

**BOMBAY MALEKI TENURE ABOLITION ACT, 1949**

**61 of 1949**

**[January 11, 1950]**

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**SCHEDULE 1 :- SCHEDULE**

**BOMBAY MALEKI TENURE ABOLITION ACT, 1949**

**61 of 1949**

**[January 11, 1950]**

An Act to abolish the Maleki tenure in the Province of Bombay.  
WHEREAS it is expedient to abolish the Maleki tenure which prevails in certain parts of the Province of Bombay and to provide for certain consequential and incidental matters hereinafter appearing; It is hereby enacted as follows :-

**1. Short title, extent and commencement :-**

- (1) This Act may be called the Bombay Maleki Tenure Abolition Act, 1949.
- (2) It extends to the District of Kaira.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, specify.

**2. Definition :-**

(1) In this Act, unless there is anything repugnant in the subject or context,

(a) "Maleki village" means a village specified in the Schedule appended to this Act;

(b) "Malek" means a holder of a Maleki village and includes his cosharers;

(c) "Code" means the Bombay Land Revenue Code, 1879; (Bom. V of 1879).

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

(2) Any word or expression which is deemed in the Code and not defined in this Act shall be deemed to have the meaning given to it by the Code.

(3) References in this Act to the incidents of the Maleki tenure shall, notwithstanding the abolition of the said tenure by this Act, be construed as references to the incidents as they were in force immediately before this Act comes into force.

### **3. Abolition of Maleki tenure and its incidents :-**

(1) With effect from and on the date on which this Act comes into force,-

(a) the Maleki tenure wherever it prevails in the District of Kaira shall be deemed to have been abolished ;

(b) in particular, a Malek shall not be entitled-

(i) to receive any share of revenue of vajeli lands in his village;

(ii) to receive any share of the miscellaneous revenues consisting of sale proceeds of grass, grazing, produce of fruit, trees or wood on waste vajeli lands in his village;

(iii) to claim a preferential right for the purchase of the occupancy of any waste vajeli land; and

(iv) to claim a right to nominate a Talati.

(3) Save as expressly provided by this Act, all the incidents of the said tenure shall be deemed to have been extinguished, notwithstanding any law, custom or usage, or anything contained in

any sanad, grant, settlement, contract or order made by or entered into on behalf of the Government

**4. All lands liable to land revenue in Maleki villages :-**

(1) Subject to the provisions of sub-section (2), all lands in the Maleki villages are and shall be liable to the payment of land revenue in accordance with the provisions of the code and the rules made thereunder.

**5. Method of compensation for the extinguishment or modification of right in lands :-**

(1) If a Malek or any other person is aggrieved by any of the provisions of this Act as extinguishing or modifying any of his rights in land and if such person proves that such extinguishment or modification amounts to the transference to public ownership of any land or any right in or over such land such person may apply to the Collector for compensation.

(2) Such application shall be made in the form prescribed by rules made under this Act on or before the 31st day of March 1952.

(3) The Collector shall after holding a formal inquiry in the manner provided by the Code determine the amount of such compensation and the appointment if necessary, among the co-shares entitled to it and shall make an award accordingly :

Provided that the amount of compensation for the extinguishment or modification of such rights mentioned in clause (b) of sub-section (1) of section 3 shall not exceed three times the maximum of the average of the amount proved to have been realized by the Malek during five years immediately before the date on which this Act comes into force in respect of his share in the revenues of the vajeli lands and of his share in the miscellaneous revenues mentioned in sub-clause (ii) of clause (b) of sub-section (1) of section 3:

Provided further that in determining the amount of compensation in the case of any other right proved to have been extinguished or modified by the Malek or any other person, the Collector shall be guided by the provisions of sub-section (1) of section 23 and section 24 of the Land Acquisition Act, 1894, (1 of 1894).

(3A)

(i) Where the officer making an award under sub-section (3) is a Collector under this Act but not a Collector appointed under section 8 of the Code and the amount of such award exceeds five thousand rupees, then the award shall not be made without the previous approval of:-

(a) the Collector appointed under sections of the Code, if the amount of the award does not exceed twenty-five thousand rupees; or

(b) the Commissioner, if the amount of the award exceeds twenty five thousand rupees but does not exceed one lakh of rupees; or

(c) the State Government, if the amount of the award exceed one lakh of rupees.

(ii) Where the officer making an award under sub-section (3) is a Collector under this Act and also a Collector appointed under section 8 of the Code, and the amount of such award exceeds twenty-five thousand rupees, then such award shall not be made without the previous approval of:-

(a) the Commissioner, if the amount of the award does not exceeds one lakh rupees; or

(b) the State Government, if the amount of the award exceeds one lakh of rupees.

(iii) Every award under sub-section (3) shall be in the form prescribed in section 26 of the Land Acquisition Act, 1894, (1 of 1894).

(4) Subject to the provisions of sub-section (5) the award of the Collector shall be final

(5) Any person aggrieved by the award of the Collector may appeal to the Gujarat Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1957, (Bom. XXXI of 1958).

(6) In deciding appeals under sub-section (5) the Bombay 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).

## **6. Limitation :-**

Every appeal made under this Act to the Bombay Revenue Tribunal

shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections, 4, 5, 12 and 14 of the Indian Limitation Act, 1908, (IX of 1908), shall apply to the filing of such appeal.

## **7. Court-fees :-**

Notwithstanding anything contained in the Court- fees Act, 1870, (VII of 1870), every appeal made under this Act to the Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed by rules made under this Act.

## **7A. Revisional powers in respect of awards made before commencement of Bom. XCIII of 1958 :-**

Where any award was made under sub-section (3) of section 5 before the commencement of the Bombay Land Tenures Abolition (Amendment) Act, 1958 (Bom. XCIII of 1958), and no appeal was filed against such award under sub-sec. (5) of sec. 5, then notwithstanding anything contained in sub-s. (4) of sec. 5, the State Government may call for the record of the inquiry or proceedings relating to such award for the purpose of satisfying itself as to the legality, propriety or regularity of such inquiry or proceedings and if, after giving the interested parties an opportunity to be heard, it is not satisfied as to the legality, propriety or regularity of such inquiry or proceedings, it may cancel the award and direct the Collector to make a fresh award and thereupon all the provisions of this Act, relating to the making of an award, the finality of such award and the appeal against such award shall mutatis mutandis apply to such fresh award

## **8. Rules :-**

The State Government may, by notification published in the Official Gazette, make rules, for the purpose of carrying out the provisions of this Act. Such rules shall be subject to the condition of previous publication.

## **SCHEDULE 1**

### **SCHEDULE**

#### **SCHEDULE**

Maleki villages in Thasra taluka, Karia District

1. Padal.
2. Rasulpura (Padal),
3. Menpura.
4. Baladha.

5. Pali.
6. Malvan.
7. Rustampura.
8. Khadgodhra.
9. Nadadra.
10. Saloon.
11. Sanadra.
12. Palaiya.
13. Jargal.
14. Sanaiya.
15. Wangrolil.
16. Sandheli.
17. Dabhali.
18. Vaso.
19. Mahi-Itadi Vadi Bhag.
20. Mahi-Itadi Vallavpur.
21. Kuni.
22. Rozva.
23. Vaded.
24. Mitha-na-Muvada.
25. Angadi Kasha.
26. Angadi Pahadia.
27. Vanod.