

SAURASHTRA ESTATES ACQUISITION ACT, 1952

3 of 1952

[]

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Abolition of Girasdari and Barkhali tenures
4. Consequences of abolition of Girasdari or Barkhali in any Estate
- 4A. Acquisition of occupancy rights and purchase of superstructures by tenants and mortgages in possession of certain village site lands
- 4B. Bar of eviction from village site land and superstructure
- 4C. Extension of time for acquisition of occupancy rights in village site lands and for purchasing superstructure under Sec. 4-A
5. Certain lands not to be acquired
6. Restrictions on certain transactions
- 7 . Compensation payable to Girasdars and Barkhalidars for extinguishment of their rights
8. Appeal against the Collectors award
9. Procedure before the Revenue Tribunal
10. Limitation
11. Court Fees
12. Finality of the award and decision of the Revenue Tribunal
13. Inquiries and proceedings to be judicial proceedings
14. Method of compensation for the extinguishment or modification of any other rights
15. Certain mortgages and charges not enforceable against estates acquired
16. Rules
17. Application of the Code to Girasdari or Barkhali lands
18. Repeal and Amendment

SAURASHTRA ESTATES ACQUISITION ACT, 1952

3 of 1952

[]

An Act to provide for acquisition of certain estates of Girasdars and Barkhalidars and for certain other matters. Whereas, it is expedient to acquire certain estates of Girasdars and Barkhalidars of Saurashtra and to provide for certain matters connected

therewith:- It is hereby enacted as follows :-

1. Short title, extent and commencement :-

(3) It shall come into force at once.

2. Definitions :-

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

(a) "Bid land" means such land as on the 17th April, 1951 was specifically reserved and was being used by a Girasdar or Barkhalidar for grazing cattle or for cutting grass:

(b) "Cultivable waste" means cultivable land which has remained uncultivated for a period of three years or more before the 17th April, 1951;

(c) "estate" means all land of whatever description or undivided share thereof held by a Girasdar or a Barkhalidar;

(d) "gaucher means land earmarked for the pasture of village cattle and known as gaucher;

(e) "land" means land of any description whatsoever and includes benefits arising out of land and things attached to the earth, or permanently fastened to anything attached to the earth: and

(f) words and expressions used, but not defined, in this Act, and defined in the Saurashtra Land Reforms Act, 1951, the Saurashtra Barkhali Abolition Act, 1951, shall have the meaning assigned to them in those Acts.

3. Abolition of Girasdari and Barkhali tenures :-

(2) A notification under sub-sec. (1) may be issued in respect of an estate or part of an Estate or in respect of all estates in any area specified in the notification.

4. Consequences of abolition of Girasdari or Barkhali in any Estate :-

When a notification is issued by the Government in respect of an estate or any part thereof under Section 3 , then, with effect from the date specified in the notification, the following consequences shall, in respect of that estate or part thereof, ensue, namely :-

(b) a Girasdar or a Barkhalidar shall, subject to the provisions of this Act, be deemed to be an occupant in respect of all other land

held by him.

4A. Acquisition of occupancy rights and purchase of superstructures by tenants and mortgages in possession of certain village site lands :-

(3) On receipt of an application under sub-sec. (2) the Collector shall, after holding an inquiry in the prescribed manner, pass an order specifying the amount payable by the tenant or the mortgagee in possession, as the case may be, under sub-sec. (1).

(4) The amount determined by the Collector as payable by a mortgagee- in-possession shall be adjusted against the amount found due to him either by the Board under the Saurashtra Agricultural Debtors' Relief Act, 1954, or by any competent Civil Court.

4B. Bar of eviction from village site land and superstructure :-

Notwithstanding anything contained in this Act or in any other land for the time being in force, a tenant or a mortgagee in possession shall not be evicted from the village site land and superstructure thereon, if any, in respect of which he is entitled to make an application for the purchase of occupancy rights in such land and superstructure thereon under Section 4A , until such application if made, is disposed of and where no such application is made, until the period fixed for it under sub-sec. (2) of Section 4A has expired.]

4C. Extension of time for acquisition of occupancy rights in village site lands and for purchasing superstructure under Sec. 4-A :-

5. Certain lands not to be acquired :-

(2) If any bid land or village site land is not acquired under the provisions of sub-sec. (1) and such bid land or village site land is used by the Girasdar or Barkhalidar for a different purpose, it shall be liable to be acquired under the provisions of Sec. 4.

6. Restrictions on certain transactions :-

No sale, mortgage or transfer of any kind whatsoever of village site land, cultivable waste land, bid land or uncultivable waste land effected by a Girasdar or a Barkhalidar after the 17th day of April, 1951, shall be effective so as to confer any rights or remedies on

the parties to such transfer or any person claiming under them, unless it is confirmed by an officer authorised in this behalf by the Government.

7. Compensation payable to Girasdars and Barkhalidars for extinguishment of their rights :-

(2) Every award made under sub-sec. (1) shall be in the form prescribed in Sec. 26 of the Land Acquisition Act, 1894, as adapted, and the provisions of the said Act shall, so far as may be, apply to the making of such awards.

(3) If there is any dispute as to whether any land is bid land, cultivable waste, or gaucher or not, the decision of the Settlement Commissioner shall be final.

8. Appeal against the Collectors award :-

An appeal shall lie against an award of the Collector to the Saurashtra Revenue Tribunal constituted under the Saurashtra Revenue Tribunal Ordinance, 1949. notwithstanding anything contained in the said Ordinance.

9. Procedure before the Revenue Tribunal :-

(1) The Saurashtra Revenue Tribunal shall, after giving notice to the appellant and the Government, decide the appeal and record its decision.

(2) In deciding appeals under this Act, the Saurashtra 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.

10. Limitation :-

Every appeal made under this Act to the Saurashtra Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of Secs. 4, 5, 12 and 14 of the Indian Limitation Act, 1908 shall apply to the filing of such appeal.

11. Court Fees :-

Notwithstanding anything contained in the Court Fees Act, 1870, as adapted and applied to State of Saurashtra, every appeal made under this Act to Saurashtra Revenue Tribunal shall bear a Court fee stamp of such value as may be prescribed.

12. Finality of the award and decision of the Revenue Tribunal :-

The award made by the Collector, subject to an appeal to the Saurashtra Revenue Tribunal, and the decision of the Saurashtra Revenue Tribunal on the appeal shall be final and conclusive and shall not be questioned in any suit for proceeding in any Court.

13. Inquiries and proceedings to be judicial proceedings :-

All inquiries and proceedings before the Collector and the Saurashtra Revenue Tribunal under this Act shall be deemed to be judicial proceedings within the meaning of Sees. 193, 219 and 228 of the Indian Penal Code. 1860.

14. Method of compensation for the extinguishment or modification of any other rights :-

(2) The Collector shall, after holding a formal inquiry in the manner provided in the Code, make an award deciding such amount of compensation as he deems reasonable and adequate. In deciding the amount of compensation, the Collector shall be guided by the provisions of sub-sec. (1) of Sec. 23 and Sec. 24 of the Land Acquisition Act, 1894, as adapted.

(3) The provisions of Sees. 8 to 13 (both inclusive) shall, so far as may be, apply to the proceedings in respect of such award or appeal, as the case may be.

15. Certain mortgages and charges not enforceable against estates acquired :-

Notwithstanding anything contained in any contract or any law for the time being in force, no claim or liability, whether under any decree or order of a Civil Court or otherwise enforceable against a Girasdar or a Barkhalidar for any money which is charged or is secured by a mortgage of any estate which is acquired by Government under the provisions of this Act, shall be enforceable against such acquired estate and every such claim or liability shall be deemed to be a charge on the compensation payable to the Girasdar or the Barkhalidar In respect of such estate.

16. Rules :-

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

(3) Rules made under this section shall be subject to the condition

of previous publication.

17. Application of the Code to Girasdari or Barkhali lands :-

Subject to the provisions of this Act, the provisions of the Code apply and are hereby declared to apply to all Girasdari or Barkhali lands.

18. Repeal and Amendment :-

In Sec. 19 of the Saurashtra Gharkhed Tenancy Settlement and Agricultural Lands Ordinance, 1949 (Ord. No. XLI of 1949)-

(a) in sub-sec. (1), for the words "Subject to the provisions of sub-secs. (2) and (3)", the word 'The' shall be substituted.

(b) sub-sec. (2) and (3) shall be omitted.