & Diu Mundkars (Protection from Eviction) Act, 1975.

(2) It extend to the whole of the District of Goa of the Union Territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by Notification in the Official Gazette, appoint.

2. *Section 2.*— In this Act, unless the context otherwise, requires

(g) "Chief Town Planner" means an officer appointed by the Government to enforce Town Planning Regulations in the Union Territory of Goa, Daman & Diu:

(k) "Government" means the Administrator of the Union Territory of Goa, Daman & Diu appointed by the President under Article 239 of the Constitution:

(l) "local authority" means a Municipal Council established under the Goa, Daman and Diu Municipalities Act, 1969 or a Village Panchayat established under the Goa, Daman and Diu Village Panchayat Regulation, 1962:

3. *Section 16(8):*— After the Order of the Mamlatdar under sub-section (3) has become final and on the deposit of last installment of the purchase price in a lumpsum, the Collector shall issue a Certificate of Purchase in such form and containing such particulars as may be prescribed

and thereupon the right, title and interest of the Bhatkar shall, in respect of the dwelling house allowed to be purchased, vest in the Mundkar free from all encumbrances or charges.

4. *Section 21(1):*— subject to the other provisions of this Act in this behalf, the procedure to be followed by the Mamlatdar, the Collector, the Administrative Tribunal or the Government in all enquiries, appeals, applications for revisions and other proceedings under this Act, shall be such as may be prescribed.

(3) All enquiries and proceedings before the Mamlatdar, the Collector, the Administrative Tribunal or the Government shall be deemed to be judicial proceedings within the meaning of Section 193, 219 and 228 of the Indian Penal Code (Central Act 45 of 1960).

5. *Section 22(1):*— Any sum, the payment of which has been directed by an Order of the Mamlatdar, the Collector, the Administrative Tribunal or the Government, including an order avoiding cost, shall be recoverable from the person ordered to pay the same as arrears of land revenue.

(3) An order or decision of the Mamlatdar in execution proceedings shall, subject to appeal or revision, if any, be final.

6. *Section 23.*— The Collector, may, after due notice to the parties, by order in writing, transfer any proceedings under this Act pending before a Mamlatdar, from such Mamlatdar to any other Mamlatdar and the Mamlatdar to whom the proceedings are so transferred shall thereupon exercise jurisdiction under this Act in such proceedings.

7. *Section 24.— Appeal.*— From every original order, other than a interim order, passed by the Mamlatdar or the Collector under this Act, an Appeal shall lie to the Collector or the Administrative Tribunal respectively, and

the order of the Collector or the Administrative Tribunal, as the case may be, shall, subject to revision if any, under Section 25 of this Act, be final.

Explanation.— For the purpose of this Section "Interim Order" shall not include injunction order and such order shall be subject to appeal and revision.

8. Section 25.— (1) From every order, other than an interim order, passed in appeal under Section 24 or under sub-section (2), a revision shall lie to the Administrative Tribunal or the Government, respectively and the order of the Administrative Tribunal or the Government, as the case may be, on such revision shall be final.

(2) Save as otherwise expressly provided under this Act, where no appeal lies under this Act, the Collector may on his own motion or an application made by aggrieved person, or on a reference made in this behalf by the Government, at any time, call for the record of any enquiry or proceedings of any Mamlatdar for the purpose of satisfying himself as to the legality or propriety of any order passed by the Mamlatdar and as to the regularity of the proceedings and pass such order thereon as he deems fit:

Provided that no such records shall be called for, after the expiry of six months from the date of such order and no order of such Mamlatdar shall be modified, annulled or reserved unless reasonable opportunity has been given to the interested parties to be appeared and be heard.

9. Section 26(1).— The Collector or the Administrative Tribunal or the Government in appeal or in revision, may, confirm, modify or rescind the order in appeal or revision, or may pass such order as may be legal just in accordance with the provisions of this Act.

10. Section 27.— The Mamlatdar, the Collector, the Administrative Tribunal or the Government shall exercise in all inquiries, proceedings, appeals or revisions, the powers as are exercised by the concerned Trial Court, Appellate Court or a Court exercising revisional jurisdiction, under the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

11. Section 28.— (1) Every appeal or application for revision under this Act shall be fixed within a period of 60 days from the date of the communication of the order of the Mamlatdar, the Collector or the Administrative Tribunal, as the case may be, and the provisions of Section 4, 5, 12 and 14 of the Limitation Act, 1963, shall apply to the filling of such appeal or application for the revision (Central Act 36 of 1963).

(2) Notwithstanding any thing contained in the Court Fees Act, 1870, every application, appeal, or revision made under this Act to the Mamlatdar, the Collector, the Administrative Tribunal or the Government shall bear a Court Fee Stamp of such value as may be prescribed (Central Act 7 of 1870).

12. Section 29.— (8) Any persons aggrieved by the registration of a Mundkar or by the refusal to register a person claiming to be a Mundkar may, within 60 days from the date of registration or refusal, as the case may be, file an appeal to the Collector.

(9) On receipt of an appeal under sub-section (8), the Collector may call for the records of any proceedings under sub-section (6) and may make such inquiry or cause such inquiry to be made and may pass such order thereon as he deems fit:

Provided that no order prejudicial to any person shall be passed without giving him a reasonable opportunity of being heard.

13. Section 31.— (2) No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined, by the Mamlatdar or the Collector or the Government or the Administrative Tribunal and no order passed by such authority under this Act shall be questioned in any Civil or Criminal Court.

14. Section 32.— (1) If any suit instituted in any Civil Court involves any issues which are required to be settled, decided or dealt with by the Mamlatdar or the Collector under this Act, the Civil Court shall stay the suit and refer such issues to the Mamlatdar or the Collector, as the case may be, for determination.

(2) On receipt of such reference from the Civil Court, the Mamlatdar or the Collector shall deal with and decide such issues in accordance with the provisions of this Act and shall communicate his decisions to the Civil Court and such Court shall thereupon decide the suit in accordance with the procedure applicable thereof.

15. Section 33.— Notwithstanding anything contained in the 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 the fees for the pleader shall not be allowed as part of the cost in any proceedings:

Provided also that if any officer of the Government is appointed or declared by the 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 a 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.

16. Section 36.— (1) The Government shall have power to issue directions or orders to the Mamlatdar or the Collector to give effect to the provisions of this Act and the Rules made thereunder.

(2) Any such directions shall be published in the Official Gazette and shall be laid as soon as may be, after it is issued before the Legislative Assembly of Goa, Daman & Diu while it is in Session for a period of 30 days.

17. Section 40.— (2) Every rule made under this Act, shall be laid as soon as may be, after it is made before the Legislative Assembly of Goa, Daman & Diu while it is in session for a total period of 30 days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agree in making any modification in the Rule or the Legislative Assembly agrees that the rule should not be made and notifies such decision in the Official

Gazette, the rule shall from the date of such Notification, have effect only in such modified form or be of no effect as the case may be, so, however, that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.

Assembly Hall,
Porvorim – Goa.

J. N. BRAGANZA
Secretary Legislature

31st July 2009