

## **Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947**

**62 of 1947**

**[January 29, 1948]**

### CONTENTS

#### **CHAPTER 1 :- Preliminary**

1. Short title, extent and commencement
2. Definitions

#### **CHAPTER 2 :- Determination of Local and Standard Areas and Treatment of Fragments**

3. Determination of local area
4. Settlement of standard areas
5. Determination and revision of standard areas
6. Entry in the record of rights
7. Transfer and lease of fragments
8. Fragmentation prohibited
- 8AA. Restriction on partition of land
- 8A. Sections 7 and 8 not to apply to transfer for public purpose
9. Penalty for transfer or partition contrary to provisions of Act
10. Transfer of fragment to Government
11. SECTION
12. Determination of compensation for purpose of section 10
13. Amendment of section 117A and 117B of Bom. V of 1879
14. Fragment not to be sold at Court sale or created by such sale

#### **CHAPTER 3 :- Procedure for Consolidation**

15. Government may of its own accord or on application declare its intention to make scheme for consideration of holdings
- 15A. Preparation of scheme and principles to be followed in its preparation
16. Scheme to provide for compensation
17. Amalgamation of public roads etc within scheme for consolidation of holdings
18. Land reserved for public purpose
19. Publication of draft scheme
20. Confirmation of scheme
21. Right to possession of new holdings
22. Coming into force of scheme

23. Certain laws no ban on transfer of holdings

24. Certificate of transfer

25. Loans to assist consolidation

#### **CHAPTER 4 :-Effect on Consolidation Proceedings and of Consolidation of Holdings**

26. Exercise by Consolidation officer of powers under certain Acts

27. Stay of certain proceedings ban on transfer of land during continuance of consolidation proceedings

28. Rights in holdings

29. Transfer of encumbrances

29 A. Consolidation Officer to decide whether lease should be transferred or not

30. Apportionment of compensation or net value in case of dispute

31. Restrictions on alienation and sub-division of consolidated holdings

31A. Correction of clerical and arithmetical mistakes in scheme

32. Power to vary scheme on ground of en or, irregularity, informality

33. Power to vary or revoke scheme

#### **CHAPTER 5 :- General**

34. Vesting of powers of Settlement Commissioner

34A. Constitution of village committees

35. Power of State Government to call for proceedings

36. Appeal and revision

36A. Bar of jurisdiction

36B. Suits involving issues required to be decided under this Act

36C. Indemnity

37. Rules

38. Repeals and Savings

### **Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947**

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**[January 29, 1948]**

An Act to provide for the prevention of fragmentation of agricultural holdings and for their consolidation. WHEREAS it is expedient to prevent the fragmentation of agricultural holdings and to provide for the consolidation of agricultural holdings for the purpose of the better cultivation thereof; It is hereby enacted as follows:-

#### **CHAPTER 1**

##### **Preliminary**

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

(1) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.

(2) It extends to the whole of the State of Gujarat.

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

## **2. Definitions :-**

In this Act, unless there is anything repugnant in the subject or context-

(1) "\"agricultural year" means the year commencing on the first day of April;

(2) "\"Consolidation of holdings" means the amalgamation and where necessary the redistribution of holdings or portions of holdings in any village, mahal or taluka or any part thereof so as to reduce the number of plots to holdings;

(3) "\"Consolidation Officer" means an officer appointed as such under section 15 by the State Government and includes any person authorised by the State Government to perform all any of the functions of the Consolidation Officer under this Act;

(3A) "Co-operative Society" means a co-operative society registered or deemed to be registered under the Bombay Co-operative Societies Act, 1923; Bom. VII of 1925. ;

(4) "\"fragment" means a plot of land of less extent than the appropriate standard area determined under this Act:

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by division;

(5) "\"toad" means agricultural land, whether alienated or unalienated;

(6) "\"local area" means any area notified as such in the Official Gazette under section 3;

(8) "\"Owner" means in the case of unalienated land the occupant or tenure-holder and when such land has been mortgaged owner means the mortgagor; in the case of alienated land owner means the superior holder or Girasdar;

Explanation.-In this clause the expression "Girasdar" shall have the

meaning assigned to it in the Saurashtra Land Reforms Act, 1951 (Sau. Act XXV of 1951).

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

(a) in the Kutch area of the State of Gujarat, the Bombay Land Revenue Code, 1879 (Bom V of 1879) as applied to that area and in the rest of the State of Gujarat, the Bombay Land Revenue Code, 1879;

(9b) "relevant tenancy law" means-

(a) in the Bombay area of "the State of Gujarat, the Bombay Tenancy and Agricultural Lands Act, 1948 and in the Kutch area of that State, the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch area) Act, 1958 in its application to the Kutch area of the State;

(d) in the Saurashtra area of the State of Gujarat, the Saurashtra Prohibition of Leases of Agricultural Lands Act, 1953 (Sau. Act XXIII of 1953) and the Saurashtra Gharkhed Tenancy Settlement and Agricultural Lands Ordinance, 1949; (Sau. Ord. LVI of 1949)

(9c) "Settlement Commissioner" includes a Commissioner of Survey Settlement;

(10) "Standard area" in respect of any class of land means the area which the State Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular local area, and includes a standard area revised under the said section;

10(a) "village committee" means a village committee constituted under section 34A;

(11) words and expressions used in this Act, but defined have the meaning assigned to them in the relevant Code;

( 12) any reference in this Act to the Bombay Land Revenue Code 1879, (Bom V of 1879) shall, where the context so requires, be construed as reference to that Code as applied to the Kutch area of the State of Gujarat

## CHAPTER 2

Determination of Local and Standard Areas and Treatment of Fragments

### **3. Determination of local area :-**

The State Government may, after such inquiry as k deems fit, by

notification in the Official Gazette, specify a village, mahal or taluka or tahsii or any part thereof as a local area for the purposes of this Act.

#### **4. Settlement of standard areas :-**

(1) The State Government may, after such inquiry as it deems fit and after consultation with the District Advisory Committee any other body, appointed by it, provisionally settle for any class of land in any local area the minimum area that can be cultivated profitably as a separate plot.

(2) The State Government shall by notification in the Official Gazette and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objections thereto.

#### **5. Determination and revision of standard areas :-**

(1) The State Government shall after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (2) of section 4 in the village concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such local area.

(2) The State Government may, at any time, if it deems fit expedient so to do, revise a standard area determined under sub-section (1). Such revision shall be made in the manner laid down in section 4 and sub-section (1).

(3) The State Government shall, by notification in the Official Gazette, and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2).

#### **6. Entry in the record of rights :-**

(1) On notification of a standard area under sub-section (3) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights or where there is no Record of Rights in such village record as the State Government may prescribe.

(2) Notice of every entry made under sub-section (1) shall be given in the manner prescribed for the giving of notice under the relevant

Code, of an entry in the register of mutations.

## **7. Transfer and lease of fragments :-**

(1) \No person shall transfer any fragment in respect of which a notice has \been given under sub-section (2) of section 6 except to the owner of a \contiguous survey number or recognised sub-division of a survey number.

Provided that the holder of such fragment may mortgage or transfer it to the State Government or a land mortgage bank or any other co-operative society as security for any loan advanced to him by the State Government or such bank or society, as the case may be.

(2) Notwithstanding anything contained in any law for the time being in force or in any instrument or agreement, no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

## **8. Fragmentation prohibited :-**

No land in any local area shall be transferred or partitioned so as to create a fragment.

### **8AA. Restriction on partition of land :-**

(1) Where, by transfer, decree, succession or otherwise, two or more persons are entitled to shares in an undivided agricultural land in any local area for which standard areas have been fixed, and the land has to be partitioned among them, such partition shall be effected so as not to create a fragment.

(2) Where such partition is made by the Court or the Collector, the following procedure shall be adopted -

(a) \If, an effecting a partition among several co-shares, it is found that a co-sharer is entitled to a specific share in the land and cannot be given that share that share without creating a fragment, he shall be compensated in money for that share. The amount of compensation shall be determined so far as practicable in accordance with the provisions of section 23 of the Land Acquisition Act, 1894 (1 of 1894) or, as the case may be, of that sec. in its application to the Saurashtra area of the State of Bombay under the Land Acquisition Act 1894 (1 of 1894) (Adaptation and Application) Ordinance, 1948. (Sau. Ord. XXI of 1948).

(b) \If, in effecting a partition, it is found that there is not enough land to provide for the shares of all the co-shares in accordance with the provisions of sub-section (1), the co-sharers may agree among themselves as to the particular co-sharer or co-sharers who should get the share of land and which of them should be compensated in money. In the absence of any such agreement, the co-sharers to whom a share of land can be provided and those to whom money compensation should be given shall be chosen by lot in the manner prescribed.

(c) \The compensation shall be payable by each co-sharer in proportion to the excess value of land he gets over the share of land legally due to him, and such co-sharer shall deposit the proportionate amount of compensation in the manner prescribed before taking possession of the share allotted to him. On his failure to do so, his share shall be allotted to any other co-sharer to whom land has not been previously allotted and who is chosen in the manner provided in clause (b) subject to the payment of similar compensation to the co-sharers not getting shares of land.

(d) If none of the co-sharers to whom land has been allotted under clause (c) pays the compensation and takes the share, the share shall be sold in auction to the highest bidder, and the purchase money shall be paid to the co-sharers not getting land in proportion to their respective shares.

(e) Where the parties agree upon any other method of partition which will not result in the creation of a fragment, that method shall be followed in effecting partition.

(3) Where a partition is effected in execution of a decree all questions relating to the partition of the land and apportionment of compensation shall be decided by the Court executing the decree or by the Collector effecting the partition, as the case may be, in accordance with the provisions of sub-section (2).

**8A. Sections 7 and 8 not to apply to transfer for public purpose :-**

Nothing in sections 7, 8 and 8AA shall apply to a transfer of any land for such public purpose as may be specified in this behalf by the State Government by notification in the Official Gazette.

**9. Penalty for transfer or partition contrary to provisions of Act :-**

(1) The transfer or partition of any land contrary to the provisions of this Act shall be void.

(2) The owner of any land so transferred or partitioned shall be liable to pay such fine not exceeding Rs. 250 as the Collector may, subject to the general orders of the State Government, direct. Such fine shall be recoverable as an arrear of land revenue,

(3) Any person unauthorizedly occupying or wrongfully in possession of, any land, the transfer or partition of which, either by the act of parties or by the operation of law, is void under the provisions of this Act, may be summarily evicted by the Collector.

#### **10. Transfer of fragment to Government :-**

(1) Any owner of a fragment may transfer it to the State Government on payment by the State Government of such, compensation to persons possessing interest therein as the Collector may determine and thereupon the fragment shall vest absolutely in the State Government free from all encumbrances but no such fragment shall be transferred to the State Government unless it is first offered to the owner of a contiguous survey number or recognised sub-division of a survey number on payment of the compensation determined by the Collector as aforesaid and such owner has refused to purchase the fragment on payment of such compensation.

(5) Any such fragment may be disposed of in accordance with the provisions of section 117-B of the Bombay Land Revenue Code, 1879

#### **11. SECTION :-**

Partition of estate assessed to payment of revenue to Government or separation of share thereof. Deleted by Bom. LXI of 1958, s. 3(10).

#### **12. Determination of compensation for purpose of section 10 :-**

In determining the compensation for the purposes of section 10 the Collector shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 or, as the case may be, of sub-section (1) of that section in its application to the Saurashtra area of the State of Bombay under the Land Acquisition Act; 1894 (I of 1894) (Adaptation and Application) Ordinance, 1948, (Sau.Ord. XXI of 1948)



**13. Amendment of section 117A and 117B of Bom. V of 1879 :-**

(1) in sections 117A and 117B of the Bombay Land Revenue Code, 1879, Bom. V of 1879 the following shall be inserted at the commencement of the said sections, namely:- "Subject to the provisions, of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act 1947." Bom. LXII of 1947.

**14. Fragment not to be sold at Court sale or created by such sale :-**

Notwithstanding anything contained in any law for the time being in force, no fragment, in respect of which a notice has been given under sub-section (2) of section 6, shall be sold at any sale held under the orders of any Court except to the owner of a contiguous survey number or recognised sub-division of a survey number and no land shall be sold at such sale so as to leave a fragment.

**CHAPTER 3**

**Procedure for Consolidation**

**15. Government may of its own accord or on application declare its intention to make scheme for consideration of holdings :-**

With the object of consolidating holdings in any village, mahal, taluka or tahsil or any part thereof for the purpose of better cultivation of lands therein the State Government may of its own motion or on an application made in that behalf declare by a notification in the Official Gazette and by publication in the prescribed manner in the village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication in the village concerned the State Government may appoint a Consolidation Officer who shall proceed to prepare a scheme for the consolidation of holdings in such village or villager or part thereof, as the case may be in the manner hereinafter provided.

**15A. Preparation of scheme and principles to be followed in its preparation :-**

(1) The Consolidation Officer shall, after giving due notice to the land owners concerned and the village committee, visit each of the concerned villages and shall, in consultation with the village committee, proceed to prepare a scheme for the consolidation of holdings which shall include such statements, records and maps as

may be prescribed.

(2) In preparing the scheme, the Consolidation Officer shall have regard to the procedure which the State Government may from time to time prescribe in regard to the number of blocks in which the village lands are to be grouped, the manner of allotting new plots to each owner, the recommendations of the village committee and such other matters as may be prescribed.

**16. Scheme to provide for compensation :-**

(1) The scheme prepare by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of this original holding.

(2) The amount of compensation shall be determined, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (1 of 1894) or, as the case may be of sub-section (1) of that section in its application to the Saurashtra area of the State of Bombay under the Land Acquisition Act, 1894 (1 of 1894) (Adaptation and Application) Ordinance 1948 (Sau. Ord. XXI of 1948).

**17. Amalgamation of public roads etc within scheme for consolidation of holdings :-**

(1) Whenever in preparing a scheme for the consolidation of holdings it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane or path with any holding in the scheme, he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as individuals in or over the said road, street, lane or path shall be extinguished or, as the case may be, transferred to a new road, street, lane or path laid out in the scheme of consolidation.

(2) The declaration in sub-section (1) shall be published in the village concerned in the prescribed manner along with the draft scheme referred to in section 19.

(3) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane or path or having any other interest or right which is likely to be adversely affected by the proposal may, within

thirty days after the publication of the declaration under sub-section (1) state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right:

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane or path shall be entertained.

(4) \The Consolidation Officer shall, after considering the objections if any made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Commissioner, together with the objections received, his recommendation thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Commissioner on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall, subject to any modification made by the State Government, be final.

### **18. Land reserved for public purpose :-**

(1) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer, in consultation with the village committee,-

(a) to direct that any land specifically assigned for any public purpose shall cease to be so assigned and to assign any other land in its place;

(b) if in any area under consolidation no land is reserved for any public purpose including extension of the village sites, or if the land so reserved is made quate, to assign other land for such requirements and for that purpose to effect a proportionate cut in all the holdings of the village.

(2) Where a proportionate cut in all the holdings of a village has been effected under sub-section (1), the State Government shall pay to every person affected thereby compensation in respect of the land covered by such cut at the market value of the land at the date of the publication of the notification under section 15.

(3) Save as provided in sub-section (2), the amount of such compensation shall be determined by the Consolidation Officer, so far as practicable in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894(1 of 1894).

**19. Publication of draft scheme :-**

(1) When the scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the village or villages concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such publication communicate in writing to the Consolidation Officer any objections relating to the scheme. The Consolidation Officer, after considering the Objections, if any received, submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Commissioner.

(2) The Consolidation Officer shall also publish the scheme as amended by him.

**20. Confirmation of scheme :-**

(1) If within thirty days of its publication no objections are received to the draft scheme published under sub-section (1) or as the case may be, the amended draft scheme published under sub-section (2), of section 19, the Settlement Commissioner shall confirm the scheme.

(2) If any objections are received to such draft scheme or amended draft scheme, and

(a) the Settlement Commissioner after considering the objections approves of the draft scheme or the amended scheme, he shall submit the draft scheme, or as the case may be, the amended scheme to the State Government together with the objections received thereto, or

(b) the Settlement Commissioner, after considering the objections further amends the scheme, the Settlement Commissioner shall publish the further amended scheme in the prescribed manner.

(3) If within fifteen days of the publication of a further amended scheme under clause (b) of sub-section (2)-

(a) no objections are received thereto, the Settlement

Commissioner shall confirm the scheme; and

(b) if any objections are received, then the Settlement Commissioner shall submit such further amended scheme to the State Government together with the objections received thereto

(4) Upon submission of a scheme under clause (a) of sub-section (2) or clause (b) of sub section (3), the State Government may, after taking into consideration the objections either confirm the scheme, with or without amendments or may refuse to confirm it

**21. Right to possession of new holdings :-**

(1) Upon the confirmation of scheme under sub section (1), (3) or (4) of section 20, a notification stating that the scheme has been confirmed shall be published in the Official Gazette and the scheme as confirmed shall be published in the prescribed manner in the village or villages concerned. If two thirds or more of the owners affected by such scheme agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow all the owners to enter into such possession forthwith or from such date as may be specified by him.

(2) \If two thirds or more of such owners do not agree to enter into possession under sub-section (1), all the owners shall be entitled to possession of the holdings allotted to them under the scheme from the commencement of the agricultural year next following the date of publication of the notification in the Official Gazette under sub-section (1).

(2A) In enforcing the provisions of sub-section (1) or (2) the Consolidation Officer shall, if necessary, put the owners in possession of the holdings to which they are entitled under the scheme and for doing so may, in the prescribed manner, evict any person from any land.

(3) \Notwithstanding anything contained in sub-section (2) no owner shall be entitled to possession of any holding allotted to him under the scheme unless he deposits in the prescribed manner within fifteen days of the commencement of the said agricultural year such compensation as is recoverable from him under the scheme.

(4) \Where an owner fails to comply with the provisions of sub section (3) his right in such holding may be allotted in the

prescribed manner by the Consolidation Officer to any other person who pays the value of the holding, and in such case the value realised after deducting the expense (hereinafter called the net value) shall be paid to the owner and any other person having an interest in the holding.

(5) If no person is forthcoming to pay the value of the holding, the State Government may recover from the owner the Compensation recoverable from him under the scheme as an arrear of land revenue or the State Government may itself purchase the holding after paying the net value of the holding to the owner and any other person having interest in the holding,

## **22. Coming into force of scheme :-**

As soon as the person entitled to possession of holding under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

## **23. Certain laws no ban on transfer of holdings :-**

Notwithstanding anything contained in any law for the time being in force, the rights of owners, or other persons having interest, shall for the purpose of giving effect to any scheme of consolidation affecting them be transferable by exchange or otherwise.

## **24. Certificate of transfer :-**

(1) The Consolidation Officer shall grant to every owner to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under sub-section (4) of section 21, a certificate in the prescribed form duly registered under the Indian Registration Act, 1908, (XVI of 1908). to the effect that the holding has been transferred to him in pursuance of the scheme. The Consolidation Officer may, thereupon, cause to be prepared a new record of rights in respect of the holdings so transferred and the record of rights so prepared shall be deemed to have been prepared X X X under the relevant Code

(2) Notwithstanding anything contained in any law for the time being in force no stamp or registration fee shall be payable in respect of such certificate.

## **25. Loans to assist consolidation :-**

For carrying out any of the purposes of this Act, a loan may be

granted to an owner and recovered from him as a loan under the Land Improvement Loans Act, 1883, (XIX of 1883) or the Agriculturists' Loans Act, 1884. (XII of 1884).

#### CHAPTER 4

Effect on Consolidation Proceedings and of Consolidation of Holdings

### **26. Exercise by Consolidation officer of powers under certain Acts :-**

(1) During the continuance of the consolidation proceedings the Consolidation Officer shall exercise and discharge the functions of a revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, (Bom. V of 1879) X X X X, The Mamlatdars Courts Act, 1906, (Bom. II of 1906), and the relevant tenancy law; and no revenue officer other than the Consolidation Officer shall take any proceedings under any of the said Acts in respect of any holding or land for the consolidation of which a notification has been issued under section 15.

(2) Where in respect of any holding the Consolidation Officer proceeds to prepare a scheme under section 15-

(a) all applications and proceedings including execution proceedings pending before any revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, (Bom. V of 1879) X X X X, the Mamlatdars' Courts Act, 1906, (Bom. II of 1906), and the relevant tenancy law, in respect of any holding or land for the consolidation of which a notification has been issued under section 15 shall be transferred to the Consolidation Officer; and

(b) the Consolidation Officer shall, by proclamation, call upon all persons who claim to be entitled to possession under any of the said Acts of any holding for the consolidation of which a notification has been issued under section 15 to make within the prescribed period an application to be put in possession of such holdings; and any person who fails to do so within the prescribed period shall thereafter be debarred making it :

Provided that nothing in this clause shall debar any person from making, after the coming into force of a scheme of consolidation under section 22, any application in respect of any holding included in the scheme, if such application could be made under the provisions of any law for the time being in force.

(3) The Consolidation Officer shall submit any order passed by him

under any of the said Acts to the Collector for confirmation if an application in that behalf is made to him by any party to a proceeding under this section within fifteen days from the date of the order.

**27. Stay of certain proceedings ban on transfer of land during continuance of consolidation proceedings :-**

When a Consolidation Officer proceeds to prepare a scheme under section 15, during the continuance of the consolidation proceedings-

(a) no proceedings,-

(i) under section 153 or 155 of the Bombay Land Revenue Code, 1879; Bom. V of 1879.

(ii) for execution of any award made or deemed to be made under the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925)

(iii) for execution of any award made under the Bombay Agricultural Debtors' Relief Act, 1947; Bom. XXV III of 1947 or under the Saurashtra Agricultural Debtors' Relief Act, 1954 (Sau. Act XXII of 1954).

(iv) for execution of any decree passed by a Civil Courts in respect of any land in respect of which a notification has been issued under section 15 shall be commenced, and all such proceedings if commenced shall be stayed;

(v) for partitioning or sub-dividing in any manner

(b) no person shall transfer any land in respect of which a notification under section 15 has been issued.

**28. Rights in holdings :-**

Every owner to whom a holding is allotted in pursuance of a scheme of consolidation shall save as otherwise provided in section 29A, have the same rights in such holding as he had in his original holding:

Provided that nothing in this section shall apply to any person to whom a holding has been allotted under the provisions of sub-section (4) of section 21.

**29. Transfer of encumbrances :-**

(1) If the holding of an owner included in a scheme of consolidation



which has come into force under section 22 is burdened with a mortgage, debt or other encumbrance other than a lease such mortgage, debt or other encumbrance shall be transferred therefrom and attach itself to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint; and the creditor or other encumbrance, as the case may be, shall exercise his rights accordingly.

(2) If the holding to which a mortgage, debt or other encumbrance is transferred under sub-sec. (1) is of less market value than the original holding from which it is transferred the mortgagee, creditor or other encumbrance, as the case may be, shall subject to the provisions of section 30 be entitled to the payment of such compensation by the owner of the holding, as the case may require, as the Consolidation Officer may determine.

(3) Notwithstanding anything contained in section 21, the Consolidation Officer shall, in the prescribed manner, put any mortgagee or other encumbrances entitled to possession into possession of the holding to which his mortgage or other encumbrance has been transferred under sub-section (1).

**29A. Consolidation Officer to decide whether lease should be transferred or not :-**

(1) If the holding of an owner included in a scheme of consolidation which has come into force under section 12 is burdened with a lease, the Consolidation Officer shall by an order in writing determine whether such lease shall or shall not be transferred therefrom. A copy of the order passed by the Consolidation Officer under this sub-section shall be affixed to a place near the holding and shall also be published in the prescribed manner.

(2) \If the Consolidation Officer determines that such lease shall be transferred from the original holding it shall attach itself to the holding allotted to the owner under the scheme or such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint and the lessee shall exercise his rights accordingly. The provisions of subsections (2) and (3) of section 29 shall apply to such lease as if the lease were a mortgage or other encumbrance.

(3) \If the Consolidation Officer determines that such lease shall not be transferred from the original holding it shall remain attached

thereto, and the owner to whom such holding is allotted under the scheme shall hold it subject to such lease; and the provisions of the relevant tenancy law, shall, so far as may be notwithstanding the change in the ownership, apply to such lease: and the rights and liabilities of such owner and the lessee shall be governed by the provisions of the said law as between the land lord and his tenant:

Provided that such owners shall not be entitled to arrears of rent due under such lease immediately before the allotment of the holding as aforesaid.

(4) \An appeal against the decision of the Consolidation Officer under this section shall lie to the Settlement Commissioner within the prescribed time.

**30. Apportionment of compensation or net value in case of dispute :-**

Where there is a dispute in respect of the apportionment of-

(a) the amount of compensation determined under sub-section (2) of section 16 or sub-section (4) of section 17;

(aa) the amount of compensation determined under section 8.

(b) the net value realized or payable under sub-section (4) or (5) of section 21;

(c) the total amount of compensation determined under sub-section (2) of section 29.

the Consolidation Officer shall refer the dispute to the decision of the District Court and deposit the amount of the compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, (1 of 1894) or, as the case may be, the said provisions of that Act as applied to the Saurashtra area by the Land Acquisition Act, 1894 (1 of 1894) (Adaptation and Application) Ordinance, 1948 (Sau Ord. XXI of 1948) shall, so far as may, apply.

**31. Restrictions on alienation and sub-division of consolidated holdings :-**

(1) Notwithstanding anything contained in any law for the time being in force, no holding allotted under this Act, nor any part thereof shall be-

(a) transferred, whether by way of sale (including sale in execution of a decree of a Civil Court or for recovery of arrears of land

revenue or for sums recoverable as arrears of land revenue or by way of gift exchange, or lease, otherwise, except in accordance with such conditions as may be prescribed:

(b) sub-divided (including sub-division by a decree or order of a Civil Court or any other competent authority) except with the permission in writing of the Collector.

(2) Nothing in sub-section (1)-

(a) shall apply to a transfer of a holding allotted under this Act Guj. of 1978, where the transfer is of the entire holding, not involving any sub-division thereof or to a sub-division of a holding allotted under this Act where such sub-division is made to provide for the shares of persons entitled thereto on the death of the owner, and does not create any fragment; or

(b) shall be deemed ever to have applied to a transfer of a holding allotted under this Act, made after the 19th February, 1969, but before the date of the commencement of the Bombay Prevention of Fragmentation and Consolidation of Holdings, (Gujarat Amendment) Act, 1938 (hereinafter referred to as "the said date" where such transfer was of an entire holding not involving and sub division thereof and the transferee or his successor-in- interest was occupying or was in possession of the holding so transferred immediately before the said date and had not been entitled from such holding before the said date in pursuance of an order of eviction passed by the Collector under sub-section (3) of section 9, and such transfer shall not be, and shall be deemed never to have been, void on the ground that it was contrary to the provisions of this section.

(3) Wherein respect of any holding to which clause (b) of sub. section (2) applies an order for payment of fine by the owner transferring such holding was made by the Collector under sub-section (2) of section 9, or an order for eviction was made under sub-section (3) of section 9 but such order was not given effect to such order shall be deemed to have become ineffective on the said date and the fine, if paid by the owner, shall be refund to him. Any revision proceedings pending against any such order which becomes ineffective under this sub-section shall abate."

### **31A. Correction of clerical and arithmetical mistakes in scheme :-**

If, after a scheme has come into force, it appears to the Settlement

Commissioner that the scheme is defective on account of any clerical or arithmetical mistake or error arising therein from any accidental slip or omission and he is satisfied that the correction of such mistake or error would not vary the scheme in any material particular, he may by order in writing correct such mistake or error and publish his order in the prescribed manner.

**32. Power to vary scheme on ground of error, irregularity, informality :-**

(1) if after a scheme has come into force it appears to the State Government that the scheme is defective on account of an error other than that referred to in section 31 A irregularity or informality the State Government shall publish a draft of such variation in the prescribed manner. The draft variation shall state every amendment proposed to be made in the scheme.

(2) \Within one month of the date of publication of the draft variation any person affected thereby may communicate in writing any objection to such variation the State Government through the Settlement Commissioner.

(3) \After receiving the objections under sub-section (2) the State Government may, after, making such enquiry as it may think fit, make the variation with or without modification or may not make any variation.

(3A) If the scheme is varied under sub-section (3), a notification stating that the scheme has been varied shall be published in the Official Gazette and the scheme so varied shall be published in the prescribed manner in the village or villages concerned.

(4) \From the date of the notification stating that the scheme has been varied the variation shall take effect as if it were incorporated in the scheme.

**33. Power to vary or revoke scheme :-**

A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent schema prepared, published and confirmed in accordance with this Act.

CHAPTER 5  
General

**34. Vesting of powers of Settlement Commissioner :-**

The State Government may, by notification in the Official Gazette

investing the Collector with all or any of the powers of the Settlement Commissioner under this Act.

**34A. Constitution of village committees :-**

(1) The village committee shall be constituted by the Consolidation Officer in the prescribed manner and it shall discharge and perform, in addition to the duties and functions imposed or assigned by this Act, such other duties and functions as may be prescribed for the purposes of this Act.

(2) Where at any time the Collector is satisfied that the village committee has refused or failed without reasonable cause or excuse to discharge the duties or perform the functions imposed or assigned by or under this Act or circumstances have so arisen that the committee has been rendered unable to discharge the duties or perform the functions aforesaid or it is otherwise expedient or necessary to do so he may by notification in the Official Gazette either reconstitute, for the purpose of this Act, the village committee in accordance with the provisions of sub-section (1) or appoint some other authority to perform the functions of discharge the duties of the village committee under this Act, and thereupon all references to the village committee under this Act shall be deemed to include references to village committee so reconstituted or the authority so appointed as the case may be.

**35. Power of State Government to call for proceedings :-**

The State Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before as disposed of by such officer and may pass such order in reference thereto as it think fit:

Provided that no order shall be varied or revised until the parties interested have been given a reasonable opportunity of showing cause against the proposed variation or revision of the order.

**36. Appeal and revision :-**

Except as provided in this Act, no appeal or revision application shall lie from any order passed under Chapter II, III or IV of this Act.

**36A. Bar of jurisdiction :-**

(1) No Civil Court or Mamlatdar's Court shall have jurisdiction to

settle, decide or deal with any question which is by or under this Act required to be stated, decided or dealt with by the State Government or any officer or authority.

(2) No order of the State Government or any such officer or authority made under this Act shall be questioned in any Civil, Criminal or Mamlatdar's Court.

**36B. Suits involving issues required to be decided under this Act :-**

(1) If any suit instituted in any Civil Court or Mamlatdar's Court involves any issues which are required to be settled, decided or dealt with by any authority competent to settle, decide or deal with such issues under this Act (hereinafter referred to as the 'competent authority') the Civil Court, or Mamlatdar's Court shall stay the suit and refer such issues to such competent authority for determination.

(2) On receipt of such reference from the Civil Court or Mamlatdar's Court, the competent authority shall deal with and decide such issues in accordance with the provisions of this Act, and shall communicate its decision to the Civil Court or Mamlatdar's Court and such Court shall thereupon dispose of the suit in accordance with the procedure applicable thereto.

**36C. Indemnity :-**

No suit or other legal proceedings shall be against any person in respect of anything which is in good faith done or intended to be done under this Act.

**37. Rules :-**

(1) The State Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the State Government may make rules, providing for-

(a) the manner of publication under sub-section (2) of section 4;

(b) the manner of giving public notice under sub-section (3) of section 5:

(c) village records in which fragments shall be entered under sub section (1) of section 6;

- (cc) The manner of choosing by lot under clause (b) of sub-section (2) of section 8AA;
- (d) \the manner in which the intention to make a schema shall be published under section 15;
- (dd) the statement, records and maps to be included in the scheme of consolidation and the procedure and other matters to be observed in the preparation of the scheme under section 15A;
- (e) the manner of publication under sub-section (2) of section 17 of a declaration made under sub-section (1) of the said section;
- (f) the manner in which a draft scheme of consolidation shall be published under sub-section (1) of section 19 in the village or villages concerned.
- (ff) the manner of publication of further amended scheme under clause (b) of sub-section (2) of section 20;
- (g) the manner of publication of a scheme under sub-section (1) of section 21, on its being confirmed;
- (h) the manner in which a person may be evicted under sub-section (2A) of section 21;
- (i) the manner in which compensation recoverable from an owner shall be deposited by him under sub-section (3) of section 21;
- (j) the manner in which right of holding may be allotted under sub-section (4) of section 21;
- (k) the form in which a certificate shall be granted under section 24;
- (l) the period within which an application shall be made under clause (b) of sub-section (2) of section 26;
- (m) the guidance of the Consolidation Officer and other officers and persons in respect of the transfer of a mortgage, debt or other encumbrance under sub-section (1) of section 29;
- (n) the conditions in accordance with which holding may be transferred under clause (a) of section 31;
- (nn) the manner of publication of an order under section 31 A: (o) the manner of publication of a draft variation under subsection (1) of section 32 or of a varied scheme under sub-section (3A) thereof;

(oo) the manner in which village committees shall be constituted, and the duties and functions to be discharged by them, under section 34A

(p) the manner in which the area and assessment (including water-rate, if any) of each reconstituted holding or part of such holding shall be determined;

(q) the manner in which corrections shall be made in the Record of Rights in accordance with a scheme of consolidation;

(r) generally, for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act:

(s) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall be subject to the condition of previous publication.

(4) Rules made under this section, shall be laid before the Legislature of the State at the session thereof next following and shall be liable to be modified or rescinded by a resolution 7 (Passed by the Legislature) and such rules shall after notification in the Official Gazette, be deemed to have been modified or rescinded accordingly

### **38. Repeals and Savings :-**

On the commencement of this Act in that part of the State of Bombay to which it is extended by the Bombay Prevention of Fragmentation and Consolidation of Holdings (Extension and Amendment) Act, 1958 (Bom. LXI of 1958) the following provisions shall be repealed, namely:-

(i) the Hyderabad Prevention of Fragmentation and Consolidation of Holdings Act, 1956; (Hyd. Act XL of 1956).

(ii) Chapter II of the Saurashtra Fragmentation and Regulation of Holdings Act, 1954 (Sau. Act, XII of 1954),

(iii) Chapter XVI of the Madhya Pradesh Land Revenue Code, 1954; (M.P. Act II of 1955).

Provided that such repeal shall not affect,-

(a) \the previous operation of any law so repealed, or anything duly done or suffered thereunder; or

(b) \any right, privilege, obligation or liability acquired, accrued or



incurred under any law so repealed; or

(c) \any penalty incurred in respect of anything done against any law so repealed. and any investigation, proceedings or remedy in respect of any such right privilege, obligation, liability or penalty as aforesaid may be instituted, continued or enforced, and any such penalty may be imposed as if the Bombay Prevention of Fragmentation and Consolidation of Holdings, (Extension and Amendment) Act, 1958, (Bom. LXI of 1958) had not been passed.

Provided further that subject to the proceeding proviso anything done or action taken (including any appointment or delegation made notification, order or notices issued, rule, regulation or form framed scheme framed or confirmed, standard areas laid down, fixed or revised, transfer or lease of fragment, valuation thereof, partition of an undivided estate, or entry in the record of rights, made, amount of compensation determined, certificate granted, consolidated holdings duly transferred, alienated or sub-divided) under any such repealed law shall be deemed to have been done or taken under the corresponding provision of this Act, and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.