

Daman (Abolition Of Proprietorship Of Villages) Regulation, 1962

7 of 1962

CONTENTS

1. Short Title, Extent And Commencement
2. Definitions
3. Abolition Of Proprietary Rights
4. Rights Of Proprietor To Certain Lands
5. Collector To Take Charge Of Lands, Etc., Vested In Government
- 6 . Liability Of Lands For Payment Of Land Revenue From The Appointed Date
- 7 . Rights Of Certain Cultivating Tenants To Be Restored To Possession Of Their Lands
8. Rights Of Proprietors And Cultivating Tenants To Hold Land As Occupants
- 8A. Eviction Of Occupants Of Land In Certain Cases
- 8B. Restrictions On Sale, Etc., Of Land By Occupants
- 8C. Forfeiture Of Land Transferred In Contravention Of Section 8-B
9. Compensation To Proprietors
10. Method Of Payment Of Compensation
11. Payment Of Compensation
12. Proprietors To Deliver Records To Authorised Officers
- 12 A. Mamlatdar To Decide Certain Matters Arising Under The Regulation
- 12B. Application For Conducting Inquiries, Etc
- 12C. Powers Of Mamlatdar
- 12D. Revisionary Powers Of Collector
- 12E. Fees
- 12F. Bar Of Jurisdiction Of Civil Court
13. Protection Of Action Taken Under This Regulation
14. Power To Remove Difficulty
15. Power To Make Rules

Daman (Abolition Of Proprietorship Of Villages) Regulation, 1962

7 of 1962

Promulgated by the President in the Thirteenth Year of the Republic of India. A Regulation to provide for the abolition of proprietorship of villages in the Daman district in the Union territory of Goa,

Daman and Diu and for matters connected therewith. In exercise of the powers conferred by clause (1) of article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:-

1. Short Title, Extent And Commencement :-

- (1) This Regulation may be called the Daman (Abolition of Proprietorship of Villages) Regulation, 1962.
- (2) It extends to the whole of the District of Daman in the Union territory of Goa, Daman and Diu.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

In this Regulation, unless the context otherwise requires,-

(a) "Administrator" means the Administrator of the Union territory of Goa, Daman and Diu;

1(aa) "agricultural labourer" means a person whose principal means of livelihood is manual labour on land;;

(b) "appointed date" means the date on which this Regulation comes into force;

(c) "Collector" means the Collector of Daman;

(d) "to cultivate personally" means to cultivate on ones own account,-

(i) by ones own labour, or

(ii) by the labour of any member of ones family, or

(iii) by servant on wages payable in cash or kind but not in crop share or by hired labour under ones personal supervision or the personal supervision of any member of ones family;

Explanation.- For the purposes of this clause,-

(i) a widow or a minor or a person who is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour;

(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;

(e) "cultivation" means the use of lands for the purpose of agriculture or horticulture;

(f) "cultivating tenant" means a person who cultivates personally any land belonging to another under an agreement, express or implied, and pays rent therefore in cash or in kind or delivers a share of the produce;

2[(g) "land" means land held or let either for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans and includes-

- (i) benefits to arise out of such land, and
- (ii) things attached to such land or permanently fixed to anything attached to such land;;]

3[(gg) "landless person" means a person who does not hold any land for purposes of agriculture and earns his livelihood, principally by manual labour on agricultural land, and intends to take to the profession of agriculture;;]

- (i) benefits to arise out of such land, and
- (ii) things attached to earth or permanently fixed to anything attached to earth;

(h) "proprietor" means a person who holds any village or villages granted to him or any of his predecessors-in-interest by the former Portuguese Government by way of gift, sale or otherwise and includes his co-shares;

(i) "prescribed" means prescribed by rules made under this Regulation.

4[(j) "village" includes a hamlet, a Pada or a part or a block of the village by whatever name called, whether separated from it or not..]

3. Abolition Of Proprietary Rights :-

Notwithstanding anything contained in any contract, grant or other document or in any law for the time being in force, on and from the appointed date,-

(i) all rights, title and interest of every proprietor in or in respect of all lands in his village or villages shall be deemed to have been extinguished; and

(ii) all such rights, title and interest shall stand transferred to and vest in the Central Government free from all encumbrances, and every mortgage, debt or charge on any such right, title and interest shall be a charge on the amount of compensation payable to such proprietor under this Regulation;

(iii) where under any agreement or contract made before the appointed date any rent or other dues for any period after the said date has been paid to or compounded or released by a proprietor, the same shall, notwithstanding such agreement or contract, be recoverable from the proprietor and may, without prejudice to any

other mode of recovery, be realised by deduction from the compensation payable to the proprietor under this Regulation.

4. Rights Of Proprietor To Certain Lands :-

Notwithstanding anything contained in section 3, a proprietor shall, subject to the provisions of sections 6 to 8, be entitled to retain with effect from the appointed date,-

- (a) homesteads, buildings and structures together with lands appurtenant thereto in the occupation of the proprietor;
- (b) lands under the personal cultivation of the proprietor, not being pasture or grass lands.

5. Collector To Take Charge Of Lands, Etc., Vested In Government :-

(1) The Collector shall take charge of all lands and of all rights, title and interest therein of a proprietor vested in the Government under section 3, and for this purpose, the Collector or any officer authorised by him may take such steps or use such force as may be necessary.

(2) Nothing in this section shall be deemed to authorise the Collector to take possession of any land or of any right of proprietor which may be retained by him under section 4.

6. Liability Of Lands For Payment Of Land Revenue From The Appointed Date :-

(1) All lands in villages, the rights, title and interest in which have vested in the Government under section 3 shall, with effect on and from the appointed date, be liable to the payment of land revenue to the Government in accordance with revenue survey and settlement of land revenue: Provided that until revenue survey and settlement of land revenue of such lands are made, the land revenue payable in respect of such lands shall,-

(i) in any case where any such land is held for the purpose of cultivation by a cultivating tenant, be 5[one-twentieth] of the rent, or where the rent is in kind, the cash equivalent (which shall be determined as hereinafter provided) of 6[one-twentieth] of the rent, payable by the cultivating tenant to the proprietor immediately before the 20th December, 1961;

(ii) in the case of any other land, be calculated at such rate or rates as the Collector may fix having regard to the rent payable immediately before the 20th December, 1961, for such or similar

land.

"Provided further that the amount of land revenue payable under the preceding proviso shall in no case exceed rupees twenty-five per hectare in the case of jirait land, rupees fifty per hectare in the case of paddy land and rupees seventy-five per hectare in the case of garden land.

Explanation.- For the purpose of this section,-

- (i) "paddy land" means land used for the cultivation of paddy;
 - (ii) "garden land" means land irrigated by a well, tank, canal, river, nala or any other source of water and used for the cultivation of fruits including coconuts, arecanuts or vegetables;
 - (iii) "jirait land" means land other than a paddy or a garden land.".]
- (2) For the purposes of clause (i) of the proviso to sub-section (1), the Collector shall publish in the Official Gazette on the 1st January of each year the price of paddy or other crop which shall be adopted for determining the cash equivalent of the rent payable.
- (3) If any person makes default in the payment of land revenue, it shall be recovered-
- (a) by serving a written notice of demand on such person,
 - (b) by distraint and sale of the movable property of such person,
 - (c) by sale of the immovable property of such person, or
 - (d) by forfeiture of the land in respect of which the land revenue is due, in accordance with such rules as may be made in this behalf.

7. Rights Of Certain Cultivating Tenants To Be Restored To Possession Of Their Lands :-

(1) Any cultivating tenant who had been evicted from any land after the 1st April, 1954, being land which a proprietor was personally cultivating on the 20th December, 1961, may, on or before the 31st December, 1962, make an application to the Mamlatdar for restoration of such land on the ground that he was evicted from such land without any reasonable excuse.

(2) On receipt of such application, the Mamlatdar may make such enquiry as he thinks fit.

(3) If, on such enquiry, the Mamlatdar is satisfied that such cultivating tenant was in possession of that land on the 1st April, 1954, and that he was evicted therefrom after that date by the proprietor thereof without any reasonable excuse, he may order the restoration of such land to the cultivating tenant or direct the proprietor to pay such compensation to him as the Mamlatdar may deem appropriate in the circumstances of the case.

(4) Any party aggrieved by the order of the Mamlatdar under sub-section (3) may file an appeal, within thirty days from the date of that order, to the Collector.

(5) The decision of the Mamlatdar where no appeal is filed, and the decision of the Collector where an appeal is filed, shall be final and shall not be questioned in any court of law.

8. Rights Of Proprietors And Cultivating Tenants To Hold Land As Occupants :-

(1) Every cultivating tenant holding land of which he was in actual possession on the 20th December, 1961, 8[but excluding pasture or grass lands] shall, as from the appointed date, be the occupant thereof on payment of land revenue to the Government under section 6.

(2) Every proprietor holding land which he was personally cultivating on the 20th December, 1961, and in respect of which,-

(a) no application has been made under section 7; or

(b) such application having been made, no order of restoration thereon was passed, shall hold such land as occupant on payment of land revenue to the Government under section 6-

(i) in the case referred to in clause (a), from the 1st January, 1963; and

(ii) in the case referred to in clause (b), from the date such application is finally disposed of.

(3) Every person to whom any land is restored under section 7 shall hold such land as occupant on payment of land revenue to the Government under section 6 from the date such land is ordered to be restored to him under section 7.

8A. Eviction Of Occupants Of Land In Certain Cases :-

(1) If at any time after the commencement of the Regulation any person who has become an occupant of land under section 8 fails to cultivate such land personally, he shall, unless the Collector condones such failure for sufficient reasons, be evicted from the land which he has failed to cultivate personally, and the land shall be resumed to Government without payment of any compensation.

(2) The provisions of sub-section (1) shall apply to the heirs and successors-in-title of the person referred to in sub-section (1).

8B. Restrictions On Sale, Etc., Of Land By Occupants :- No sale (including sales in execution of a decree of a Civil Court or for

recovery of arrears of land revenue), gift, exchange or lease or assignment or mortgage of any land in respect of which any person has become an occupant under section 8 shall be made, except with the previous permission in writing of the Collector, who may grant such permission in such circumstances and subject to such conditions as may be prescribed.

8C. Forfeiture Of Land Transferred In Contravention Of Section 8-B :-

(1) Where in respect of the transfer of any land the Mamlatdar suo motu, or on the application of any person interested in such land, has reason to believe that such transfer is in contravention of section 8-B, he shall issue notice to the transferor and the transferee to show cause why the transfer should not be declared to be in contravention of section 8-B, and shall hold an inquiry and decide whether the transfer is in contravention of section 8-B.

(2) If after holding such inquiry the Mamlatdar declares the transfer to be in contravention of section 8-B, the land on respect of which such contravention has taken place shall be deemed to be forfeited to Government without payment of any compensation.].

9. Compensation To Proprietors :-

A proprietor whose rights, title and interest in respect of his lands vest in the Government under section 3 shall be entitled to compensation at the rate of twenty times the annual payment (Contribuicao Predial) which the proprietor was liable to make to the former Portuguese Government in respect thereof immediately before the 20th December, 1961.

10. Method Of Payment Of Compensation :-

(1) Any person entitled to compensation under section 9 shall, on or before such date as the Administrator may specify in this behalf from time to time by notification in the Official Gazette, make an application to the Collector in the prescribed form for payment of such compensation.

(2) On receipt of an application under sub-section (1), the Collector shall, after making such enquiry as he thinks fit, determine the amount of compensation payable to such person:

Provided that where there are more persons than one entitled to such compensation, the Collector shall apportion the compensation

among them: Provided further that in cases of dispute regarding apportionment of compensation among the persons entitled to compensation, the Collector shall direct them to have their respective share adjudicated upon by a competent civil court and the payment of compensation shall be in accordance with such adjudication.

11. Payment Of Compensation :-

The compensation determined under section 10 shall, after deducting therefrom the amounts, if any, referred to in clause (iii) of section 3, be paid in cash to the person or persons to whom it is payable, but if any such person refuses to accept payment, the amount payable to him shall be deposited by the Collector in a competent civil court.

12. Proprietors To Deliver Records To Authorised Officers :-

(1) Whenever any officer authorised by the Collector in this behalf so directs, a proprietor shall deliver to him or such other officer as may be specified in the direction, the records relating to the lands or village or villages held by him as proprietor.

(2) If a proprietor fails without reasonable cause to deliver any such records, he shall, on conviction, be punished with fine which may extend to two hundred rupees. In the case of continuing failure to deliver any such records, the proprietor shall be punished with an additional fine which may extend to twenty-five rupees for every day during which such failure continues after conviction for the first such failure.

12A. Mamlatdar To Decide Certain Matters Arising Under The Regulation :- For the purpose of the Regulation, the following shall be the duties and functions to be performed by the Mamlatdar, namely:-

- (a) to decide whether a person is a proprietor;
- (b) to decide whether a person is an agricultural labourer;
- (c) to decide whether a person is a cultivating tenant;
- (d) to decide whether a person is a landless person;
- (e) to decide the amount of rent recoverable from the proprietor under section 3;
- (f) to decide the homesteads, buildings and structures together with land appurtenant thereto and the lands under personal cultivation which the proprietor is entitled to retain under section 4;
- (g) to determine the land in respect of which occupancy rights are

conferred under section 8 and the person on whom they are conferred;

(h) to take measures for restoration of land to the cultivating tenant under section 7 and to recover compensation from the proprietor payable by him under sub-section (3) of section 7; and

(i) to decide such other matters as may be referred to him by or under the Regulation.

12B. Application For Conducting Inquiries, Etc :- Except as expressly provided by or under the Regulation, all inquiries and other proceedings before the Mamlatdar shall be commenced by an application which shall contain the following particulars, namely:-

(a) the name, age, profession and place of residence of the applicant and the opponent;

(b) a short description of the matter about which dispute has taken place, or the amount of claim, as the case may be;

(c) the circumstances out of which the cause of action arose;

(d) a list of the applicants documents, if any, and of his witnesses, and whether such witnesses are to be summoned to attend or whether the applicant will produce them on the day of hearing; and

(e) such other particulars as may be prescribed.

12C. Powers Of Mamlatdar :-

(1) In all enquiries and proceedings under the Regulation, the Mamlatdar shall exercise the same powers as the Mamlatdar under the Goa, Daman and Diu Mamlatdars Court Act, 1966 (hereinafter referred to as the "said Act") and shall, except as provided in sub-section (3) of section 7 and section 8-C, follow the provisions of the said Act.

(2) In regard to any matter for which no provision exists in the said Act, the Mamlatdar shall follow the procedure as may be prescribed by the Government.

(3) Every decision of the Mamlatdar shall be recorded in the form of an order and shall state the reasons for such decisions.

(4) An appeal against any order of the Mamlatdar shall be filed within thirty days from the date of that order to the Collector.

(5) The decision of the Mamlatdar, when no appeal is filed, and the decision of the Collector, when appeal is filed, shall, subject to revision to be made to the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965,

within a period of ninety days from the date of the decision of the Collector, be final.

12D. Revisionary Powers Of Collector :- When no appeal has been filed within the period provided for it, the Collector may, suo motu or on a reference made by the Government, at any time call for the record of any inquiry or the proceeding of the Mamlatdar for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceeding of, such Mamlatdar and pass such order thereon as he deems fit:

Provided that no such record shall be called for after the expiry of one year from the date of such order and no order of such Mamlatdar shall be modified, annulled or reversed, unless opportunity has been given to the interested parties to appear and be heard.

12E. Fees :- Notwithstanding anything contained in the Court Fees Act, 1870, every application or appeal made under the Regulation shall bear court fee stamp of sixty-five paise if made to the Mamlatdar and of two rupees if made to the Collector or the Administrative Tribunal.

12F. Bar Of Jurisdiction Of Civil Court :-

(1) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under the Regulation required to be settled, decided or dealt with by the Mamlatdar or the Collector.

(2) No order of the Mamlatdar or the Collector made under the Regulation shall be questioned in any Civil or Criminal Court.

13. Protection Of Action Taken Under This Regulation :-

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Regulation or any rules made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused or any injury suffered or likely to be suffered by virtue of any provision contained in this Regulation or any rules made thereunder or by

anything in good faith done or intended to be done in pursuance of this Regulation or any rules made thereunder.

14. Power To Remove Difficulty :-

(1) If any difficulty arises in giving effect to the provisions of this Regulation, the Central Government may by order make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) Any order under sub-section (1) may be made so as to be retrospective to any date not earlier than the appointed date.

15. Power To Make Rules :-

The Administrator may, by notification in the Official Gazette, make rules to carry out the purposes of this Regulation.