

## **SAURASHTRA LAND REFORMS ACT, 1951**

**25 of 1951**

**[July 23, 1951]**

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## **SAURASHTRA LAND REFORMS ACT, 1951**

**25 of 1951**

**[July 23, 1951]**

An Act to provide for certain measures of land reforms in Saurashtra. WHEREAS for the improvement of land revenue administration land for ultimately putting an end to the Girasdari system, it is necessary to regulate the relationship between the Girasdars and tenants, to enable the latter to become occupants of the land held by them and to provide for the payment of compensation to the Girasdars for the extinguishment of their rights:-

### CHAPTER 1

#### Preliminary

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

- (1) This Act may be called the Saurashtra Land Reforms Act, 1951.
- (2) It extends to the whole of Saurashtra are of the [State of Gujarat].
- (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

## **2. Definition :-**

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

(1) "Agricultural Land" means any land, including wells, which is used for the purpose of agriculture and includes-

(a) Sites of farm buildings appurtenant to land used for agricultural purposes; and

(b) sites of dwelling houses and wadas occupied by agriculturists, agricultural, labourers or artisans and land appurtenant to such dwelling houses:

(2) "Agriculture" includes horticulture and the raising of crops, fodder or garden produce:

(3) "Agriculturist" means a person who cultivates the land personally:

(4) "Bhagdar" means a share-holder of a Talukdar;

(5) "Bhayat" means any person who was recognised as such either by the late Rajasthani Court, the late Political Agency or the late Western India State Agency, or any heir or successor of such person, provided that where the great-grand-father, grand father or father is alive, only the great-grand-father, grand- father or the father, as the case may be, who is alive shall be deemed to be the bhayat for the purpose of this Act:

(6) "Bid land" means such land as has been used by the Girasdar for grazing his cattle or for cutting grass for the use of his cattle;

(7) "cadet" means a brother or a son of a ruler to whom a grant of land was made by such ruler after the 14th day of August 1947, and who is allowed to retain such grant by the Government or any heir or successors of such person;

(8) "Code" means the Bombay Land Revenue Code, 1879 as adapted and applied to the Saurashtra area of the [State of Gujarat];

(9) "Collector" includes an officer appointed by the Government to exercise the powers and perform the functions, of the Collector under this Act;

(10) "Cultivate" means to carry on agricultural operation:

(11) "Cultivate personally" or any cognate expression means to cultivate on one's own account:-

(a) by one's own labour,

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

(c) by servants on wages payable in cash or in kind but not in a share of the crops or by hired labour, under one's personal supervision or the personal supervision of any member of one's family.

Explanation I.- An agriculturist who is a widow or a minor or is subject to any physical or mental disability or who is in service as a member of the Armed Forces shall be deemed to cultivate the land personally if it is cultivated by the servants or by hired labour of such person.

Explanation II.- In the case of an undivided Hindu family, the land shall be deemed to have been cultivated personally if it is cultivated by any member of such family:

(12) "Economic holding" in relation to any region specified in column I of the First Schedule, means a holding of land of an area shown in the corresponding entry in column 2 thereof:

(13) "Estate" means all land of whatever description or an undivided share thereof held by a Girasdar and includes uncultivable waste, whether such land is used for the purposes of agriculture or not:

(14) "Gharkhed" means any land reserved by, or allotted to a Girasdar before the 20th May, 1950 for being cultivated personally, and in his personal cultivation:

Provided that where such reservation in respect of any land was made by the Girasdar after the 1st day of January, 1948, but before the 20th May, 1950, and an application disputing such reservation was made to the competent authority before 1st May, 1951 and is pending at the commencement of this Act, the said authority shall decide whether the land shall be Gharkhed:

Provided further that where such reservation was made in respect of any land by the Girasdar after the 20th May, 1950, or where such reservation having been made at any time between the 1st January, 1948, and the 20th May, 1950, the land was let out to another tenant after the 20th May, 1950, a tenant aggrieved in

consequence of such reservation or letting out as the case may be. may file an application to the Mamaatdar within 90 days from the commencement of this Act, and Mamlatdar shall decide such application in accordance with the provisions of the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949, (Ord. No. XLI of 1949) and if he decides that the tenant was dispossessed from the land in contravention of the provisions of that Ordinance, or that the tenant is entitled to restoration of the land, that land shall not be deemed to Gharkhed.

Explanation.- For the purposes of this clause, any land reserved by, or allotted to a, Girasdar for being cultivated personally after 1st January 1948, shall continue to be Gharkhed notwithstanding

(a) that the Girasdar has allowed the land to be cultivated by the tenant cultivating the same on 1st January, 1948. under the provisions of clause (h) of section 2 of the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949: or

(b) that at any time after the 1st January, 1941, but before the 20th May, 1950, the land was given to a tenant for being cultivated by him.

(15) "Girasdar" means any talukdar, bhagdar, bhayat, cadet or mulgirasia and includes any person whom the Government may, by notification in the Official Gazette, declare to be a Girasdar for the purposes of this Act:

(16) Deleted.

(17) "Holding" means a parcel or parcels of land or an undivided share thereof, held by a tenant or an occupant and forming the subject of a separate tenancy or occupancy holding as the case may be;

(18) "Land" means any agricultural land, bid land or cultivable waste;

(19) "Mamlatdar" includes Mahalkari, and any officer appointed by the Government for performing all or any of the functions of a Mamlatdar under this Act:

(20) "Mul-girasia" means any person who was recognised as such either by the late Rajasthani Court, the late Political Agency, or the late Western India State Agency, or any heir or successor of such person, provided that where the great grand- father, grand-father

or father of any Mulgirasia is alive, only the great grand-father, grand father or father, as the case may be, who is alive shall be deemed to be a Mulgirasia for the purposes of this Act;

(21) "Occupancy rights" means all the rights which an occupant has under this Act or under the Code in respect of land held by him as an occupant;

(22) Occupant" means a person who is in lawful possession of any land held directly from the Government and who has all the right which an occupant has under this Act, or under the Code, in respect of land held by him as an occupant;

(23) "Person" includes an undivided Hindu family:

(24) "Prescribed" means prescribed by rules made under this Act;

(25) "Schedule" means a schedule to this Act:

(26) "Settlement Commissioner" means an officer appointed as such by the Government under this Act;

(27) Deleted.

(28) Talukdar" means a talukdar whose name stood on the Tribute List maintained by the late Political Agency on the 14th August, 1947, or who owned an estate on political tenure subject to administrative charges on the 14th August, 1947, and includes any bhagdar (share- holder) and peta-bhagdar (sub-sharer) or any heir or successor or such person provided that where the great grand-father or father of any talukdar is alive, only the great- grand-father, grand father or the father, as the case may be, who is alive shall be deemed to be talukdar for the purposes of tills Act;

(29) Tenancy" means the relationship of Girasdar and tenant in respect of a holding;

(30) Tenant" means an agriculturist who holds land on lease from a Girasdar or a person claiming through him, and includes a person who is deemed to be a tenant under the provisions of this Act:

(31) "Tribunal" means the Saurashtra Revenue Tribunal;

(32) "Year or revenue year" means the year ending on the 31st day of July;

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

in the Code.

### **3. Act to over-ride other laws :-**

Save as otherwise expressly provided in this Act, the provisions of this Act and of the rules and orders made thereunder shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law or any usage, agreement, grant, sanad or any court or other authority'.

## **CHAPTER 2**

Land Revenue and Classification of Girasdars

### **4. All Girasdari land liable to payment of land revenue :-**

It is hereby declared that all land of whatever description held by a Girasdar is and shall continue to be liable to the payment of land revenue to the [State of Gujarat].

### **5. Classification of Girasdars :-**

(1) For the purposes of making allotment of land under Chapter IV, or of payment of rehabilitation grant under Chapter VI, or of assessment of land revenue payable under section 40, Girasdars may, subject of the provisions of this section, be classified as follows, namely:-

(a) A Girasdar shall be deemed to belong to A class if the total area or agricultural land comprised in his estate exceeds eight hundred acres:

(b) A Girasdar shall be deemed to belong to B class if the total area of agricultural land comprised in his estate exceeds one hundred and twenty acres but does not exceed eight hundred acres;

(c) A Girasdar shall be deemed to belong to C class if the total area of agricultural land comprised in his estate does not exceed one hundred and twenty acres:

(2) Where for the purpose of making an allotment of land to a Girasdar under Chapter VI, it is necessary to ascertain the class to which he belongs and the total area of the agricultural land comprised in his estate, belongs exclusively to the Girasdar, notwithstanding that the santi vero in respect of such land belongs to the State, but shall not include any agricultural land-

(a) in respect of which a tenant has acquired chau or buta hak; or



(b) which is held by a Girasdar in any Girasdar Majmu village specified in the Second Schedule: or

(c) in the vaje or the produce of which the State had a share on or before the 1st January, 1948: or

(d) in which there is any mine, minerals, stones, coal, kankar, trees, aval or any other similar thing which on or before 1st January, 1948, belonged exclusively to the State or to the State jointly with the Girasdars.

Explanation.- For the purpose of tills sub-section, agricultural land shall not include site of farm buildings or of dwellings or wadas.

(3) Where for the purpose of payment of rehabilitation grant to a Girasdar under Chapter VI or for determining the assessment payable by him under section 40, it is necessary to ascertain the class to which he belongs and the total area of agricultural land comprised in his estate, such total area shall include agricultural land-

(a) in respect of which the vaje belongs exclusively to the Girasdar, notwithstanding that the santi vero in respect of such land belonged to the State:

(b) in respect of which a tenant has acquired chaw or buta hak:

(c) which is held by a Girasdar in any Girasdar Mcymu village specified in the Second Schedule;

(d) in the vaje or the produce of which the State had a share on or before the 1st January, 1948: and

(e) in which there is any mine, mineral, stone, coal, kankar, trees, aval or any other similar thing which on or before 1st January, 1948, belonged exclusively to the State or to the State jointly with the Girasdar.

Explanation.- For the purposes of this section, "State" means any Covenanting State or any talukdar who has accepted privy purse.

### CHAPTER 3

Girasdars and their Relationship with Tenants

#### **6. Persons when deemed to be tenants :-**

(1) Any person who is lawfully cultivating any land belonging to a Girasdar shall, for the purposes of this Act, be deemed to be the tenant:

Provided that no such person shall be deemed to be a tenant if he-

(a) is a member of the Girasdars family; or

(b) is a servant on wages payable in cash or in kind but not in a share of the crops, or is a hired labourers cultivating the land under the personal supervision of the Girasdar or any member of his family: or

(c) is a mortgagee In possession.

Explanation.- A person who is otherwise deemed to be a tenant shall not cease to be a tenant, only on the ground that he is also a mortgagee in possession.

(2) A tenant who, on joining the Armed Forces of India, had given land for cultivation to a sub-tenant, shall be deemed to be a tenant for the purposes of this Act.

(3) Notwithstanding anything contained in sub-section (1) a person shall not be deemed to a tenant under this section if such a person has been previously declared by a competent authority not to be a tenant.

#### **7. Restrictions on rent :-**

It shall not be lawful for a Girasdar to recover from any tenant in respect of any holding of that tenant any rent exceeding an amount equal to one and a half times the assessment thereon:

[Provided that where a tenant has not filed an application on or before the 31st December, 1954, for the acquisition of occupancy rights in respect of his holding under section 28, the Girasdar may recover after the date any rent not exceeding an amount equal to two and a half times the assessment on such holding.]

#### **8. Cess, rate, hak, tax or service not leviable :-**

It shall not be lawful for a Girasdar to levy or receive from any tenant in respect of any holding of that tenant any cess, rate hak, tax or service of any description or denomination whatsoever in addition to the rent lawfully recoverable under section 7.

#### **9. Penalty, refund and compensation :-**

If the Mamlatdar, after due inquiry in the prescribed manner, is satisfied that a Girasdar has recovered any rent, cess, hak, rate, tax or received any service from any tenant in contravention of the provisions of section 7 or section 8, the Mamlatdar may direct the

Girasdar-

(a) to pay to the Government as penalty such sum not exceeding one thousand rupees as the Mamlatdar deems fit:

(b) where the Girasdar has made any such unlawful recovery as aforesaid from the tenant, to refund such amount to the tenant: or

(c) where the Girasdar has received any service from any tenant, to pay to the tenant such sum by way of compensation as the Mamlatdar deems fit.

**10. Land revenue payable by Girasdar :-**

A Girasdar shall, in respect of any land for which rent is payable to him by a tenant, be liable to pay to the Government as land revenue a sum equal to twelve and half per cent of the assessment on that land.

**11. Suspension or remission of rent :-**

(1) Whenever from any cause the payment of the whole of land revenue payable to the Government by a Girasdar in respect of any land is suspended or remitted, the Girasdar shall suspend or remit, as the case may be, the payment to him of the rent of such land by his tenant. If in the case of such land, the land revenue is partially suspended or remitted, the

(2) No application for assistance under section 86 and 87 of the Code shall be entertained, no suit shall lie and no decree of a civil court shall be executed for the recovery by a Girasdar of any rent, the payment of which has been remitted, or during the period for which the payment of such rent has been suspended under this section. The period during which the payment of rent is suspended under this section shall be excluded in computing the period of limitation prescribed for any suit or proceeding for the recovery of such rent.

(3) Notwithstanding anything contained in section 86 and 87 of the Code. the Collector shall, in passing an order under sub- section (2) of section 87 of the Code, for rendering assistance to the Girasdar, allow to the tenant set off for the sum, if any, paid by such tenant to the Girasdar in excess of the amount of rent due from him after deducting the amount required to be remitted under sub-section (1) of this section. The set-off under this sub-section shall be allowed only in respect of the sums paid by such tenant to such

Girasdar during a period of three years immediately preceding the date of the application- made under section 86 of the Code.

(4) If any Girasdar fails to suspend or remit the payment of rent as provided in section, he shall be liable to refund to the tenant the amount recovered by him in contravention of this section. The tenant may apply to the Mamlatdar for the recovery of the amount and the Mamlatdar may, after making an inquiry, make an order for the refund.

## **12. Termination of tenancy :-**

(1) No tenancy shall be terminated except in accordance with the provisions of Chapter IV. or except on the following grounds, namely:-

(a) that the tenant has failed to pay in any year, within fifteen days from the day fixed for the payment of the last installment of the land revenue in accordance with the rules made under the Code for that year, the rent for that year: or

(b) that the tenant has done any act which is destructive or permanently injurious to the land comprised in the holding:

(c) that the tenant has neglected the holding or failed to cultivate it personally: or

(d) that the tenant has used the land for a purpose other than agriculture.

(2) Notwithstanding anything contained in sub-section (1), the tenancy in respect of any holding of a tenant who is a widow or a minor or who is subject to physical or mental disability shall not be liable to be terminated under the said sub-section only on the ground that the land has been neglected on behalf of the said tenant.

## **13. Relief against termination of tenancy for non-payment :-**

Where any tenancy is terminated for non-payment of rent and the Girasdar files any proceeding before the Mamlatdar to eject the tenant, the Mamlatdar shall call upon the tenant to tender to the Girasdar the rent in arrears together with the cost of the proceeding, within fifteen days from the date of the order, and if the tenant complies with such an order, the Mamlatdar shall, in lieu of making an order for ejectment, pass an order directing that the tenancy had not been terminated and thereupon the tenant shall

hold the land as if the tenancy had not been terminated.

**13A. Termination of tenancy not to take effect in certain cases :-**

(1) Where a tenant has failed to comply with the order of the Mamlatdar asking him to pay the arrears of rent together with the cost of proceedings under section 13, the termination of tenancy shall not take effect till any appeal or revision application against any order passed in the proceedings started before the Mamlatdar under section 13, pending on the date of the commencement of the Saurashtra Land Reforms (Second Amendment) Act, 1953, is disposed of, and, in cases in which no such appeal or revision application is pending on such date, till the expiry of four months from the date of the order of the Mamlatdar.

(2) If during the pendency of any such appeal or revision application on the date first mentioned in sub-section (1), or where no such appeal or revision application is pending, within four months from the date of the order of the Mamlatdar, the tenant makes payment of an amount equal to six times the assessment, as provided in section 28, together with arrears of rent with interest at the rate of 6% per annum and the costs of all the proceedings, if any, the tenancy shall not be deemed to have been terminated.

(3) The Mamlatdar shall report the fact of such payment to the authority before whom the appeal or revision application may be pending and thereupon the proceedings in the appeal or revision application shall abate and the Mamlatdar shall proceed in accordance with the provisions of Chapter V.]

**13B. Assistance to Girasdar for recovery of rent :-**

Notwithstanding anything contained in section 86 of the Code, the Girasdar shall, upon written application to the Mamlatdar, be entitled to assistance, by the use of precautionary and other measures, except that contained in section 137 of the Code and in the same manner as prescribed in Chapter XI of the Code, for the recovery of rent payable to him by the tenant:

Provided that no such application shall be entertained for the recovery of rent a suit for which has become barred under the Indian Limitation Act, 1908, at the date of such application.]

**14. Bar to eviction from dwelling-house :-**

(1) If in any village, a tenant is in occupation of a dwelling house built on a site belonging to the Girasdar, such tenant shall not be evicted from such dwelling house or the land immediately appurtenant thereto and necessary for its enjoyment unless-

(a) the Girasdar proves that the dwelling house was not built at the expense of such tenant or his predecessor-in-title, and

(b) such tenant makes a default in payment of rent, if any, which he has been paying for the use and occupation of such house.

(2) The provisions of sub-section (1) shall not apply to a dwelling house which is situated on any land used for the purposes of agriculture in respect of which the tenancy has been terminated under sub-section (1) of section 12.

**15. Relief against eviction from dwelling-house in certain cases :-**

Where any tenant of any dwelling house is liable to be evicted under the provisions of section 14 and the Girasdar files any proceeding before the Mamlatdar to eject the tenant, the Mamlatdar shall, by order in writing, -

(a) if the tenant had previously been paying rent of the dwelling house, direct the tenant to tender to the Girasdar the rent in arrears together with the costs of the proceedings, within fifteen days from the date of such order: or

(b) if no rent was being so paid, assess reasonable rent in respect of the dwelling-house and direct the tenant to pay the rent so assessed, within fifteen days of the date of the order: and if the tenant complies with such an order, the Mamlatdar shall, in lieu of making an order of ejectment, pass an order directing that the tenant shall not be evicted, and thereupon the tenant shall continue to be in lawful occupation of the dwelling-house so long as he carries out the directions given in the Mamlatdar order.

**16. Dwelling-house of agricultural labourers :-**

The Government may, by notification in the Official Gazette, direct that the provisions of section 14 or of section 34 shall apply mutatis mutandis to the dwelling houses and sites thereof occupied by agricultural labourers or artisans in any particular areas specified in the notification.

**17. Restoration of possession :-**

Where any land was received by the Girasdar for personal cultivation at any time after the 1st January, 1948, but before the 20th May, 1950, and an application disputing such reservation has been made by a tenant before the \*[1st May, 1951] and is pending at the commencement of this Act, or where such reservation was made by the Girasdar at any time after the 20th May, 1950, or where such reservation having been made at any time between the 1st January, 1948. and the 10th May, 1950, the land was let out to another tenant after the 20th May, 1950, and an application disputing such reservation or letting out, as the case may be, is made within ninety days from the commencement of this Act, the Mamlatdar shall decide the dispute, and if he decides that the reservation of any land was made illegally, or that the tenant was entitled to restoration of the land, he shall direct that the possession of such land shall be restored to the tenant.

**18. Act not to affect rights or privileges of tenant under any other law :-**

Nothing contained in this act shall be construed to limit or abridge the rights or privileges of any tenant under any usage or law for the time being in force or arising out of any contract, grant, decree or order of a court or otherwise howsoever.

CHAPTER 4

Allotment of Land to Girasdars for Personal Cultivation

**19. Application by Girasdars for allotment of land for personal cultivation :-**

(1) Any Girasdar may [at any time [within four months] from the date of the commencement of the Saurashtra Land Reforms (Second Amendment) Ordinance, 1952] apply to the Mamlatdar for the allotment to him of land for personal cultivation:

[Provided that the Government may relax this time limit in the case of a Girasdar who is in service as a member of the Armed Forces:

Provided further that an application by a Barkhalidar for being notified as a Girasdar under clause (15) of Section 2 of the Saurashtra Land Reforms Act, 1951 , shall be treated as an application under this section if he is not declared as a Girasdar.]

(2) An application under sub-section (1) shall be in such form as may be prescribed and shall contain the following particulars;

(a) the area and the location of the land in respect of which the

allotment is prayed for;

(b) the right under which the Girasdar claims the land:

(c) the full particulars of his estate containing-

(i) the approximate area of the land in his estate;

(ii) the area and location of Gharkhed in his estate:

(iii) the area of agricultural land, bid land and cultivable waste in his estate; and

(iv) the area of non-cultivable waste in his estate.

(d) the names of tenants and description of land in their possession;

(e) the area of khalsa land, if any, in his possession; and

(f) any other particulars which may be prescribed:

[Provided that the Settlement Commissioner may direct generally or in individual case that an application which is not in the prescribed form shall be accepted.]

(3) Where a Girasdar makes an application on his own behalf as also on behalf of other Girasdar who are jointly entitled with him to allotment of land under this Act, the application under sub-section (1) shall further contain the names of persons on whose behalf the allotment is prayed for and the full particulars of the joint estate, and of Gharkhed of all such persons.

## **20. Inquiry by Mamlatdar and order of allotment :-**

(1) On receipt of an application under section 19, the Mamlatdar shall issue notice to the tenant or tenants concerned and, after giving the parties an opportunity of being heard, shall make an inquiry in the prescribed manner.

(2) After making such inquiry as may be deemed necessary, the Mamlatdar may, having the regard to the provisions of this Chapter, pass an order making an allotment to the Girasdar of such land as may be specified in the order.

(3) After making an order under sub-section (2), the Mamlatdar shall issue an occupancy certificate, in such form as may be prescribed, to a Girasdar in respect of his Gharkhed and the land, if any, allotted to him under this section.



(4) No Girasdar shall obtain possession of any land held by a tenant except in accordance with such order.

**21. Allotment of land to Girasdars A and B class :-**

Subjects the provisions of this Chapter, a Girasdar of A class or B class such be allotted land for personal cultivation to such an extent as, when added to the area of Gharkhed in his estate and of khalsa land, if any, in his possession, would make up the total area as shown below-

(a) in the case of A class Girasdars, 3 economic holdings,

(b) in the case of B class Girasdars-

(i) those having land in excess of one hundred and twenty acres but not exceeding three hundred and twenty acres, one and a half economic holdings:

(ii) those having land in excess of three hundred and twenty acres but not exceeding five hundred and forty acres, two economic holdings;

(iii) those having land in excess of five hundred and forty acres but not exceeding eight hundred acres, two and a half economic holdings.

**22. Principles and method of allotment of land to Girasdars of A and B class :-**

In making an allotment of land to any Girasdars of A class or B class the Mamlatdar shall have due regard to the following provisions namely:-

(a) firstly, such of the bid land or cultivable waste of the estate as the Girasdar wishes to utilise for personal cultivation shall be allotted to him:

(b) secondly, if the land allotted under clause (a) is not sufficient, such agricultural land as is held by a tenant in excess of one economic holding shall be available for allotment.

Explanation.- For the purpose of ascertaining the economic holding of a tenant under this clause, such Khalsa agricultural land as may be in his possession shall be taken into account but no such khalsa land shall be available for allotment to the Girasdar.

(c) thirdly, if such excess as is referred to in clause (b) is not sufficient for such allotment, to deficit shall be made up by taking

agricultural land from all the tenants of the Girasdar in proportion to the area held by them irrespective of the size of their holdings:

(d) the land allotted to a Girasdar from the holding of a tenant shall, as far as may be, have the same proportion of Bagayat or Jirayat and also of good, medium or poor land as existed in his estate; and the allotment shall, as far as practicable, be made in the form of continuous blocks of ten acres or more.

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

### **23. Girasdars to whom land may be allotted :-**

Under the provisions of this Chapter, land shall be allotted-

(a) In the case of an undivided family of Girasdar, only to the head of the family on behalf of the family, or

(b) in the case of a family divided in interest only, to all the members of the family as to a single unit; or

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

(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 Girasdar: 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 Girasdar.

Explanation.- Land allotted to an undivided family or to a family divided in interest only shall be in full satisfaction of the claims of all the Girasdars of such family.

### **24. Allotment of land to C class Girasdars :-**

(1) Agricultural land to be allotted to a C class girasdar for being cultivated personally shall subject to the provisions of this section, be half of the total area of the land held by each of his tenants:

Provided that the total area of the holding of a C class Girasdar made up of Gharkhed in his estate and any bid land or cultivable waste which he desires to utilise for personal cultivation and khalsa land, if any in his possession, together with the land allotted under the provisions of this section; shall not exceed-

(a) one economic holding, in the case of one in whose estate agricultural land does not exceed eighty acres; and

(b) one and half economic holdings, in the case of one in whose estate agricultural land exceeds eighty acres but does not exceed one hundred and twenty acres:

Provided further that where in making such an allotment of one economic holding, or one and a half economic holdings, as the case may be, it is not necessary to take half of the total area of the land held by the tenants, agricultural land shall be taken from each of the tenants in such proportion as may be necessary to make up one economic holdings or one and a half economic holdings, as the case may be.

(2) The area allotted to a C class Girasdar shall not include khalsa land, if any, held by a tenant.

Explanation 1.-The total area of land held by a tenant means the land held by a tenant from his Girasdar together with khalsa land, if any. held, by the tenant.

Explanation 2.- For the purpose of tills section, agricultural land shall not include sites of farm buildings or of dwellings, or wadas.

**25. Special provision for allotment to Girasdars of land for personal cultivation from verayati land :-**

In any verayati land-

(a) no land in which the State had a share in the vaje on or before the 1st January, 1948, shall be allotted to a Girasdar for personal cultivation; and

(b) any land in respect of which the vaje belongs exclusively to the Girasdar shall, notwithstanding that the sonti vero in respect of such land belonged to the State on or before the 1st January, 1948, be available for allotment to a Girasdar in accordance with the provisions of this Act:

Provided that no land in which there is any mine, minerals, stones, coal, kankcars, trees, aval or any other similar thing and which is declared to belong exclusively to the State or to the State jointly with the Girasdar, shall be allotted to a Girasdar.

Explanation.- For the purposes of this section, State means any Covenanting State or any talukdar who has accepted privy purse.

## **26. Allotment of land, etc. in Girasdari Majmu village :-**

(1) For the purposes of this Chapter, the villages specified in the .Second Schedule shall be deemed to be Girasdari Majmu villages and the Girasdars of such villages shall be called the Majmu holders of the said villages.

(2) In any Majmu village one-sixth of the total area of land under cultivation shall be allotted for personal cultivation amongst the Majmu holders of the village jointly in full satisfaction of their claim for personal cultivation in that village.

(3) The land allotted to Majmu holders shall, as far as may be, have the same proportion of the good, medium or poor land, as also of Jirayat and Bagayat land, as the one-sixth share of the Majmu holders bears to the total area of land under cultivation in the village.

(4) For the purposes of allotment under this section, land already under personal cultivation of the Majmu holders in the said village shall be taken into account.

(5) The provisions of section 22 shall, as far as may be, apply to the allotment of land in Majmu villages as they apply to land in other villages.

(6) The total area of land in the said villages shall not be taken into consideration for determining the land for personal cultivation in any other village either in favour of or against such Majmu-holders.

(7) A Majmu-holder shall be entitled to compensation and rehabilitation grant in respect of his share in the Majmu village from the tenant and the Government to the same extent and in the same manner as a Girasdari is entitled to in respect of any other land under the provisions of this Act.

(8) The Government may, from time to time, by notification in the Official Gazette, amend, add to or sub-strict from the Schedule the name of any village and on the issue of such notification the Schedule shall be deemed to have been amended accordingly.

## **27. Saving in certain cases :-**

Nothing contained in this Chapter shall apply to any land in respect of which a tenant has acquired chav or buta hak.

### **CHAPTER 5**

#### **Acquisition of Occupancy Rights by Tenants**

## **28. Acquisition of occupancy rights by tenants :-**

(1) Subject to the provisions contained in Chapter IV of this Act, a tenant shall at any time be entitled to acquire occupancy rights in his holding on payment of such amount as shall be equal to six times the assessment payable in respect of the agricultural land included in such holding, and may apply in the prescribed form to the Mamlatdar for acquiring such rights: Provided that a tenant who has acquired chav or buta hak, shall acquire such rights without any payment:

Provided further that in the case of a holding in respect of which or in the produce of which the interest of the Girasdar is limited, the tenant shall pay an amount reduced in proportion to the limited interest of the Girasdar in the holding in such manner as may be prescribed.

(2) An application under sub-section (1) shall be in such form as may be prescribed and shall contain the following particulars, namely:-

(a) the area and location of the holding in respect of which the application is made:

(b) the name of the Girasdar in respect of his holding;

(c) full particulars of the holding containing-

(i) the approximate area of the land in his possession:

(ii) approximate area of agricultural land, bagayat, jirayat bid land and cultivable waste separately: and

(iii) the number and location of dwelling houses in his possession:

(d) particulars whether the dwelling house was built at his cost or at the cost of his predecessor-in-title or of the Girasdar:

(e) whether he holds khalsa land, and, if so, its area and location;

(f) whether he holds chav or butot hak, and, if so, its area and location; and

(g) such other particulars as may be prescribed:

[Provided that the Settlement Commissioner may direct generally or in any individual case that an application which is not in the prescribed form shall be accepted;]

(3) The application shall be accompanied by a receipted challan showing the payment into the treasury of the amount payable by the tenant under sub-section (1).

**29. Inquiry by Mamlatdar :-**

On receipt of any application under section 28, the Mamlatdar shall issue notice to the Girasdar concerned and, after giving the parties an opportunity of being heard, shall make an inquiry in the prescribed manner.

**30. Issue of occupancy certificate to a tenant :-**

(1) After making such inquiry as may be deemed necessary the Mamlatdar may, subject to any order of allotment under the provisions of Chapter IV, pass an order specifying 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);

(b) the assessment on such occupancy holding; land

(c) the amount payable by the tenant to the Girasdar as compensation in respect of such occupancy holding.

(2) If the amount deposited by the tenant falls short of the amount specified under clause (c) of sub-section (1), the Mamlatdar may direct

(3) Where an order under sub-section (2) has been made and the tenant has deposited the required amount, if any, Mamlatdar shall issue an occupancy certificate in such form as may be prescribed in respect of the occupancy holding.

**31. Consequence of the issue of occupancy certificate :-**

Where an occupancy certificate has been issued under section 30 by the Mamlatdar in receipt of occupancy holding, the following consequences shall, in respect of the holding ensue from the date on which the occupancy certificate becomes effective, namely:-

(a) the tenant shall, in respect of the holding, become an occupant holding directly from the Government and shall have all the rights and obligations of an occupant under this Act and under the Code in respect of the holding;

(b) the occupant shall pay direct to the Government the assessment for the time being in respect of the holding;

(c) all his relations and obligations as tenant to the Girasdar or to any person claiming through or under the Girasdar in respect of such holding shall cease and in particular, his liability to pay rent to the Girasdar in respect of the holding shall cease;

(d) the occupant shall acquire his rights in the occupancy holding free from all encumbrances, if any, made by the Girasdar;

(e) in any case of abandonment or relinquishment, or when an occupant dies intestate and without known heirs, or in any other such case, the right of reversion shall vest in the Government.

(f) the Girasdar shall cease to have any right to collect or receive holding, and his liability to pay land revenue in respect of the holding shall also cease.

(g) the Girasdar shall be entitled to receive and be paid compensation as provided under this Act.

Provided that nothing contained in (f) above shall apply to arrears of rent that may be due to the Girasdar from the tenant on the date of the commencement of this Act.

### **32. Occupancy certificate when to be effective :-**

An occupancy certificate issued under section 30 shall be effective-

(a) in any case in which an application under section 28 is made, [within thirty days from the date of the commencement of the Saurashtra Land Reforms (Second Amendment) Ordinance, 1952) with effect from the 1st August, 1951:

Provided that in case where a person is declared as Girasdar under S.2(15) of the Saurashtra Land Reforms Act, 1951 occupancy certificate issued in respect of any application of a tenant of such Girasdar made within thirty days from the date of notification declaring such person as a Girasdar in the Official Gazette, shall be effective with effect from 1st August, 1951:

(aa) in any case in which an application under section 28 is made on or after 1st August, 1954, but before 31st December, 1954, with effect from 1st August, 1954;]

(b) in any other case, with effect from the 1st August immediately following the date on which the application under section 28 is made:

[Provided that where any agricultural land or any portion thereof is

allotment to a Girasdar under the provisions continued in Chapter IV of this Act, either before or after the date on which an occupancy certificate issued to a tenant in respect of such land or a portion thereto has become effective under this section, the occupancy certificate issued to a tenant in respect of such land or portion thereof shall be deemed to have, and to have always had, no effect whatsoever, and on such allotment the following consequences shall ensue:-

(i) all incidents of a Girasdari tenure shall be deemed to have applied, and to have always been applied, to such land or portion thereof upto the date of such allotment:

(ii) the amount of six times the assessment paid by a tenant in respect of such land or portion thereof shall be refunded to him, after deducting therefrom any amount found to be due from him to the Girasdar under section 7 in respect of such land or portion thereof, in excess of the amount of assessment paid by him to Government:

(iii) Government shall pay to the Girasdar the amount of assessment recovered from the tenant in respect of such land or portion thereof and the amount deducted from the amount of six times the assessment as shown in clause (ii) above, after deducting therefrom twelve and a half per cent of the assessment on such land or portion thereof payable to Government under section 10.]

### **33. Payment of compensation :-**

(1) [Subject to the provisions of section 35A, where an occupancy certificate] has been issued under section 30 in respect of an occupancy holding [the Girasdar shall be entitled to withdraw the sum specified in the order of Mamlatdar from the amount deposited by the tenant and the tenant shall be entitled to withdraw the balance, if any, from the amount deposited by him, in

Provided that if the occupancy holding in respect of which the certificate is issued is subject to any mortgage by the Girasdar to any person at the time of the issue of the certificate, and there is a dispute as to the persons to whom the amount or any part of its is payable [.....] the Mamlatdar may keep the amount in deposit and refer the parties to a civil court:

[Provided further that if there is a widow's Jiwai payable from estate and there is an application from the widow to the Mamlatdar



in this behalf, the Mamlatdar shall keep the amount in deposit until such application has been finally disposed of in accordance with the provisions of section 35A.]

(2) [Subject to the provisions of section 35A, in addition to the compensation paid] by the tenant in respect of the holding, the Government shall pay to the Girasdar as compensation every year for fifteen years an amount equal to the assessment on the holding as fixed by the Mamlatdar under clause (b) of sub-section (1) of section 30:

Provided that in the case of a holding in respect of which, or in the produce of which, the interest of the Girasdar is limited, the amount of each installment shall be reduced in proportion to the limited interest of the Girasdar in the holding in such manner as may be prescribed.

(3) An installment under sub-section (2) shall become due and payable on the 1st day of February every year, the first installment falling due on the 1st February immediately following the date on which the occupancy certificate has become effective.

(4) If any such installment which has fallen due is not paid within two months of the due date, interest at the rate of 3 percent per annum shall be paid by the Government to the Girasdar on that installment.

(5) Remission or suspension of land revenue granted to a tenant shall not effect the payment by the Government of the compensation payable by it under this section.

#### **34. Dwelling houses :-**

The dwelling houses included in the occupancy holding shall vest in the occupant provided that if such a dwelling house or part of it had been built otherwise than at the expense of the tenant or his predecessor-in-title, it shall vest in the occupant free from all encumbrances if any, made by the Girasdar on payment of such compensation to the Girasdar as may be determined by the Mamlatdar in this behalf in accordance with the principles laid down in the Land Acquisition Act, 1894.

#### **35. Chav or buta hak :-**

(1) Where any tenant has acquired chav or buta hak in respect of any land held by him, the Mamlatdar shall issue an occupancy

certificate in respect of such land in such form as may be prescribed and the tenant shall not be liable to pay amount, to the Girasdar as compensation for such land.

(2) Nothing contained in sub-section (1) shall exempt the Government from paying compensation to the Girasdar in respect of such land and the provisions of sub-section (2), (3), (4) and 5 of section 33 [shall subject to the provisions of section 35A, apply accordingly.]

### **35A. Claims of widow-jiwaidars :-**

(1) Every widow-jiwaidar, who is entitled to get any maintenance allowance in ascertained sum from any Girasdar during her life time, may, submit her claim for maintenance to the Mamlatdar in the prescribed manner.

(2) Every jiwaidar submitting her claim in compliance with the provisions of sub-section (1), shall furnish along with her written statement of claim, full particulars thereof and shall, within such time as the Mamlatdar may appoint, produce all document which are in her possession, powers or control (including entries in books of accounts) on which she relies to support her claim, together with a true copy of every such document.

(3) After hearing the parties and making such inquiries as may be necessary, the Mamlatdar may, if he is satisfied that the amount of maintenance allowance was fixed-

(a) by a decree of a competent civil court, or

(b) by the orders of a competent authority of the late Western India States Agency or the Western India State Region or any Covenanted State or merged Taluka, or

(c) by a written agreement of the parties, and was paid immediately before 1st January, 1948. pass an order directing that-

(i) the amount which the Mamlatdar may find as payable by the Girasdar to the jiwaidar before the date of his order shall be paid from the amount of compensation payable to the Girasdar under sub-section (1) of section 33:

Provided that where the amount of compensation has already been withdrawn by the Girasdar under sub-section (1) of section 33 or no such compensation is payable to the Girasdar under the

provisions of sub-section (1) of section 35, the Mamlatdar may order that the amount of maintenance allowance which he may find as payable to the Jiwaitdar before the date of his order shall be paid in such installments as may be fixed by him from the amount of

(ii) the amount of maintenance allowance according due to the jiwaitdar after the date of his order shall be paid to here every year from the amount of compensation payable annually to the Girasdar by the Government under sub-section (2) of section 33 or sub-section (2), of section 35, as the case may be.

(4) The claim of the jiwaitdar determined under sub-section (3) shall have priority over any secured debt of any creditor of the Girasdar.

(5) If in any case a Mamlatdar is satisfied that any person claiming maintenance allowance under this section is not a "Jiwaitdar" as defined in the Explanation to this section, he may order that he may seek redress in a competent civil court.

Explanation- For the purposes of the section "Jiwaitdar" means a widow of the family of a Girasdar, who is entitled to get from the Girasdar maintenance allowance fixed in the manner shown in clauses (a)(b) or (c) in sub-section (3) of this section.]

### **36. Girasdars rights to be deemed to be extinguished :-**

On the payment by the Government of the last installment of compensation payable under this Act, in respect of any occupancy holding, all the remaining rights, title and interest of the Girasdar in that holding shall be deemed to have been extinguished.

### **37. Certain mortgages and charges not enforceable against occupancy holding :-**

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 for any money which is charged on, or is secured by a mortgage of, any land in the possession of a tenant shall be enforceable against the occupancy holding of an occupant and every such claim or liability shall be deemed to be a charge on the compensation payable to the Girasdar in respect of such land.

### **38. Borrowing of tenant form the State Bank :-**

(1) Notwithstanding anything contained in the Transfer of Property

Act, 1882 , or any other law for the time being in force:-

(a) it shall be lawful for a tenant to mortgage the occupancy holding which he intends to acquire under the provisions of till Chapter in order to borrow money from the State Bank, [or a Co-operative Society registered under the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925) as adapted and applied to the Saurashtra area pf the [State of Gujarat;]

(b) such mortgage shall be deemed to be lawful and subsisting after the occupancy is acquired.

(2) The money so advanced shall be recoverable in the same manner as an arrear of land revenue.

### **39. Girasdar to be occupant :-**

(1) The Mamlatdar may, either of his own or on an application received in this behalf from a Girasdar, issue an occupancy certificate to the Girasdar in such form as may be prescribed in respect of the Gharkhed comprised in his estate and the land allotted to him in accordance with the provisions of Chapter IV.

(2) A Girasdar shall become an occupant in respect of his Gharkhed and the land allotted to him in accordance with the provisions of Chapter IV, as from the date of the issue of occupancy certificate.

### **40. Assessments payable by Girasdars on Gharkhed and land allotted under Chapter IV :-**

A Girasdar specified in column 1 of the Third Schedule shall be liable to pay to the Government as land revenue on the land held by him as Gharkhed or the land allotted to him under the provisions of Chapter V at the rates and for the periods shown in the corresponding entry in column 2 thereof.

### **41. Payments to be charged :-**

The payments to be made by the Government to a Girasdar as compensation under this Act shall be expenditure charged on the Consolidated Fund of the [State of Gujarat].

#### **CHAPTER 5A**

Acquisition of Occupancy Rights by Settlement Commissioner on behalf of Certain Tenants

### **41A. Acquisition of occupancy rights by Settlement Commissioner. :-**

Notwithstanding anything contained in Chapter V-

(1) Where a tenant fails to apply for occupancy rights under sub-section (1) of section 28, for any reason whatsoever within 2 months of the date of the coming into force of the Saurashtra Land Reforms (Amendment) Act, 1955, or within such further period as the Government may, by notification in the Official Gazette specify, the Settlement Commissioner may furnish to the Mamlatdar the particulars specified in sub-section (2) of section 28 in respect of the holding such tenant, and thereupon the Mamlatdar may after making such inquiry as may be necessary in the prescribed manner and hearing the parties and subject to any order of allotment under the provisions of Chapter IV,

(a) the holding or part thereof, in respect of which the Settlement Commissioner may be declared to hold it as an occupant in trust and on behalf of such tenant (hereinafter referred to as the occupancy holding);

(b) the assessment on such occupancy holding;

(c) the amount, not exceeding 6 times the assessment payable by the Settlement Commissioner to the Girasdar as compensation, in respect of such occupancy holding.

(2) as soon as may be after the order under clause (1) is passed, the Mamlatdar shall issue an occupancy certificate which shall be effective from the 1st August immediately following the date on which such order is passed, in such form as may be prescribed.

**41B. Consequences of the issue of the occupancy certificate**  
:-

Where an occupancy certificate has been issued by the Mamlatdar under section 41A in respect of any occupancy holding the following consequences shall in-respect of such holding, ensue from the date on which the occupancy certificate becomes effective, namely: -

(a) The Settlement Commissioner shall hold such occupancy holding free from all encumbrances, if any, made by the Girasdar. as an occupant in trust and on behalf of the tenant until the amount paid to the Girasdar by the Settlement Commissioner as compensation in respect of such occupancy holding is recovered in full from the tenant.

(b) The tenant shall pay to the Settlement Commissioner two and a half times the assessment, which he was paying to the Girasdar immediately before the coming into force of the Saurashtra Land

Reforms (Amendment) Act, 1955.

(c) Out of the amount representing 2 1/2 times the assessment received from the tenant, the Settlement Commissioner shall cause the amount representing single assessment to be credited to Government and the remaining amount representing one and a half times the assessment shall be credited towards the amount paid to the Girasdar as compensation.

(d) All relations and obligations of the tenant as such to the Girasdar or to any person, claiming through or under the Girasdar in respect of such holding shall cease and, in particular tenant's liability to pay rent to the Girasdar in respect of the holding shall cease.

(e) The Girasdar shall cease to have any right to collect or receive any rent from the tenant or exercise any other right in respect of the holding and his liability to pay land revenue in respect of the holding shall cease.

(f) The Girasdar shall be entitled to receive and be paid compensation as provided under this Chapter:

Provided that nothing contained in clause (e) above shall apply to any arrears of rent which may be due to the Girasdar from the tenant on the date of commencement of the Saurashtra Land Reforms (Amendment) Act, 1955.

**41C. Transfer of occupancy certificate :-**

After the amount of compensation referred to in clause (a) of section 41B is recovered in full from the tenant the Settlement Commissioner shall transfer such occupancy certificate to the tenant in such manner and subject to such conditions, as may be prescribed.

**41D. Application of certain provisions :-**

The provisions of sections 33, 34, 36, 37 and 41 shall apply, so far as may be practicable and with such formal modifications as may be necessary, to any case to which the provisions of this Chapter are applicable.]

**CHAPTER 6**

**Rehabilitation Grant**

**42. Rehabilitation grant :-**

In addition to the compensation payable to a Girasdar under the

provisions of Chapter V [or Chapter V-A] the Government shall pay as rehabilitation grant to the Girasdars specified in column 1 of the Fourth Schedule the amount shown in the corresponding entry in column 2 thereof.

**43. Rehabilitation grant not liable to seizure or attachment.**

:-

No amount granted as rehabilitation grant under section 42 shall be liable to seizure or attachment by process of any court or other authority at the instance of a creditor, or for any demand against the grantee, or in satisfaction of a decree or order of any such court or other authority.

CHAPTER 7

Miscellaneous

**44. Assessment :-**

(1) For the purposes of this act, assessment shall mean, in relation to any land, until village in which such land is situate is surveyed and settled, assessment calculated on an arithmetic average of assessment leviable in the surrounding and adjoining khalsa [or assessed nan khalsa] lands or villages.

(2) For the purpose of determining the assessment on any land the Mamlatdar may hold an inquiry in the prescribed manner and fix the assessment on such land and the assessment so determined shall be published in such manner as may be prescribed:

Provided that where the assessment so calculated is manifestly unfair, Government may modify it, keeping in view the above principle.

[(3) Where any land is surveyed [X X] Government may, by notification in the Official Gazette, direct that the assessment on the area of such land as determined by such survey shall be levied at the rate at which the assessment is fixed by Mamlatdar under clause (b) of sub-section (1) of section 30, from such date and in such manner as may be specified in such notification: and notwithstanding anything contained in this Act, the term "assessment" shall be construed accordingly in respect of payment of compensation to be made under section 33 after the date specified in such notification.

(4) Nothing contained in sub-section (3) or any notification issued thereunder shall affect-

- (a) the land allotted to a Girasdar, as respects its area, or
  - (b) the land in respect of which an occupancy certificate has been issued to a tenant as respects its area, before the date specified in the notification issued under sub- section (3).
- (5) Where the amount of sic times the assessment is paid by a tenant in respect of such land, and where after survey [ X X X] it is found that the land in respect of such payment was actually less than that declared by the Girasdar the amount so overpaid by the tenant shall be refunded to such tenant, and if it is found that such land was actually more than that declared by the Girasdar, then the tenant shall be liable to pay to the Girasdar the difference on account of the larger area.)

#### **45. Appointment of Settlement Commissioner and Special Officer :-**

The Government may appoint-

- (a) a Settlement Commissioner to perform such functions under this Act as may be prescribed, and
- (b) as many special officers as may be necessary to exercise the powers and functions of a Collector under this Act in such local area as may be specified.

#### **46. Functions of Mamlatdar :-**

The Mamlatdar may, for the purpose of this act, perform the following functions, namely :-

- (a) to decide whether a person is an agriculturist or not;
- (b) to decide whether a person is a tenant or not;
- (c) to decide whether any land shall be allotted to Girasdars for personal cultivation or not;
- (d) to make any order under section 9;
- (e) to determine whether a tenancy shall be terminated under section 12:
- (f) to decide any matter arising under section 12, section 13, section 15 or section 17:
- (g) to decide to which Girasdar land may be allotted for personal cultivation and to make such allotment;



(h) to decide which tenant should surrender what portion of his land in accordance with section 22:

(i) to determine the divisions of land under section 24; (j) to decide any question arising under section 26:

(k) to hold inquiries under section 29 and to issue occupancy certificates under [section 30 or section 41 A];

(l) to determine the amount of compensation payable to a Girasdar by the Government and the tenant:

(m) to decide matters arising under section 34:

(mm) to decide claims of the jiwaidars under section 34A:]

(n) to determine the amount of assessment under section 44:

(o) to decide such other matters as may be necessary under this Act.

#### **47. Procedure of inquiry :-**

In holding an inquiry under this Act. the Mamlatdar shall maintain a record of the proceeding before him containing material averments made by the parties interested, material facts of the evidence and his decision and the reasons thereof. The Mamlatdar shall, for the purposes of this inquiry, have all the powers of a civil court under the Code of Civil Procedure, 1908, relating to-

(a) proof of facts by affidavits,

(b) the enforcing of the attendance of any person and his examination on oath,

(c) the enforcing of production of documents, and

(d) the issuing of commissions.

#### **48. Commencement of proceedings :-**

Save as otherwise provided by or under this Act, all inquiries and other proceedings before the Mamlatdar may be commenced by an application which shall contain the following particulars:-

(a) the name, age, profession and place of the applicant and of the opposite party;

(b) a short description and situation of the property to which possession is sought, or the amount of the claim, as the case may be:

- (c) the circumstances out of which the cause of action arose;
- (d) a list of the applicant's documents, if any, and of his witnesses who are summoned to attend or whether the applicant will produce them on the day of the hearing;
- (e) such other particulars as may be prescribed.

**49. Procedure :-**

In all inquiries and proceedings commenced on the presentation of application under section 48, the Mamlatdar shall exercise the same power as the Mamlatdars' Court under the Saurashtra Mamlatdar Courts Ordinance, 1948, (Ordinance No. LII of 1948} and shall follow the provisions of the said Ordinance, as if the Mamlatdars Court under the said Ordinance, and the application were a plaint presented under section 7 of the said Ordinance. In regard to matters which are not provided for in the said Ordinance, the Mamlatdar shall follow the procedure as may be prescribed by the Government. Every decision of the Mamlatdar shall be recorded in the form of an order which shall state the reasons for such decision.

**50. Execution of order for payment of money or for restoring possession :-**

(1) Any sum the payment of which has been directed by an order of the Mamlatdar including an order awarding cost shall be recoverable from the person ordered to pay the same in the same manner as an arrear of land revenue.

(2) An order of the Mamlatdar awarding possession or restoring the possession or use of any land shall be executed in the manner provided in section 20 of the Saurashtra Mamlatdars' Courts Ordinance 1948, (Ordinance No. LII of 1948), as if it was the decision of the Mamlatdar under the said Ordinance.

**51. Appeals :-**

(1) An appeal shall lie to the Collector against any order of the Mamlatdar.

(2) Save as otherwise provided in this act, the provisions of Chapter XIII of the Code shall apply to appeals to the Collector under this Act as the Collector were the immediate superior of the Mamlatdar. The Collector shall have the power to award costs in any appeal heard by him.

## **52. Revision :-**

(1) Notwithstanding anything contained in the Saurashtra Revenue Tribunal Ordinance, 1969, an application for revision may be made to the Tribunal against any order of the Collector on the following grounds only, namely:-

(a) that the order of the Collector was contrary to law;

(b) that the Collector failed to determine some material issue of law; or

(c) that there was a substantial defect in following the procedure provided by this Act which has resulted in miscarriage of justice.

(2) In deciding applications under this section, the Tribunal shall follow the procedure which may be prescribed by rules made under this act after consultation with the Tribunal.

## **53. Orders in appeal or revision :-**

(1) The Collector in appeal and the Tribunal in revision may confirm or 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 this 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 orders of the Mamlatdar, under section 50.

## **54. Court fees :-**

Notwithstanding anything contained in the Court Fees Act, 1870 (VII of 1870), as adapted and applied to the Saurashtra area of the [State of Gujarat] every application or appeal made under this Act to the Mamlatdar, Collector or Tribunal shall have a court-stamp of such value as may be prescribed.

## **55. Limitation :-**

Every appeal or application for revision under this Act shall be filed within a period of sixty days from the date of the order of the Mamlatdar or the Collector, as the case may be, and the provisions of sections 4 , 5 , 12 and S.14 of the Indian Limitation Act, 1908, (IX of 1908) shall apply to the filing of such appeal or application for revision.

## **56. Inquiries and proceedings to be judicial proceedings :-**

All inquiries and proceedings before the Mamlatdar, the Collector or

Tribunal shall be deemed to be judicial proceedings within the meaning of sections 192, 219 and 228 of the Indian Penal Code, 1860 (XIV of 1860).

**57. Penalty for making false statements :-**

(1) If during the course of any inquiry before the Mamlatdar under the provisions of this Act, any person is found to have made a false declaration in an application made under section 19 or section 28, the Mamlatdar may, while passing any order on such application, direct the person making such a false statement to pay a fine not exceeding one thousand rupees.

(2) The amount of fine imposed under sub-section (1) shall be recoverable in the same manner as an arrear of land revenue.

**58. Obstruction with the rights obtained under this Act :-**

If any person wilfully obstructs the rights of any other person acquired under the provisions of this Act, or contravenes the provisions of sub-section (4) of section 20 the Mamlatdar may direct that the person so obstructing or contravening shall pay a fine not exceeding rupees one thousand.

**59. Rules :-**

(1) The 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 powers, such rules may provide for all or any of the following matters, namely:-

(a) the manner in which the tenancy may be terminated;

(b) the form and manner in which an application for allotment of land for personal cultivation may be made by a Girasdar;

(c) the manner in which inquiries may be held by a Mamlatdar under this Act and the procedure to be followed in such proceedings;

(d) the form of an occupancy certificate to be issued to [Girasdars and tenants and Settlement Commissioner;]

(e) the Girasdar to whom and the procedure according to which land may be allotted for personal cultivation and matters connected therewith;

- (f) the manner of payment of compensation and rehabilitation grant to Girasdars in Girasdari Majmu village;
- (g) the form and manner in which applications for acquiring rights may be made by a tenant;
- [(gg) the form and manner in which a Jiwaidar may submit her claim under section 35A;]
- (h) the manner in which compensation payable by a tenant may be computed in any case where the Girasdar has only a limited interest in the holding,
- [(hh) the manner in which occupancy certificate issued to the Settlement Commissioner may be transferred to the tenant:] (i) the form of notice to be issued under this Act and the ' manner of service of such notice;
- (j) the manner of publication of assessment on land:
- (k) the functions of Settlement Commissioner;
- (l) levy of fees and court-fees under this Act: and
- (m) any other matter which has to be, or may be prescribed under this Act.

**60. Delegation of powers :-**

The Government may, subject to such restrictions and conditions as it may impose by notification in the Official Gazette, delegate to any of its officers not below the rank of an Assistant or Deputy Collector, all or any of the powers conferred on it by this Act.

**61. Summary eviction :-**

Any person who is in unauthorised occupation or wrongful possession of land or dwelling house, not being entitled to such occupation or possession under the provisions of this Act, may be summarily evicted by the Collector.

**62. Bar of jurisdiction :-**

(1) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this act required to be settled, decided or dealt with, by the Mamlatdar, the Collector or Tribunal or by the Government in exercise of their powers of control.

(2) No order of the Mamlatdar, the Collector or the Tribunal made

under this Act shall be questioned in any civil or criminal court.

Explanation.- For the purposes of this section a civil court shall include a Mamlatdars Court constituted under the Saurashtra Mamlatdars' Courts Ordinance, 1948.

### **63. Government power of control and revision :-**

(1) In all matters connected with this Act, Government shall have the same authority and control over Mamlatdars and Collectors acting under this Act as they have and exercise over them in the general and revenue administration.

(2) The Government may call for and examine the record of any inquiry or proceedings of the Mamlatdar or the Collector acting under this Act, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer, and, if, in any case, it shall appear to the Government that any decision or order or proceedings so called for should be modified, annulled or reversed, it may pass such order thereon as it deems fit:

Provided that the Government shall not pass any order in the exercise of its powers under this sub-section-

(i) in any case in which an application for revision against any decision or order of the Collector has been made under this Act to the Revenue Tribunal or until such application is barred by limitation:

(ii) in any case in which an appeal against any decision or order of the Mamlatdar has been preferred under this Act to the Collector or until such appeal is barred by limitation:

(3) Then Government shall not pass any order under sub-section (2) without giving to the parties concerned an opportunity to be heard before an officer not below the rank of the [Collector], who shall follow such procedure as may be prescribed].

### **64. Indemnity :-**

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

### **65. Repeal :-**

(1) The following Chapters and sections of the Saurashtra

Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 (Ordinance No. XLI of 1949) as amended from time to time, are hereby repealed, namely:-

(a) the whole of Chapter II, the whole of Chapter III, except sub-sections (1), (2) and (3) of section 19 and the whole of Chapters IV, V, VIII and IX: and

(b) sections 55, 56 and 57 of Chapter VII: Provided that such repeal shall not, save as expressly provided in this Act, affect or be deemed to affect:

(i) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(ii) any legal proceedings or remedy in respect of any such right, title, interest, obligation or liability or anything done or suffered to be done before the commencement of this Act, and any such proceedings shall be continued and disposed of as if this Act had not been passed:

[Provided further that notwithstanding anything contained in this act or in any other law or usage, agreement grant, sanad or any decree or order of any court, Tribunal or other authority, all orders passed regarding giving, reserving or allotting any land for Gharkhed but not executed before giving possession before 20th May, 1950 under the provisions hereby repealed shall be treated as void and no such order shall be executed the applications for the giving, reserving or allotting land for Gharkhed on which any such orders may have been passed shall be treated as applications presented for the allotment of land for personal cultivation under the provisions of this act and shall be disposed of accordingly.

Provided further that such applications shall be deemed to have been presented within the period prescribed in sub-section (1) of section 19 for presenting such application.]

(2) Any appointment, notification, notice, order, rule or form made or issued under the provisions of the Ordinance so repealed shall continue to be in force and be deemed to have been made or issued under the provisions of this act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this act, or rules made thereunder and shall continue to be in force unless and until it is superseded by any appointment, notification, or notice, order, rule

or form made or issued under this Act.

SCHEDULE 1

THE FIRST SCHEDULE

[See section 2 (12)]		
	Regions.	Area of
		cultivable
		land.
	1	2
1.	Zalawad District	40 acres
2.	Halar District-	
	(a) Jam Jodhpur Taluka and Amran Chovisi of	32 acres
	Jodia Mahjal	
	(b) Kalawad Taluka	36 acres
	(c) Rest of	40 acres



	<b>Halar</b> District	
3.	<b>Gohilwad District</b>	<b>32 acres</b>
4.	<b>Madhya</b> Saurashtra District	
	<b>(a)</b> Morui Taluka, Wankaner Taluka, Maliya	<b>40 acres</b>
	<b>Mahal,</b> Pancha lera (Babra Taluka) Rajkot	
	<b>Taluka,</b> Paddhari Mahal, Lodhika Mahal and	
	<b>Kotda</b> Sangani Mahal ■	
	<b>(b)</b> Babra Taluka excluding Panchal area, Jasdan	<b>32 acres</b>
	<b>Taluka,</b> Kandorna Mahal, Gondal	
	<b>Taluka,</b> Kundavav Taluka and Jetpur	
	<b>Taluka.</b>	

	(c) Dhoraji Taluka including Upleta Peta-Mahal ■	28 acres
3.	Sorath District-	
	(a) Ranavav and Porbandar Taluka excluding	40 acres
	Ghed Area.	
	(b) Ghed area	24 acres
	(c) Five miles wide sea-shore belt from hapur Mad	20 acres
	to Kodinar, Kutiana Proper, Mandva,	
	Kaji, Thepda, Ujad Thepda, Baloch land	
	Bhadar Chhel Bhag ■	

	(d) Rest of the Sorath District.	32 acres

SCHEDULE 2

THE SECOND SCHEDULE

SCHEDULE 3

THE THIRD SCHEDULE

(See section 40)	
Class of Girasdar.	Assessment to be charged.
1	2
Girasdar of A Class	Full assessment.
Girasdar of B Class	Four annas per acre for the first three

	years,
	eight annas per acre for the next three years.
	One half the assessment for the next six years.
	Full assessment thereafter.
Girasdar of C Class	Four annas per acre for 21 years,

# Full assessment thereafter:

[Provided that if any such land is transferred by sale, mortgage with possession or otherwise, such land shall, from the date of such transfer, be liable to payment of full assessment except where such land is transferred- (i) to a co-operative fanning society; or (ii) by way of exchange to persons who are descendants of a common ancestor in the male line and are living in the same village in their co-shared villages: [Provided also that if any such land transferred by mortgage with possession is re-transferred, on redemption or otherwise, to the mortgagor Girasdar who held, or is entitled to hold that land as Gharkhed or land allotted for personal cultivation, such land shall be liable to assessment at such rate, for the period during which such land remaining in possession with such Girasdar, at which it would have been liable, as if no transfer by mortgage with possession had taken place.] Provided further that if such land or any portion thereof is transferred by way of exchange to any person by the Girasdar for the purpose of making a continuous block of his holding, the land received by him in exchange shall be liable to assessment at the same rate as the land given by him in exchange was liable under this Schedule, and to the same extent.] Explanation.- For the purpose of this Schedule, the assessment on any land for the time being shall be deemed to be the full assessment.

## SCHEDULE 4

### THE FOURTH SCHEDULE

(See section 42)

Class of Girasdar.	Amount of grant.
1	2
Girasdar of B Class	Three additional

	installments each equal
	to one assessment payable annually after
	and in continuation of compensation
	under section 33.
Girasdar of C Class	Six additional installments, each equal to

	one assessment payable annually after and in continuation of compensation under section 33.