

THE AJMER TENANCY AND LAND RECORDS ACT, 1950

42 OF 1950

[10th May, 1950]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title, extent and commencement
2. Repeal
3. Savings
4. Definitions
5. Power of landlord and tenant to act through agent

CHAPTER 2 :- PRIMARY RIGHTS

6. Primary rights of a tenant
7. Prohibition of certain acts
8. Prohibition against deprivation of certain rights
9. Certain rights of landlord

CHAPTER 3 :- Niji jot

10. Definition
11. Application for demarcation
12. Order of demarcation of niji jot
13. Demarcation
14. Status of tenant of niji jot
15. Succession of niji jot
16. Collectors powers to let to tenants

CHAPTER 4 :- CLASSES OF TENANTS

17. Classes of tenants
18. Occupancy tenants.- Every person
19. Exproprietary tenants
20. Acquisition of exproprietary rights
21. Relinquishment of exproprietary rights
22. Hereditary tenants
23. Land in which hereditary rights shall not accrue
24. Non-occupancy tenants

CHAPTER 5 :-DEVOLUTION,TRANSFER, EXTINCTION, DIVISION, EXCHANGE AND ACQUISITION

25. Interest of a tenant, if heritable and transferable
26. Prohibition against certain kind of transfer or sub-lease
27. Right to sub-let
28. Tenancy, when extinguished
29. Life tenancy of female, when extinguished
30. Rights of sub-tenant on extinction of tenants interest
31. Vacating of holding on extinction of right
32. Possession of land not vacated
33. Division of holdings
34. Co-tenants right to claim division of produce
35. Right of tenant in land received in exchange
36. Exchange of land for consolidation of cultivated area
37. Acquisition of land by the landlord for certain purposes
38. Decision of certain disputes arising out of acquisition proceedings
39. Reinstatement of tenant ejected under section 37
40. Acquisition of proprietary right by tenant

CHAPTER 6 :- GENERAL PROVISIONS RELATING TO TENANCIES

41. Right to written lease and procedure to obtain it
42. Registration of leases
43. Declaration of rights in certain cases
44. Right of certain tenants to make improvements
45. Right of non-occupancy tenants to make improvements
46. Right of landlord to make improvement
47. Provision when both landlord and tenant want to make the same improvement
48. Restrictions on making improvement
49. Compensation for improvement, when permissible
50. Determination of compensation
51. Works benefiting other land
52. Disputes as regards improvements
53. Right of tenant paying fixed money rent to plant tree
54. Right of a tenant paying batai or bighori to plant tree
55. Tenants rights in tree existing at the commencement of the Act
56. Decision of disputes regarding trees
57. Surrender by tenant
58. Abandonment
59. Taking possession of holding surrendered or abandoned
60. Dispute arising out of surrender and abandonment of land

CHAPTER 7 :- PREMIA AND OTHER LEVIES

61. Acceptance of premium; how far permissible
62. Lag, neg and cess

CHAPTER 8 :- RENT AND ITS RECOVERY

PART 1 :- Basic rent of tenants

63. Liability for payment of rent
64. Scale of rent for different classes of tenants
65. Status and liability of person permitted to retain possession

PART 2 :- Payment and recovery of rent

66. Hypothecation of produce towards payment of rent
67. Procedure when produce is attached by civil or revenue court
68. Right of landlord of collect rent from cultivator
69. No cartage allowed
70. Presumption as to payment by tenant and application of such payment
71. Modes of making payment of money rent
72. Right to get receipt
73. Penalty for not issuing proper receipt
74. Obligation of Chief Commissioner to print and supply books of receipt
75. Penalty for non-production of receipt book with counterfoils
76. Rights and liabilities in respect of produce
77. Application for officer to make division
78. Application for kuta
79. Procedure on application
80. Collector to publish return of current prices
81. Assessment of bighori by court
82. Commutation of batai rent into bighori in certain cases
83. Payment of commuted rent
84. Rent when and how payable
85. Claim for arrears of rent
86. Interest in cases of arrears of rent
87. Landlords power to charge irrigation dues
88. Method of recovering sayar
89. Realisation of sayar as arrears of revenue

PART 3 :- Emergency provision

90. Recovery of arrears in the event of general refusal to pay

PART 4 :- Payment of revenue by biswadars to jagirdars and muafidars

91. Application of certain sections to biswadars

CHAPTER 9 :- EJECTMENT OF TENANTS

92. Arrears deemed satisfied when tenant is ejected
93. Decree for arrears, how executed
94. Adjustment of arrears and compensation on ejectment
95. Entry of landholder on land from which tenant is ordered to be ejected
96. Grounds of ejectment
97. Special grounds of ejectment of non-occupancy tenants
98. Procedure in ejectment for decreed arrears

99. Procedure for ejectment on other grounds
100. Application for ejectment of non-occupancy tenant
101. Procedure on application
102. Remedies for wrongful ejectment
103. Procedure on application
104. Ejectment of person occupying land without title
105. Procedure on application
106. Consequences of failure to file application under section 102 or 104
107. No separate relief claimable, if not claimed in revenue court

CHAPTER 10 :- COMPENSATION AND PENALTIES

108. Tenants a right to claim inquiry for illegal exaction and other matters
109. Power to award compensation in proceedings for arrears of rent
110. Prosecution of landholder for illegal exaction

THE AJMER TENANCY AND LAND RECORDS ACT, 1950

42 OF 1950

[10th May, 1950]

An Act to declare and amend the law relating to agricultural tenancies, record -- of -- rights and certain other matters in Ajmer. BE it enacted by Parliament as follows :--

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the Ajmer Tenancy and Land Records Act, 1950. (2) It extends to the whole of the State of Ajmer. (3) It shall come into force at once, except Part III of Chapter XII which shall come into force on such date as the Chief Commissioner may, by notification in the Official Gazette, appoint in this behalf.

2. Repeal :-

(1) The Ajmer-Merwara Agrarian Relief (Second) Ordinance, 1949 (XXX of 1949), is hereby repealed. (2) When this Act or any portion thereof comes into force in Ajmer, so much of any Act, Regulation or notification in force therein, or any condition of a jagir or istimrari sanad, as is inconsistent with this Act or with such portion, shall be deemed to have been repealed or superseded by this Act or by such portion, as the case may be.

3. Savings :-

Any rule, notification, proclamation and order issued, authority and power conferred, lease granted, right acquired, liability incurred, rent fixed, and any other thing done under any Act, Ordinance, Regulation or notification, or under any jagir or istimrari sanad, as the case may be, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been respectively issued, conferred, granted, acquired, incurred, fixed and done under this Act.

4. Definitions :-

In this Act, unless there is anything repugnant in the subject or context, -- (1) all words and expressions used to denote the possessor of any right title or interest, whether the same be proprietary or otherwise, shall be deemed to include the predecessors and successors in right, title or interest of such person ; (2) "agricultural year" means the year commencing on the first day of June and ending on the thirty-first day of May next following ; (3) "agriculturist" means a person who earns his livelihood wholly or principally-- (a) by the cultivation of land personally, or through servants or by hired labour, or (b) an artisan or field-labourer, paid in cash or kind for work connected with agriculture, and includes-- (i) a landlord whose interest in the stable land of the village does not exceed 120 acres, and (ii) a tenant who sub-lets his land in accordance with the provisions of this Act; Explanation.-- An agriculturist who, without any intention of changing his profession as such, temporarily ceases to so earn his livelihood, or who is prevented from so earning his livelihood by age or bodily infirmity, or by absence due to service in the military, naval or air forces of India, or by confinement in prison, does not thereby cease to be an agriculturist; (4) "assistant commissioner" includes an additional assistant commissioner and an extra assistant commissioner; (5) "batai" means division of the produce on the threshing-floor; (6) "bighori" means money rent per bigha of land; (7) "biswadar" means-- (a) any person who is recorded as plot-proprietor in the settlement khewat of 1874 and is continuously so recorded since, or who, but for an error or omission, would have been so continuously recorded; or (b) any member of the proprietary body who becomes an owner of land under section 7 of the Ajmer Land and Revenue Regulation, 1877 (II of 1877), or (c) any person who becomes, or is declared, a biswadar under the provisions of this Act, and includes a person admitted to the occupation of land under a lease guaranteeing hereditary rights of ownership and enjoyment

on condition of his permanently developing such land by sinking a well or otherwise, and who accordingly developed such land and was, before the commencement of this Act, recorded as plot-proprietor thereof in the khewat; (8) "cess" means a cess declared payable under sub-section (2) or section 62; (9) "collector" means the collector of Ajmer or any other office appointed by the Chief Commissioner to discharge the functions of a collector under this Act, and includes an additional collector; (10) "confirming court" means a court to which the record of a case is submitted in accordance with the provisions of this Act for confirmation of any decree or order passed therein; (11) "decree" means an order which is drawn up in the form of a decree as prescribed; (12) "holding" means a parcel or parcels of land held under one lease, engagement or grant or, in the absence of such lease, engagement or grant, under one tenure, and in section 26 includes a well on a holding; (13) "improvement" means, with reference to a tenants holding, -- (i) a dwelling house erected on the holding by the tenant for his own occupation, or a cattle-shed, or a store-house or any other construction for agricultural purposes, erected or set up by him on his holding, and (ii) any work which adds materially to the value of the holding and is consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit or is, after execution, made directly beneficial to it, and, subject to the foregoing provisions of this clause, includes-- (a) the construction of a well, water channel, and other work for the supply or distribution of water for agricultural purposes, (b) the construction of any work for the drainage of land, or for the protection of land from floods, or from erosion or other damage by water, (c) the reclaiming, clearing, enclosing, levelling, or terracing of land, (d) the erection in the immediate vicinity of the holding, otherwise than on the village site, of a building required for the convenient or profitable use or occupation of the holding; (e) the construction of a tank or other work for the storage of water for agricultural purposes, and (f) the renewal or reconstruction of any of the foregoing works, or such alterations therein, or additions thereto, as are not of the nature of mere repairs : Provided that such clearance, water channel, levelling, embankment, enclosure, temporary well or other work as is made in the ordinary court of cultivation and without incurring any special expenditure shall not be deemed to be an improvement ; Explanation.-- A work which benefits several holdings may be deemed to be an improvement with respect to each of such

holdings; (14) "istimrari estate" means an estate in respect of which an istimrari sanad has been granted by the Chief Commissioner before the commencement of the Ajmer Land and Revenue Regulation, 1877 (II of 1877) ; and "istimrari" means a person to whom the revenue of any land has been assigned under a sanad issued by the Chief Commissioner before the commencement of the Ajmer Land and Revenue Regulation, 1877 ; (15) "jagirdar" means a person to whom the revenue of any land has been assigned under a sanad issued by the Chief Commissioner before the commencement of the Ajmer Land and Revenue Regulation, 1877 ; (16) "khudkasht" means land cultivated by a proprietor as such, either himself, or by servants or by hired labour; (17) "kuta" means an estimate an appraisement of the standing crop; (18) "lag" means-- (a) a levy in cash imposed on a tenant-- (i) on the occasion of a ceremony in the family of the landlord or the tenant, or (ii) by way of tax on a well or plough or as fee for settlement of rent accounts; or (b) any other levy in cash owner and above the rent payable by a tenant, but does not include a fee specified in the First Schedule or an assessment leviable, or a local rate payable under any law for the time being in force in the State; (19) "land" means land which is let or held for the raising of crops or garden produce, or for purposes subservient thereto, and includes land covered by water used for the purpose of growing singhara or other produce, but does not include land for the time being occupied by a building or appurtenant thereto, other than a building which is an improvement; (20) "landholder" means the person to whom rent is, or, but for a contract, express or implied, would be, payable, and includes shamlal committee created or recognised under the provisions of section 180; (21) "landlord" means the proprietor of a village, or of a share or specified plot therein, and includes-- (i) in case of land in respect of which an istimrari sanad has been granted, any person by whom an estate, a village, or a portion of an estate or village is held, whether under a separate engagement to pay revenue or otherwise; (ii) a jagirdar; and (iii) a trustee, a manager, a superintendent, a mutawalli, or a body of person appointed to administer a religious endowment, a trust, or waqf property, or the shamlat deh land of a village; Explanation.-- In clauses (20) and (21), the word "landholder" or "landlord" shall include--- (i) a mortgagee with possession, (ii) a lessee of proprietary right, and (iii) in case of property of which superintendence has been assumed by the Court of Wards under section 6 of the Ajmer

Government Wards Regulation, 1888 (I of 1888) or which has been attached under section 82 of the Ajmer Land and Revenue Regulation, 1877 (II of 1877), the collector; (22) "lease" includes the counterpart of a lease; (23) "legal practitioner" means any person who is, for the time being enrolled as an advocate or pleader by the Judicial Commissioner of Ajmer; (24) "minor" means a person who, under section 3 of the Indian Majority Act, 1875 (IX of 1875), has not attained majority ; (25) "muafi" means a definite portion of land held revenue-free under a sanad issued by the Chief Commissioner, and a "muafidar" means the holder of such muafi; (26) "neg" means-- (a) a levy in kind imposed on a tenant as-- (i) seri, sawai-batti or any other kind of levy made on the division of the produce of a holding, or (ii) kasas (dishes) of food or sweetmeats given on the occasion of marriage or any other ceremony or the money equivalent there of; or (b) any other levy in kind over and above the rent payable by a tenant; (27) "order" means the formal expenditure of a decision of any authority under this Act ; (28) "parabund-barani" means enclosed low lying land, the cultivation of which depends on the rainfall and the silt deposited thereon by the inflow of water from the catchment area; (29) "pay", "payable" and "payment", when used with reference to rent, include "deliver", "deliverable" and "delivery"; (30) "prescribed" means prescribed by rules made under this Act; (31) "produce of a holding" means a crop or any other produce of the land standing on the holding, or which has been grown on the holding and has been reaped or gathered, and is deposited on the holding or on a threshing floor; (32) "State" means the State of Ajmer; (33) "rent" means whatever is paid or payable in money or kind, or partly in money and partly in kind, by a tenant on account of the use or occupation of land held by him; (34) "registered" means registered under any law for the time being in force for the registration of documents; (35) "revenue court" means all or any of the following authorities when acting under this Act or any rule made thereunder, namely, -- (i) the Chief Commissioner, (ii) the collector, (iii) a record officer, an assistant record officer and a rent-rate officer, (iv) a sub-divisional officer, (v) an assistant commissioner, (vi) a tahsildar, (vii) a naib-tahsildar empowered by the collector under clause (b) of section 178, and (viii) a person or a body of persons invested with powers to hear and dispose of cases under clause (a) or (b) of section 180; (36) "revenue" means land revenue; (37) "sugar" means whatever is payable by a lessee or licensee on account of the right of gathering produce, forest

rights, fisheries or the use of water for irrigation from artificial sources; and includes a fee specified in the First Schedule; (38) "stable land" means land which, because of facilities of irrigation, quality of the soil or other advantages, is capable of being regularly cultivated, and is demarcated as stable land by the rent-rate officer, or any other authority, appointed for the purpose, and, subject to the foregoing provisions includes-- (i) land in the bed of a tank or nadi which dries up in time for the rabi sowing, and (ii) mal, gormia or parabund-barani: Provided that, until such time as demarcation is made, the provisions regarding demarcation shall not be deemed to be a part of this clause; Explanation.-- A land which is capable of being regularly cultivated shall not cease to be so regarded if, in any year, it has been left fallow, or could not be cultivated on account of failure of rainfall or for any other reason ; (39) "sub-tenant" means a person who holds land from the tenant thereof, or from a rent-free grantee, or from a grantee at a favourable rate of rent, and by whom rent is, or, but for a contract express or implied, would be, payable; (40) "tenant" means a person who holds land of another person and is, or, but for a contract express or implied, would be, liable to pay rent for such land to such other person and, except when a contrary intention appears, includes a sub-tenant, but does not include-- (a) a person to whom a tenancy holding is transferred otherwise than under the provisions of this Act, (b) except as otherwise provided, a rent-free grantee, a grantee at a favourable rate of rent or a holder of village service grant, and (c) a person to whom only the right to cut grass or to graze cattle is granted, whether with or without consideration; and (41) "year of settlement" means, with reference to any area of the State, any year or period between November 1940 and June 1947 during which the record or settlement operations were in force in such area.

5. Power of landlord and tenant to act through agent :-

Anything which is by this Act required or permitted to be done by a landlord or a tenant may be done by his authorised agent, and, in the absence of evidence of a contrary intention, in dealings between a landlord and a tenant such agent shall be deemed to be acting under the authority of his principal : Provided that, except as provided in section 198, a legal practitioner or his clerk or employee, or a petition-writer shall not act as authorised agent of such landlord or tenant. Explanation.-- In this section "authorised agent" includes a kamdar of a fagirdar or istimrardar.

6. Primary rights of a tenant :-

A tenant, other than a sub-tenant, shall have a right-- (i) subject, in the case of clause (a), or (b), to the provisions of the First Schedule and to the payment of fee, if any, specified therein-- (a) to possess, in the village in which his holding is situated, a site on which he may build one residential house for himself and his family and, when necessary, to repair and rebuild it, to sell the materials of such house and, with the written consent of the landlord, to transfer the right of residence therein to any tenant of such village; Explanation.-- In this clause residential house shall include a cattleshed, and a store-house for stocking fodder, manure and agricultural implements. (b) to sue the waste-land of the village for grazing and pasturing his cattle and other domestic animals and for threshing corn; (ii) when rent is paid by batai or bighori, to allow only prescribed weights and measures to be used for determining such rent; and (iii) where in any area bighori is charged at customary rate, to grow cotton at such rate on not more than one-fourth of the irrigable area of his holding .

7. Prohibition of certain acts :-

(1) A tenant shall not be-- (i) ejected from his holding otherwise than in accordance with the provisions of this Act; or (ii) evicted from his residential house, other than a house which is an improvement, merely because he has surrendered, or has been ejected from, his holding in the village; or (iii) compelled to render any service, or to allow the use of his cattle or agricultural implements, to his landholder, with or without remuneration. (2) The provisions of this section and of section 6 and 62 shall, so far as they are applicable, apply to a rent-free grantee, a grantee at a favourable rate of rent, of holder of village service grant, and an artisan or a village-workmen, paid in cash or kind, for work connected with agriculture as they apply to a hereditary tenant.

8. Prohibition against deprivation of certain rights :-

(1) Notwithstanding any custom or contract to the contrary, every lease or agreement between a landholder and a tenant, whether made before or after the commencement of this Act, which purports, or would operate, to prohibit or restrict a tenant from acquiring, exercising or enforcing any right conferred on, or secured to, him by this Act, shall be void to the extent of such prohibition or restriction. (2) When land, not previously cultivated, has been

reclaimed by, or at the expense of, the landholder and let to a tenant, or has been let to a tenant in order that it should be reclaimed by him or at his expense, then for a period of twelve years after such land was let, nothing in sub-section (1) shall be construed as affecting any condition of a contract which relates to payment of rent or to enhancement, abatement or variation of rent of such land, or which provides that, during any period for which such land is to be held free of rent or on favourable terms, the tenant is liable to ejection for breach of any such condition. Explanation.-- When land has remained uncultivated for a period of five years, it shall, for the purposes of sub-section (2), be deemed to be land not previously cultivated.

9. Certain rights of landlord :-

Subject, in case of clause (iii), to the conditions of an istimrari sanad and to the provisions of any law for the time being in force, a landlord shall have a right--] (i) where in any area bighori is charged at customary rate and cotton is grown on more than one-fourth of the irrigable area of the holding of a tenant, to charge rent on the land in excess of the one-fourth area on which cotton is grown at a rate specified in the second proviso to section 64; (ii) at all reasonable times, to enter, or depute his servant, agent or surveyor to enter, upon any land comprised in his estate for the purpose of surveying and measuring such land or for any other lawful purpose; and (iii) if he has a proprietary interest in an istimrari estate, to open or work a mine or grant a lease for the purpose, or to undertake, or to issue a licence to any other person to undertake, prospecting work for discovering new sources of supply of minerals.

CHAPTER 3

Niji jot

10. Definition :-

Niji jot means khudkasht demarcated under the provision of this Chapter.

11. Application for demarcation :-

(1) It, at the commencement of this Act, the proprietor of a village or a part thereof or a specific area therein, was cultivating any land as khudkasht, he may, within six months of such commencement, apply to the sub-divisional officer for demarcation of such khudkasht as niji jot. (2) With his application, the applicant shall file a list, giving the area and survey number or other description of

the khudkasht to be so demarcated and such other particulars as may be prescribed.

12. Order of demarcation of niji jot :-

(1) On the receipt of such application, the sub-divisional officer shall issue a proclamation calling upon all persons who claim an interest in such land to file objections if any, within the period specified in such proclamation. (2) If, after hearing the objections, if any, and making such further inquiry as he deems fit, the sub-divisional officer is satisfied that the land to be demarcated as niji jot has been held by the applicant as his khudkasht since the agricultural year beginning on the first day of June, 1948, he shall pass an order for the demarcation of such land as niji jot and submit the record of the case for confirmation of the order passed by him to the collector.

13. Demarcation :-

The sub-divisional officer shall have the demarcation made on the spot and shall prepare and place on record a map, indicating the plots demarcated as niji jot.

14. Status of tenant of niji jot :-

A landlord may let his niji jot subject to the same restrictions as apply to sub-letting by a hereditary tenant under section 27 : Provided that if such landlord lets his land which is niji jot in contravention of the provisions of this section, such land shall cease to be niji jot and the person to whom the land is so let shall become hereditary tenant thereof.

15. Succession of niji jot :-

On the death of the holder of niji jot the niji jot rights shall devolve in accordance with the law which regulates the succession of proprietary right in such land.

16. Collectors powers to let to tenants :-

If the collector is satisfied that the landlord of an estate or village, without good reason, keeps large areas of his niji jot and other culturable land uncultivated, or that an emergency has arisen for bringing under cultivation land which has not been previously cultivated or, if previously cultivated, has remained uncultivated for more than three years, he may, (i) with the previous sanction of the Chief Commissioner, take possession of such land, and (ii) notwithstanding anything to the contrary contained in this Act, allot it for cultivation on such terms and conditions as may be

prescribed, and the person to whom the land is so allotted shall, unless he is the landlord of such land, be deemed to have been admitted as tenant within the meaning of clause (b) of section 22 : Provided that, while giving his sanction under clause (i), the Chief Commissioner may exempt from its operation any land which is used as pasture land or threshing-floor, or for some other purpose for the benefit of the public.

CHAPTER 4

CLASSES OF TENANTS

17. Classes of tenants :-

There shall be, for the purposes of this Act, the following classes of tenants, namely,-- (a) occupancy tenants ; (b) exproprietary tenants ; (c) hereditary tenants ; and (d) non-occupancy tenants.

18. Occupancy tenants.- Every person :-

(a) other than a person to whom the provisions of section 7 of the Ajmer Land and Revenue Regulation, 1877 (II of 1877) apply, who before the commencement of this Act, was admitted to the occupation of land and who has, before such commencement, sunk a well, reclaimed or otherwise developed such land, or (b) who was recorded in the year of settlement as tenant with a permanent right of tenancy (mazara-i-mustaquil) and has continued in possession since, shall be called on occupancy tenant.

19. Exproprietary tenants :-

Every person who-- (a) is, at the commencement of this Act an exproprietary tenant in accordance with the provisions of the Ajmer Land and Revenue Regulation, 1877, or (b) acquires exproprietary rights in accordance with the provisions of this Act, shall be called an exproprietary tenant.

20. Acquisition of exproprietary rights :-

(1) If the whole of the interest of a sole proprietor of a village or of a specific area thereof is transferred, either by foreclosure or sale in execution of a decree or order of a civil or revenue court, or by voluntary alienation, otherwise than (a) by gift or (b) by exchange of specific areas between co-shares of the village, he shall become an exproprietary tenant of the whole of his khudkasht in such village or area without he his cultivated continuously for three years or more at the date of such transfer, and shall be entitled to hold the same at a rate payable by an exproprietary tenant under sections 63 and 64. (2) If a part only of the interest of a sole proprietor of a village or of a specific area thereof is so transferred,

or where there are two or more co-share in the proprietary interest of a village or of specific area thereof, and such transfer relates to the whole or part of the proprietary interest of some of them, exproprietary rights shall accrue in so much of khudkasht so cultivated as appertains or corresponds to the part of the interest so transferred and, unless by mutual agreement the transferor and the transferee have demarcated the area in which exproprietary rights have accrued, and fixed the rent, not higher than the rent specified in sections 63 and 64, the sub-divisional officer shall, in the course of mutation proceedings or, if mere convenient, in a separate proceeding, started on his own motion, or on the application of the exproprietary tenant or the landlord, or on the report of the patwari, demarcate such area and declare the rent in accordance with the provisions of sub-section (1). (3) A mortgage shall be deemed to be a voluntary alienation, within the meaning of sub-section (1), if it has the effect of transferring proprietary possession of the land mortgaged from the mortgagor to the mortgagee but not otherwise. (4) Notwithstanding anything in sub-section (1), (2) or (3), exproprietary rights shall not accrue in grove-land, or in land transferred for any purpose inconsistent with the existence of a right of cultivation therein. (5) After disposing of the case for demarcation of the exproprietary area and declaration of rent thereon under sub-section (2), the sub-divisional officer shall submit the record of the case for confirmation of the order passed by him to the collector.

21. Relinquishment of exproprietary rights :-

(1) Save as otherwise provided in sub-section (2), an agreement for the relinquishment of exproprietary rights shall be void, whether such agreement was entered into before or after such rights accrued. (2) Notwithstanding anything contained in the first proviso to section 57, where the land transferred by mortgage of the kind specified in sub-section (3) of section 20 consists wholly of a specific area of khudkasht of three or more years, the mortgagor may, by simultaneous agreement in writing, waive his exproprietary rights, and in that case the mortgaged land shall, if the mortgagor redeems the mortgage within ten years of the date of the transfer, be restored to him unencumbered with any tenancy rights.

22. Hereditary tenants :-

Subject to the provisions of section 23, every person who-- (a) is, at the commencement of this Act, a tenant of land, not being an

expropriatory tenant, an occupancy tenant or a sub-tenant or, (b) is, after the commencement of this Act, admitted as a tenant otherwise than as a sub-tenant, or otherwise than as a tenant to whom niji jot is let in accordance with the provisions of section 14, or (c) under the provisions of this Act, acquires hereditary rights, shall be called a hereditary tenant. Explanation.-- For the purposes of this section, the words "sub-tenant" shall not include a person who holds land from a relation, dependant or servant of the landholder or, in an estate mentioned in the Second Schedule, from a transferee of an interest in a holding or part thereof, whether the transfer was made before or after the commencement of this Act, unless such relation dependant, servant or transferee proves to the satisfaction of the court that he is a genuine tenant of such land or such holding or part thereof.

23. Land in which hereditary rights shall not accrue :-

Notwithstanding anything in this Act, hereditary rights shall not accrue in-- (i) unstable land, or (ii) grove-land, pasture-land, bir, or land, covered by water, used for the purpose of growing singhara or other produce, or (iii) land used for casual or occasional cultivation in the bed of a river or a stream, or (iv) land acquired or held for a public purpose or for a work of public utility, or (v) the khudkasht of a landlord who is serving in the military, naval or air forces of India, so long as he remains in such service and for two years after the cessation of such service : Provided that where there are several co-shares in such khudkasht and not all of them are in such service, the provisions of this clause shall apply only when the co-shares who are not in such service belong to one or more of the following classes, namely, females, minors, lunatics, idiots or persons incapable of cultivating by reason of blindness or physical infirmity, or confinement in prison.

24. Non-occupancy tenants :-

All tenants other than occupancy tenants, expropriatory tenants and hereditary tenants shall be non-occupancy tenants.

CHAPTER 5

DEVOLUTION, TRANSFER, EXTINCTION, DIVISION, EXCHANGE AND ACQUISITION

25. Interest of a tenant, if heritable and transferable :-

The interest of an occupancy tenant, an expropriatory tenant, a hereditary tenant and a non-occupancy tenant is heritable, but is not transferable, otherwise than by sub-lease as hereinafter provided, or by transfer or surrender to a co-tenant.

26. Prohibition against certain kind of transfer or sub-lease

:-

(1) No tenant shall sub-let, or otherwise transfer, the whole or any portion of his holding in consideration of a debt, whether reserving or not reserving rent to be paid periodically. (2) No sub-tenant shall sub-let the whole or any portion of his holding.

27. Right to sub-let :-

(1) Subject to the provisions of section 26 and sub-sections (2) to (4) of this section, a tenant may sub-let the whole or any portion of his holding. (2) No occupancy, exproprietary or hereditary tenant shall sub-let the whole or any portion of his holding-- (a) to a person other than an agriculturist, or (b) for a term exceeding three years: Provided that a period of not less than three years shall intervene between the expiry of one sub-lease and the beginning of the next sub-lease. (3) No non-occupancy tenant, other than a sub-tenant, shall sub-let the whole or any portion of his holding for a term exceeding one year. (4) The rent payable by a sub-tenant to an occupancy, an exproprietary, a hereditary or a non-occupancy tenant shall be an amount not exceeding one and one-fifth of rent payable by such tenant to his land-holder : Provided that the restrictions imposed by clause (b) of sub-section (2) on sub-letting of a holding or portion thereof shall not apply when the lessor is female, a minor, a lunatic, an idiot, or a person incapable of cultivating by reason of blindness, or any physical infirmity, or service in the military, naval or air forces of India, or confinement in prison : Provided further that, in the case of a holding held jointly by more persons than one, the provisions of the first proviso shall not apply unless all such persons belong to one or more of the categories specified therein. Extinction of tenancies

28. Tenancy, when extinguished :-

The interest of a tenant in his holding or part thereof, as the case may be, shall be extinguished-- (a) when he dies, leaving no heir entitled to inherit; or (b) when his ejectment is ordered ; or (c) subject to the provisions of sections 57 and 58, when he surrenders or abandons the holding ; or (d) when his land is acquired under the Land Acquisition Act, 1894 (I of 1894) ; or (e) when he is deprived of possession of his holding otherwise than in accordance with the provisions of this Act and has not applied for recovery of possession within the period of limitation specified in section 102 or 104, as the case may be; or (f) when the mortgage referred to in section 21 has been redeemed by the mortgagor as provided in

that section ; or (g) when he acquires, or succeeds to, the entire proprietary right in his holding, or where the holder of the entire proprietary right over a holding inherits or otherwise acquires the tenancy rights in such holding: Provided that no order of ejection which is submitted for confirmation under the provisions of this Act shall extinguish the tenancy, until such order has become final.

29. Life tenancy of female, when extinguished :-

Notwithstanding anything contained in section 28m, the surrender of her holding by a female tenant with life interest shall not extinguish her tenancy, unless such surrender is made with the written consent of nearest reversioner.

30. Rights of sub-tenant on extinction of tenants interest :-

(1) Subject to the provisions of sub-section (2), the extinction of the interest of a tenant shall operate to extinguish the interest of any sub-tenant holding under him. (2) When the right of a tenant in any land is extinguished under the provisions of clause (g) of section 28 the sub-tenant, if any, of such land shall become a hereditary tenant.

31. Vacating of holding on extinction of right :-

Except as otherwise provided in this Act, when the interest of a tenant or sub-tenant is extinguished, he shall vacate his holding, but shall have, in respect of the removal of any crop the same rights as a tenant would have upon ejection in accordance with the provisions of this Act.

32. Possession of land not vacated :-

(1) If a sub-tenant, to whom the provisions of section 31 apply, does not vacate the holding, the person entitled to possession of such holding shall, on application to the tahsildar be put in possession thereof. (2) The tahsildar shall, after deciding the dispute, if any, arising between the parties, submit the record of the case for confirmation of the order passed by him to the sub-divisional officer. Division, exchange and acquisition of holdings

33. Division of holdings :-

(1) A division of a holding shall be effected-- (a) by agreement between the co-tenants; or (b) by the order of the tahsildar, passed on an application under this section by a co-tenant against the others and the landlord : Provided that no such agreement shall be binding on the landholder, unless he agrees thereto in writing: Provided further that no such application shall be entertained if, as

a result of division, the area of the share of a co-tenant is reduced to less than ten acres. (2) If the holding to be divided is assessed to fixed money rent, the division shall be accompanied by the distribution of rent payable in respect of each portion of the holding so dividend. (3) After deciding the case, the tahsildar shall submit the record of the case for confirmation of the order passed by him to the sub-divisional officer.

34. Co-tenants right to claim division of produce :-

(1) In case of a holding to which the second proviso to sub-section (1) of section 33 applies, the tahsildar may, on the application of a co-tenant, specify the share of such co-tenant in the produce of such holding and depute an officer to divide the produce in accordance with the provisions of sub-sections (1) to (3) to section 77 which shall, mutatis mutandis, apply to such proceedings. (2) The order of the tahsildar under sub-section (1) shall not affect the right of a co-tenant to obtain a declaration in respect of his share in such holding under clause (ii) of sub-section (1) of section 43.

35. Right of tenant in land received in exchange :-

A landlord may, with the consent of a tenant, give in exchange land which is not let, for any land held by such tenant, and such tenant shall have the same right in the land so received by him in exchange as he had in the land given in exchange.

36. Exchange of land for consolidation of cultivated area :-

(1) A person, who wishes to consolidate the area which he cultivates, may apply to the sub-divisional officer to exchange the whole or any portion of such area for land cultivated by another person. (2) If, on receipt of an application under sub-section (1), the sub-divisional officer is satisfied that reasonable grounds exist, he shall grant such application, either in whole or in part, and shall allot to such other person land which is cultivated by the applicant and which is approximately equal in value to, and of the same quality as, the land received by the applicant : Provided that, to such extent as any land to be exchanged is not approximately equal in value and of the same quality, the sub-divisional officer shall award monetary compensation to balance the advantages and disadvantages, collect such compensation as arrears of revenue, and pay it to the persons entitled. (3) After the order passed under sub-section (2) is complied with, each person shall have, in respect of the land which he receives in exchange, the same right as he had in the land which he gives in exchange. (4) No order of

exchange shall be passed under this section-- (a) in respect of land which is cultivated by a non-occupancy tenant, or is burdened with any lease, mortgage or other encumbrance; or (b) between persons who are not landlords, or tenants of the same landlord, or who do not stand to one another in the relation of landlord and tenant. (5) After deciding the case, the sub-divisional officer shall submit the record for confirmation of the order by him to the collector : Provided that, if any area is under record operations, all applications under this section relating to such area shall be filed in the court of the record officer. (6) If the application is decided by the record officer, the record shall be submitted for confirmation of the order passed by him to the Chief Commissioner.

37. Acquisition of land by the landlord for certain purposes

:-

(1) A landlord may apply to the collector to acquire for him land held by a tenant for any of the following, purposes, namely, -- (a) for farming on improved lines; or (b) for making any water-course, reservoir or tank for irrigation purposes ; or (c) for opening or working a lime-stone, kankar or other mineral quarry ; or (d) for undertaking, or allowing any other person to undertake, prospecting work to discover new sources of supply of mines and minerals; or (e) for the proper working or developing of a mine or mining industry. (2) The landlord shall, in case of an application under clause (a), and may, in case of an application under any other clause, file a list of his plots available in the same or in a neighbouring village, out of which the tenant may make a selection in exchange for the land applied for. (3) On getting such application, the collector shall issue a proclamation calling upon persons who claim any interest in such land, either as proprietor or otherwise, to file objections, if any, within the period specified in the proclamation. (4) If the collector is satisfied that reasonable grounds exist, he shall order the acquisition of the land applied for, or such part thereof as he deems fit, settle the question of compensation in accordance with the provisions of sub-sections (5) and (7) and order the ejectment of the tenant from the land acquired. (5) The collector, before passing an order of ejectment under sub-section (4), shall proceed as follows :-- (i) if an agreement, which in the opinion of the collector is not unfair, is arrived at, he shall give effect to it; and (ii) failing such agreement he shall-- (a) in case of an application under clause (a) of sub-section (1), give to the tenant an option to select plots included in

the list and allot to him, out of the plots so selected, an area of land approximately equal in value to, and of the same quality as, the land acquired; and (b) in case of an application under clause (b), (c), (d) or (e) of sub-section (1), give to the tenant an option to select plots included in the list, if one is filed under sub-section (2), and allot to him, out of the plots so selected, an area of land approximately equal in value to, and of the same quality as, the land acquired, but if the tenant claims monetary compensation only or if no list is filed under sub-section (2), the collector shall award to the tenant monetary compensation for his interest in such land; and (c) to such extent as the land given in exchange under sub-clause (a) or (b) is not approximately equal in value and of the same quality, award monetary compensation to balance the advantages and disadvantages. (6) If any land is allotted to the tenant under sub-section (5), he shall have the same right in such land as he had in the land from which he is ordered to be ejected. (7) If, as a result of an order of acquisition, the interest of any person, other than the tenant of the land to be acquired, is adversely affected, the collector shall award to such person monetary compensation for the loss suffered by such person in consequence of such order. (8) After deciding the case, the collector shall submit the record for confirmation of the order passed by him to the Chief Commissioner. (9) The amount of monetary compensation awarded under this section shall be recovered as arrears of revenue and paid to the person entitled.

38. Decision of certain disputes arising out of acquisition proceedings :-

(1) If, in the course of proceedings under section 37, a question of proprietary right arises, the collector shall decide the dispute and submit the record of the case for confirmation of the order passed by him to the Chief Commissioner. Provided that the collector may, if he deems fit, instead of deciding such dispute, grant to any party a certificate declaring that the matter is fit to be determined by a civil court and dismiss the application for acquisition of land. (2) The person to whom such certificate is granted may, within three months of the grant thereof, institute a suit to establish his right in a court of competent jurisdiction, and such court may, upon the production of such certificate, entertain such suit. (3) Where a party, to whom such certificate has been granted, fails to institute a suit within the time allowed, he shall be deemed to have instituted such suit and lost it. (4) The dismissal of an application under the

proviso to sub-section (1) shall be no bar to the entertainment of a second application for acquisition filed by the landlord, if-- (i) in the civil suit, instituted under the provisions of the said proviso, the question of proprietary right is determined in his favour; or (ii) in case a certificate to file a suit has been granted to a person other than the landlord, no such suit has been filed within the period allowed under sub-section (2).

39. Reinstatement of tenant ejected under section 37 :-

(1) When a tenant is ejected under section 57, he shall, on application made to the sub-divisional officer, be entitled to be reinstated in the land acquired on the conditions specified in sub-section (3), if the person for whom the land was acquired-- (a) does not, within two years from the date of such ejection, use it for the purpose for which it was acquired; or (b) uses it for any other purpose within a period of five years from the date of such ejection. (2) Such application shall be made-- in case of clause (a) of sub-section (1), within six months of the expiry of the period of two years ; and in case of clause (b) of sub-section (1), within six months of the land being used for any other purpose. (3) The sub-divisional officer, on receiving such application, shall, if the conditions specified in clause (a) or (b) of sub-section (1) are satisfied, reinstate the ejected tenant in the land acquired with the same rights and liabilities and at the same rate of rent as at the date of ejection on condition that such tenant, before his reinstatement, restores to the person from whom the land was acquired the land or money or both awarded to him by way of compensation under section 37. (4) After the decision of the case, the sub-divisional officer shall submit the record for confirmation of the order passed by him to the collector.

40. Acquisition of proprietary right by tenant :-

(1) If a tenant, other than a non-occupancy tenant, desires to acquire proprietary right in his holding, he may apply, in the prescribed form, to the collector for acquisition of such right. Provided that no such application shall lie in respect of a part of a holding. (2) On receipt of application under sub-section (1), a notice shall be served on the landlord and a copy thereof shall be affixed in a prominent place in the village, stating that the tenant of such holding has applied for an order of acquisition, and that the landlord or any other person interested in such proceeding may file any objections within one month of the affixation of such notice. (3) The collector, after deciding the objections filed, shall, if he

finds the applicant entitled to acquisition, assess the amount of -- (a) compensation on account of the holding which shall be twelve times the annual rental value of such holding, calculated at sanctioned rates applicable to hereditary tenants ; (b) compensation for any improvement, if any, made by the landlord on such holding ; and (c) the revenue payable on such holding in the manner prescribed ; and pass an order that, on payment of such compensation within the period allowed by the collector, the tenant shall become the biswadar of his holding and shall be liable to pay the revenue assessed thereon. (4) After the decision of the case, the collector shall submit the record of the case for confirmation of the order passed by him to the Chief Commissioner. (5) The landlord shall, after the tenant has become biswadar, be entitled to claim reduction in the revenue payable by him as prescribed.

CHAPTER 6

GENERAL PROVISIONS RELATING TO TENANCIES

41. Right to written lease and procedure to obtain it :-

(1) The tenant of a holding shall be entitled to receive, from his landholder, a written lease, consistent with the provisions of his Act, drawn up in the prescribed form. (2) If the lease is not issued to the tenant, or it does not contain the particulars required to be stated therein, or contains particulars which the tenant does not accept as correct, he may make an application to the tahsildar and claim the lease in the proper form. (3) Along with his application the tenant shall file three copies of the draft lease in the prescribed form, stating therein all the particulars in accordance with the terms settled between him and his landholder, and shall verify each copy as a plaint. (4) The tahsildar shall, on receipt of the application, issue notice accompanied by a copy of the lease to the landholder to file objections, if any, within the period specified therein. (5) If the landholder appears and admits the correctness of the lease, or, after due service of the notice, does not appear, the tahsildar shall sign and date the lease, put his official seal on it and deliver it to the tenant. (6) If the landholder files an objection, the tahsildar shall decide it, and if the tenant is entitled to a lease, deliver the lease in the manner provided by sub-section (5). (7) If the lease is delivered to the tenant under sub-section (5) or (6), a true copy thereof shall be furnished to the landholder and a copy of such lease shall be placed on the record of the case. (8) The tahsildar shall submit the record of the case for confirmation of the

order passed by him under sub-section (6) to the sub-divisional officer. (9) A lease so delivered shall be deemed to be registered under the Indian Registration Act, 1908 (XVI of 1908) and the terms thereof, in so far as they are consistent with the provisions of this Act, shall be binding on the parties thereto.

42. Registration of leases :-

(1) A lease for a period exceeding one year, or from year to year, or for reclaiming any land shall be made by a registered instrument only. (2) Notwithstanding anything contained in sub-section (1), the parties to such lease may, in lieu of registering the same, obtain the attestation thereto of a girdawar, a naib-tahsildar, or a tahsildar, within whose jurisdiction the land leased is situated in accordance with the provisions of sub-section (4). (3) Such instrument shall be presented for attestation in duplicate. (4) The attesting officer shall, after satisfying himself as to the identify of the parties and the execution of the instrument, make, sign and date on endorsement thereon to the effect that he has so satisfied himself, and shall deliver one copy to the lessor and the other to the lessee: Provided that no such instrument shall be accepted for attestation, unless it is presented within four months of its execution. (5) An instrument so attested shall be deemed to be registered within the meaning of the Indian Registration Act, 1908 (XVI of 1908).

43. Declaration of rights in certain cases :-

(1) In case of doubt or dispute the landholder or the tenant may apply for a declaration as to any of the following matters :-- (i) the rent payable or any other particulars prescribed for the lessee; (ii) the right of a person claiming to be a tenant or a joint tenant of a holding, or the specification of his share in such holding; (iii) question of status of a tenant ; (iv) whether a particular plot is-- (a) niji jot, or (b) stable or unstable land. (2) Such application shall be filed in the court of the sub-divisional officer who shall decide the dispute in accordance with the provisions of this Act, and submit the record of the case for confirmation of the order passed by him to the collector. Improvements

44. Right of certain tenants to make improvements :-

An occupancy, an exproprietary or a hereditary tenant may make any improvement, but he shall not construct a tank unless he has obtained the written consent of the landholder.

45. Right of non-occupancy tenants to make improvements

:-

No non-occupancy tenant shall make any improvement except with the written consent of his landholder : Provided that, if such tenant is a sub-tenant, he shall not make any improvement unless-- (a) it is an improvement which his landholder could himself have made; and (b) he has obtained the written consent of his landholder.

46. Right of landlord to make improvement :-

(1) A landlord may, with the sanction of the sub-divisional officer, make an improvement on, or affecting, the holding of a tenant : Provided that no such sanction shall be required if the tenant of such holding is a non-occupancy tenant, or the improvement which the landlord desires to make is a well. (2) If the sub-divisional officer refuses to give sanction, he shall submit the record of the case for confirmation of the order passed by him to the collector.

47. Provision when both landlord and tenant want to make the same improvement :-

(1) If both the landlord and the territory want to make the same improvement which they are entitled to make under this Act, the sub-divisional officer shall on application, allow the tenant to execute the work within a specified period and may, on reasonable cause being shown, extend such period from time to time : Provided that the total period of such extensions shall not exceed six months. (2) If the tenant fails to execute the work within such period or extended period, the landlord shall have the right to make such improvement.

48. Restrictions on making improvement :-

Nothing in this Chapter shall entitle to tenant or a landholder to make an improvement on, or detrimental to, any land, not included in the holding to be benefited by such improvement, unless he is in possession of such land as owner, or has obtained the written consent of the landlord and of the tenant, if any, of such land.

49. Compensation for improvement, when permissible :-

A tenant who has made a work of the kind to which the provisions of clause (13) of section 4 apply, whether such work was made before or after the commencement of this Act, shall be entitled to claim compensation --- (a) if an order of ejectment is passed against him; or (b) if he has been wrongfully ejected from his land and has not recovered possession thereof : Provided that in case of a dwelling house mentioned in sub-clause (i) of clause (13) of section 4, the tenant may, instead of claiming compensation, sell or

remove the materials thereof or, with the written consent of the landlord and within such period as the court deciding the claim for compensation may specify, transfer the right of residence therein to any tenant of the village : Provided further that except in case of such dwelling house, compensation shall not be payable for any work made more than thirty years prior to the date on which the order of ejectment was passed or the tenant was wrongfully ejected.

50. Determination of compensation :-

When, under any provision of this Act, a court has to determine the amount of compensation due on account of an improvement, it shall have regard-- (a) to the amount by which the value of the produce of the holding, or the value of that produce, is increased by the work, (b) to the condition of such work and the probable duration of its effect, (c) to the extent or benefit to which the landholder or the tenant may be entitled under section 51, and (d) to the labour and capital required for the making of such work, allowing for-- (i) any reduction or remission of rent or any other advantage allowed to the tenant by the landholder in consideration of the work, (ii) any assistance given to the tenant by the landholder in money, material or labour, and (iii) in the case of reclamation or of conversion of unirrigated to irrigated land, the length of time during which the party claiming compensation has had the benefit of the improvement.

51. Works benefiting other land :-

(1) If a tenant has made an improvement on land from which he is ejected, the landholder shall, on payment of compensation, if awarded, become the owner of the work, but the tenant shall be entitled to the benefit of the work in respect of the land remaining in his possession to the same extent and in the same manner as it was hitherto benefited thereby. (2) If a tenant has made an improvement on land which remains in his possession after he is ejected from the other portion of his holding, the landholder shall, in accordance with the conditions laid down by the court, be entitled to the benefit of such work in respect of the land from which the tenant has been ejected to the same extent and in the same manner as it was hitherto benefited thereby.

52. Disputes as regards improvements :-

If a question arises between a tenant and his landholder-- (a) as to the right to make an improvement ; or (b) as to whether a work

contravenes the provisions of section 48 ; or (c) as to whether a particular work is an improvement ; or (d) as to the right to the benefit of an improvement under section 51, the sub-divisional officer shall, on the application of either party, decide the question and submit the record of the case for confirmation of the order passed by him to the collector.

53. Right of tenant paying fixed money rent to plant tree :-

A tenant other than a non-occupancy tenant, who pays fixed money rent may plant on his holding any tree : Provided that -- (a) he shall not plant any tree in such a way as to diminish the value of any land, not included in his holding ; and (b) he shall, in the absence of a written agreement to the contrary, continue to be liable to pay the full rent of the holding.

54. Right of a tenant paying batai or bighori to plant tree :-

A tenant, other than a non-occupancy tenant, who pays rent by batai, or bighori or partly by batai and partly by bighori, may plant any tree with the written consent of his landlord on such terms as may be settled between them : Provided that he shall not plant any tree in such a way as to diminish the value of any land, not included in his holding.

55. Tenants rights in tree existing at the commencement of the Act :-

(1) Any tree standing at the commencement of this Act on the holding of a tenant, not being a sub-tenant, shall vest in such tenant, if he has continuously been in possession of such holding for not less than twelve years immediately before such commencement. (2) If a tree does not vest in such tenant under sub-section (1), he may--- (i) if such tree hinders the cultivation of the holding, fell it with the previous sanction of the tahsildar and after notice in writing to the landlord or his agent, and deliver the timber thereof to such landlord or agent; (ii) appropriate such tree and pay to the landholder such price as the tahsildar may, on the application of the tenant, fix. (3) The tahsildar shall, if the order giving or refusing sanction for felling such tree or fixing the price thereof is passed in a contested case, submit the record of the case for confirmation of the order passed by him to the subdivisional officer.

56. Decision of disputes regarding trees :-

If a dispute arises between a landlord and a tenant as to the right to plant any tree, or the manner of planting it, or regarding the

ownership of any tree, the dispute shall, on the application of either party, be decided by the sub-divisional officer who shall submit the record of the case for confirmation of the order passed by him to the collector. Surrender and abandonment

57. Surrender by tenant :-

Subject to the provisions of section 29, a tenant, not bound by a lease or other agreement to continue to occupy any holding in the following year, may-- (i) by means of a registered letter, sent to his landholder before the first day of March in any year, notify his intention to surrender his holding at the end of the agricultural year, whether such holding is or is not held by a sub-tenant; and (ii) surrender his holding by giving up possession thereof accordingly: Provided that an exproprietary tenant shall not surrender his holding or any part thereof except to his own landholder, and unless (a) a period of two years has elapsed from the date of accrual of the exproprietary rights, and (b) such tenant has obtained the previous sanction of the collector : Provided further that nothing in this section shall affect any arrangement by which a tenant, other than an exproprietary tenant, and the landholder may agree to the surrender of the whole or any portion of the holding.

58. Abandonment :-

(1) subject to the provisions of sub-sections (2) and (3), a tenant, who ceases to cultivate his holding and leaves the neighbourhood, shall be responsible for payment of the rent as it falls due and gives written notice to the landholder of such arrangement. (2) If the person so left in charge is a person-- (a) on whom, in the event of the tenant's death, the tenant's interest would devolve, or (b) who is to manage the holding for the benefit of the person on whom, in the event of the tenant's death, the tenant's interest would devolve, the tenant shall, on the expiry of a period of seven years, lose his interest in his holding unless he, within such period, resumes cultivation thereof, and such interest shall devolve on the person on whom the interest of the tenant would devolve in the event of his death. (3) If the person so left in charge is not a person mentioned in sub-section (2), the tenant shall, on the expiry of a period of three years, be deemed to have abandoned his holding, unless within such period he resumes cultivation thereof. (4) A tenant who ceases to cultivate and leaves the neighbourhood, otherwise than in accordance with the provisions of sub-section (1), shall be deemed to have abandoned his holding.

59. Taking possession of holding surrendered or abandoned

:-

A landholder may enter upon, and occupy, the land surrendered or abandoned in accordance with the provisions of this Act.

60. Dispute arising out of surrender and abandonment of land :-

(1) If a dispute arises as to-- (a) the right of a tenant to surrender his holding or part thereof, or (b) the right of a landholder to enter upon and occupy the land under the provisions of section 59. either party may, within three months from the date of such dispute, apply to the tahsildar for decision. (2) The tahsildar shall decide the dispute and submit the record of the case for confirmation of the order passed by him to the subdivisional officer.

CHAPTER 7

PREMIA AND OTHER LEVIES

61. Acceptance of premium; how far permissible :-

No landholder shall accept a premium for admitting a person to a holding : Provided that this prohibition shall not apply to landlord who confers biswadari right in any waste or unimproved land or common land of a village.

62. Lag, neg and cess :-

(1) Notwithstanding any custom or contract to the contrary, on lag, or neg, by whatever name called or known, shall, in addition to the rent of the holding, be levied on, or recovered from, a tenant: Provided that this prohibition shall not apply to a village development cess levied under sub-section (2). (2) The Chief Commissioner may, with the previous approval of the Central Government, declare that the tenants of any village shall be liable to pay a village development cess, not exceeding two and a half per cent. of the rental to be applied for such purposes, and to be collected and disbursed in such manner, as may be prescribed in this behalf. (3) In case of doubt, the Chief Commissioner may determine whether any levy is a levy prohibited by sub-section (1).

CHAPTER 8

RENT AND ITS RECOVERY

PART 1

Basic rent of tenants

63. Liability for payment of rent :-

Every occupancy, expropriatory, hereditary or non-occupancy

tenant shall be liable to pay rent in accordance with the provisions of section 64 : Provided that if, at the commencement of this Act, a lower rent is payable by a tenant, or, after such commencement of this Act, a lower rent is payable by a tenant, or, after commencement, a lower rent is agreed upon between him and his landholder, he shall be liable to pay such rent only.

64. Scale of rent for different classes of tenants :-

Subject to the provisions of section 66, a tenant shall be liable to pay rent in accordance with the following scale:-- (a) a hereditary or a non-occupancy one-fifty of the produce of his holding ; tenant, other than a sub-tenant (b) an occupancy tenant ..one-sixty of the produce of his holding ; (c) an exproprietary tenant ..one-eighty of the produce of his holding : Provided that if any area bighori at customary rate is payable for any crop, a tenant may elect to pay such rate for such crop : Provided further that if, a tenant grows cotton, or a crop in which cotton predominates, on more than one fourth of the irrigable area of his holding, the rent of such excess area shall be payable at double the bighori at customary rates. Explanation.-- In this section the expression "produce of his holding" shall not include the straw chaff (bhusa) of the rabi or the dry stalks of kharif crop.

65. Status and liability of person permitted to retain possession :-

Notwithstanding anything contained in section 106, a person occupying any vacant land in contravention of the provisions of his Act shall, if permitted in writing by the landlord to retain possession of such land, become a hereditary tenant thereof and shall be liable to pay rent in accordance with the provisions of sections 63 and 64.

PART 2

Payment and recovery of rent

66. Hypothecation of produce towards payment of rent :-

The produce of every holding, whether sub-let or not, shall be deemed to be hypothecated to the landlord for the rent payable in respect of such holding and, until and demand for such rent has been satisfied, no other claim on such produce shall be enforced by sale in execution of a decree of a civil or revenue court, or otherwise.

67. Procedure when produce is attached by civil or revenue court :-

(1) If the produce of any holding is attached by an order of a civil

or revenue court, such court shall give notice of such attachment to the landlord who may apply to such court to sell the produce and pay to him, out of the proceeds of the sale thereof, any arrears of rent due in respect of such holding up to the date of the attachment. (2) If such court, on inquiry, finds the landlords claim to the whole or any part of the rent to be proved, it shall sell the produce or such portion thereof as it may deemed fit, and apply the proceeds of the sale, in the first instance, to satisfy such claim.

68. Right of landlord of collect rent from cultivator :-

(1) If the rent of a holding which is sub-let, or is left in charge of another person under section 58, is payable to the landlord by batai, he may collect such rent from the sub-tenant or such person : Provided that if any rent is so collected by the landlord, the sub-tenant may deduct such rent from any rent payable by him to his landholder. (2) If any conflict arises between the claims of the landlord and the tenant of such holding to collect rent from the sub-tenant the claim of the landlord shall prevail.

69. No cartage allowed :-

When rent is paid by batai, the landholder shall not claim or receive any additional quantity of the produce or its money equivalent for cartage to his own residence or to any market-place.

70. Presumption as to payment by tenant and application of such payment :-

If a tenant makes a payment to his landholder, the payment shall, in the absence of a direction to the contrary, be deemed to have been made on account of rent, and shall be credited to any year, instalment or holding, specified by the tenant : Provided that no such payment shall be applied to the discharge of an arrear of rent which has been outstanding for more than two years at the date of such payment.

71. Modes of making payment of money rent :-

(1) A payment of a money rent may be made by a tenant to his landholder, either direct or by money order : Provided that the acceptance by a landholder of a sum paid by money-order shall not, by itself or by virtue of any thing written on the money-order from, be deemed to constitute an admission by him as to the amount of rent payable or due on account of any particular year, instalment or holding, or an admission that the payer is a tenant. (2) When such rent is sent by money order, in the case of acceptance, the payees receipt and in the case of refusal, the

endorsement of such refusal on the money-order form, duly stamped by the post office, shall be admissible in evidence without formal proof and shall, until the contrary is proved, be presumed to be a correct record of such acceptance or refusal.

72. Right to get receipt :-

(1) Every tenant, lessee or licensee who makes payment on account of rent, sayar or premium shall be entitled to obtain forthwith from the landholder a written receipt signed by the landholder or his agent. (2) The landholder shall, from a book printed under section 74, give a separate receipt for each sum paid on account of rent, sayar or premium, and shall prepare and retain a counterfoil of each receipt given by him.

73. Penalty for not issuing proper receipt :-

If a receipt is not issued in the prescribed form, or does not contain substantially the particulars required to be stated therein, or if a joint receipt for rent, sayar or premium has been given in contravention of the provisions of sub-section (2) of section 72, it shall be presumed, until the contrary is proved, to be an acquittance in full of all demands for rent, sayar, or premium, as the case may be, up to the date on which the receipt was given.

74. Obligation of Chief Commissioner to print and supply books of receipt :-

The Chief Commissioner shall cause to be printed and kept for sale to landholders, at all tahsil headquarters, books of receipts with counterfoils in the prescribed form at a rate, not exceeding the actual cost of production, plus five per cent. thereon to cover incidental charges.

75. Penalty for non-production of receipt book with counterfoils :-

If, in any proceeding under this Act between a landholder and a tenant in which the payment of rent, sayar or premium is in dispute, the landholder, when ordered by the court to produce the book of receipts with counterfoils which he is required to retain under section 72, fails to produce it, the court may accept the plea of the tenant regarding such payment as correct or may make any presumption against the landholder which it considers reasonable.

76. Rights and liabilities in respect of produce :-

(1) When rent is payable by batai, the tenant shall have a right to the exclusive possession of the crop and to cut and harvest it in

due course of husbandry without any interference on the part of the landholder, but shall not be entitled to cut any portion of the produce of his holding or to remove it from the threshing-floor at such time or in such manner as to prevent the due division thereof at the proper time. (2) If a landholder prevents a tenant from tending, cutting, gathering or storing the crop, or otherwise interferes with harvesting operations, he shall be liable, on the complaint of the tenant, to pay to him such sum, not exceeding one hundred rupees, as may be awarded as compensation and such sum shall be recovered as arrears of revenue and paid to the tenant. (3) Such complaint shall be made in writing to the sub-divisional officer who shall inquire into, and decide, the case and submit the record for confirmation of the order passed by him to the collector. (4) If the tenant cuts or removes any portion of the produce of his holding, contrary to the provisions of sub-section (1), such produce shall, for the purpose of determining the share of the landholder, be deemed to be equal to that of the best crop of the same kind grown at that harvest on similar land in the neighbourhood.

77. Application for officer to make division :-

(1) When the rent of any land is payable by batai, the tenant may, when the crop is ripe, apply to the tahsildar requesting the an officer be deputed to make the division and, subject to the payment of the prescribed fee, the tahsildar shall, within ten days of such payment, depute an officer for the purpose. (2) The officer so deputed shall proceed to the spot on a day of which notice shall be given to the landholder and the tenant, cause the crop to be cut or gathered, and stored, and, after such inquiry as he deems fit, get the produce divided in accordance with the shares to which the parties may be respectively entitled. (3) The weighment charges or other expenses, if any, incurred in making the division, shall be borne by the parties in proportion to their shares in the produce. (4) In making the division, such officer shall take the assistance of assessors to be appointed, as nearly as may be, in accordance with the provisions of sub-sections (2) and (3) of section 79, draw up a note specifying the share of produce delivered to each party and other necessary particulars, explain such note to the parties and assessors, get it signed by them and submit it with his report to the tahsildar. (5) Such officer shall not allow any levy prohibited by sub-section (1) of section 62 to be charged at the time of batai, and in his report to the tahsildar he shall state that no such levy

was charged. (6) If either the landholder or the tenant is dissatisfied with the division he may, within fifteen days of such division, complain in writing to the tahsildar who shall inquire into the matter and, if necessary, pass a decree for money in favour of the party entitled, by him to the sub-divisional officer. If no such complaint is made, the tahsildar shall confirm the note of the officer deputed. (7) The sub-divisional officer may confirm, amend or set aside the decree or order or pass such other order as he deems fit. (8) A decree for money passed under sub-section (6) or (7) shall, if against the tenant, be deemed to be a decree for arrears of rent and, if against the landholder, be realised in accordance with the provisions of sections 88 and 89.

78. Application for kuta :-

If by an agreement between a landholder and his tenant, the batai rent of a holding is payable in cash by kuta, either party may apply in the prescribed form to the tahsildar to depute an officer to make the kuta.

79. Procedure on application :-

(1) On receipt of an application under section 78, and on payment of the prescribed fee, the tahsildar shall, within ten days of such payment, issue a written notice to the landholder and the tenant to attend on such date and at such time and place as may be specified in the notice, and shall depute an officer by whom the kuta shall be made. (2) On the day, and at the time and place, so fixed, such officer shall attend and call upon each party to appoint a resident of the neighbourhood as an assessor to assist him. (3) If any party fails to attend, or refuses to appoint an assessor, such officer shall appoint an assessor on his behalf and shall, with the assistance of the assessors so appointed, make the kuta and deliver an award in the prescribed form and submit the same with a report of the proceedings to the tahsildar. (4) The tahsildar shall issue notice to the parties to file objections, if any, to the award within fifteen days of the date of service of such notice and shall, after hearing such objections and making such inquiry, as he considers necessary accept or modify such award and submit the record of the case for confirmation of the order passed by him to the sub-divisional officer. (5) The sub-divisional officer may, after further inquiry, if necessary, confirm or modify the award. (6) After the award has become final, the tahsildar shall assess the money value of the rent payable to the landholder and pass a decree for arrears of rent against the tenant.

80. Collector to publish return of current prices :-

Within one month of the end of harvesting operations in a tahsil, or as soon thereafter as may be, the collector shall prepare, in the prescribed manner, a return of market prices current at the harvest time of all food and non-food crops grown in such tahsil and the return so prepared shall be accepted for assessing the money value of the produce of a holding in cases triable under this Act: Provided that if, in any area, the Central Government has fixed any price for any agricultural produce such price shall be accepted for making such assessment.

81. Assessment of bighori by court :-

(1) In case of bighori-- (a) if the landholder or the tenant neglects to measure the area sown at the proper time, or (b) if there is a dispute about the extent of the area sown, the length of the measuring chain, or the manner of measurement of such area, either party may make an application to the tahsildar, requesting that a measurer be appointed to measure such area. With the application, the applicant shall deposit such fee as may be prescribed. (2) The provisions of sub-sections (1) to (3) of section 79 shall apply to an application made under this section, as if for the words "kuta" and "officer", wherever they occur in such sub-sections, the words, "measurement" and "measurer" respectively were substituted. (3) On receipt of the measurer's award, the tahsildar shall issue notice to the parties to file objections, if any, within fifteen days of the date of service of such notice and, after hearing such objections, pass a decree for the arrears of rent found due, and submit the record of the case for confirmation of the decree passed by him to the sub-divisional officer.

82. Commutation of batai rent into bighori in certain cases :-

(1) Where a tenant, other than a non-occupancy tenant, has heretofore paid his rent by batai, or partly by bighori and partly by batai, he may apply to the sub-divisional officer to commute his rent paid by batai into bighori. (2) The sub-divisional officer shall, in accordance with the table of rates prepared in the prescribed manner, declare the bighori which such tenant shall be liable to pay.

83. Payment of commuted rent :-

The rent commuted under the provisions of section 82 shall become payable from June next following the date of the order and shall

remain in force for three agricultural years unless, at the end of such period, the landlord and the tenant, by a joint application made to the sub-divisional officer, get the period extended for any terms agreed upon between them.

84. Rent when and how payable :-

(1) Subject to the provisions of this Act, the rent of a tenant shall be payable as follows :-- (i) in case of batai or bighori-- (a) as agreed upon between the tenant and the landholder, (b) in the absence of any such agreement, according to local custom, and (ii) in case of fixed money rent, in instalments proportionate to the revenue instalments payable one months before the dates appointed for the payment of the revenue instalments. (2) Rent, or any instalment thereof, not paid by due date, shall be deemed to be in arrears.

85. Claim for arrears of rent :-

(1) If rent, which is payable by batai or bighori, is in arrears, or if the tenant has, without sufficient cause, failed to cultivate his holding, the landholder may, within two years of the date on which rent became payable, apply to the tahsildar for the recovery of arrears of rent. (2) An application for the recovery of fixed money-rent shall be made to the tahsildar within two years of the date on which such rent became payable. (3) For purposes of the assessment of the rent recoverable under sub-section (1)-- (i) in case of batai, the provisions of sub-section (4) of section 76 shall apply, and ii) in case of batai or bighori, the entire area of the holding of the defendant shall, in the absence of evidence to the contrary, be deemed to have been actually cultivated during the period to which the claim relates. (4) The tahsildar shall decide the case and submit the record for confirmation of the decree passed by him to the sub-divisional officer.

86. Interest in cases of arrears of rent :-

When a court passes a decree for arrears of rent under the provisions of this Chapter, it shall allow interest on the amount decreed from the date of such decree till the date of its satisfaction at the rate of one anna per rupee per annum simple interest unless, for reasons to be recorded in writing, it disallows the interest or allows interest at a lower rate.

87. Landlords power to charge irrigation dues :-

If a landlord had constructed a tank, whether before or after the commencement of this Act, he shall, subject to the rules made by

the Chief Commissioner, be entitled to charge irrigation dues from persons irrigating land from such tank, at such rates as may be prescribed.

88. Method of recovering sayar :-

(1) A landlord to whom any sum is due on account of sayar may, on an application to the tahsildar, recover the same by attachment and sale of the property of the defaulter with the exception of the following :-- (a) the necessary wearing apparel, cooking utensils, beds and bedding of the defaulter, and of his wife and children and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman ; (b) his implements of husbandry and such cattle and seed grain as may, in the opinion of the court, be necessary to enable him to earn his livelihood as an agriculturist; and (c) houses and other buildings belonging to the defaulter and actually occupied by him or used by him as a cattle-shed. (2) If, in the course of any proceeding under sub-section (1), any claim is preferred to, or any objection is made to the attachment of, any property by any person, whether a party to such proceeding or not, the tahsildar shall decide the dispute and submit the record of the case for confirmation of the order passed by him to the sub-divisional officer.

89. Realisation of sayar as arrears of revenue :-

(1) If, in the opinion of the tahsildar the arrears of sayar cannot be recovered under section 88, he may move the sub-divisional officer to sanction the collection of such arrears as arrears of revenue. (2) The sub-divisional officer may, if he is satisfied that such arrears cannot be recovered under section 88, direct the tahsildar to recover such arrears as arrears of revenue. (3) Any arrears of sayar recovered under section 88 or under this section shall be paid by the tahsildar to the person entitled.

PART 3

Emergency provision

90. Recovery of arrears in the event of general refusal to pay :-

(1) In case of any general refusal to pay rent or any demand on account of sayar to persons entitled to collect the same in any area, the Chief Commissioner may, by notification in the Official Gazette, declare that such rent or demand may be recovered in accordance with the provisions of sub-section (2). (2) In any area to which a notification made under sub-section (1) applies, a landholder

entitled to collect such rent or demand may, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, apply in writing to the tahsildar to recover the same, and the tahsildar shall, after satisfying himself that the amount claimed is due, recover the same with costs as arrears of revenue and submit the record of the case for confirmation of the orders passed, and the action taken, by him to the collector. (3) The collector may, after examining the record, order that, after deducting from the amount recovered the collection charges which shall not ordinarily exceed seven per cent. of the amount so recovered, the balance shall be made over to the person entitled : Provided that the total amount deducted as court-fee under section 173 and collection charges shall not, in the aggregate, exceed fourteen and a half per cent. of the amount so recovered. (4) No order passed under this section shall debar a landholder from recovering, under the provisions of this Act, any amount due to him which has not been recovered under this section.

PART 4

Payment of revenue by biswadars to jagirdars and muafidars

91. Application of certain sections to biswadars :-

(1) The provisions of sections 62, 66, 67 to 77, 81, 87 to 90 and 108 to 112 shall apply to a biswadar in relation to a jagirdar or a muafidar, as it in such sections for the word tenant, the words biswadar and for the words landlord or landholder the word jagirdar or muafidar, as the case may be, and for the word "rent" the words "revenue payable by a biswadar", were substituted. (2) The amount of a decree for arrears of revenue passed against a biswadar, if not satisfied within thirty days of the date when such decree becomes final shall, on the application of the decree-holder, be recovered by the tahsildar as arrears of revenue and paid to the person entitled.

CHAPTER 9

EJECTION OF TENANTS

92. Arrears deemed satisfied when tenant is ejected :-

Subject to the provisions of sub-section (2) of section 94, when a tenant is ejected from his holding for non-payment of arrears of rent, all arrears, whether decreed or not, and irrigation dues due in respect of such holding on the date of ejection shall be deemed to have been satisfied.

93. Decree for arrears, how executed :-

No decree for arrears of rent shall be executed against a tenant otherwise than in the manner provided by section 98.

94. Adjustment of arrears and compensation on ejectment

:-

(1) A court, deciding any proceeding under this Act by which a tenant is ejected from his holding or part thereof shall, before passing an order or ejectment, award the amount of compensation due to him on account of an improvement, a tree or a crop belonging to him and existing on such holding : Provided that if, on the date of such order, no arrears of rent, decreed or undecreed, or irrigation dues are outstanding against him on account of such holding and there is a tree or crop upon the land, he may cut and remove such tree and, subject to such payment and such other terms as the court passing the order may specify, use such land for tending, gathering and removing such crop. (2) If, on such date, any such arrears are outstanding against the tenant and the amount of compensation awarded to him under sub-section (1) exceeds the amount recoverable from him as such arrears, the order for ejectment shall be conditional on the payment into court by the landholder of the balance due to the tenant within such time as the court may direct; and if the amount of such compensation does not exceed such arrears, any claim for compensation made by the tenant shall be deemed to have been satisfied on his ejectment.

95. Entry of landholder on land from which tenant is ordered to be ejected :-

(1) A landholder may enter upon possession of a holding or part thereof from which a tenant is ordered to be ejected : Provided that he shall not enter upon such holding or part unless -- (a) in a case to which the proviso to sub-section (1) of section 94 applies, the tenant has gathered and removed the crop in due course of husbandry ; and (b) the amount of compensation, if any, awarded by the court has been paid into court or adjusted in accordance with the provisions of sub-section (2) of section 94. (2) If the amount of compensation awarded under sub-section (1) of section 94 has not been paid into court or adjusted in accordance with sub-section (2) of that section, the order of ejectment shall be cancelled, and the landholder shall be liable to pay to the tenant the cost of the proceedings which shall be collected as arrears of revenue and paid to the tenant. (3) If the tenant offers any resistance or obstruction to entry on land on which a landholder has

become entitled to enter under sub-section (1), the court passing the order of ejectment shall, on the application of the landholder, direct that such landholder be put into possession of such land and where he is still resisted or obstructed in obtaining possession, the court may, at his instance, order the tenant to be detained in the civil prison under rule 98 of Order XXI of the Code of Civil Procedure, 1908 (V of 1908). (4) The court hearing any proceeding by which a tenant is ejected from his holding or part thereof shall decide all disputes arising under section 94 or this section and such decision shall be subject to confirmation by the court to which the record of such proceeding is submitted for confirmation.

96. Grounds of ejectment :-

A tenant shall be liable to ejectment from his holding on one or more of the following grounds :-- (a) that a final decree against him for arrears of rent in respect of that holding has remained unsatisfied; or (b) that he is guilty of any act detrimental to the land in that holding, or inconsistent with the purpose for which it was let; or (c) where rent is payable by batai, that for three successive years he has, without sufficient cause, failed to cultivate his holding; or (d) that he or any person holding from him has broken a condition on breach of which he is, by special contract which is not contrary to the provisions of section 8, liable to be ejected; or (e) that he has sub-let or otherwise transferred his holding or part thereof in contravention of the provisions of this Act : Provided that the use of one-twentieth part of a plot included in a holding for growing grass or for the construction of enclosures on such part for stock raising, or for any purpose subservient to agriculture, shall not constitute a ground for ejectment under clause (b).

97. Special grounds of ejectment of non-occupancy tenants :-

A non-occupancy tenant, other than a sub-tenant to whom the provisions of section 32 apply, shall be liable to ejectment on the ground that he holds only as a tenant from year to year, or under a lease which has expired or will expire by the end of the current agricultural year.

98. Procedure in ejectment for decreed arrears :-

(1) Immediately after a decree for arrears of rent passed under section 77, 79, 81 or 85 has become final, the tahsildar shall cause a notice to be served on the tenant stating the amount due under

the decree, and requiring him, within two months from the service of the notice, to pay such amount into court. (2) If the amount is so paid, the tahsildar shall record satisfaction on the decree and grant a receipt therefor which shall operate as an acquittance for the amount deposited as if such amount had been received by the decree holder and pay such amount to the person entitled to receive it. (3) If the amount is not so paid by the tenant the tahsildar shall order his ejectment from his holding or part thereof as prescribed and submit the record of the case for confirmation of the order passed by him to the sub-divisional officer. (4) The sub-divisional officer may-- (a) on the application of the tenant, extend the time for the payment of the decretal amount for a period, not exceeding two months from the date of such order; or (b) allow payment into court of such amount by instalments and specify the time for payment thereof; or (c) confirm the order of ejectment. (5) If the sub-divisional officer by order extends the time for the payment of the decretal amount or allows payment by instalments and such order is duly complied with the order of ejectment shall be set aside. (6) If the decretal amount or any instalment is not paid into court within the period allowed under clause (a) or (b) or sub-section (4), the sub-divisional officer shall confirm the order of ejectment.

99. Procedure for ejectment on other grounds :-

(1) When a landholder desires to eject a tenant on one or more of the grounds specified in clauses (b) to (e) of section 96, he shall file an application in the court of the sub-divisional officer containing such particulars as may be prescribed. (2) If the sub-divisional officer finds that the tenant is liable to ejectment, he shall pass a conditional order for his ejectment either from the entire holding or from such portion thereof, as, having regard to all the circumstances of the case, he considers desirable and shall also direct that -- (i) in the case of an order under clause (b), (c) or (d) of section 96, the tenant shall repair the damage, or pay such compensation as the court may direct within two months from the date of the order, or such further time as the court may, for reasons to be recorded allow; and (ii) in the case of an order under clause (e) of that section, the tenant shall obtain surrender of, or eject the sub-lessee or other transferee from, the holding or part thereof which is sub-let or otherwise transferred in contravention of the provisions of this Act and resume possession of such holding or part, as the case may be, within such time as the court may

specify. (3) If the sub-divisional officer is satisfied that the tenant has complied with the order passed under sub-section (2), he shall cancel the order of ejectment, but if he is not so satisfied, he shall make the order of ejectment absolute and shall, in either case, submit the record for confirmation of the order passed by him to the collector. Provided that no application for ejectment shall be entertained on the ground mentioned in clause (c) of section 96, if the landholder has recovered under section 85 the arrears of rent for the period the tenant has failed to cultivate his holding.

100. Application for ejectment of non-occupancy tenant :-

A landholder who desires to eject a non-occupancy tenant to whom section 97 applies may, in the month of May, make an application in duplicate to the tahsildar stating the following particulars :-- (a) the name, description and place of residence of the landholder ; (b) the name, description and place of residence of the tenant ; (c) a description of the holding, specifying the name of the village, the rent payable, and, unless the holding can be otherwise adequately described, the khasra number and area of each field; and

101. Procedure on application :-

(1) The tahsildar shall send one copy of the application to the tenant and inform him that he may file objections, if any, within thirty days of the receipt of such application. (2) If the tenant admits his liability to ejectment, or has not appeared within such period, the tahsildar shall pass an order for his ejectment. (3) If the tenant contests his liability to ejectment on the ground that he is not a tenant, or claims occupancy, exproprietary or hereditary rights, or denies the right of the landholder to eject, the tahsildar shall forward the record to the sub-divisional officer for trial of the case. (4) On receipt of the record, the sub-divisional officer shall hear and decide the case and submit the record for confirmation of the order passed by him to the collector. (5) If the liability to ejectment is contested on any other ground, the tahsildar shall decide the case and submit the record for confirmation of the order passed by him to the sub-divisional officer.

102. Remedies for wrongful ejectment :-

A tenant ejected by his landholder, otherwise than in accordance with the provisions of this Act may, within one year of such ejectment, apply to the sub-divisional officer -- (a) for possession of the holding ; (b) for compensation for wrongful dispossession ; and (c) for compensation for any improvement he may have made,

or for a tree belonging to him.

103. Procedure on application :-

(1) If the court finds that the tenant has been wrongfully ejected, it shall proceed as follows :-- (a) if the tenant is not entitled to remain in possession after the expiry of the agricultural year in which the order is passed, the order shall not be for recovery of possession, but for costs only, or, if compensation has been claimed and found due, for compensation and costs only ; (b) when the order is for recovery of possession, compensation, if claimed and found due, may be awarded for wrongful dispossession but not for an improvement or a tree ; (c) where an order is given for compensation for wrongful dispossession, but not for possession, the compensation shall be for the whole period during which the tenant was entitled to remain in possession. (2) If the order is for recovery of possession, the sub-divisional officer shall put the tenant wrongfully ejected in possession. (3) After the decision of the case, the sub-divisional officer shall submit the record for confirmation of the order passed by him to the collector. (4) Any amount awarded as compensation shall be recovered as arrears of revenue and paid to the person entitled.

104. Ejectment of person occupying land without title :-

(1) A person, other than a landholder mentioned in section 102, taking or retaining possession of a plot of land otherwise than in accordance with the provisions of this Act shall, on the application made to the sub-divisional officer, be liable to ejectment and also to pay damages. (2) Such application shall be made -- (a) if the unauthorised occupation has existed from a date prior to the commencement of this Act ; (b) in any other case, within three years from the date when the unauthorised occupation first began.

105. Procedure on application :-

(1) If, on application under section 104, the sub-divisional officer is satisfied that any person taking or retaining possession of a plot of land is liable to ejectment, he shall order the ejectment of such person and award damages which may extend to four times the annual rental value of such plot, calculated in accordance with the sanctioned rates applicable to hereditary tenants. (2) If, on the date of the order of ejectment, there is any ungathered crop or other produce belonging to the person order to the ejected, the applicant shall become owner thereof. (3) The sub-divisional officer shall submit the record of the case for confirmation of the order

passed by him to the collector. (4) Any damages awarded under this section shall be recovered as arrears of revenue and paid to the person entitled.

106. Consequences of failure to file application under section 102 or 104 :-

If no application under section 102 or 104 is made within the period of limitation prescribed thereof, and the person ejecting the tenant from, or taking or retaining possession of, land, otherwise than in accordance with the provisions of this Act, cultivates such land, such person shall become-- (i) if the possession proprietary interest in such land, khudkasht-holder ; or (ii) if he does not possess proprietary or tenancy interest in such land, a hereditary tenant.

107. No separate relief claimable, if not claimed in revenue court :-

A person who has made an application under section 102 or 104, shall not be entitled to institute a separate suit or proceeding in a civil court for any relief which he might and ought to have claimed and has not claimed.

CHAPTER 10

COMPENSATION AND PENALTIES

108. Tenants a right to claim inquiry for illegal exaction and other matters :-

If any landholder or his agent-- (i) dishonestly collects a premium prohibited by this Act, or any sum, or produce in excess of the amount which is due as arrears of rent, or as sayar, or (ii) charges interest on an arrear of rent, not expressly allowed by this Act or at a rate exceeding that allowed by this Act, or (iii) realises, by proceedings in court or otherwise, any rent of which payment has been remitted, or, before the expiry of the period of suspension, any rent of which payment has been suspended under the provisions of this Act, or (iv) habitually refuses or neglects to deliver to the tenant a receipt, or does not prepare and retain a counterfoil of the receipt in the manner prescribed by this Act, or (v) without reasonable cause, credits or applies a payment made towards rent otherwise than in accordance with the provisions of this Act, the sub-divisional officer shall, on the application of the tenant, if made within six months of the contravention of the provision of this Act to which the complaint relates, institute an inquiry and, if he is satisfied that the charge is established, shall

award to the tenant monetary compensation not exceeding two hundred rupees and submit the record of the case for confirmation of the order passed by him to the collector.

109. Power to award compensation in proceedings for arrears of rent :-

(1) If, in the course of proceedings for the realisation of arrears of rent, the trial or the confirming court finds that the landholder has committed any of the acts enumerated in clauses (i) to (v) of section 108, it may award to the tenant compensation, not exceeding one hundred rupees. (2) If such compensation is awarded by the trial court, the record of the case shall be submitted for confirmation of the order passed by it to the sub-divisional officer, and if by the confirming court, to the collector.

110. Prosecution of landholder for illegal exaction :-

If a landholder or his agent collects from a tenant any lag or neg, he shall be deemed to have committed an offence of extortion within the meaning of the Indian Penal Code (Act XLV of 1860).