

BOMBAY INAMS (KUTCH AREA) ABOLITION ACT, 1958

98 of 1958

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BOMBAY INAMS (KUTCH AREA) ABOLITION ACT, 1958

98 of 1958

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An act to abolish certain inams in the Kutch area of the State of

Bombay. WHEREAS it is expedient in the public interest to abolish certain inams in the Kutch area of the State of Bombay and to provide for matters consequential and incidental thereto: It is hereby enacted in the Ninth Year of the Republic of India as follows :-

CHAPTER 1

Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called the Bombay Inams (Kutch Area) Abolition Act, 1958.

(2) It extends to the Kutch area of the ¹ [State of Gujarat].

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

1. Substituted by Adaptation of Laws Order, 1960.

2. Definitions :-

(1) In this Act, unless the context requires otherwise,-

(i) "appointed day" means the date on which this Act comes into force:

(ii) "butadar" means a person who holds heritable and transferable right in land, and who is in possession thereof on payment of land revenue or rent;

(iii) "Code" means the Bombay Land Revenue Code, 1879 (Bom. V of 1897), as extended to Kutch;

(iv) "Collector" includes an officer appointed by the State Government to exercise the powers and perform the functions of the Collector under this Act:

(v) "creditor" means a person to whom a secured debt is due:

(vi) "to cultivate personally" means to cultivate land on one's own account-

(a) by one's own labour, or

(b) by the labour of any member of one's family, or

(c) under the personal supervision of one self or the personal

supervision of any member of one's family, by a servant for wages payable in cash or kind (but not in crop share) or by hired labour:

Explanation.-For the purpose of this clause-

(a) a widow or a minor, or a person who is subject to any physical or mental disability or a person who is a member of the armed force of the Union, shall be deemed to cultivate land personally, if it is cultivated by her or his servants or by hired labour:

(b) in the case of an undivided Hindu family the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family:

(vii) "Dharmada land" means land or village held for a religious or charitable institution:

(viii) "gharked land" means land which is the private property of an inamdar and which is cultivated by him personally:

1[(viii-a) "improvement", with reference to any land, means any work which adds to the value of the land which is suitable thereto as also consistent with the purpose for which the land is held, and includes.- (a) the construction of tanks, wells, water-channels and other works for storage, supply or distribution of water for agricultural purposes, and (b) the erection of buildings on the land required for the convenience or profitable use of such land for agricultural purpose:]

(ix) "inam" means a tenure commonly known in Kutch as Girasdari Mulgiras, Jagiri, Bhayati, Chakariat, Danodi, Dharmada, Kherati, Varduka, Kamipasa or by other name (including service inam but not including the tenure on which land is held for service as revenue or police patel) under a grant, or recognition as a grant-

(a) of the soil, with or without exemption from payment of land revenue, or

(b) of the assignment of the whole or a share of land revenue, or

(c) of total or partial exemption from payment of land revenue,

(I) a tenure commonly known in Kutch as Vaghela Jagir on which a village, portion of a village or land is held by a person and whereby under usage or custom or otherwise, such village, portion or land is held by such person as his private property totally or partially exempt from payment of land revenue, and

(II) a tenure on which any village, portion of a village or land is held in his own State, by the Ruler of the former Indian State of Kutch as his private property before merger, and recognised as such after merger, being property which is totally or partially exempt from the payment of land revenue;

(x) "inamdar" means the holder of an inam and includes his co-sharer, and also any person lawfully holding an inam under or through him;

Explanation 1 .-where any inam village, or portion thereof, or any inam land has been mortgaged or otherwise transferred by the holder for the time being of the inam and by bar of limitation or otherwise such holder has lost the right of redeeming such village, thereof, or land, the mortgagee or the transferee, as the case may be, shall, for the purposes of this Act, be deemed to be the inamdar of such village, or portion thereof, or the land;

Explanation 2.-In the case of a Dharmada inam, the religious or charitable institution shall be deemed to be the Inamdar;

(xi) "inam village" or "inam land" means a village or portion of a village or, as the case may be, land as inam;

(xii) "Kamipasa land" means land held for service useful to Government or analogous service or, as the case may be, to the village community, but does not include land held for service as revenue or police patel;

(xiii) "Kutch" means the Kutch area of the ² [State of Gujarat];

(xiv) "merger" means the cession by the Ruler of the former Indian State of Kutch of the full and exclusive jurisdiction and powers for, and in relation to the governance of the said State;

(xv) "prescribed" means prescribed by rules made under this Act:

(xvi) "ret butadar" means a person-

(a) who holds a grant of land in an inam village whether on payment of land revenue or rent, or both, on condition that the land shall revert to the grantor or his successor-in-interest on the failure of the heirs male of the body of such person, or on the happening of a definite event, or

(b) who not being an inamdar or a holder of a sub-inam *[or a mortgagee in possession or a person claiming through or under

such mortgagee] is in continuous possession of land in an inam village for a period exceeding twenty years immediately preceding the commencement of this Act;

Explanation.-For the purpose of computing the period of twenty years specified in sub-clause (b), the period during which the predecessor-in-title of the person was in occupation of the land shall be included:

(xvii) "secured debt" means a debt due from an inamdar which is lawfully subsisting at the commencement of this Act and which is secured by a mortgage of, or charge on, the inam village or land held as inam or sub-inam:

(xviii) "service inam" means a tenure on which land other than Kamipasa land is held for the purpose of performing service useful to Government or to the village community, and includes an inam held for such service although such service has ceased to be demanded but does not include an inam held for service as revenue or police patel;

(xix) "sub-inam" means a tenure on which land is held as Dharmada Kamipasa or Varduka land or otherwise under a grant made by an inamdar but does not include land held for service as revenue or police patel under a grant made by the inamdar;

(xx) "Varduka land" means land held by a person belonging to the communities in the village specified in the Schedule, on payment of a fixed sum as land revenue, assessed either on the inam village as a whole or on any holding comprising the inam, and on condition that such land shall revert to the grantor or his successor-in-interest on the failure of the heirs male of the body of such person or on the happening of a definite event;

(xxi) other words and expressions used, but not defined, in this Act shall have the meaning assigned to them in the Code.

(2) References in this Act to the incidents of inams and sub inams shall, notwithstanding the abolition of the inams and sub- inams by this Act, be construed as references to the incidents as they were in force immediately before the appointed day.

1. Inserted by Gujarat 43 of 1961.

2. Substituted by Gujarat Adaptation Laws Order. 1960.

3. Power of State Government or an authorised officer to

decide certain questions. :-

(1) If any question arises-

(i) whether any land is held as to the category thereof,

(ii) whether any inam or sub-inam is a grant of the soil, or an assignment of land revenue, or both, or is a grant of the total or partial exemption from payment of land revenue, ¹[x x x]

² [(iii) whether any person is a butadar or ret-butadar, or

(iv) whether any person is a tenant, the State Government or an officer authorised by that Government shall decide the question].

(2) Where any such question is decided by an officer so authorised by the State Government, any person aggrieved by such decision may

(3) Where from a decision of such officer no appeal is filed under sub-section (2), the State Government may, after the expiry of the period for appeal, but not later than one year from the date of the decision, call for the record of the proceeding of such officer for the purpose of satisfying itself as to the legality, propriety or regularity of such proceeding or decision and may pass such order thereon as it thinks fit.

(4) The decision of the State Government under sub-section (1) or (2) in appeal, or under sub-section (3), and subject thereto the decision of the officer, shall be final.

1. Deleted by Gujarat 23 of 1965.

2. Clauses (iii), (iv) subs. by Gujarat 23 of 1965.

CHAPTER 2

Abolition of Inams and sub-inams and conferment of Occupancy Rights

4. Abolition of Inams and sub-inams and rights and incidents in respect thereof. :-

Notwithstanding anything in any usage, custom, settlement, grant agreement, sanad or in any decree or order of a Court, or in any law for the time being applicable to any inam in Kutch, with effect on and from the appointed day-

(a) all inams and sub-inams shall be and are hereby abolished, and

(b) save as expressly provided by or under this Act, all rights legally subsisting on the said day in respect of the grant or

recognition as a grant of such inams or sub-inams and all other incidents of such inams or sub-inams (including any right to hold office or any liability to render service appertaining to any inam or sub-inam) shall be and are hereby extinguished.

5. Liability of inam villages and lands held as inam or sub-inam to payment of land revenue. :-

Subject to the other provisions of this Act, all inam villages, inam lands and sub-inam lands shall be, and are hereby made, liable to the payment of land revenue in accordance with the provisions of the Code and the rules made thereunder and accordingly the provisions therein relating to unalienated land shall apply to all such villages and lands.

6. Conferment of occupancy rights in respect of Varduka, Kamipasa and service Inam lands. :-

(1) In the case of land held as Varduka inam or service inam or as Kamipasa inam, the holder thereof shall, on payment to the State Government of the occupancy price equal to six times the amount of full assessment of such and within ¹[such period not later than the 31st March 1967 as may be

Provided that where such land has been cultivated personally by a person other than the inamdār or a member of his family for a continuous period of three years immediately before the appointed day and such person pays to the State Government within [such period not later than the 31st March, 1967 as may be prescribed) either in lump sum or by such installments as may be prescribed a sum equal to twelve times the amount of the [full assessment of the land, and in addition the cost of improvement, if any, determined under Section 7A, out of which the amount remaining after deduction of a sum equal to six times the amount of the full assessment] shall be paid to the inamdār as compensation, then such person shall be entitled to all the rights and be liable to all the obligations in respect of such land as an occupant under the Code and the rules made thereunder.

¹[(1-A) Notwithstanding the expiry of the period prescribed under sub-section (1), the right conferred under the said sub-section may be exercised and the occupancy price payable thereunder may be paid before the end of September, 1968].

(1-B) Notwithstanding the expiry of the period specified in sub-

section (1-A), the right conferred under sub-section (1) may be exercised and the occupancy price payable thereunder may be paid ³ [before the end of December, 1986].]

(2) The occupancy granted under sub-section (1) shall not be transferable or partible by metes and bounds without the previous sanction of the Collector and except on payment of such sum to the State Government as the State Government may, by general or special order, determine.

1. Substituted by Gujarat 10 of 1966.

3. Substituted by Gujarat 9 of 1986 w.e.f. 131-12-198N51.

7. Conferment of occupancy rights in respect of land inam village or of inam land to which section 6 does not apply. :-

(1) In the case of any land comprised in an inam to which the provisions of section 6 do not apply-

(a) if such land is in the possession of the inamdar as Gharkhed land, the inamdar,

(b) if such land is held by a person as sub-inam, such person,

(c) if such land is in the possession of a butadar, ret butadar or any other person holding it as a tenant, such butadar, ret

(d) if such land is in the possession of a person holding through or from the inamdar and to whom clauses (b) and (c) do not apply, the inamdar,

shall be primarily liable to the State Government for the payment of land revenue in respect of the land and he shall, subject to the provisions of sub-sections (2), (3), (4) and (5), be entitled to all the rights and shall be liable to all the obligations in respect thereof as an occupant under the Code and the rules made thereunder.

(2) The occupancy conferred on the holder of a Kamipasa or Varduka sub-inam under clause (b) of sub-section (1) shall not be transferable or partible by metes and bounds without the previous sanction of the Collector and except on payment of such sum to the State Government may, by general or special order, determine.

(3)

(i) In the case of land referred to in clause (b) of sub-section (1), if such land is held by a person as a Kamipasa or Varduka sub-inam such person shall be liable to pay to the Inamdar an occupancy

price equal to six times the amount of the full assessment of such land [and in addition the cost of improvement, if any, determined under Section 7A] within ¹[such period not later than the 31st March, 1967 as may be prescribed] in lump sum or in such annual installments as may be prescribed.

(ii) In the case of land referred to in clause (c) of sub-section (1),-

(a) the ret butadar shall be liable to pay occupancy price equal to three times the amount of the full assessment of such land, ²[and in addition the cost of improvement, if any, determined under section 7A], and

(b) the person holding as tenant shall be liable to pay occupancy price equal to six times the amount of the full assessment of such land ³[and in addition the cost of improvement, if any, determined under section 7A].

⁴[such period not later than the 31st March, 1967 as may be prescribed! and in the manner provided in sub-section (4):

Provided that in the case of a tenant the occupancy price [and the cost of improvement, if any] may be paid in three equal installments

Provided further that the payment of the occupancy price ⁵[and the cost of improvement, if any] to the inamdar shall be subject to the provisions of section 8 and Section 9 .

(4) The holder of a Kamipasa or Varduka sub-inam, the ret butadar or, as the case may be the tenant liable to pay the occupancy price ⁶[and the cost of improvement, if any] under clause (i) or (ii) of sub-section (3) shall deposit ⁷[the amount, which he is liable to pay] with the Collector within the period prescribed under sub-section (3).

(5) If any person liable to pay to the State Government or, as the case may be, to the inamdar, the occupancy price ⁸[and the cost of improvement, if any] under sub-section (3) fails to pay the same within the prescribed period, it shall be recoverable as arrears of land revenue and if it is not so recovered ⁹[before the end of December 1986] the person Shall be deemed to be unauthorized occupying Government land and shall be liable to summarily evicted there from in accordance with the provisions of the Code.

10[(5-A) In the case of a person who, before the date of the commencement of the Bombay Inams (Kutch Area) abolition (Amendment) Act, 1972 Gujarat 18 of 1972, was deemed to be unauthorised occupying Government land and to have become liable to be summarily evicted therefrom by reason of the non-recovery from him of occupancy price and the cost of improvement, if any, under sub-section (5) before the end of September, 1971-

(i) if such person pays the occupancy price and the cost of improvement. If any, or such price and cost, if any, are recovered from him **11** [before the end of December, 1986] then, such person shall not be or to have been unauthorised occupying Government land, and to be or to have become liable to be summarily evicted there from on the ground of non-payment by him or non-recovery from him of such price and cost before the end of September, 1971:

(ii) if such person has been evicted from the land on the ground of non-recovery from him before the end of September, 1971 of occupancy price and cost of improvement, if any, possession of the land shall, on the commencement of the aforesaid Act. be forthwith restored to him, subject to the provisions of clause (i), by the Collector suo-moto or an application

(6) Where under sub-section (5) a holder of a Kamipasa or Varduka sub-inam, a ret butadar or a tenant is deemed to be unauthorised occupying the land, the land shall be deemed to be vested in the inamdar as the occupant thereof free from encumbrances, if any, created thereon by the holder of the Kamipasa or Varduka sub-inam, the ret butadar or the tenant and the inamdar shall be primarily liable to the State Government for the payment of the land revenue in respect of such land in accordance with the provisions of the Court and the rules made thereunder.

Explanation If any land referred to in this section is mortgaged to a person who is also a butadar or yet butadar or tenant of the land, then notwithstanding in such mortgage, such person shall without prejudice to his rights as a mortgagee be deemed to be a butadar, yet butadar or, as the case may be. a tenant of such land for the purposes of this section.

1. Substituted by Gujarat 10 of 1966.
2. Inserted by Gujarat 43 of 1961.
3. Inserted by Gujarat 43 of 1961.

4. Substituted by Gujarat 10 of 1966.
5. Inserted by Gujarat 43 of 1961.
6. Inserted by Gujarat 43 of 1961.
7. Substituted by Gujarat 43 of 1961.
8. Inserted by Gujarat 9 of 1986 w.e.f. 131-12-19851.
9. Inserted by Gujarat 9 of 1986 w.e.f. 131-12-19851.
10. Inserted by Gujarat 18 of 1972.
11. Substituted by Gujarat 9 of 1986.

7A. Collector to determine cost of improvement :-

¹ Where in any land to which the proviso to sub-section 6 or sub-section (3) of Section 7 applies, the inamdar has made any improvement at his own expense before the appointed day. then for the purposes' of that proviso or as the case may be the said sub-section (3) the Collector shall, after holding a formal inquiry in the manner provided by the Code, determined in accordance with the rules, which the State Government make in this behalf, the depreciated value of such improvement as on the appointed day. The value so determined shall be deemed to be the cost of improvement.

1. Inserted by Gujarat 43 of 1961.

8. Collector to determine claims of holders of encumbrances :-

(1) On the deposit under sub-section (4) of section 7 , or the recovery under sub-section (5) of that section, of the entire amount of the occupancy land the cost of improvement, if any) payable by a ret butadar or tenant, the Collector shall issue a notice to the inamdar in the prescribed form and manner and shall also publish In the prescribed manner a notice calling upon all holders in encumbrances lawfully subsisting against the inamdar in respect of the land in respect of which the occupancy price and cost of. If any] has been so deposited or recovered to notify their claims in writing to the Collector within two months from the date of the publication of the notice.

(2) Thereupon the Collector shall hold a formal inquiry as provided in the Code and shall determine the amount of the claims. If any, of the holders of encumbrances who may have notified their claims under sub-section (1):

Provided that where any such claim involves a question of law regarding-

- (a) the validity of the claim,
- (b) the amount due in respect of such claim,
- (c) the right of an holder of encumbrance to such claim, or
- (d) where there are two or more such holders, the order of priority of such claim the provisions of sub-sections (4) and (5) of section 15 shall mutatis mutandis apply to the determination of such question and the claim.

9. Payment to inamdar and holders of encumbrances. :-

(1) Out of the amount of the land the cost of improvement. If any] deposited or recovered under section 7 , the Collector shall pay to the holder of incumbrances the amount of the claim determined under section 8 and the balance. If any, to the inamdar:

Provided that where there are more such holders than one. the payment to them shall be made in the order of priority or prorata, as the case may be.

(2) Nothing in section 8 and this section shall affect the right of the holders of encumbrances to proceed against the inamdar for the satisfaction of the encumbrances in any manner or under any law for the time being in force.

9A. Payment of occupancy price by Government on behalf of certain persons :-

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(1) Where-

(i) a person who is holding land as Varduka inam or service inam or as Kamipasa inam, or

(ii) a person who is referred to in the proviso to sub-section (1) of section 6 ,

section 6 to pay to the State Government the occupancy price and the cost of Improvement, if any, at any time before the end of December 1986, has failed to pay the occupancy price and the cost of improvement. If any, to the State Government before the date of commencement of the Bombay Inams (Kutch Area) (Gujarat Second Amendment) Ordinance, 1986 (hereinafter referred as "the said date"), the amount of occupancy price and the cost of improvement, if any, shall be deemed to have been paid to the State Government on the said date and such person shall, with effect on and from the said date be entitled to all the rights and

shall be liable to all the obligations in respect of the land as an occupant under the Code and the rules made thereunder.

(2) Where the occupancy price and the cost of improvement. If any, payable by a person to the State Government or as the case may be, to the inamdar and recoverable from such person under sub-section (5) of section 7 as arrears of land revenue, at any time before the end of December 1986, are not so recovered before the said date, the provisions of section 8 and Section 9 shall apply as if the occupancy price and the cost of improvement are recovered from such person as arrears of land revenue on the said date.

(3) Where the occupancy price and the cost of improvement, if any, are payable by a person or are recoverable from a person under clause (i) of sub-section (5-A) of section 7 , at any time before the end of December 1986 are not s o paid or, as the case may be, recovered before the said date. such person shall, with effect on and from the said date, not be deemed to be or to have been unauthorised occupying Government land as if the occupancy price and the cost of improvement, if any, are recovered from him on the said date.

(4) The amount of occupancy price and the cost of improvement referred to in sub-sections (1), (2) and (3) shall be deemed to be the amount of loan granted by the State Government to the person by whom such amount was payable or from whom such amount was recoverable, on such terms and conditions as may be prescribed and the amount of loan and interest or any portion thereof shall be recoverable from such person as arrears of land revenue.]

1. Inserted by Gujarat 9 of 1987 w.e.f. 11-9-1986.

10. All public roads, etc., situate in inam village or inam land to government. :-

All public roads, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, creeks below high watermark, and of rivers, streams, nallas, lakes, wells and tanks, and water courses, and all standing and flowing water and all unbuilt village site lands, all waste lands, all uncultivated lands (excluding lands used for building or other non agricultural purposes) and all pasture lands, mines and minerals, whether discovered or not and whether being worked or not, and all quarries which are situate within the limits of any inam village or inam land shall, except in so far as any rights of any person other than the inamdar may be established in

or over the same and except as may otherwise be provided by any law for the time being in force, vest in, and shall be deemed to be, with all rights in or over the same or appertaining thereto, the property of, the State Government and all rights held by an inamdar in such property shall be deemed to have been extinguished, and It shall be lawful for the Collector subject to the general or special orders of the State Government to dispose of them as he deems fit, subject always to the right of way and other rights of the public or of individuals legally subsisting.

Explanation.-For the purposes of this section, land shall be deemed to be uncultivated if it has not been cultivated for a continuous period of three years immediately before the appointed day.

11. Right to trees. :-

The right to trees specially reserved under the Indian Forest Act, 1927 (XVI of 1927) or any other law for the time being in force, except those the ownership of which has been transferred by the State Government under any contract grant or law for the time being in force shall vest in the State Government and nothing in this act shall in any way affect the rights of the State Government to apply the provisions of the Indian Forest Act, 1927 (XVI of 1927) as in force in the ¹ (State of Gujarat] to forests in an inam village or inam land.

1. Substituted by Adaptation of Laws Order. 1960.

CHAPTER 3

Compensation and Award Thereof

12. Compensation for abolition of Dharmada inams or sub-inams and inams or sub-inams held by widows, minors and persons under physical or mental disability. :-

(1) Upon the abolition of a Dharmada inam or sub-inam there shall be paid to the religious or charitable institution for which such Dharmada inam or sub-inam was held, by way of compensation in the form of an annuity in perpetuity a sum of money equal to the full assessment leviable on all the lands comprised in such inam or sub-inam immediately before the appointed day.

(2) Upon the abolition of any inam or sub-inam held immediately before the appointed day by a widow, minor or person subject to any permanent physical or mental disability-

(a) such widow or disabled person shall be paid by way of

compensation for the remainder of her or his life, and

(b) such minor shall be paid by way of compensation for a period of seven years from the appointed day, or until he attains the age of 21 years, whichever occurs later.

13. Compensation to other inamdars. :-

(1) An inamdar, to whom the provisions of section 12 do not apply, shall be entitled to compensation in accordance with the provisions of the next succeeding sub-sections.

(2) In the case of land in respect of which a butadar is entitled to the rights of an occupant under section 7 , the inamdar shall be entitled to compensation equivalent to three times the full assessment leviable on such land.

(3) If the Inamdar proves to the satisfaction of the Collector that he had any right or interest in any property referred to in section 10 , he shall be entitled to compensation as follow:-

(a) if the property in question is waste, or uncultivated but is cultivable land, or pasture land, the amount of compensation shall not exceed three times the assessment of the land: Provided that. If the land has not been assessed the amount of compensation shall not exceed such amount of assessment as whole be leviable in the same village on the same extend of similar land used for the same purpose:

(b) if the property in question Is land over which the public has been enjoying or has acquired a right of way, or any individual has an easement, the amount of compensation shall not exceed the amount of the annual assessment leviable in the village for uncultivated land in accordance with the rules made under the code or if such rules do not provide for the levy of such assessment such amount as in the opinion of the Collector shall be the market value of the right or interest held by the claimant:

(c) If there are any trees for structures on the land, the amount of compensation shall be the market value of such trees or structures, as the case may be:

(d) in the case of minerals the amount of compensation shall be equivalent to the average of the annual income received by the inamdar in respect of minerals during the three years immediately preceding the appointed day.

Explanation.-For the purpose of this section the "marked value" shall mean the value as estimated accordance with the provisions of section 23 and section 24 of the land Acquisition Act, 1894 (I of 1894), in so far as the said provisions may be applicable.

14. Right of creditor to claim payment of secured debt from compensation. :-

(1) Every creditor of an inamdar or holder of a sub-inam shall be entitled to claim payment of the secured debt, in whole or in part out of the amount due to the inamdar or holder of a sub-inam as compensation under section 12 or Section 13 .

(2) Such creditor shall, within ¹[such period not later than the ²31st march, 1967] as may be prescribed] notify to the Collector his claim in the prescribed form and shall when required to do so by the Collector produce before the Collector all documents on which he founds his claim.

³[(3) Notwithstanding the expiry of the period prescribed under sub-section (2) the claim may be notified by a creditor under sub-section (2) before the end of September, 1968.]

⁴[(4) Notwithstanding the expiry of the period specified in sub-section (3) the claim may be notified by a creditor under sub-section (2) before the end of September 1969.]

⁵ [(5) Notwithstanding the expiry of the period specified in sub-section (4), the claim may be notified by a creditor under sub-section (2) before the end of December, 1994,]

1. Substituted by Gujarat 23 of 1965.

2. Substituted by Gujarat 10 of 1966.

3. Inserted by Gujarat 10 of 1967.

4. Inserted by Gujarat 8 of 1969.

5. Inserted by Gujarat 19 of 1994 w.e.f. [13-9-1994].

15. method of awarding compensation and payments of claims of creditors. :-

(1) Any inamdar or holder of a sub-inam entitled to compensation under section 12 of 13 shall within the prescribed period apply in writing to the Collector for the determination of the amount of compensation payable to him under the said section.

(2) On receipt of an application under sub-section (1) the Collector

shall after making a formal inquiry in the manner provided by the Code, determine the amount of compensation.

(3) If the Collector has received any claim from any creditor of the inamdar or holder of sub-inam under section 14, then subject to the provisions of sub-sections (4) and (5) he shall after holding a similar inquiry determine the amount of such claim.

(4) Where any such claim involves a question of law regarding-

(a) validity of the claim, or

(b) the amount due in respect of such claim, or

(c) the right of the creditor to such claim, or

(d) where there are two or more such creditors, the order' of priority of such claims,

(5) On receipt of such references, the Subordinate Judge shall, after giving notice to the parties concerned, try the questions referred to and record his findings thereon and send the same to the Collector. The Collector shall then determine the claim in accordance with such findings.

(6) Out of the amount of compensation determined under sub-section (2), the amount of any claim determined under sub-section (3) or (5) shall be paid to the creditor first and the balance, if any, shall be paid to the inamdar or, as the case may be, to the holder of the sub-inam:

Provided that where there are more creditors than one, the payment to them shall be made in the order of priority or pro rata, as the cases may be.

(7) If there are so-co-sharers, the Collector shall apportion the amount payable to the inamdar or the holder of the sub-inam under sub-section (6) between such co-co-sharers.

(8) The Collector shall make an award in terms of the decision taken by him under the foregoing provisions of this section.

(9) Nothing in the foregoing provisions of this section shall affect the right of a creditor to proceed against the inamdar or the holder of a sub-inam for the satisfaction of the secured debts in any secured debts in any other manner or under any other law for the time being in force.

16. Method of awarding compensation for abolition etc., of rights of other person in property. :-

(1) If any person is aggrieved by the provisions of this Act, as abolishing, extinguishing or modifying any of his rights to, or interest in property, and if compensation for such abolition, extinguishment or modification has not been provided for in the foregoing provisions of this Act, such person may apply to the Collector for compensation.

(2) The application under sub-section (1) shall be made to the Collector in the prescribed form, within the prescribed period. The Collector shall, after holding a formal inquiry in the manner provided by the Code, make an award determining the compensation in the manner and according to the provided in section 23 and section 24 of the Land Acquisition Act, 1894 (1 of 1894).

(3) Nothing in this section shall entitle any person to compensation on the ground that any inam land, which was wholly or partially exempt from payment of land revenue, has been under the provisions of this Act made subject to the payment of full assessment in accordance with the provisions of the Code.

16A. Extension of time for making application for compensation :-

1

(1) Notwithstanding anything contained in the Gujarat Land Tenures Abolition Laws (Amendment) Act, 1965, (Gujarat 23 of 1965) the period for making an application for compensation under section 15 or 16 is hereby extended upto the end of march, 1967 and accordingly any person claiming compensation under section 12, 13 or 16 may make an application therefor to the Collector before the end of March 1967.

(2) Where an application for compensation made by any person before the Commencement of the Gujarat land Tenures Abolition Laws (Amendment) Act, 1965 (Gujarat 23 of 1965), was not admitted by the Collector, such person shall also be entitled to mark an application under sub-section (1).

(3) On receipt of an application under sub-section (1), the Collector shall admit the same and all the provisions of this Act shall apply to the application as if it were an application made within the period

prescribed under section 15 or. as the case may be, section 16 :

Provided that if the Collector refuses to admit such application, the applicant may make an appeal to the State Government against the order of the collector within a period of three months from the date of the order and the State Government may pass such order thereon as it may deem fit.]

1. Inserted by Gujarat 10 of 1967.

16B. Further extension of time for making application for compensation :-

1

(1) Notwithstanding the expiry of the period specified in section 16A for making an application for compensation under section 15 or 16, any person claiming compensation under section 12 , 13 or 16 may make an application therefor to the Collector before the end of September 1968.

(2) Where an application for made by any person before the commencement of the Bombay Inams (Kutch Area) Abolition (Amendment) Act, 1967 (Gujarat 10 of 1967) was not admitted by the Collector, such person shall also be entitled to make an application under sub-section (1).

(3) On receipt of an application under sub-section (1), the Collector shall admit the same and all the provisions of this Act shall apply to the application as if It were an application as if it were an application made within the period prescribed under section 15 or as the case may be under section 16 :

Provided that if the Collector refuse to admit such application, the applicant may make an appeal to the State Government against the

1. Inserted by Gujarat 10 of 1967.

16C. Further extension of time for making application for eompensation :-

1

(1) Notwithstanding the expiry of the period specified in section 16B for making an application for compensation under section 15 or section 16 , any person claiming compensation under section 12, 13 or 16 may make an application therefor to the Collector before the end of September, 1969.

(2) Where an application for compensation made by any person before the commencement of the Bombay Inams (Kutch Area) Abolition (Amendment) Act, 1969 (Guj 8 of 1969) was not admitted by the Collector, such person shall also be entitled to make an application under sub-section (1).

(3) On receipt of an application under sub-section (1), the Collector shall admit the same and all the provisions of this Act shall apply to the application as if it were an application made within the period prescribed under section 15 or as the case may be under section 16 :

Provided that if the Collector refuses to admit such application, the applicant may make an appeal to the State Government against the order of the Collector within a period of three months from the date of the order and the State Government may pass such order thereon as it may deem fit.)

1. Inserted by Gujarat 8 of 1969.

16D. Further extension of time for making application for compensation :-

1

(1) Notwithstanding the expiry of the period specified in section 16-C for making an application for compensation under section 15 or 16, any person claiming compensation under section 12, 13 or 16 may make an application therefor to the Collector before the end of December, 1994.

(2) Where an application for compensation made by any person before the commencement of the Bombay Inams (Kutch Area) Abolition (Gujarat Amendment) Act, 1994 was not admitted by the Collector, such person shall also be entitled to make an application under sub-section (1).

(3) On receipt of an application under sub-section (1), the Collector shall admit the same and all the provisions of this Act shall apply to the application as if it were an application made within the period prescribed under section 15 or, as the case may be, under section 16 :

Provided that if the Collector refuses to admit such application, the applicant may make an appeal to the State Government against the order of the Collector within a period of three months from the date of the order and the State Government may pass such order

thereon as

1. Added by Gujarat 19 of 1994 w.e.f. [13-9-1994]

17. Provisions of Land Acquisition Act, 1894, applicable to award :-

Every award made under section 15 or 16 shall be in the form prescribed in section 26 of the Land Acquisition Act. 1894, (I of 1894), and the provisions of the said Act shall, so far as may be, apply to the making of such awards.

18. Appeal against award or decision of Collector :-

An appeal shall lie -

(a) against an award made by the Collector under section 15 or section 16 , and

(b) against a decision of the Collector under ¹[section 7A or 8] to the ² [Gujarat Revenue Tribunal] Constituted under the Bombay Revenue Tribunal Act, (Bom. XXXI of 1958) notwithstanding anything contained in the said Act.

1. Substituted by Gujarat 43 of 1961.

2. Substituted by Gujarat Adaptation of Laws Order, 1960.

19. Procedure before Revenue Tribunal :-

(1) The ¹[Gujarat Revenue Tribunal] shall after giving notice to the appellant and the State Government decide the appeal and record its decision.

(2) In deciding an appeal under this Act the ² [Gujarat Revenue Tribunal] shall exercise all the powers which a Court has, and follow the same procedure which a Court follows in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure, 1908, (V of 1908) and the Tribunal shall make regulation for regulating its procedure (including the disposal of any appeal by one or more of its members.)

1. Substituted by Gujarat Adaptation of Laws Order, 1960.

2. Substituted by Gujarat Adaptation of Laws Order, 1960.

20. Limitation :-

The appeal made under this Act to the ¹ [Gujarat Revenue Tribunal] shall be filed within a period of sixty days from the date of the award of the Collector. The Provisions of the section 4, 5, 12 and 14 of the Indian Limitation Act, 1908 (IX of 1908) shall apply

to the filing of such appeal.

1. Substituted by Gujarat Adaptation of Laws Order, 1960.

21. Court fees :-

Every appeal made under this Act to the ¹ [Gujarat Revenue Tribunal] shall bear a court fee stamp of such value as may be prescribed.

1. Substituted by Gujarat Adaptation of Laws Order, 1960.

22. Finality of award and decision of Revenue Tribunal. :-

A decision given by the Collector under¹[section 7A or 8] or any award made by him subject to an appeal to the ²[Gujarat Revenue Tribunal] under section 18, and the decision of the ³ [Gujarat Revenue Tribunal] on the appeal, shall be final and conclusive, and shall not be questioned in any suit or proceeding in any Court.

1. Substituted by Gujarat 43 of 1961.

2. Substituted by Gujarat Adaptation of Laws Order, 1960.

3. Substituted by Gujarat Adaptation of Laws Order, 1960.

23. Inquiries and proceedings to be judicial proceedings :-

All inquiries and proceedings before the Collector and the ¹ [Gujarat Revenue Tribunal] under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (XLV of 1860).

1. Substituted by Gujarat Adaptation of Laws Order, 1960.

24. Mode of payment of amount of compensation :-

(1) The amount of compensation payable under the provisions of section 12 or any amount of claim payable to the creditor therefrom shall be payable in cash.

(2) The amount of compensation payable under section 13 or 16 or any amount of claim payable to the creditor therefrom shall-

(a) if such amount does not exceed Rs. 1,000 be payable in cash, and

(b) if such amount exceeds Rs. 1,000 a sum of Rs. 1,000 shall be payable in cash and the remaining amount shall be payable in transferable bonds which shall carry Interest at the rate of three per cent. per annum from the date of the issue of such bonds and shall be repayable during the period of twenty years from the date of the issue of such bonds by equated annual installments of

principal and interest. The bonds shall be of such denomination and shall be in such forms as may be prescribed.

CHAPTER 4

Miscellaneous

25. Inamdars and holders of sub-inams to deliver records to authorised officers :-

(1) Whenever an officer authorised by the State Government in this behalf so directs, an inamdar, or as the case may be, the holder of a sub-inam, shall deliver to him or such other officer as may be specified in the direction, the records relating to the inam village, inam land or sub-inam maintained by the inamdar or the holder of the sub-inam.

(2) If the inamdar or the holder of the sub-inam fails without reasonable cause to deliver any records, he shall, on conviction, be punished with fine which may extend to two hundred rupees. In the case of a continuing failure to deliver any such records he shall be punished with an additional fine which may extend to twenty five rupees for every day during which such failure continues after conviction for the first such failure.

25A. Recovery by inamdar of land revenue, rent etc., from and person primarily liable to pay land revenue to Government not lawful and penalty therefor :-

1

(1) Where any person other than the inamdar has become primarily liable to the State Government for the payment of land revenue in respect of any land with effect from-

(a) the appointed day under section 7, or

(b) a later date under the proviso to sub-section (1) of section 6, then in the case of such land it shall not be and shall be deemed never to have been lawful for the inamdar to recover from such person land revenue or rent whether in cash or kind. or any amount as an Incident of inam in respect of any period after the appointed day, or as the case may be, the later date or to act in violation of the rights conferred on such person under the said section 6 or 7.

(2) If after the commencement of the Bombay Inams (Kutch Area) (Gujarat Amendment) Act, 1961 (hereinafter referred to as the Amendment Act, 1961 (Gujarat LXIII of 1961), any inamdar

recovers or causes to be recovered land revenue or rent or commits any act in contravention of sub-section (1), then, without prejudice to the provisions of section 25B, he shall, on conviction, be punishable with fine which may extend to one thousand rupees.

1. Sections 25-A and 25-B inserted by Gujarat 43 of 1961.

25B. Liability of inamdar to pay to Government amounts recovered in contravention of section 25A. :-

(1) If any inamdar-

(i) has recovered or received before the commencement of the Amendment Act, 1961, or

(ii) recovers or receives after such commencement,- from any person any land revenue, rent or any other amount in contravention of sub-section (1) of section 25A, he shall pay to the State Government an amount equal to the land revenue, rent or amount so recovered or received within the period specified below, that is to say-

(a) in the case of (i) above, within a period of three months from the date of the commencement of the Amendment Act, 1961, and

(b) in the case of (ii) above, within a period of fifteen days from the date on which the land revenue, rent or amount was so recovered or received.

(2) If the inamdar fails to pay to the State Government any amount payable by him under sub-section (1) such amount shall be recovered from him as an arrear of land revenue.

(3) If the Collector suo-moto or on an application made to him by any person has reason to believe that in respect of any land, the inamdar has failed to pay the amount payable by him under subsection (1), he shall hold a summary inquiry in the manner provided in the Code and if he finds that the inamdar has failed to pay the amount, shall determine the amount to be recovered from the inamdar under subsection (2). The amount so determined shall thereupon be recovered accordingly.

(4) The amount paid by or recovered from an inamdar in accordance with this section shall be credited to the land revenue account of the persons in relation to whom the amount was paid or recovered.]

26. Provisions of Bombay LXVII of 1948 as applied to Kutch to govern relations of landlord and tenants :-

Nothing in this Act shall in any way be deemed to effect the application of any of the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948 (Bom. LXVII of 1948) as applied to Kutch to any inam land or the mutual rights and obligations of a land lord and his tenants save in so far as the -said provisions are in any way inconsistent with the express provisions of this Act.

27. Rules :-

The State Government may subject to the condition of previous publication, make rules for the purposes of carrying out the provision of this Act. Such rules shall, when finally made, be published in the Official Gazette.

28. Saviag :-

Nothing contained in this Act shall affect,-

(1) any obligation or liability already incurred under an incident of an main before the date on which this Act comes into force, or

(2) any proceeding or remedy in respect of such obligation or liability, and any such proceeding or remedy may be instituted, continued or enforced as if this Act had not been passed.

SCHEDULE 1

SCHEDULE

1. . :-

Rabaris of villages Totadi, Kidaki, Vadvara, Harudi, Vatachhada Godo, Payarko, Khilana. Bhujodi, Mokhana, Natharkhui. Vehare, Vichhio, Vamora, Mota and Raydhan- pura in Bhuj taluka.

2. . :-

Rabaris of villages Gadhsisa (Ghodalakh), Philon and Devpar in Mandvi taluka.

3. . :-

Rabaris of villages Khambhala. Nana nakhatrana, Uk- harada, Adhochani Devsar, Jinday and nani virani in Nakhatrana taluka.

4. . :-

Rabaris of villages Bocha in Mundra taluka.

5. . :-

Rabaris of villages Debhan and Laiyari in Abdhasa taluka.

6. . :-

Rabaris of villages bhadori, Maringana, Mindiada and Nana Lahoria in Anjar taluka.

7. . :-

Rabaris of villages Junagia. Dhrang, Sanabhada, ekiia, Nana Bhadra, Ramaniya, Khadak, Moti Saran, Jadvā and Julrai of Lakhpat taluka.

8. . :-

Odhejas, Samas and Nodes of village Baukha in Bhuj taluka.

9. . :-

Mods of village Mod-Bhakhari in Bhuj taluka.

10. . :-

Trayas and Mers of village Kamaguna in Bhuj taluka.

11. . :-

Jats of village Khanot, Kanoj, Kunari Laki and Mori of Lakhpat taluka.