

SAURASHTRA BARKHALI ABOLITION RULES, 1951

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SAURASHTRA BARKHALI ABOLITION RULES, 1951

In exercise of the powers conferred by Section.35 of the Saurashtra Barkhali Abolition Act, 1951 and of all other powers enabling It In this behalf, Government is pleased to make the following Rules VIZ:-

CHAPTER 1 CHAPTER I

1. 1 :-

These rules may be called the Saurashtra Barkhali Abolition Rules, 1951 .

2. 2 :-

In these rules unless there is anything repugnant In the subject or context :-

(a) "Act" means the Saurashtra Barkhali Abolition Act, 1951 :

(b) "annexure" means Annexure appended to these Rules;

(c) "form" means a form appended to these Rules:

(d) The word "Mamlatdar" occurring in rule 4 to Rule 8, Rule 10, Rule 13, Rule 14, Rule 23 to Rule 33, Rule 35 to Rule 48, Rule 50 to Rule 55, Rule 57 to Rule 59, Rule 64 to Rule 71, Rule 73 and

Rule 74 shall mean the Group Mamlatdar and "Mamlatdar" occurring in Rule 74A, Rule 74B, Rule 74C, in rules contained in Chapter V and R. 83R.83A shall mean Mamlatdar of the Taluka: Provided that "Mamlatdar" occurring in rule 85 to Rule 87 shall mean either a Group Mamlatdar or a Taluka Mamlatdar as the case may be with reference to context: Provided further that in areas where there is no Group Mamlatdar, the word "Mamlatdar" occurring in all the rules mentioned above shall mean the Mamlatdar of the Taluka.

(e) "Section" means a section of the Act.

(f) words and expressions used but not defined In these rules shall have the meaning assigned to them In the Act.

3. For the purposes of implementation of the Act :-

the State shall be divided Into groups mentioned in Annexure I and every such group shall be in charge of a Group Mamlatdar appointed for that purpose. The Government may increase or reduce the area of the groups from time to time as It may deem fit.

4. 4 :-

The Mamlatdar shall be a touring officer and shall have his Camp In any village in his group for such time as he may deem fit.

5. 5 :-

The Mamlatdar shall, as far as possible, remain in a village, for the time being his camp till the bulk of his work in that village Is finished.

6. 6 :-

The Mamlatdar may as far as possible fix up his fortnightly programme in advance and declare it to each village a week before the scheduled date of his visit thereto.

7. 7 :-

The Mamlatdar shall, on his appointment as such or as soon as possible thereafter, get a list from the permanent Taluka Officers of the alienated villages and lands.

8. 8 :-

The Mamlatdar shall, on receipt of such list. whether in full or otherwise, proceed to prepare records mentioned in Annexure II, for each village through the Talati of that area.

9. 9 :-

There shall be separate subsidiary register for each category of Barkhalidar. In particular, there shall be following subsidiary registers:-

- (1) Barkhalidars as defined In Section .2(1) of the Act.
- (2) Jivaidars other than Jivaidars for life.
- (3) Jivaidars for life.
- (4) Chakariats.
- (5) Kherati or Dharmada-holders.
- (6) Dharmada Institutions, Such subsidiary registers shall contain the Information mentioned In form In Annexure III.

10. 10 :-

The Mamlatdar shall proceed to Implement the provisions of the Act In the following order :-

- (a) taking each village in turn,
- (b) taking each estate In a village in turn,
- (c) allotting land to Barkhalidars for personal cultivation In accordance with the provisions of Section 6 and RULE 7 of the Act,
- (d) issuing occupancy certificates to the Barkhalidar in accordance with the provisions of Section 15 of the Act,
- (e) issuing occupancy certificates to the tenants in accordance with the provisions of Section 12 of the Act.

11. 11 :-

A Barkhalidar or a tenant may apply to the Mamlatdar for the following relief to which he may be entitled under the Act In a form prescribed under the rules herein under :-

- (1) Allotment of land for personal cultivation (Section 8):
- (2) Issue of an occupancy certificate to a Barkhalidar (Section 15);
- (3) Acquisition of occupancy rights by a tenant (Section 10);
- (4) Enforcing right of pre-emption by the Barkhalidars under Section 8(2) of the Act;
- (5) Enforcing rights of pre-emption by the tenant under Section

8(2) of the Act.

12. 12 :-

Application in respect of items Nos. (4) and (5) in Rule 11 shall be filed before a Mamlatdar of the Taluka while an application In respect of items Nos. (1), (2) and (3) in the said Rule shall be filed before a Mamlatdar of the Group.

CHAPTER 2

Allotments of land for personal cultivation

13. 13 :-

A Barkhalldar entitled to allotment of land under the Act may within 90 days from the date of the commencement of the Act, apply to the Mamlatdar for the allotment to him of land for personal cultivation.

14. 14 :-

Where a part of the estate of such Barkhalidar applying for allotment to him of land for personal cultivation lies in the jurisdiction of another Mamlatdar, then the Mamlatdar of the group in which the major portion of the estate Is situated shall hear the application for the whole estate.

15. 15 :-

An application under rule 13 shall be in Form I and it shall be accompanied by as many additional copies thereof as there are opponents.

16. 16 :-

Where such application is made by the Barkhalidar personally on his own account In respect of his exclusive property, it shall be signed by him personally.

17. 17 :-

Where such application Is made by the Barkhalldar as head of the undivided family under Section 9(A) of the Act. the same shall be signed by him as head of the family.

18. 18 :-

Where such application Is made by the Barkhalldar In a case of a family divided In interest only and claiming land for self cultivation or all the members of the family jointly as a unit under Section 9(b) of the Act the same shall be signed by the senior most Barkhalidar.

19. 19 :-

Where such application is made by the Barkhalidar whose land was separate from those of other members of the family by metes and bounds before 1st February, 1951, It shall be signed by such Barkhalidar personally.

20. 20 :-

Where such application is made by a Barkhalidar whose father has died after 1st February, 1951 and whose land has been so separated after that date, it shall be signed by such Barkhalidar.

21. 21 :-

Where such application is made by a Barkhalidar who before 1st February, 1951, has held land separately with a tenant, deriving title from him, it shall be signed by such Barkhalidar.

22. 22 :-

Where such application is made, by a Barkhalidar on his own behalf as also on behalf of the other Barkhalidars who were jointly entitled for allotment of land under the Act, the application under rule 13 shall further contain the names of the persons on whose behalf the allotment is prayed for and the full particulars of the joint estate and the Gharkhed of all such persons.

23. 23 :-

The application shall be presented to the Mamlatdar or the Aval Karkun authorised by him for the purpose or shall be sent by registered post.

24. 24 :-

An application received in a manner otherwise than as shown in Rule 23 shall be returned by the Mamlatdar or the Aval Karkun as the case may be to the applicant intimating to him in writing that the application (1) shall be presented to the Mamlatdar or the Aval Karkun authorised for the purpose or (2) shall be sent by registered post.

25. 25 :-

(1) The Mamlatdar or the Aval Karkun as the case may be shall on receiving the application put an endorsement of date of receipt on the application and shall give or send a receipt for the application to the applicant.

(2) The receipt shall be in Form II.

26. 26 :-

The Mamlatdar shall scrutinize the application and if it is Incomplete or there are any defects he shall get them remedied before proceeding further.

27. 27 :-

The contents of the application shall then be entered in the register in Form III. After this has been done a note shall be made on the application as follows:- Entered in the Register on..... Receipt No..... Signature..... Mamlatdar/Aval Karkun.

28. 28 :-

The Mamlatdar shall reject the application where it appears in the face of the application :-

(i) that the relief claimed is not one of the kinds specified in the Act, or

(ii) that the application has been filed beyond the time prescribed In the Act: The Mamlatdar should send the application so rejected with the order rejection thereon to the Government.

29. 29 :-

Where it appears to the Mamlatdar that the subject of the application is not within his jurisdiction, he shall return the same to be presented to the proper authority.

30. 30 :-

Where the Mamlatdar does not reject the application or return the same, he shall consolidate the application for disposal with any other application that may have been presented by tenant or Barkhalidar entitled to allotment of land or occupancy certificate.

31. 31 :-

Where the Mamlatdar does not reject the application or return the same and he is of the opinion that the application is not in respect of the whole estate, he shall call upon the applicant or applicants and such other persons, who are entitled to the allotment of land for personal cultivation from out of the same estate, to submit their applications within a period to be fixed and may postpone the consideration of the application till the required application is received.

32. 32 :-

Where the Mamlatdar on such scrutiny finds that the tenant of the estate or some of them have not applied for occupancy certificate

he shall call upon the tenant or tenants to do so within a fixed period. If no such application is received within such period the Mamlatdar may proceed to dispose of the application on merits, without prejudice to the right of the tenant to do so apply for an occupancy certificate later on.

33. 33 :-

Where an application is not rejected under Rule 28 or returned under Rule 29 the Mamlatdar shall issue notice in duplicate to the opponent or to each of the opponents, if there are more than one, requiring him or them to appear before him on the day, time and at the place fixed: Provided that where the parties are present and they want reasonable time with a view to arrive at a settlement and present an agreement to the Mamlatdar, the Mamlatdar may on an application in writing from both the parties dispense with the issue of a notice.

34. 34 :-

The notice shall be in Form IV and shall be accompanied by a copy of application.

35. 35 :-

The date for hearing the application shall not be normally earlier than fifteen days from the day on which the notice is issued: Provided that the Mamlatdar may fix an earlier date if he considers it convenient to the parties or for speedy and convenient disposal of the application.

36. 36 :-

The place for hearing of the application shall ordinarily be the place of camping of the Mamlatdar, for the time being unless the Mamlatdar for reasons to be recorded or for the convenience of the parties or for speedy and convenient disposal of the application, fixes another place.

37. 37 :-

The Mamlatdar shall also require the applicant to appear with his documents and witnesses, If any, on the date, time and at the place fixed for hearing.

38. 38 :-

(1) The notice shall be served upon the opponent or opponents either by tendering or delivering the duplicate copy thereof to him or them personally or to his or their authorised agent, if any.

(2) If the notice cannot be served in the manner prescribed above the same shall be served by affixing a duplicate copy thereof to some conspicuous place on his house or on his land, to which such notice refers.

(3) The original copy of the notice should be returned to the Mamlatdar duly signed by the opponent as proof of personal service under sub-rule (1) or with an endorsement of substituted service under sub-section (2): Provided that no such notice shall be deemed to be void on account of any error In the name or designation of any person referred to therein unless such error has produced substantial Injustice.

39. 39 :-

(1) Where the applicant fails to attend at the time and at the place fixed, and whether the opponent appears or not, or

(2) the applicant attends but the opponent falls to attend and the Mamlatdar is satisfied from the evidence before him that the notice has been duly served on the opponent and in sufficient time to enable to appear and answer on the date fixed In the notice. The Mamlatdar shall proceed to hear and decide the application ex-parte or to give a decision from the materials on record: Provided that If either party satisfies the Mamlatdar at any time within thirty days from the date of the order that he was prevented by sufficient cause from attending, it shall be lawful for the Mamlatdar to issue a notice in Form V to the opposite party and if satisfied after hearing the opposite party that the applicant was prevented as alleged, he shall proceed to rehear the applicant at such time and place as he may then fix.

40. 40 :-

On the date fixed for hearing, the Mamlatdar may on taking Into consideration the averments in the application and reply thereto of the opponent if any or after hearing parties. If necessary, reduce the points of dispute between the parties In the form of issues.

41. 41 :-

On the day fixed or any day to which the proceedings are adjourned the Mamlatdar shall, subject to the provisions of Rule 39, proceed to hear all the evidence that may be produced by the parties and shall receive such oral or documentary evidence adduced by the parties as is relevant to the determination of the Issues.

42. 42 :-

The Mamlatdar may after due notice to and In the presence of the parties, summon and examine as a witness any person who has not been summoned or produced and may call for and cause to be produced any document which has not been applied for or produced by either of the parties where he considers It expedient in the interests of justice, so to do and may, If he thinks fit, make personal Inspection of the property In question in the presence of and after due notice to parties. He shall without unnecessary delay record a memorandum after hearing the parties on the spot If present of any relevant facts observed at such inspection. The memorandum shall form part of the record of the case.

43. 43 :-

It shall be lawful for the Mamlatdar or an officer authorised by him to enter, when necessary for the purposes of measurement, fixing of inspecting boundaries, classification of soil or assessment or for any other purpose connected with the lawful exercise of his office under the provisions of the Act, any land or premises whether belonging to the State or to private Individuals and whether fully assessed to the land revenue or partially or wholly exempt from the same: Provided always that no building used as a human dwelling shall be entered unless with the consent of the occupier thereof, without a notice having been served on the occupier of the said building not less than two days before such entry and provided also that In the case of buildings of all descriptions, due regard shall be paid to the social and religious prejudice of the occupiers.

44. 44 :-

After evidence has been recorded and parties heard, the Mamlatdar shall record his finding with reasons, on each Issue and then pass an order on the application. The order shall be In Form VI.

45. 45 :-

In arriving at his decision, the Mamlatdar shall first of all determine the Barkhalidars to whom the land is to be allotted for personal cultivation on the following basis:-

(a) Normal condition of the Barkhalldars family should be presumed to be undivided and they should be allotted Gharkhed only to the head of the family on behalf of the family;

(b) In the case of family divided In Interest only to all the

members of the family jointly as to a single unit;

(c) In the case of Barkhalidars whose land was separate from that of other members of the family by metes and bounds before 1st February, 1951, to such Barkhalidars:

(d) In the case of one whose father has died after that date and whose land has been so separate after that date, to such Barkhalldar; or

(e) In the case of one who before that date has held his land separately with a tenant deriving title from him. to such Barkhalldar.

46. 46 :-

(1) A Barkhalldar In whose estate the agricultural land Is equal to two economic holdings or less and who is not a Chakariyat, Dharmada Institution or a Jiwalldar for life, shall be allotted land for personal cultivation to the extent of one half of the total area of agricultural land by each of his tenants: Provided that the total area of land already In his possession under personal cultivation including khalsa land and any Bid land or cultivable waste which he desires to utilise for personal cultivation and of land to be allotted under the provisions of this section shall not exceed one economic holding: Provided further that agricultural land equal to half an economic holding shall in any case be left to each of his tenants, Including any khalsa land that may be in possession of such tenant.

(2)

(a) The Barkhalldar in respect of land allotted to him for personal cultivation under sub-section (1) of Section 8 and the tenant In respect of land allowed to remain In his possession under the said sub-section, shall have a mutual right of pre-emption for ten years for lease or sale at a price to be determined by the Mamlatdar under the rules hereinafter appearing.

(b) The Barkhalldar and the tenant shall contribute to each other the expenses of the well sunk after 1st January 1948 in proportion In the land allotted to the Barkhalldar or allowed to remain In possession of the tenant. If the well sunk by the Barkhalldar or the tenant goes to the tenant or the Barkhalldar respectively, as the case may be.

(3) Nothing contained in this rule shall apply to a Barkhalldar If any

member of his family Is an evacuee within the meaning of the term "evacuee" as defined In the Administration of Evacuee Proper- ty Act, 1950 (No. XXXI of 1950).

Explanation.-For the purposes of this rule, agricultural land shall not Include sites of farm buildings or of dwellings or wadas.

47. 47 :-

For the purposes of allotment of land for personal cultivation whether there is agreement between the parties; the Mamlatdar shall follow the terms of the agreement In passing his orders under the provisions of the Act.

48. 48 :-

After an order has been passed on the application, the Mamlatdar shall cause to be entered in the Register in Form VII the particulars of the case and the order passed.

49. 49 :-

A copy of entries made In the Register in Form VII shall besent to the Collector for recording the particulars In the Register In Form VIII to be maintained in his office.

50. 50 :-

Unless the execution is ordered to be stayed by the Collector in appeal or by the Tribunal in revision, the Mamlatdar shall execute his order in the manner provided In section 20 of the Saurashtra Mamlatdar's Courts Ordinance. 1948 and note the fact of such execution with the date of execution under his signature in Form III.

51. 51 :-

Any party to the case may on application to the Mamlatdar be supplied with certified copies of relevant extracts from the Register in Form VI on payment of the charges prescribed under the Bombay Land Revenue Rules as applied to the State.

52. 52 :-

In giving his decision the Mamlatdar shall also suggest as far as possible, the ways and the methods by which the holding of the Barkhalidar or his tenant, wherever it is or becomes less than an economic holding, may be supplemented by additional land in the same or the neighbouring village: Provided that the Mamlatdar shall have due regard to the priority for additional land to be given as under:-

- (1) A Barkhalidar or a cultivator who is left with less than an economic holding:
- (2) A tenant who Is evicted before the commencement of this Act and who Is without any land:
- (3) Any other agriculturist.

53. 53 :-

Where a Barkhalidar is entitled to half the agricultural land of any cultivator, the Mamlatdar may call upon the cultivator to prepare lots of the agricultural land in equal shares and the Mamlatdar may then call upon the Barkhalidar to select one of the lots.

54. 54 :-

The Government may direct the Mamlatdar of the group to work in consultation with or In co-operation with a local committee consisting of the representatives of the Barkhalidars and the cultivators in that area. The Mamlatdar shall, as far as possible. work in co-operation with such a committee.

55. 55 :-

The opinion of the committee shall be recorded by the Mamlatdar and where the decision of the Mamlatdar differ from the opinion of the Committee, the Mamlatdar shall record his reasons for not accepting the opinion of the Committee.

56. 56 :-

In any case. where the land is allotted to Barkhalidar for personal cultivation after Vaishakh Sud 3rd, the same shall be demarcated and the legal possession given to the Barkhalidar. The tenant shall be permitted to ripen and remove the standing crops and physical possession will automatically go to the Barkhalidar as soon as the crops are removed.

CHAPTER 3

Issue of Occupancy Certificate to Barkhalidar

57. 57 :-

The Mamlatdar may either of his own motion or on an application received In this behalf from a Barkhalidar issue an occupancy certificate to the Barkhalidar in respect of the Gharkhed comprised In his estate and the land allotted to him for personal cultivation under Section 7 . Application for an occupancy certificate to be made by a Barkhalidar shall be In Form IX.

58. 58 :-

On receiving the application as per Rule 57, the Mamlatdar shall follow the procedure contained in Rule 24, Rule 25, Rule 26 and Rule 27.

59. 59 :-

The Mamlatdar shall, after making such inquiry as he deems fit to satisfy himself regarding the right of the applicant to the Gharkhed comprised in the estate and the land allotted to him in accordance with Section 6 to Section 9 of the Act, issue an occupancy certificate to the Barkhalidar subject to any conditions that may be Imposed in the occupancy certificate in accordance with the provisions of clause (a) of sub-section (2) of Section 8 , where applicable.

60. 60 :-

For the purpose of issuing occupancy certificate under Rule 59 Gharkhed cultivated personally by a holder of Religious or Charitable Institutions shall be deemed to be land' and Religious or Charitable Institution shall be deemed to be an occupant of such land.

61. 61 :-

The occupancy certificate shall be In Form X.

CHAPTER 4

Acquisitions of Occupancy Rights by a Tenant

62. 62 :-

Subject to the provisions contained in Section 6 of the Act, regarding allotment of land for personal cultivation, a tenant shall at any time to entitled to acquire occupancy rights In respect of his holding.

63. 63 :-

The application for acquisition of occupancy rights under Rule 62 shall be In Form XI.

64. 64 :-

On receiving the application the Mamlatdar shall follow the procedure in Rule 24, Rule 25, Rule 26 and Rule 27.

65. 65 :-

The Mamlatdar shall ascertain from his register if any application has been received from the Barkhalidar or any other tenant.

66. 66 :-

If any application has been so received, the Mamlatdar shall proceed to dispose of the application from the tenant along with such application or applications.

67. 67 :-

If the Mamlatdar is satisfied that no application is received, the Mamlatdar shall ascertain whether the Barkhalidar is entitled to allotment of land for personal cultivation.

68. 68 :-

If the Mamlatdar is satisfied after such an enquiry that the Barkhalidar is not entitled to any land for personal cultivation he shall proceed to dispose of the application on merits.

69. 69 :-

If the Mamlatdar is satisfied that the Barkhalidar may be entitled to allotment of land for personal cultivation the Mamlatdar shall proceed to call upon the Barkhalidar to submit application within a period to be fixed. In the case of refusal or failure on the part of the Barkhalidar to submit such an application the Mamlatdar may proceed to dispose of the application on merits.

70. 70 :-

The Mamlatdar shall then proceed to hold the Inquiry on such application and shall follow the provisions contained In Rule 28, Rule 29 and Rule 33 to Rule 44.

71. 71 :-

While passing the order under Rule 70 the Mamlatdar may, subject to any order of allotment under the provisions of the Act, pass an order specking therein-

(a) the holding or the part thereof in respect of which the tenant may be declared to be an occupant (hereinafter referred to as an occupancy holding), and

(b) the assessment of such occupancy holding.

72. 72 :-

The occupancy certificate shall be in Form XII and the tenant shall become an occupant accordingly, subject to any conditions that may be imposed In the occupancy certificate, In accordance with the provisions of clause (a) of sub-section (2) of Section 8 , where applicable.

73. 73 :-

After an order has been passed on the application, the Mamlatdar shall cause to be entered in the statement of particulars in Form VII, the particulars of the case and the order passed. A copy of such entries shall be sent to the Collector for introducing the same in Register in Form VIII.

74. 74 :-

Any party to the case may on application to the Mamlatdar be supplied with certified copies of relevant extracts of the above order on payment of the charges prescribed under the Bombay Land Revenue Rules as applied to the State.

74A. 74A :-

A widow-Jivaidar may submit her application for maintenance allowance under Section 18A to the Mamlatdar in Form No. XII-A.

74B. 74B :-

On receiving an application under Rule 74A and before making such Inquiry as may be necessary, the Mamlatdar shall follow the procedure prescribed in Rule 24, Rule 25, Rule 26 and Rule 27.

74C. 74C :-

The order of the Mamlatdar in respect of an application mentioned in Rule 74A shall be in Form No. XII-B.

CHAPTER 5

Enforcing Rights of Pre-emption by the Barkhalidar or the Tenant

75. 75 :-

The Barkhalidar in respect of land allotted to him for personal cultivation under sub-section (1) of Section 8 of the Act and the tenant in respect of land allowed to remain in his possession under the said sub-section shall have a mutual right of pre-emption for 40 years for lease or sale at a price to be determined by the Mamlatdar under the provisions hereinafter appearing.

76. 76 :-

(1) Where a Barkhalidar or a tenant Intends to lease or sell his occupancy holding at any time within ten years, the Barkhalldar or tenant as the case may be shall give notice in writing to the tenant or Barkhalldar requiring him to state within three months from the date of service of such notice whether he is willing to keep on lease or purchase the holding.

(2) If within the period of three months so specified the tenant or the Barkhalldar intimates in writing that he is willing to keep on lease or purchase the holding, the Barkhalldar or tenant as the case may be shall make an application in Form XIII to the Mamlatdar for the determination of price of the lease or sale.

77. 77 :-

The Mamlatdar shall, on receiving the application follow the procedure contained in R.24R.25R.26R. 27. The Mamlatdar shall then make inquiry on such application In accordance with the p r o v i s i o n s contained in R.33R.34R.35R.36R.37R.38R.39R.40R.41R.42R.43R.44.

78. 78 :-

For the purpose of determining the price, the Mamlatdar shall take Into consideration one or more of the following factors:-

1. The price shall be computed on the market value of such or similarly situated land, or
2. The price shall be twenty times, the assessment, or
3. The price shall be twenty times the net annual value i.e. the rent after deduction of land revenue local, rates and cost of management.

79. 79 :-

The Mamlatdar shall, by an order In writing require the tenant of Barkhalldar to deposit the price so determined within one month from the date of the order.

80. 80 :-

On the deposit of such amount, the land shall be deemed to have been transferred to the tenant or the Barkhalldar and the amount deposited shall be paid to the Barkhalldar or the tenant as the case may be.

81. 81 :-

The Mamlatdar shall then grant a certificate to the tenant or a Barkhalldar specking the land so transferred,

82. 82 :-

If the tenant or the Barkhalldar falls to intimate his willingness to keep or lease or purchase the land within the time specified in Rule 75 or falls to deposit the amount of price within the time specified In Rule 81, the tenant or Barkhalldar as the case may be, he shall

be deemed to have relinquished his right or pre-emption and the Barkhalldar or tenant shall then be entitled to lease or sell the same to any other person.

82A. 82A :-

(1) Where a Barkhalldar or a tenant leases or sells the land. in respect of which they have the mutual right of pre-emption for 10 years as provided In clause (a) of Section 8 , to a person other than his tenant or Barkhalldar without complying with the provisions contained In Rule 76, the Collector may give notice In writing to such lessee or purchaser, as the case may be, requiring him to show cause In writing, within such reasonable period as may be specified In the notice, why he should not be evicted under the provision of Section 38 from the land leased or sold to him.

(2) After receiving the reply of the lessee or the purchaser, as the case may be, the Collector shall proceed to hear the lessee or the purchaser, as the case may be. and the Barkhalldar and the tenant concerned on such date as may be fixed and may be communicated by him to the parties and after hearing them he may pass such order as he thinks proper under Section 38 .

82B. 82B :-

If the order passed under sub-rule (2) of Rule 82A directs that the lessee or the purchaser, as the case may be. shall be summarily evicted, the land In respect of which such order is passed, shall revert to the Barkhalldar or the tenant, as the case may be, and such Barkhalldar or tenant as the case may be, shall be free to lease or sell such land if he Intends to do so In accordance with the provisions of this Chapter.

CHAPTER 6

Miscellaneous

83. 83 :-

The Mamlatdar shall, for the purpose of determining the assessment on any land under Section 19 of the Act, follow the following procedure;-

(1) In a village where there is a Khalsa as well as non-khalsa land, the assessment of the non-khalsa land in that village shall be same as the average of the assessment of the Udhad of the khalsa land in that village: Provided however, that, in the case of very rich land or garden land with fruit trees situated in a village, If the

assessment of such land, calculated on the basis of average rate of assessment in the village. is low having regard to the produce of such land, the assessment of such land shall be calculated at four times, three times or double the average rate of assessment prevailing In the village according to such land is classified as Uttam, Madhyam or Kanishta having regard to the quality of the land or soil and the number of fruit trees growing or standing on such land.

(2) In a village which is wholly non-khalsa, the assessment for that village shall be calculated on an arithmetic average of the assessment or udhad leviable in the surrounding and adjoining khalsa lands or villages.

Note.-(1) In calculating the assessment as above, no khalsa village is to be omitted: (2) A khalsa villages Includes a village which is partly khalsa; (3) Where there is no Khalsa village or villages adjoining a non- khalsa village or group of non-khalsa village, the assessment of such bordering non-khalsa village in the group which i s adjacent to any one or more khalsa village shall first be determined. The assessment of such non-khalsa village will then be taken into consideration for other adjoining non-khalsa villages inside the group and so on. Frustration.-The sketch given here below shows a group of non-khalsa villages, assessment of which is to be determined. The villages shown by alphabetical letters are non-khalsa villages, while those by numerical figures are khalsa. R and T are villages on the outermost border of the group. The assessment of non-khalsa village R should be determined on the basis of the average of the averages of assessment or udhad of the khalsa villages 3, 4, 12 and 13. Similarly the assessment of non-khalsa village T should be determined on the basis of the average of the averages of the assessments of udhad of khalsa villages 7 and 8 and other khalsa villages. if any, adjoining nonkhalsa village T. The assessment of non-khalsa village H should be determined on the basis of the average of the averages of assessment or udhad of khalsa villages 1 and 2; and of non-khalsa village I from that of 2, 3. R ,, ,, ,, J ,, ,, R4, and K ,, ,, , K ,, ,, 4,5 and 14 ,, ,, ,, L ,, ,, 5, 6 ,, ,, ,, M ,, " 6, 7 ,, ,, ,, N ,, " 7, T. and 8 ,, ,, ,, O ,, ,, 8, 9, 10 ,, ,, , P ,, ,, 10, 11, and ,, ,, ,, Q " " 1, and 11 Assessment of B. C. D, E, F and G will then be determined from that of the assessment determined as above for the adjoining nonkhalsa villages and that of A will be determined from the assessment determined for the non-khalsa villages adjoining that village: Provided that where the assessment so worked out is manifestly unfair, the Mamlatdar shall send a report to the Government and the Government may modify it keeping in view the above principles.

83A. 83A :-

The assessment determined according to the procedure laid down in Rule 83 above shall be published by the Mamlatdar by affixing a copy of his order determining the assessment at the village Chora or any conspicuous part of any public place in the village concerned and the Mamlatdar shall also simultaneously publish the same at his office: Provided that where the assessment so worked out is, in the opinion of the Mamlatdar manifestly unfair, the Mamlatdar shall send a report to the Government through the Collector of the District and the Government may modify it keeping in view the above principles and the publication by the Mamlatdar of such modified rates will be sufficient publication for the purposes of the Act and the Rules: Provided further that where there is an objection filed by any person concerned within two months from the date of publication by the Mamlatdar on the ground that the assessment so worked out is manifestly unfair, the Mamlatdar shall send his report on the objection petition to the Government through the Collector of the District and the Government may modify it keeping in view the above principles and the publication by the Collector or such modified rates will be sufficient publication for the purposes of the Act and the Rules.

84. 84 :-

Where the calculation of assessment are already made according to Rule 83 and are available they shall be deemed to have been made under the rule.

85. 85 :-

(1) The Collector in appeal and the Tribunal in revision may confirm modify or rescind the order in appeal or revision as the case may be or may pass such other order as may seem legal and just in accordance with the provisions of the Act.

(2) The order of the Collector in appeal or of the Tribunal in revision shall be executed in the manner provided for execution of the order of Mamlatdar under Section 26 of the Act.

86. 86 :-

The final order in appeal or the revision, as the case may be, shall when communicated to the Mamlatdar, be recorded by him in the relevant Registers.

87. Court-Fees :-

(1) Every application made to a Mamlatdar under the Act and the

Rules shall bear a court fee stamp of annas eight and every memorandum of appeal or application made to the Collector shall bear a court fee stamp of Rupees two.

(2) Every revision application made to the Saurashtra Revenue Tribunal under the Act and Rules shall bear a court fee stamp of Rupees five.

88. 88 :-

Save with the express permission in writing of the Commissioner, no pleader shall be entitled to appear before any Mamlatdar in matters or proceedings arising of this Act.

89. 89 :-

The Commissioner shall perform the following functions:-

(a) He will be the controlling and supervising authority with a view that the Act and Rules made thereunder are properly administered-

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(b) In respect of the officers employed for performing the functions for carrying out duties and exercising the powers which are conferred on them by the Act and the Rules made thereunder, the Commissioner shall subject to the provisions of Section 40 have the powers and control which he has over the officers subordinate to him:

(c) He will cause to be maintained In each village a Register in Form VII showing the details of a Barkhalldar's Gharkhed land, the details of his other land over which tenants have acquired occupancy rights (Section 10), to and the cash annuity to be paid under Section 18 :

(d) He will cause such Registers to be maintained-

(i) Village-wise In a Taluka/Mahal,

(ii) Taluka/Mahal-wise in Collector's office and

(ii) District-wise in his own office;

(e) He may also prescribe from time to time such other Registers as he may deem necessary to carry out the purposes of the Act and the Rules.

90. 90 :-

The office authorised under the sub-section (3) of Section 40 of the

Act to hear the parties concerned in matters referred to him by Government under the provisions of the said section shall, for the purpose of giving to the parties concerned an opportunity to be heard follow, as far as practicable, the procedure prescribed in Rules 8, 9 and 10 of the Saurashtra Land Reforms and the Saurashtra Barkhall Abolition (Tribunal Procedure) Rules. 1952.