

**MAHARASHTRA RESTORATION OF LANDS TO SCHEDULED  
TRIBES ACT, 1974**

**14 of 1975**

**[28th May, 1975]**

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**MAHARASHTRA RESTORATION OF LANDS TO SCHEDULED  
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An Act to provide for the restoration of certain lands to persons belonging to the Scheduled Tribes. Whereas by Government Resolution in the revenue and forests department, No. REV. 1070/62448-C, dated the 15th March 1971, the Government of Maharashtra appointed a Committee to inquire into and report to the inter alia on how far the provisions of the Maharashtra Land Revenue Code, 1966, (Mah. XLI of 1966) and the relevant tenancy laws have been effective in giving protection to the persons belonging to the Scheduled Tribes, and to suggest among other things suitable amendments therein, if any of the existing

provisions are found to be inadequate; AND WHEREAS the said Committee submitted its report to Government on the 7th April 1972: AND WHEREAS the said Committee inter alia recommended that provisions should be made for restoring to persons belonging to the Scheduled Tribes the lands which have been duly transferred to other persons; AND WHEREAS after considering the aforesaid recommendation of the said Committee, the Government of Maharashtra is of the opinion that steps should be taken forthwith for restoring of certain lands to persons belonging to the Scheduled Tribes: It is hereby enacted in the Twenty-fifth Year of the Republic of India as follows:-

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

(1) This Act may be called the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 .

(2) It shall extend to the whole of the State of Maharashtra.

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

1. 1st November 1975 (vide G.N., R.and F.D., No. REV1070/62448(II) L-9, dated 1st November 1975).

### **2. Definitions. :-**

In this Act, unless the context requires otherwise,-

(a) "Code" means the Maharashtra Land Revenue Code, 1966 ; (Mah.XLI of 1966)

(b) "Collector" includes an Additional Collector, and an Assistant of Deputy Collector exercising the. powers or discharging the duties of a Collector under the Code and also any other officer not below the rank of <sup>1</sup> [a Tahsildar] especially empowered by the State Government to exercise the powers and perform the duties of the Collector under this Act;

(c) "Commissioner" includes an Additional Commissioner;

(d) "improvements" in relation to land means any drainage works, embankments, Bandharas. wells or any other works appurtenant to such land constructed or maintained thereon for the purposes of agriculture, and all structures, permanent fixtures and trees on such land;

(e) "non-Tribal" means a person who is not a Tribal and includes his

successor-in-interest

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

(g) "relevant tenancy law" means,-

(i) in relation to the Vidarbha region of the State, the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 , (Bom.XCIX of 1958)

(ii) in relation to the Hyderabad area of the State, the Hyderabad Tenancy and Agricultural Lands Act, 1950 , and (Hyd.XXI of 1950)

(iii) in relation to the rest of the State, the Bombay Tenancy and Agricultural Lands Act, 1948 ; (Bom.LXVII of 1948)

(h) "successor-in-interest" means a person who acquires interest in land by testamentary disposition or devolution on death;

(i) "transfer" in relation to land means the transfer of land belonging to a tribal made in favour of a non-Tribal during the period commencing on the 1 st day of April 1957 and ending on the 6th day of July 1974, either-

(a) by act of parties, whether by way of sale, gift, exchange, mortgage or lease or any other disposition made inter-vivos, or

(b) under a decree or order of a court, or

(c) for recovering any amount of land revenue due from such Tribal, or for recovering any other amount due from him as an arrear of land revenue, or otherwise under the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961) or any other law for the time being in force but does not include a transfer of land falling under the proviso of sub-section (3) of Section 36 of the Code: and the expression "Tribal transferor" and "non-Tribal transferee" shall be constructed accordingly;

(j) "Tribal" means a person belonging to a Scheduled Tribes within the meaning of the Explanation to Section 36 of the Code, and includes his successor-in-interests:

(k) "Tribal transferor" includes his successor-in-interests;

(1) "Tribal transferee" includes his successor-in-interest; and if he or his successor has, on or after the 15th day of March 1971, transferred land in favour of any person, whether a Tribal or non-Tribal, includes also such person.

(2) Words and expressions used in this Act but not defined, shall have the meanings respectively assigned to them in the Code or as the case may be, in the relevant tenancy law. Baburao s/o Nanu Petitioner v Baburao s/o Maruti Andha and another Respondents 1991 (4) Bom CR 72 per Mr.N.P.Chapalgaonkar. J.

1. These words were substituted for the words "an Assistant or Deputy Collector" by Mah. 12 of 1977, s.3.

### **3. Restoration or transfer of lands to Tribals in certain cases :-**

(1) Where due to transfer-

(a) the land of a Tribal transferor is held by a non-Tribal transferee; or

(b) the land acquired in exchange by a Tribal transferor is less in value than the value of land given in exchange. And the land so transferred is in possession of the non-Tribal transferee, and has not been put to any non-agricultural use on or before the 6th day of July 1974, then, notwithstanding anything contained in any other law for the time being in force, or any judgement, decree or order of any Court, Tribunal or authority, the Collector either suo motu at any time, or on the application of the Tribal transferor made within three years from the commencement of this Act shall, after making such inquiry as he thinks fit, direct that-

(i) the lands of the Tribal transferor and non-Tribal transferee so exchanged shall be restored to each other; and the Tribal transferor, or as the case may be, the non- Tribal transferee shall pay the difference in value of improvements as determined under clause (a) of sub-section (4), or

(ii) the land transferred otherwise than by exchange be taken from the possession of the non-Tribal transferee, and restored to the Tribal transferor, free from all encumbrances, and the Tribal transferor shall pay such transferee and other persons claiming encumbrances the amount determined under clause (a) of sub-section (4):

Provided that, where land is transferred by a Tribal transferor in favour of a non-Tribal transferee before the 6th day of July 1974, after such transferee was rendered landless by reason of acquisition of his land for a public purpose, then only half the land so transferred shall be restored to the Tribal transferor.

<sup>1</sup>[Explanation - Where the lands of a Tribal and non-Tribal are purported to have been transferred to each other, otherwise than by exchange, but the date on which the instruments for such transfers are registered is the same, or where such instruments are registered on different dates, but the interval between the dates of registration is thirty days or less, then, notwithstanding anything contained in such instruments, for the purposes of this section, such transfers shall be deemed to be by way of exchange.]

<sup>2</sup>[(1A) Where any proceedings are taken under clause (ii) of sub-section (1) before the date of commencement of the Maharashtra Restoration of Lands to Scheduled Tribes (Amendment) Act, 1977 (Mah.LVII of 1977) (hereinafter in this section referred to as "the commencement date") in respect of any land purported to have been transferred by a Tribal transferor to a non-Tribal transferee, otherwise than by exchange, and

(a) such proceedings are pending before the Collector or any appellate or revisional authority on the commencement date, and the Collector or such authority is satisfied, after giving a reasonable opportunity of being heard to both the parties, that there were transfers of lands by way of exchange between the parties within the meaning of the Explanation to sub-section (1), then-

(i) if such proceedings are pending before the Collector, the Collector shall hold a fresh inquiry under clause (i) of sub-section (1) in respect of the lands deemed to be exchanged;

(ii) if such proceedings are pending before the appellate or revisional authority, such authority shall set aside the order of the Collector and direct the Collector to hold a fresh inquiry under clause (i) of sub-section (1) in respect of the lands deemed to be exchanged;

(b) such proceedings have been completed by the Collector or by any such authority, but the Collector, within a period of six months from the commencement date, is on an application made by any of the parties to the exchange, or suo motu satisfied, after giving a reasonable opportunity of being heard to both the parties, that there were transfers of lands by way of exchange between the parties within the meaning of the Explanation to sub-section (1), the Collector shall forthwith pass necessary orders to restore the status quo and then hold a fresh inquiry under clause (i) of sub-section (1) in respect of the lands deemed to be exchanged.]

(2) Where any land restored under clause (i) of sub-section (1) to a Tribal or non-Tribal is burdened with encumbrances, then such encumbrances shall be transferred therefrom and attach themselves to the land restored to the non-Tribal or the Tribal, as the case may be.

(3) The Tribal transferor shall, notwithstanding anything contained in any law for the time being in force in the State, be entitled to restoration of land under this section only if he undertakes to cultivate the land personally and to pay such amount to the non-Tribal transferee as the Collector may, under the provisions of sub-section (4), determine:

Provided that, in the case of a minor, the undertaking may be given by his guardian, and in the case of any other person, under disability by his authorised agent.

(4)

(a) Where lands are restored under clause (i) of sub-section (1), the Collector shall in (he prescribed manner determine the value of improvements, if any, made thereon after such exchange by the Tribal transferor or the non-Tribal transferee. If the value of the improvements, if any, made by a Tribal transferor is found to be more, the difference shall be payable by a non-Tribal transferee to the Tribal transferor; and if the value of the improvements, if any, made by the non-Tribal transferee is found to be more, the difference shall be payable by the Tribal transferor to the non-Tribal transferee.

(b) The amount payable by the Tribal transferor for the land restored to him under clause (ii) of sub-section (1), shall consist of an amount equal to 48 times the assessment of the land of the amount of consideration paid by the non-Tribal transferee for acquisition of land whichever is less plus the value of the improvements, if any, made by the non-Tribal transferee therein to be determined by the Collector in the prescribed manner.

Explanation - In determining the value of any improvement under clause (a) or (b), the Collector shall have regard to-

(i) the labour and capital provided or spent on improvements:

(ii) the present conditions of the improvements:

(iii) the extent to which the improvements are likely to benefit the

land during the period of ten years next following the year in which such determination is made: and

(iv) such other factors as may be prescribed.

(c) The Tribal transferor, or as the case may be the non-Tribal transferee who is found liable to pay the amount representing the difference in the value of improvements as determined by the Collector under clause (a) shall pay the said amount to the non-Tribal transferee, or as the case may be, the Tribal transferor, either in lump sum or in such annual installments not exceeding twelve (with simple interest at 4 1/2 per cent per annum) as the Collector may direct.

(d) The Tribal transferor to whom land is restored <sup>3</sup> [under clause (ii) of sub-section (1)], of this section shall pay to the non-Tribal transferee and other persons claiming encumbrances the amount determined under (his sub-section, either in lump sum or in such annual installments not exceeding twelve (with simple interest at 4 1/2 per cent per annum) as the Collector may direct.

(e) The apportionment of the amount determined under clause (b) amongst the transferee and the persons claiming encumbrances shall be determined by the Collector in the following manner, that is to say:-

(i) if the total value of encumbrances on the land is less than the amount determined under clause (b), the value of encumbrances shall be paid to the holders thereof in full:

(ii) if the total value of encumbrances on the land exceeds the amount determined under clause (b), the amount shall be distributed amongst the holders of the encumbrances in the order of priority:

Provided that, nothing in clauses (d) and (e) shall affect the right of holder of any encumbrances to proceed to enforce against the non-Tribal transferee his right in any other member or any other law for the time being in force.

(f) During any period for which the payment of rent is suspended or remitted under the relevant tenancy law, the Tribal transferor or as the case may be, non-Tribal transferee shall not be bound to pay the amount in lump sum or the amount of any installment fixed under this section or interest thereon, if any.

(g) If the Tribal transferor or as the case may be, non-Tribal transferee fails to pay the amount in lump sum or remains in arrears of two or more installments, the amount so remaining unpaid (with interest thereon at 4 1/2 per cent per annum) shall be recoverable by the Collector as an arrear of land revenue. The amount so recovered shall be paid by the Collector to the non-Tribal transferee and persons claiming encumbrances, if any, or as the case may be, the Tribal transferor.

1. This Explanation shall be deemed always to have been added by Mah. 57 of 1977. s.2(a).

2. Sub-section (1A) was inserted by Mah. 57 of 1977. s.2(b).

3. This was deemed always to have been substituted for the words, brackets and figures "under clause.(i).of sub-section (1)" by Mah. 30 of 1977. s.4.

#### **4. Restoration of lands of persons belonging to Scheduled Tribes. :-**

Where any land of a Tribal is, at any time on or after the 1st day of April 1957 and before the 6th day of July 1974, purchased or deemed to have been purchased or acquired under or in accordance with the provisions of the relevant tenancy law by a non-Tribal transferee or where any acquisition has been regularized on payment of penalty under such law and such land is in possession of a non-Tribal transferee and has not been put to any non-agricultural use on or before the 6th day of July 1974. then the Collector shall, notwithstanding anything contained in any law for the time being in force, wither suo motu at any time or in an application by the Tribal within three years from the commencement of this Act shall, after making such inquiry as he thinks fit, direct that the land shall, subject to the provisions of sub-section (4) of section 3. be restored to the Tribal free from all encumbrances and that the amount of purchase price or the proportionate part thereof, if any, paid by such non-Tribal transferee in respect such land in accordance with the relevant tenancy law shall be refunded to such non-Tribal transferee either in lump sum or in such annual installments not exceeding twelve (with simple interest at 4 1/2 per cent per annum) as the Collector may direct. The provisions of clause (d), (e), (1) and (g) of sub-section (4) of section 3 shall, so far as may be. apply in relation to the recovery of the amount from the Tribal and payment thereof to a non-Tribal transferee and the persons claiming encumbrances, if any:



Provided that, where land is purchased or acquired by a non-Tribal transferee before the 6th day of July 1974, after such transferee was rendered landless by reason of acquisition of his land for a public purpose, then only half the land so purchased or acquired shall be restored to the Tribal transferor.

**5. Damages for occupation of land in certain cases. :-**

(1) A non-Tribal transferee who after the land is ordered to be restored under clause (ii) of sub-section (1) of section 3 or under Section 4 , <sup>1</sup>[or after the land is vested in the State Government under sub-section (1) of section 5A], continues to be in possession of the land, then the non-Tribal transferee shall pay to the Tribal <sup>2</sup>[In the former case and to the State Government in the later case] for the period (from the year following the year in which the land is ordered to be restored to the Tribal) till possession of land is given to the Tribal <sup>3</sup> [or, as the case may be to the State Government], such amount for (2) If the non-Tribal transferee fails to pay the amount fixed by the Collector under subsection (1), it shall be recoverable by the Collector as an arrear of land revenue.

1. This was deemed always to have been inserted by Mah. 30 of 1977. s.5(a).
2. This was deemed always to have been inserted by Mah. 30 of 1977. s.5(b).
3. This was deemed always to have been inserted by Mah. 30 of 1977. s.5(c). the use and occupation of the land as the Collector may fix in the prescribed manner.

**5A. Lands which cannot be restored to vest in Government and to be granted to other Tribes subject to certain restrictions. :-**

**1**

(1) Where any land (not being land acquired in exchange), which is liable to be restored to a Tribal transferor under sub-section (1) of Section 3 cannot be so restored either on account of the failure of the Tribal transferor to give an undertaking referred to in sub-section (3) of Section 3 or for any reason whatsoever or where any land referred to in Section 4 cannot be restored to the Tribal by reason of such Tribal expressing, during the inquiry held by the Collector, his unwillingness to refund the purchase price or proportionate part thereof to the non-Tribal transferee, as required by the said Section 4 , or for any other reason, then, the Collector may, subject to rules, if any, made in that behalf, by order in writing direct that the land shall, with effect from the date of the

order, be deemed to have been acquired and vest in the State Government free from all encumbrances.

(2) On such vesting of the land, the non-Tribal transferee shall be entitled to receive from the State Government an amount equal to 48 times the assessment of the land, plus the value of the Improvements, if any, made by the non-Tribal transferee therein. The provisions of clauses (b) and (e) of sub-section (4) of Section 3 shall mutatis mutandis apply for determining the value of improvements and for apportionment of the encumbrances, if any, on the land between the non-Tribal transferee and the persons claiming encumbrances on the land.

(3) The land so vested in the State Government under sub-section (1) shall, subject to any general or special orders of the State Government in this behalf, be granted by the Collector to any other Tribal residing in the village in which the land is situated or within five kilometers thereof and who is willing to accept the land in accordance with the provisions of the Code, and the rules and orders made thereunder and to undertake to cultivate the land personally; so however, that the total land held by such Tribal whether as owner or tenant does not exceed an economic holding within the meaning of sub-section (6) of Section 36A of the Code.

(4) The person to whom land is granted under sub-section (3), shall pay to the State Government the amount referred to in sub-section, either in lump sum or in such annual installments not exceeding twelve (with simple interest at 4 1/2 per cent per annum) as the Collector may direct and shall hold the land subject to such terms and conditions as may be prescribed.

(5) Without the previous sanction of the Collector, no land granted under sub-section (3) shall be transferred, whether by way of sale (including sale in execution of a decree of a Civil Court or of an award or order of a competent authority) or by way of gift, mortgage, exchange, lease or otherwise. Such sanction shall not be given otherwise than in such circumstances and in such conditions including condition regarding payment of premium or nazarana to the State Government, as may be prescribed:

Provided that, no such sanction shall be necessary where the land is to be leased by a serving member of the armed forces or where the land is to be mortgaged as provided in sub-section (4) of Section 36 of the Code for raising a loan for effecting any

improvement on such land.

(6) If sanction is given by the Collector to any transfer under sub-section (5), subsequent transfer of the land shall also be subject to the provisions of sub-section (5).

(7) Any transfer of land, and any acquisition thereof, in contravention of sub-section (5) or (6), shall be invalid; and as a penalty therefor, any right, title or interest of the transferor and transferee in or in relation to such land shall, after giving him reasonable opportunity to show cause, be forfeited by the Collector; and the land together with the standing crops thereon, if any, shall without further assurance vest on the State Government and shall be disposed of in such manner as the State Government may, from time to time, direct.)

1. Section 5A was inserted by Mah. 30 of 1977, s.6.

## **6. Appeal. :-**

(1) An appeal against any decision or order passed by the Collector may, notwithstanding anything contained in the Code, be made to the Maharashtra Revenue Tribunal constituted under the Code.

(2) Every such appeal shall be made within a period of sixty days from the date of receipt of the decision or order of the Collector. The provisions of Section 12 of the Limitation Act, 1963 Section 14 of the Limitation Act, 1963 Section 5 of the Limitation Act, 1963 Section 4 of the Limitation Act, 1963 , (XXXVI of 1963) shall apply to the filing of such appeal.

(3) In deciding an appeal under sub-section (1), the Maharashtra Revenue Tribunal shall exercise all the powers which a Court has subject to the regulations framed by that Tribunal under the Code 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 (V of 1908).

## **7. Revision. :-**

Where no appeal has been filed within the period provided by sub-section (2) of Section 6 , the Commissioner may suo motu or in the direction of the State Government at any time-

(a) call for the record of any inquiry or proceeding of any Collector for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings

of. such Collector, as the case may be, and

(b) pass such order thereon as he thinks fit:

Provided that, no such record shall be called for after the expiry of three years from the date of such order except in cases where directions are issued by the State Government; and no order of the Collector shall be modified, annulled or reversed unless opportunity has been given to the interested parties to appear and be heard.

**8. Court-fee. :-**

Notwithstanding anything contained in the Bombay Court-fees Act, 1959. (Bom XXXVI of 1959) every appeal before the Maharashtra Revenue Tribunal or application under this Act shall bear a court-fees stamp of such value as may be prescribed.

**9. Finality of decision or order of Collector and decision of Revenue Tribunal. :-**

Every decision or order passed by the Collector under this Act, subject to an appeal to the Maharashtra Revenue Tribunal under Section 6 , and the decision of the Maharashtra Revenue Tribunal in appeal shall be final and conclusive and shall not be questioned in any suit or proceeding in any court.

**9A. Pleaders, etc. excluded from appearance. :-**

<sup>1</sup> Notwithstanding anything contained in this Act or any law for the time being in force, no pleader shall be entitled to appear on behalf of any party in any proceedings under this Act before the Collector, Commissioner or the Maharashtra Revenue Tribunal:

Provided that, where a party is a minor or lunatic, his guardian may appear, and in the case of any other person under disability, his authorised agent may, appear, in such proceedings.

Explanation - For the purposes of this section, the expression 'pleader' includes an advocate, vakil or any other legal practitioner.)

1. Section 9A was inserted by Mah. 12 of 1977. s.4.

**10. Bar of jurisdiction of civil court or authority. :-**

No civil court shall have jurisdiction to settle, decide or deal with any question which under this Act is required to be decided or dealt with by the Collector, Commissioner, the Maharashtra Revenue Tribunal or the State Government.

**10A. Powers for restoration of possession of land and of eviction of person in possession :-**

**<sup>1</sup>** Notwithstanding anything contained in Section 5 or any other provisions or this Act or in any other law for the time being in force, where possession of any land is to be restored to any Tribal transferor or non-Tribal transferee under any provisions of this Act, it shall always be lawful for the Collector to evict any person not entitled to possession of the land, or any person wrongfully in possession thereof, at any time, in the manner provided in Section 242 of the Code.]

1. Section 10A was inserted by Mah. 57 of 1977, s.3.

**11. Power to make rules. :-**

(1) The State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying into effect the purposes of this Act. Such rules may provide for procedure for inquiries and for levying fees for any of the purposes of this Act for which specific provision for fees has not been made.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making modification in the rule or Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.