

Goa, Daman & Diu Abolition of Proprietorship of Lands in Diu Act, 1971

The Goa, Daman and Diu (Abolition of Proprietorship of Lands in Diu)

The Goa, Daman and Diu (Abolition of Proprietorship of Lands in Diu) Act, 1971 (Act No. 1 of 1971) [31-1-1971] published in the Official Gazette, Series I No. 47 dated 18-02-1971 and came into force with effect from 20-03-1971.

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THE GOVERNMENT OF GOA, DAMAN & DIU**Legislature Department**

No. LA/A/7/260/71

The following Act passed by the Legislative Assembly of Goa, Daman and Diu received the Assent of the President of India on the 31st January, 1971, and is hereby published for general information.

The Goa, Daman and Diu (Abolition of Proprietorship of Lands in Diu) Act, 1971

(Act No. 1 of 1971) [31st January, 1971]

An Act to provide for the abolition of proprietorship of lands in the Diu district in the Union territory of Goa, Daman and Diu and for matters connected therewith.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the twenty-first Year of the Republic of India as follows:

1. **Short title, extent and commencement.**— (1) This Act may be called the Goa, Daman and Diu (Abolition of Proprietorship of Lands in Diu) Act, 1970.

(2) It extends to all the areas within the jurisdiction of the village panchayats constituted under the Goa, Daman and Diu Village Panchayat Regulation, 1962, in the district of Diu in the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. **Definitions.**— In this Act, unless there is anything repugnant in the subject or context,—

(a) “agriculture” with its grammatical variations and cognate expressions, includes horticulture, the raising of crops or garden produce and dairy farming;

(b) “agricultural labour” means a person whose principal means of livelihood is the income he gets as wages, in connection with the agricultural operations he performs;

(c) “appointed date” means the date on which this Act comes into force;

(d) “Assistant Civil Administrator” means the Mamlatdar of Diu;

(e) “Civil Administrator” means the Civil Administrator of Diu;

(f) “to cultivate personally” means to cultivate any land on one’s own account—

(i) by one’s own labour, or

(ii) by the labour of any member of one’s family, or

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

Explanation.— For the purposes of this clause,—

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

(ii) in the case of an undivided Hindu family, the land shall be deemed to have been cultivated personally if it is cultivated by any member of such family;

(g) “cultivation” means the use of lands for the purpose of agriculture;

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

(i) “Government” means the Government of Goa, Daman and Diu;

(j) “homestead” means a dwelling house together with any courtyard, compound, garden, outhouse, place of worship, family graveyard, storehouse, library, office,

guest-house, tanks, wells, privies, latrines, drains and boundary walls annexed or appertaining to such dwelling house;

(k) “land” means any land used either for purposes of agriculture or for purposes ancillary thereto including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans and includes,—

(i) benefits to arise out of such land, and

(ii) things attached to such land or permanently fixed to anything attached to such land;

(l) “prescribed” means prescribed by rules made under this Act;

(m) “proprietor” means a person who holds land granted to him or any of his predecessors-in-interest by the former Portuguese Government by way of gift, sale or otherwise and includes his co-sharers.

3. Abolition of proprietary rights.— Notwithstanding anything to the contrary contained in any usage, settlement, contract, grant, sanad, order or other instrument, or any law for the time being in force, with effect on and from the appointed date —

(i) all rights, title and interest of every proprietor in or in respect of all lands held by him as proprietor shall be deemed to have been extinguished; and

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

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

4. Re-grant of certain lands to the proprietor as occupant.— Immediately after the vesting of the lands in the Central Government under section 3, the following lands shall be deemed to have been re-granted to the proprietor from whom they had vested in the Central Government and the proprietor shall hold them from the Central Government as an occupant and shall be liable to pay to the Government the land revenue as provided in section 6, namely:—

(a) homesteads, buildings and structures together with lands appurtenant thereto in the occupation of the proprietor, but excluding those which are in the possession of a cultivating tenant;

(b) lands under the personal cultivation of the proprietor, not being pasture or grass lands.

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

(2) Nothing in this section shall be deemed to authorise the Civil Administrator to take possession of any land of the proprietor which may have been re-granted to him under section 4.

6. Liability of lands for payment of land revenue from the appointed date.— (1) All lands the rights, title and interest in which have vested in the Central Government under section 3 shall, with effect on and from the appointed date, be liable to the payment of land revenue to the Government in accordance with the revenue survey and settlement of land revenue:

Provided that until the revenue survey and settlement of land revenue of such lands are made, the land revenue payable in respect of such lands shall,—

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

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

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

Explanation:—

(i) “paddy land” means land used for the cultivation of paddy;

(ii) “garden land” means land irrigated by a well, tank, canal, river, nala or any other source of water and used for the cultivation of fruits including coconuts, arecanuts or vegetables;

(iii) “jirait land” means land other than a paddy or a garden land.

(2) For the purposes of clause (i) of the proviso to sub-section (1), the Civil Administrator shall publish in the Official Gazette on the 1st January of each year the

price of paddy or other crop which shall be adopted for determining the cash equivalent of the rent for that year.

7. Rights of certain cultivating tenants to be restored to possession of their lands.— (1) Any cultivating tenant who has been evicted from any land on or after the 20th December, 1961, may, if the land from which he was evicted was in the possession of the proprietor on the 26th February, 1970, make an application to the Assistant Civil Administrator within six months from the appointed date for restoration of such land on the ground that he was evicted from such land without any reasonable excuse.

(2) On receipt of such application or *suo motu*, the Assistant Civil Administrator may make such enquiry as he thinks fit.

(3) If on such enquiry, the Assistant Civil Administrator is satisfied that such cultivating tenant was in possession of that land on or after the 20th December, 1961, and that he was evicted therefrom by the proprietor thereof on any ground other than the grounds specified in sub-section (4), he may order restoration of such land to the cultivating tenant, or direct the proprietor to pay such compensation to him as the Assistant Civil Administrator may deem appropriate in the circumstances of the case.

(4) The grounds referred to in sub-section (3) are the following:—

(a) the cultivating tenant had failed to pay rent to the proprietor;

(b) the cultivating tenant had failed to cultivate the land personally;

(c) the cultivating tenant had unlawfully sub-let the land;

(d) the cultivating tenant had done any act which was permanently injurious or destructive to the land.

8. Rights of cultivating tenants to hold land as occupants.— (1) Every cultivating tenant holding land (not being pasture or grass lands) of which he is in actual possession on the appointed date shall, as from that date, be the occupant thereof on payment of land revenue to the Government under section 6.

(2) Every agricultural labourer or village artisan, who, on the appointed day, is in occupation of any land for the purpose of his own dwelling house, shall, as from the appointed date, be the occupant thereof on payment of land revenue to the Government under section 6.

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

9. Occupant to cultivate land personally.— (1) If at any time after the appointed date the person who has become an occupant of any land under section 8, fails to cultivate such land personally, he shall, unless the Civil Administrator condones such failure for sufficient reasons, be ejected from the land which he has failed to cultivate personally,

and the land shall be reverted to the Central Government without payment of any compensation.

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

10. Transfer of land barred.— (1) No sale (including sales in execution of a decree of a Civil Court or for recovery of arrears of land revenue), gift, exchange or lease or assignment or mortgage of any land in respect of which any person has become an occupant under section 8, shall be made, except with the previous permission in writing of the Civil Administrator, who may grant such permission in such circumstances and subject to such conditions as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for an occupant to mortgage or create a charge on any land referred to in sub-section (1) in favour of the Government or a Co-operative Society or the State Bank of India or any other Scheduled Bank in consideration of a loan advanced to him by the Government or the Co-operative Society or the State Bank of India or the Scheduled Bank, as the case may be, for improvement of the land.

11. Forfeiture of land transferred in contravention of section 10.— (1) Where in respect of the transfer of any land, the Assistant Civil Administrator *suo motu* or on the application of any person interested in such land has reason to believe that such transfer is in contravention of section 10, he shall issue notice to the transferor and the transferee to show cause why the transfer should not be declared to be in contravention of section 10, and shall hold an enquiry and decide whether the transfer is in contravention of section 10.

(2) If after holding such inquiry the Assistant Civil Administrator declares the transfer to be in contravention of section 10, the land in respect of which such contravention has taken place shall be deemed to be forfeited to the Central Government without payment of any compensation.

12. Declaration of conferment of occupancy rights.— (1) As soon as may be after the appointed date, the Assistant Civil Administrator shall publish or cause to be published in the prescribed manner a provisional declaration in the prescribed form giving the names of proprietors and the particulars of the lands which are deemed to have been re-granted to them under section 4 and also the names of cultivating tenants and the particulars of lands in respect of which they are to become occupants under section 8. The declaration shall also call upon all persons interested in the lands specified in the declaration to submit to him the objections to the said provisional declarations, within one month from the date of publication of the said declaration.

(2) The Assistant Civil Administrator shall consider the objections received by him under sub-section (1) and shall make an order disposing of each individual objection. Any person aggrieved by such order may within a period of thirty days from the date of such order, file an appeal to the Civil Administrator. The Civil Administrator shall dispose of such an appeal after giving the parties concerned an opportunity of being heard.

(3) The declaration issued under sub-section (1) as modified by the orders, if any, passed by the Assistant Civil Administrator, or where an appeal has been filed, as modified by the decision of the Civil Administrator, shall be final and shall be conclusive evidence of the conferment of occupancy rights in respect of any land under section 4 or section 8.

13. Compensation to proprietors.— A proprietor whose rights, title and interest in respect of his lands vest in the Central Government under section 3, shall be entitled to payment of compensation in respect of the lands which have vested in the Central Government and have not been re-granted to him under section 4, at the rate of twenty times the annual payment (Contribuição Predial) which the proprietor was liable to make to the former Portuguese Government in respect thereof immediately before the 20th December, 1961.

14. Method of payment of compensation.— (1) Any person entitled to compensation under section 13 shall, on or before such date as the Government may specify in this behalf from time to time by notification in the Official Gazette, make an application to the Civil Administrator in the prescribed form for payment of such compensation.

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

Provided that where there are more persons than one entitled to such compensation, the Civil Administrator shall apportion the compensation among them:

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

15. Payment of compensation.— The compensation determined under section 14 shall, after deducting therefrom the dues, if any, referred to in clause (iii) of section 3, be paid in cash to the person or persons to whom it is payable, but if any such person refuses to accept payment the amount payable to him shall be deposited by the Civil Administrator in a competent civil court.

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

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

17. Duties and functions of the Assistant Civil Administrator.— For the purpose of this Act, the following shall be the duties and functions to be performed by the Assistant Civil Administrator, namely:—

- (a) to decide whether a person is a proprietor;
- (b) to decide whether a person is an agricultural labourer;
- (c) to decide whether a person is a cultivating tenant;
- (d) to decide the amount of rent recoverable from the proprietor under section 3;
- (e) to decide the homesteads, buildings and structures together with land appurtenant thereto and the lands under personal cultivation which are deemed to be re-granted to the proprietor under section 4;
- (f) to determine the land in respect of which occupancy rights are conferred under section 8 and the person on whom they are conferred;
- (g) to take measures for restoration of land to the cultivating tenant under section 7 and to recover compensation from the proprietor payable by him under sub-section (3) of that section; and
- (h) to decide such other matters as may be referred to him by or under this Act.

18. Commencement of proceedings.— Except as expressly provided by or under this Act, all inquiries and other proceedings before the Assistant Civil Administrator shall be commenced by an application which shall contain the following particulars, namely:—

- (a) the name, age, profession and place of residence of the applicant and the opponent;
- (b) a short description of the matter about which dispute has taken place or the amount of claim, as the case may be;
- (c) the circumstances out of which the cause of action arose;
- (d) a list of documents, if any, and of the applicant's witnesses and the information as to whether such witnesses are to be summoned to attend or whether the applicant will produce them on the day of hearing; and
- (e) such other particulars as may be prescribed.

19. Procedure.— (1) In all inquiries and proceedings under this Act, the Assistant Civil Administrator shall exercise the same powers as the Mamlatdar under the Mamlatdar's Court Act, 1966 (hereinafter referred to as the "said Act") and shall (except as provided in sub-section (3) of section 7 and section 11) follow the provisions of the said Act.

(2) In regard to any matter which is not provided in the said Act, the Assistant Civil Administrator shall follow the procedure as may be prescribed.

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

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

(5) The decision of the Assistant Civil Administrator, when no appeal is filed, and the decision of the Civil Administrator, when appeal is filed, shall, subject to revision to be made to the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965, within a period of ninety days from the date of the decision of the Civil Administrator, be final.

20. Revision.— When no appeal has been filed within the period provided for it, the Civil Administrator may *suo motu* or on a reference made by the Government at any time, call for the record of any inquiry or proceeding of the Assistant Civil Administrator for the purpose of satisfying himself as to the legality or propriety of the order of the Assistant Civil Administrator and as to the regularity of the inquiry or proceeding of the Assistant Civil Administrator and pass such order thereon as he deems fit:

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

21. Court-fees.— Notwithstanding anything contained in the Court-fees Act, 1870, every application or appeal made under this Act shall bear court-fee stamp of fifty paise if made to the Assistant Civil Administrator and of two rupees if made to the Civil Administrator.

22. Bar of jurisdiction.— (1) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Assistant Civil Administrator or by the Civil Administrator in appeal.

(2) No order of the Assistant Civil Administrator or the Civil Administrator made under this Act shall be questioned in any Civil or Criminal Court.

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

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused or any injury suffered or likely to be suffered by virtue of any provision contained in this Act or any rules made thereunder or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

24. Power to remove difficulty.— (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may by order make such provisions (not inconsistent with this Act) as appear to it to be necessary or expedient for removing the difficulty.

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

Provided that no order under this section shall be made after the expiration of three years from the appointed date.

25. Power to make rules.— (1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) The power to make rules under this section is subject to the condition that they shall be made after previous publication for thirty days.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislature of the Union territory of Goa, Daman and Diu while it is in session for a total period of 30 days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislature agrees in making any modifications in the rule or the Legislature agrees that the rule should not be made and notifies such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or permitted to be done under that rule.

Secretariat,
Panaji.

February 10, 1971.

O. P. GARG,
Secretary to the Government of Goa,
Daman and Diu.