



The Maharashtra Abolition of Subsisting Proprietary Rights to Mines and
Minerals in Certain Lands Act, 1985

Act 16 of 1985

Keyword(s):

Alienee, Code, Land Tenure Abolition Laws, Sub-Soil Rights

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THE MAHARASHTRA ABOLITION OF SUBSISTING PROPRIETARY RIGHTS TO MINES AND MINERALS IN CERTAIN LANDS ACT, 1985

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MAHARASHTRA ACT No. XVI OF 1985¹

THE MAHARASHTRA ABOLITION OF SUBSISTING PROPRIETARY RIGHTS TO MINES AND MINERALS IN CERTAIN LANDS ACT, 1985

(This Act received the assent of the President on the 1st August 1985 ; assent was first Published in the Maharashtra Government Gazette, Part IV, Extraordinary, on the 6th August 1985)

An Act to abolish subsisting proprietary rights to mines and minerals in any lands under the Land Tenure Abolition Laws or such other laws for the time being in force by acquisition thereof and to provide for matters connected therewith

WHEREAS, pursuant to the national policy of bringing the actual cultivator into direct relation with the Government, series of land tenure abolition laws for abolition of the intermediary rights, Jagirs and inam tenures have had been enacted, the rights of Inamdars and Jagirdars to mines and minerals have had been specifically saved, thereby allowing such existing rights to survive particularly where the inams are grants of soil ;

AND WHEREAS, the mines and minerals available in these inam lands are being exploited in the State by such Inamdars for individual gains without being liable to pay any royalty to the State Government and in a manner highly detrimental and prejudicial to public interest ;

AND WHEREAS, with a view to prevent such exploitation of mines and minerals for individual gains by a few Inamdars and also to prevent the huge loss of royalty by the State Government and to give effect to the policy of the State Government towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good and that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment ;

AND WHEREAS, for the aforesaid purposes it is considered necessary to abolish subsisting proprietary rights to mines and minerals in any lands under the Land Tenure Abolition Laws or such other laws for the time being in force by acquisition thereof and to provide for matters connected therewith ; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Abolition of Subsisting Proprietary Rights to Mines and Minerals in certain Lands Act, 1985. Short title, and extent.
- (2) It extends to the whole of the State of Maharashtra.
2. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution of India and the acquisition therefor of the subsisting proprietary rights to mines and minerals referred to in section 4. Declaration.
3. In this Act, unless the context otherwise requires,— Definitions.
 - (a) " alienee " means an Inamdar, Jagirdar or Estate Holder as defined in the Land Tenure Abolition Laws or such other laws for the time being in force, or a person who holds any subsisting right in any sub-soil in any land under any settlement, kaul, grant, sanad or order, any judgement, order or decree of a Court or Tribunal or any law or instrument for the time being in force, but shall not include any lawful lessee holding lease-hold rights in respect of any mines or minerals on the date of commencement of this Act ;

¹ For statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1985, Part V, Extraordinary, Page 119.

(b) "Code" means the Maharashtra Land Revenue Code, 1966 ;

(c) "Competent Authority" means the Collector of the District, and includes of any officer, not below the rank of Deputy Collector, to whom the powers and functions of the Competent Authority may be entrusted by the Collector ;

(d) "Land Tenure Abolition Laws" means the Salsette Estate (Land Revenue Exemption Abolition) Act, 1951, the Bombay Personal Inams Abolition Act, 1952, the Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953, the Bombay Merged Territories Miscellaneous Alienation Abolition Act, 1955, and the Bombay City (Inami and Special Tenures) Abolition and Maharashtra Land Revenue Code (Amendment) Act, 1969 ;

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

(f) "sub-soil rights" means any rights to mines and minerals found or likely to be found, whether on surface or underground of any land ;

(g) words and expressions used but not defined in this Act, shall have the meanings assigned to them in the Code.

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1969.

4. Save as otherwise provided in this Act, notwithstanding anything contained in any settlement, kaul, grant, sanad or order, any judgement, order or decree of a Court or Tribunal or in any law or instrument for the time being in force, on the date of commencement of this Act, all subsisting rights to mines and minerals vesting in any alienee in any land shall pass from such person to and vest in the State Government, free of any encumbrances :

Provided that, the rights of any lessee holding on lease the sub-soil rights on the date of commencement of this Act, either from alienee or from Government, shall not be affected by this section except that on and from the said date if he is a lessee holding from alienee he shall be deemed to be a lessee holding from Government, and all the obligations to the alienee shall be deemed to have passed on to Government.

5. (1) Any alienee having any subsisting sub-soil right in respect of any land immediately before the date of commencement of this Act, shall, subject to the following provisions of this section, be entitled—

(a) to receive an amount equivalent to three times the assessment fixed for the land, in which there is a mine or there are minerals, but the mine is not worked during a period of three years immediately preceding the date of commencement of this Act ;

(b) where any mine was worked at any time during a period of three years immediately preceding the date of commencement of this Act, to receive an amount equivalent to twenty times the assessment fixed for the land.

(2) Every alienee entitled to the amount under sub-section (1) shall apply in writing to the Competent Authority, on or before the 31st December 1985 or such extended date (if any) as the Competent Authority may fix, for determining the amount payable to him under this section.

6. (1) On receipt of an application for determination of the amount payable under section 5, the Competent Authority shall make such inquiry as he deems fit. After giving a reasonable opportunity of being heard to the claimant and to prove his claim, the Competent Authority shall make an award determining the amount payable to the claimant, after recording his findings on the following points :—

(a) whether the claimant-alienee proved that any rights to mines and minerals in any land had accrued to him and were subsisting at the date of commencement of this Act, notwithstanding the provisions of any law for the time being in force;

Vesting of
rights of
alienees to
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for deter-
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to be paid.

(b) the area of the land under which there is a mine and what mineral are found therein ;

(c) the area of the land under which there is a working mine and what minerals are found therein ;

(d) the amount, if any, payable to the claimant in accordance with the provisions of this Act ;

(e) where there is a co-sharer, how the amount may be apportioned between the claimant and the co-sharer.

(2) Notwithstanding anything contained in any law for the time being in force, the onus of proving before the Competent Authority—

(a) that the sub-soil rights in any land had accrued to the claimant under any sanad, etc., and the rights continued to subsist at the commencement of this Act, notwithstanding the provisions of any law for the time being in force ; and

(b) that any mines or minerals are found or are being worked in any land or part thereof ;

shall be on the claimant.

7. An appeal shall lie against the award of the Competent Authority to the Maharashtra Revenue Tribunal established under Chapter XV of the Maharashtra Land Revenue Code, 1966, notwithstanding anything contained in that Code. Appeal against Competent Authority's award.

8. (1) The Maharashtra Revenue Tribunal shall, after giving notice to the appellant and the State Government, decide the appeal and record its decision. Procedure before Maharashtra Revenue Tribunal.

(2) In deciding an appeal under this Act, the Maharashtra Revenue Tribunal shall exercise all the powers which a Court has and shall follow the same procedure which a Court follows, in deciding an appeal from a decree or order of an original Court under the Code of Civil Procedure, 1908. Limitation.

9. Every appeal made under this Act to the Maharashtra Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Competent Authority. The provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963, shall apply to the filing of such appeal. Limitation.

10. Notwithstanding anything contained in the Bombay Court-fees Act, 1959, every appeal made under this Act to the Maharashtra Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed. Court-fees.

11. An award made by the Competent Authority, subject to an appeal to the Maharashtra Revenue Tribunal, and the decision of the Maharashtra Revenue Tribunal on the appeal, shall be final and conclusive and shall not be questioned in any suit or proceedings in any Court. Finality of award and decision of Revenue Tribunal.

12. All inquiries and proceedings before the Competent Authority and the Maharashtra Revenue Tribunal under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. Inquiries and proceedings to be judicial proceedings.

13. (1) The State Government may, by notification in the *Official Gazette*, make rules for the purposes of giving effect to the provisions of this Act, including provisions for imposition of fees for the purposes of this Act. Power to make rules.

(2) All rules made under this section shall be subject to the condition of previous publication.

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

Amendment
of section 48
of Mah. XLI
of 1966.

14. In the Maharashtra Land Revenue Code, 1966, in section 48, in Mah. XLI of 1966 sub-section (1),—

(a) for the words " Unless it is otherwise expressly provided by the terms of the grant made by the State Government, the right to all minerals " the words " The right to all minerals " shall be substituted ;

(b) the proviso shall be deleted.

Repeal of
certain
enactments.

15. On and from the date of commencement of this Act, section 9 of the Bombay Personal Inams Abolition Act, 1952, section 10 of the Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953, section 13 of the Bombay Merged Territories Miscellaneous Alienations Abolition Act, 1955 and section 9 of the Bombay City (Inami and Special Tenures) Abolition and Maharashtra Land Revenue Code (Amendment) Act, 1969, and corresponding provision in any such law for the time being in force, shall stand repealed.

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Power to
remove
difficulty.

16. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by order do anything, not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

Replacement Series No. XCI—p. 898

1985 : Mah. XVIJ

10539-10546

**THE MAHARASHTRA SALES TAX ON THE TRANSFER OF
THE RIGHT TO USE ANY GOODS FOR ANY PURPOSE ACT,
1985 (MAHARASHTRA ACT No. XVIII OF 1985) AT PAGES
10539-10546 HAS BEEN REPEALED BY THE MAHARASHTRA
VALUE ADDED TAX ACT, 2002 (MAHARASHTRA ACT No. IX
OF 2005), SECTION 95(1)(e).**