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PART - V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY LAND REVENUE (GUJARAT AMENDMENT) BILL, 2010.

GUJARAT BILL NO. 5 OF 2010.

A BILL

for further to amend the *Bombay Land Revenue Code, 1879*.

It is hereby enacted in the Sixty-first Year of the Republic of India as follows:-

1. This Act may be called the Bombay Land Revenue (Gujarat Amendment) Act, 2010. Short title and commencement.
- (2) This section shall come into force at once; and all or any of the remaining provisions of this Act shall come into force in such different areas of the State on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 3 of Bom. V of 1879. 2. In the Bombay Land Revenue Code, 1879 (hereinafter referred to as "the principal Act"), in section 3, after clause (27A), the following new clauses shall be added, namely :-

Bom. V of 1879.

"(28) "designated officer" means any revenue officer appointed by the State Government from time to time for carrying out the functions as specified in Chapter X-A;

(29) "prescribed" means prescribed by rules made under this Act."

Substitution of section 135B of Bom. V of 1879. 3. In the principal Act, for section 135B, the following section shall be substituted, namely :-

Record of rights. "135B. A record of rights shall be maintained in the format, either manually or electronically or in both formats, as may be prescribed for the village or City Survey Area and shall include the following particulars :-

- (a) the names of all persons other than tenants who are holders, occupants, owners or mortgagees of the land or assignees of rent thereof;
- (b) the nature and extent of the respective interests of such persons and the conditions or liabilities if any, attaching thereto;
- (c) the rent or revenue, if any, payable by such person;
- (d) such other particulars as may be prescribed in this behalf.

(2) The said particulars shall be entered in the record of rights with respect to perpetual tenancies, and also with respect to tenancies of any other classes to which the State Government may, by notification in the *Official Gazette*, direct that the provisions of this section shall apply in any local area or generally."

Substitution of section 135C of Bom. V of 1879. 4. In the principal Act, for section 135C, the following section shall be substituted, namely :-

Acquisition of rights to be reported. "135C. Any person acquiring the right on any land by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise any right as holder, occupant, owner, mortgagee, assignee of the rent thereof, shall make a report of such acquisition of such right, either manually or electronically, to the designated officer within the period of three months from the date of such acquisition, and the said designated officer shall at once, give a written acknowledgement of the receipt of such report to the person making it :

Provided that where the person acquiring the right is a minor, or otherwise disqualified, his guardian or other person, having charge of his property, shall make the report to the designated officer :

Provided further that any person acquiring a right by virtue of a registered document shall be exempted from the obligation to report to the designated officer.

IV of 1882.

Explanation I.- The rights mentioned above include a mortgage without possession, but do not include an easement or a charge not amounting to a mortgage of the kind specified in section 100 of the Transfer of Property Act, 1882.

Explanation II.- A person in whose favour a mortgage is discharged or extinguished, or lease determines, acquires a right within the meaning of this section.”.

5. In the principal Act, for section 135D, the following section shall be substituted, namely :-

Register of mutations and register of disputed cases.

Substitution of section 135D of Bom. V of 1879.

- “135D.** (1) (a) The designated officer shall enter, manually or electronically by the automated process, in a register of mutations, every report made to him under section 135C or any intimation of acquisition or transfer of any right on land made to him, either manually or electronically under section 135C from the Mamatdar, or a court of law.
- (b) (i) When a claim or document of rights is produced before the designated officer, he shall, through bio-metric ID or any other mode as may be prescribed, verify the identity and the lawful rights of the transferor and the transferee.
- (ii) Upon completion of verification, the necessary entries shall be made in the register of mutations in the manner as may be prescribed and the notice of the transaction under section 135D shall be served to the persons interested therein.
- (2) Whenever a designated officer makes an entry, either manually or electronically in the register of mutations, he shall at the same time intimate to all persons appearing from the record of rights or register of mutations to be interested in the mutation and to any other person whom he has reason to believe to be interested therein in the manner as may be prescribed.

(3) It shall be the duty of the designated officer to enter the particulars of the objection if any received from any person either manually or electronically, in a register of disputed cases and to give written acknowledgement of the receipt of such objection to the person making it in the same manner.

(4) Orders disposing of objections entered in the register of disputed cases shall be recorded, either manually or electronically, in the register of mutations, after disposing it within the period as may be prescribed for this purpose and the same may be intimated to the concerned person having interest in the said mutation.

(5) Where no objection is raised by any person having interest in the transaction, either manually or electronically, within a period of thirty days, the mutation entry shall be certified electronically through an automated process or manually, as the case may be.

(6) The transfer of entries from the register of mutations to the record of rights shall be effected subject to such rules as may be made by the State Government in this behalf :

Provided that an entry in the register of mutations shall not be transferred to the record of rights until such entry has been duly certified.

(7) In the event, where the automated process of certification of entries has not been initiated, the entries in the register of mutations shall be verified and if found correct or after correction shall be certified in the Mutation Register, within a period as may be prescribed, by a Revenue Officer not below the rank of a Deputy Mamlatdar, and the same may be intimated to the concerned person having interest therein.

(8) Where the certifying officer has a reason to believe that such mutation entry violates or contravenes any of the provisions of the Act or any other Act, he shall not certify such entry and shall intimate the same with reasons in writing to the person concerned.

(9) The provisions of this section shall apply in respect of perpetual tenancies and also in respect of any tenancies mentioned in a notification under sub-section (2) of section 135B but the provisions of this section shall not apply in respect of other tenancies, which shall be entered in a register of tenancies, in such manner and under such procedure as may be prescribed.”.

Substitution
of section
135E of Bom.
V of 1879.

6. In the principal Act, for section 135E, the following section shall be substituted, namely :-

Obligation to furnish information.

“135E. (1) Any person, whose rights, interests or liabilities are required to be, or have been entered in any record of register under this Chapter, shall be bound, on the requisition by any designated officer, engaged in compiling or revising the record of register, to furnish or produce, either manually or electronically, for his inspection, within the period as may be prescribed, all such information or documents needed for the correct compilation or revision thereof, as the case may be, within his knowledge or in his possession or power.

(2) Any designated officer, to whom any information is furnished, or before whom, any document is produced, either electronically or manually, in accordance with the requisition under sub-section (1), shall at once, give written acknowledgement thereof, in the same manner to the person furnishing or producing the same, and shall endorse, on any such document, a note under his signature stating the fact of its production and the date thereof, where the automated process has not been initiated.”.

Amendment of section 135F of Bom. V of 1879.

7. In the principal Act, in section 135F, for the words “twenty-five”, the words “one thousand” shall be substituted.

Deletion of section 135I of Bom. V of 1879.

8. In the principal Act, section 135I shall be deleted.

Amendment of section 135K of Bom. V of 1879.

9. In the principal Act, in section 135K, for the words “the village accountant, Mahalkari”, the words “the designated officer” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Bombay Land Revenue Code, 1879 was enacted to consolidate and amend the law relating to Land Revenue. Pursuant to the State Government's policy of an efficient, effective and transparent governance and putting optimal use of technology using e-governance as a tool, the present Bill proposes to amend provisions of Chapter X-A of the said Code relating to records of rights in the following manner :-

- (i) *Clause 2* of the Bill provides for the definition of the term "designated officer" and "prescribed".
- (ii) *Clause 3* of the Bill substitutes the existing provisions of section 135B. New provisions of section 135B relating to record of rights suitably provide for inclusion of e-format of record of rights to be maintained for the villages as well as city survey areas.
- (iii) *Clause 4* of the Bill substitutes the existing provisions of section 135C to replace Talati with designated officer for intimation of mutation entries and matters connected therewith.
- (iv) Section 135D relating to register of mutations and registration of disputed cases is substituted to provide for registration of entries through e-registration in place of existing manual method of registration of entries to e-registration of entries by the designated officer, wherever applicable. *Clause 5* of the Bill provides accordingly.
- (v) *Clause 6* of the Bill substitutes the existing section 135E and new section 135E makes provisions relating to obligation to furnish information in respect of acquisition of right.

The amendments as aforesaid are proposed with the objective of optimal use of electronic technology to remove human interface with a view to eliminate harassment to citizens in the area of record of rights and other related works relating to revenue.

It is the aim of the State Government to take step forward in the direction of giving final and conclusive title in respect of land after successful implementation of an e-registration of sale documents in the State. This would enable the State Government to serve at the doorstep of the common man and eliminate harassment of running from pillar to post in obtaining land records, etc.

This Bill seeks to amend the Bombay Land Revenue Code, 1879 to achieve the aforesaid objects.

ANANDIBEN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, different dates for different areas of the State on which all or any of the remaining provisions of this Act shall come into force.

Clause 3.- (i) Sub-section (1) of section 135B proposed to be substituted by this clause empowers the State Government to prescribe by rules, the format in which, whether manually or electronically or in both, the record of rights shall be maintained;

(ii) clause (d) of sub-section (1) of section 135B empowers the State Government to prescribe by rules, the other particulars to be recorded in the format;

(iii) sub-section (2) of section 135B empowers the State Government to direct, by notification in the *Official Gazette*, for the application of the provisions of this section to any local area or generally.

Clause 5.- (i) Sub-clause (i) of clause (b) of sub-section (1) of section 135D proposed to be substituted by this clause empowers the State Government to prescribe by rules, the other mode by which the designated officer shall verify the identity and lawful rights of the transferor and transferee;

(ii) sub-clause (ii) of clause (b) of sub-section (1) empowers the State Government to prescribe by rules, the manner in which the necessary entries shall be made in the register of mutation and also the manner of serving the notice under section 135D of the transactions to the persons interested;

(iii) sub-section (2) of section 135D empowers the State Government to prescribe by rules, the manner in which the designated officer shall intimate all the persons appearing from the record of rights or register of mutations to be interested in the mutation and to any other person whom he has reason to believe to be interested therein;

(iv) sub-section (4) of section 135D empowers the State Government to prescribe by rules, a period within which the objections shall be disposed off after they entered in the register of disputed cases;

(v) sub-section (6) of section 135D empowers the State Government to prescribe by rules, subject to which the transfer of entries from the register of mutation to the record of rights shall be effected;

(vi) sub-section (7) of section 135D empowers the State Government to prescribe by rules, the period within which the entries in the register of mutation shall be certified after verification and found correct by a revenue officer;

(vii) sub-section (9) of section 135D empowers the State Government to prescribe by rules, the manner in which and the procedure to be adopted for making entries in a register of tenancies in respect of other tenancies.

Clause 6.— Sub-section (1) of section 135E proposed to be substituted by this clause empowers the State Government to prescribe by rules, the period within which a person whose rights, interests or liabilities are required to be or have been entered in any record of register, on requisition of the designated officer, shall furnish or produce either manually or electronically, all such information or documents needed for the correct compilation or revision.

The delegation of legislative powers, as aforesaid, is necessary and is of a normal character.

Gandhinagar,
Dated the 23rd February, 2010.

ANANDIBEN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 23th February, 2010.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.