

## **MAHARASHTRA KHOTI ABOLITION ACT, 1949**

**6 of 1950**

**[3rd April, 1950]**

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### **SCHEDULE 1 :- SCHEDULE**

## **MAHARASHTRA KHOTI ABOLITION ACT, 1949**

**6 of 1950**

**[3rd April, 1950]**

An Act to abolish the khoti tenure in the 2[State of Bombay]  
WHEREAS it is expedient to abolish the khoti tenureprevailing in the districts of Ratnagiri and Kolaba in the 3[Bombay area of the State of Maharashtra] and provide for certain consequential and incidental matters hereinafter appearing; it is hereby enacted as

follows

**1. . :-**

(1) This Act may be called the Bombay Khoti Abolition Act. 1949

(2) It extends to the districts of Ratnagiri and Kolaba as constituted immediately before the thirtieth day of July 1948

(3) It shall come into force on such date as the <sup>1</sup> [State Government] may by notification in the Official Gazette, specify

1. These words were substituted for the words "Provincial Government of Bombay" by Bom. 18 of 1950, Section 2(ii).

**2. . :-**

(1) In this Act unless there is anything repugnant in the subject or context

(i) "Code" means the Bombay Land Revenue Code, 1879;

<sup>1</sup>[(ia) "Collector" includes an officer appointed by the State Government to perform the functions and exercise the powers of the Collector under this Act;]

(ii) "dhara land" means land held by a dharekari and in the Ratnagiri district includes land held by a quasidharekari;

(iii) "dharekan" means a landholder who holds land on the dhare tenure;

(iv) "khot" includes

(a) a mortgagee lawfully in possession of a khoti

(b) all co sharers in a khotki:

(v) "Khoti Act" means the Khoti Settlement Act. 1880;

(vi) "khot's dues" means

(a) the rent paid to a khot by a quasidhankari or permanent tenant of khoti land in the district of Ratnagiri. in accordance with the provisions of section 33 of the Khoti Act. and

(b) the khoti fayda paid by any tenant of the Khoti nisbat land in the district of Kolaba, in accordance with the terms of the Kabulayat or in accordance with the orders passed under section 38 of the Khots Leases Act, 1865; exclusive of the survey assessment

due to the <sup>2</sup>[State Government] and the cess leviable under section 93 of the Bombay Local Boards Act, 1923. in respect of such land;

(vii) "khoti khasgi land" means,

(a) in the Ratnagiri District khoti land held by and in possession of a khot other than khoti nisbat land and land held by a privileged occupant as defined in the Khoti Act

(b) in the Kolaba District,

(i) land which is entered in the khot's own name as khoti <sup>3</sup>or in that of a co sharer in a khotki in the records of the original survey; and

(ii) land acquired since the original survey by the khot by purchase or other lawful transfer otherwise than in his capacity as a khot;

(viii) "khoti land" means land in respect of which a khot had, as such, any right or interest in the district of Ratnagiri according to the provisions of the Khoti Act and in the district of Kolaba according to the custom of the tenure;

(ix) "khoti nisbat land" means ,

(i) in the district of Ratnagiri land which is a khoti village before the coming into force of this Act has reverted to the khot under <sup>4</sup> [and includes also lands entered as khoti nisbat in the revenue records or the records of the khot before the passing of the Khoti Act];

(ii) land which may have been entered in the original survey in the khoti nisbat padit khata and since brought into cultivation otherwise than at the khot's own expenses;

(x) "khoti village" means a village, or a portion or share of a village, to the extent to which a khot has any right or interest in such village, or portion or share thereof

(xi) "permanent tenant" means a holder of khoti land who has a permanent tenancy in such land;

(xii) "quasidharekari" means a landholder of any of the denominations, named in the first column of the Schedule to the Khoti Act

(2) Any word or expression which is defined in the code and not defined in this Act shall be deemed to have the meaning given to it

by the Code

(3) References in this Act to the provisions of the Khoti Act and the incidents of the khoti tenure shall, notwithstanding the repeal of the said Act and the abolition of the said tenure by this Act, be construed as references to the said provisions and incidents as they were in force immediately before this Act comes into force

1. Clause (i-a) was inserted by Bom. 38 of 1953. Section 3 and Second Schedule.

2. These words were substituted for the words "Provincial Government" by Bom. 18 of 1950. Section 2 (i).

3. The word "Khasgi" was deleted by Bom. 38 of 1953, Section 3 and Second Schedule.

4. This portion was added by Bom. 65 of 1953, s.2 This amendment shall be deemed to have been made and come into force on the date on which Bom. 6 of 1950 came into force (vide Section 3 of Bom. 65 of 1953

### **3. Abolition of kholi tenure :-**

With effect from and on the date on which this Act comes into force ,

(1) the khoti tenure shall, wherever it prevails in the districts of Ratnagiri and Kolaba, be deemed to have been abolished; and

(2) save as expressly provided by this Act, all the incidents of the said tenure shall be deemed to have been extinguished, notwithstanding any law, custom, or usage or anything contained in any sanad, grant, kabulayat, lease, decree or order of any court or any other instrument

### **4. Khot dharekari and tenants to be occupants :-**

(1)

(a) In the case of khoti khasgi land, the khot ;

(b) in the case of a dhara land, the dharekari or quasidharekari;

(c) in the case of land held by a permanent tenant, the permanent tenant;

(d)

(i) in the case of khoti nisbat land, any tenant in possession of the land; and

(ii) if there be no tenant in possession of such land, the khot;

<sup>1</sup>[State Government] for the payment of land revenue due in respect of such land held by him and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the Code or any other law for the time being in force in force:

Provided that in the district of Ratnagiri. in the case of a tenant (other than a permanent tenant) in the possession of khoti nisbat land, such tenant shall be entitled to the rights of an occupant on payment to the khot of the occupancy price equivalent to six multiples of the survey assessment fixed on the land:

Provided further that in the district of Ratnagiri. in the case of a tenant (other than a permanent tenant) in the possession of khoti nisbat land, such tenant and in the case of a khot in respect of khoti nisbat land in his actual possession such khot shall be entitled to the rights of an occupant on payment to the khot of the occupancy price equivalent to six multiples of the survey assessment fixed on the land:

Provided further that in the district of Kolaba, in the case of a tenant (other than a permanent tenant) in the possession of khoti nisbat land such tenant, and in the case of a khot in respect of khoti nisbat land in his actual possession such khot, shall be entitled to the rights of an occupant on the payment to the <sup>1</sup> [State Government] of the occupancy price equivalent to six multiples of the survey assessment fixed on the land

(2) The occupancy price payable under this section shall be in addition to the amount of the commuted value payable by any person under section 5

(3) With effect from the date on which this Act comes into force, the land in respect of which any person is entitled to the rights of an occupant under sub-section (1), shall be free from the liability for the payment of khot's due in respect thereof, and all rights of a khot in his capacity as a khot in such land shall be deemed to have been extinguished

(4) Nothing in sub-section (3) shall in any way affect the liability of any person to pay in respect of the land in his possession the amount of the khot's dues for the current year ending on the 31st day of July 1950 and the amount of the arrears of such dues for any previous year in respect of the said land

1. These words were substituted for the words "Provincial Government" by Bom 18 of 1950, Section 2 (ii).

## **5. Commutation of khot's dues :-**

(1) A quasidharekari or a permanent tenant or a tenant of khoti nisbat land shall be liable to pay the commuted value of the khot's dues which were payable by him immediately before the coming into force of this Act in respect of the land held by him. Such commuted value shall be estimated and paid in the manner prescribed in sub-sections (2) and (3)

(2) The Mamlatdar shall give notice in the prescribed manner to the persons referred to in sub-section (1) and the khot, and after holding a formal inquiry shall determine the amount of the commuted value of the khot's dues

Provided that the amount of commuted value shall not exceed three times the amount of the khot's dues, if payable in cash or three times the value of such dues if payable in kind, subject to the maximum of a sum equal to six times the survey assessment of the land, and if the khot's dues are payable in crop share, three times the commuted value of such dues reckoned in the manner provided for in sub-section (3)

(3) In estimating the commuted value of the khot's dues payable in crop-share, a third crop-share shall be held as equivalent to two multiples of survey assessment fixed on the land and any other crop-share as a proportional multiple of such assessment:

Provided that the commuted value of the produce payable on any warkas land actually used for the purpose of rab manure in connection with rice cultivation shall be held as equivalent to one survey assessment of such land

## **6. Occupancy price of commutation value recoverable as arrears of land revenue :-**

The amount of the occupancy price payable under Section 4 and the amount of the commutation value payable under Section 5, if not deposited with the Mamlatdar or paid to the khot, in accordance with the directions within the period specified in the direction, shall be recoverable as arrears of land revenue The amount deposited or recovered shall be paid to the khot or credited to <sup>1</sup> [Government] as the case may be

1. These words were substituted for the words "the Crown" by

Bom. 18 of 1950. Section 2 (iii).

**7. Khot to hand over accounts, etc to authorised Officer :-**

(1) Whenever an officer authorised by the <sup>1</sup> [State Government] in this behalf so directs, a khot shall produce before him or such other officer as may be specified in the direction accounts and other records relating to the khoti village kept by him in the Ratnagiri district under the provisions of the Khoti Act and in the Kolaba district under the terms of the kabulayat

(2) If the khot fails without reasonable cause to deliver any such accounts or records, he shall, on conviction, be punished with fine which extend to Rs. 200. In the case of a continuing failure to deliver any such accounts or records, the khot shall be punished with an additional fine which may extend to Rs. 25 for every day during which such failure continues after conviction for the first such failure

1. These words were substituted for the words "Provincial Government" by Bom. 18 of 1950, Section 2 (ii).

**8. Uncultivated and waste lands and all property of the naiurc specified in section 37 of the Code vests in the Government :-**

For the removal of doubt, it is hereby declared that all uncultivated and waste lands in the khoti village not appropriated by any khot and not entered into the revenue or survey records as khoti khasgi before the date on which this Act comes into force, and all other kinds of property referred to in Section 37 of the Code, situated in a khoti village, which are not the property of the individuals or of any aggregate of persons legally capable of holding property and except in so far as any rights of such persons may be established in or over the same and except as may be otherwise provided in any law for the time being in force, are together with all rights in or over the same or appertaining thereto, the property of the <sup>1</sup> [Government] and it shall be lawful to dispose of or set apart the same for the authority in the manner and for the purpose provided in Section 37 or 38 of the Code, as the case may be

1. These words were substituted for the words "Provincial Government" by Bom 18 of 1950. Section 2 (iii).

**9. Exinction of khots right to reversion :-**

From the date on which this Act comes into force, a khot shall not be entitled to acquire any right in any khoti land by right of

revision

Explanation For the purposes of this section, the right of reversion shall mean a right by which a khot was entitled to acquire lands held by a privileged occupant under Section 10 of the Khoti Act or dhara or khoti nisbat land in the district of Kolaba according to the custom of the tenure

**10. Right to trees :-**

The rights of trees specially reserved under the Indian Forest Act, 1927, or any other law for the time being in force except those the ownership or which has been transferred by<sup>1</sup>[Government] under any contract, grant or law for the time being in force shall vest in <sup>1</sup> [Government]

1. These words were substituted for the words "Provincial Government by Bom 18 of 1950. Section 2 (iii).

**11. Application of the Code to lands in khoti village :-**

Save as otherwise expressly provided in this Act, the provisions of the Code shall apply to lands in the khoti village

**12. Method of Compensation for the extinguishment or modifications of any rights in land :-**

(1) If a khot or any other person is aggrieved by any of the provisions of this Act as extinguishing or modifying any of his rights in land and if such person proves that such extinguishment or modification amounts to transference to public ownership of any land or any right in or over such land, such person may apply to the Collector for compensation

(2) Such application shall be made in the form prescribed by rules made under this Act <sup>1</sup>[on or before the 31st day of March, 1952] <sup>2</sup>[and in the case of compensation for the extinguishment of any right to a share in the revenues of a forest, on or before the 31st day of March. 1964];

(3) The Collector shall after holding a formal inquiry in the manner provided by the Code award such compensation as he deems reasonable and adequate: Provided that

(a) the amount of compensation for the extinguishment of the right of reversion in lands in the khoti village in the district of Ratnagiri shall not exceed the amount calculated at the rate of Rs. 2 per 100 acres of such land;



(b) the amount of compensation for the extinguishment of any right to appropriate any uncultivated and waste lands not appropriated by any khot and not entered in the revenue or survey records as khoti khasgi immediately before the 1st day of August, 1949, shall not exceed the amount calculated at the rate of Rs. 5 per 100 acres of such land:

Provided further that in the case of the extinguishment or modification of any other right of a khot or any right of any other person, the Collector shall be guided by the provisions of sub-section (i) of Section 23 and Section 24 of the Land Acquisition Act, 1894:

Provided also that if any question arises whether any land is dhara, khoti khasgi or khoti nisbat or is held by a permanent tenant or other tenant, the Collector shall after holding a formal inquiry in the manner provided by the Code decide the question

### **3(3A)**

(i) Where the officer making an award under sub-section (3) is a Collector under this Act but not a Collector appointed under Section 8 of the Code and the amount of such award exceeds five thousand rupees, then the award shall not be made without the previous approval of

(a) the Collector appointed under Section 8 of the Code, if the amount of the award does not exceed twenty-five thousand rupees, or

(b) the Commissioner, if the amount of the award does exceed twenty-five thousand rupees but does not exceed one lakh of rupees, or

(c) the State Government, if the amount of the award exceeds one lakh of rupees

(ii) Where the officer making an award under sub-section (3) is a Collector under this Act but also a Collector appointed under Section 8 of the Code and the amount of such award exceeds twenty-five thousand rupees, then the award shall not be made without the previous approval of

(a) the Commissioner, if the amount of the award does not exceed one lakh of rupees, or

(b) the State Government, if the amount of the award exceeds one lakh of rupees

(iii) Every award under sub-section (3) shall be in the form prescribed in Section 26 of the Land Acquisition Act, 1894.]

(4) Subject to the provisions of" sub-section (5), the award or decision of the Collector shall be final

(5) Any person aggrieved by the award or decision of the Collector may appeal to the <sup>4</sup>[Maharashtra Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1957.

(6) In deciding appeals under sub-section (5) the <sup>5</sup> [Maharashtra Revenue Tribunal] shall exercise all the powers which a Court has and follow the same procedure which a Court follows in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure. 1908

1. These words, figures and letters were substituted for the words "within six months from the date on which this Act comes into force" by Bom. 3 of 1952, Section 2. Schedule.

2. These words, letters and figures were inserted by Mah. 43 of 1963. Section 2.

3. Sub-section (3A) was inserted by Bom. 93 of 1958. Section 2, Schedule.

4. These words and figures were substituted for "from Bombay Revenue Tribunal to" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order. 1960.

5. These words and figures were substituted for "Bombay Revenue Tribunal" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order. 1960.

### **13. Limitation :-**

Every appeal made under this Act to the <sup>1</sup> [Maharashtra Revenue Tribunal] shall be filed within a period of sixty days from the date of the award of the Collector The provisions of Sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal

1. These words and figures were substituted for "Bombay Revenue Tribunal" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order. 1960.

### **14. Court fees :-**

Notwithstanding anything contained in the Court fees Act 1870, every appeal made under this Act to the <sup>1</sup> [Maharashtra Revenue Tribunal] shall bear a court-fee stamp of such value as may be

prescribed

1. These words and figures were substituted for "Bombay Revenue Tribunal" by the Maharashtra Adaptation of Laws (Slate and Concurrent Subjects) Order. 1960.

**14A. Revisional powers in respect of awards made before commencement of Bom. XCIII of 1958. :-**

<sup>1</sup> Where any award was made under sub-section (3) of Section 12 before the commencement of the Bombay Land Tenure Abolition (Amendment) Act, 1958 and no appeal was filed against such award under sub-section (5) of Section 12, notwithstanding anything contained in subsection (4) of Section 12, the State Government may call for the record of the inquiry or proceedings relating to such award for the purpose of satisfying itself as to the legality, propriety or regularity, of such inquiry or proceedings, and if, after giving the interested parties an opportunity to be heard, it is not satisfied as to the legality, propriety or regularity, of such inquiry or proceedings, it may cancel the award and direct the Collector to make a fresh award and thereupon all the provisions of this Act relating to the making of an award and finality of such award and the appeal against such award shall mutatis mutandis apply to such fresh award]

1. Section 14A was inserted by Bom. 93 of 1958. S. 2. Schedule

**15. Provisions of Bom. I. XVII of 1448 to govern the relations of khot and tenants :-**

Nothing in this Act shall in any way be deemed to affect the application of any of the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, to any of the khoti lands or the mutual rights and obligations of a khot and his tenants, save in so far as the said provisions are not in any way inconsistent with the express provisions of this Act

**16. Rules :-**

The [State Government] may make rules for the purpose of carrying out the provisions of this Act Such rules shall be subject to the condition of previous publication and shall, when finally made, be published in the Official Gazette

**17. Repeal :-**

The enactments specified in the Schedule are hereby repealed to the extent specified in column 4 thereof

Provided that the repeal of the said enactments and the provisions

declaring any incident of the khoti tenure to have been extinguished shall not in any way affect any legal proceeding pending at the date of the commencement of this Act and such legal proceeding shall be continued and finally disposed of as if this Act has not been passed

SCHEDULE 1

SCHEDULE

Year	No.	Short Title	Extent of repeal
(1)	(2)	(3)	(4)
1865	1	The Khoti Leases Act, 1865	Sections 37 and 38
1879	V	The Bombay Land Revenue Code. 1879	Section 114
1880	I	The Khoti Settlement Act. 1880	The whole