



The Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965

24 of 1965

Keyword(s):
Tenancy, Law, Landlord

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PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the President on the 16th November 1965 is hereby published for general information.

SUMANT M. VIDYARTHI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 24 OF 1965.

(First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 20th November 1965.

An Act to make in the case of agricultural lands held by members of the armed forces a special provision for the termination of tenancies of such lands and for that purpose to amend the relevant tenancy laws in the State of Gujarat.

It is hereby enacted in the Sixteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Tenancy Law (Defence Personnel) Short title and commencement.
(Amendment) Act, 1965.

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

PART—I

AMENDMENTS OF THE BOMBAY TENANCY AND AGRICULTURAL LANDS ACT, 1948

Amendment
of section 29
of Bom.
LXVII of
1948.

2. In the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "the Bombay Tenancy Act"), in section 29,—

Bom.
LXV
II of
1948.

(1) in sub-section (2), for the words "No landlord" the words, brackets, figures and letter "Save as otherwise provided in sub-section (3A), no landlord" shall be substituted;

(2) after sub-section (3), the following shall be inserted, namely:—

"(3A) Where a landlord proceeds for termination of the tenancy under sub-section (1) of section 43-1B, then, notwithstanding anything contained in this Act, the application for possession of the land shall be made to the Collector, who shall, after holding an inquiry in the prescribed manner, pass such order thereon as he deems fit."

(3) in sub-section (4) for the words, brackets and figures "sub-section (1) or (2), as the case may be" the words, brackets, figures and letter "sub-section (1), (2) or as the case may be, (3A)" shall be substituted.

Amendment
of section 31
of Bom.
LXVII of
1948.

3. In section 31 of the Bombay Tenancy Act,—

(1) in sub-section (1), for the words "landlord may" the words, brackets, figures and letters "landlord (not being a landlord within the meaning of Chapter III-AA) may" shall be substituted;

(2) in sub-section (3),

(i) the words "or a serving member of the armed forces" shall be deleted;

(ii) clause (iv) shall be deleted.

Amendment
of section 32F
of Bom.
LXVII of
1948.

4. In section 32 F of the Bombay Tenancy Act, in sub-section (1), in clause (a), the words "or a serving member of the armed forces" shall be deleted.

Amendment
of section 32P
of Bom.
LXVII of
1948.

5. In section 32 P of the Bombay Tenancy Act, in sub-section (1), after the words "this sub-chapter" the words, figures and letter "or where the tenant fails to exercise the right to purchase land under section 43-1D within the period specified in that section" shall be inserted.

Amendment
of section 32S
of Bom.
LXVII of
1948.

6. In section 32S of the Bombay Tenancy Act, in clause (i), after the figures and letter "88C" the words, figures, and letters "but does not include a landlord within the meaning of Chapter III-AA holding a similar certificate" shall be inserted.

7. In section 32T of the Bombay Tenancy Act, in sub-section (4),

(a) clause (c) shall be deleted;

(b) in paragraph A, item (ii) shall be deleted.

Amendment
of section 32T
of Bom.
LXVII of
1948.

8. In section 37 of the Bombay Tenancy Act, after sub-section (5), the following shall be inserted, namely:—

“(6) The provisions of this section shall not apply to a landlord who becomes a serving member of the armed forces, and on that account, fails to use the land, or ceases to use it, for any of the purposes specified in the notice referred to in sub-section (1) and within the period specified in that sub-section.”

Amendment
of section 37
of Bom.
LXVII of
1948.

9. In section 43 of the Bombay Tenancy Act, in sub-section (1), for the word, figures and letter “or 32U” the figures, letters and word “32U or 43-1D” shall be substituted.

Amendment
of section 43
of Bom.
LXVII of
1948.

10. After section 43 of the Bombay Tenancy Act, the following new Chapter shall be inserted, namely:—

Insertion of
Chapter III-
AA in Bom.
LXVII of
1948.

“CHAPTER III-AA.

SPECIAL PROVISIONS FOR TERMINATION OF TENANCY BY LANDLORDS WHO ARE OR HAVE BEEN SERVING MEMBERS OF THE ARMED FORCES : AND FOR PURCHASE OF THEIR LANDS BY TENANTS.

43-1A. In this Chapter, unless the context requires otherwise, ‘landlord’ means a landlord (including a certified landlord within the meaning of section 32S) who is, or has ceased to be, a serving member of the armed forces; and in relation to the land of a landlord who is dead, includes his widow, son, son’s son, unmarried daughter, father or mother.

Definition.

43-1B. (1) Notwithstanding anything contained in the foregoing provisions of this Act, but subject to the provisions of this section, it shall be lawful to a landlord at any time after the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965, to terminate the tenancy of any land and obtain possession thereof, but—

Right of
landlord to
terminate the
tenancy.

Guj.
24 of
1965.

(a) of so much of such land as will be sufficient to make up the total land in his actual possession equal to the ceiling area; and

(b) where the landlord is a member of a joint family, only to the extent of his share in the land (not exceeding the ceiling area) held by the joint family, provided that the Collector on inquiry is satisfied that such share has (regard being had to the area, assessment, classification and value of land) been separated by metes and bounds in the same proportion as his share in the entire joint family property and not in a larger proportion.

(2) No tenancy of any land shall be terminated under sub-section (1), unless a notice in writing is given to the tenant, and an application for possession under sub-section (3A) of section 29 is made to the Collector :

Provided that in the case of a landlord ceasing to be a serving member of the armed forces or dying while being or after ceasing to be such member, whether before or after the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965, such notice shall be given and such application be made not later than the date of the expiry of a period of two years—

(a) from the date of such cesser or as the case may be, death, or

(b) from the date of the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965

whichever event occurs later.

(3) Nothing in this Chapter shall—

(a) apply to a tenancy of land created (after obtaining possession thereof under the provisions of this Chapter) by a landlord who has ceased to be a serving member of the armed forces; but the provisions of section 32-O shall apply to such tenancy as they apply in relation to a tenancy created after the tiller's day;

(b) entitle a landlord who has ceased to be a serving member of the armed forces (as a result of his being duly dismissed or discharged after a court martial or on account of bad character or as a result of desertion) or who has not been attested, to terminate the tenancy of his land under this section.

(4) Nothing in the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, shall affect the termination of any tenancy under this Chapter.

Transfer of pending proceedings to Collector and State Government.

43-1C. All proceedings for recovery or restoration of possession of land filed under section 31 or 32T by a landlord pending immediately before the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965, before a Mamlatdar shall, (subject to any rules made as respects such transfer or any matter incidental thereto) on such commencement, stand transferred to the Collector, and all such proceedings pending in appeal before the Collector or in revision before the Gujarat Revenue Tribunal shall likewise stand transferred to the State Government; and such proceedings shall be deemed to have been instituted for restoration of the land before the Collector under section 43-1B, or as the case may be, pending in revision before the State Government under section 73A and be disposed of accordingly.

Right of tenant to purchase land from landlord.

43-1D. (1) Notwithstanding anything contained in the foregoing provisions of this Act, or any law, agreement, custom or usage to the contrary, but subject to the provisions of this section a tenant holding land from a landlord shall, subject to the provisions of section 32A, be entitled to purchase from the landlord,

(a) where the landlord fails to make an application as required by section 43-1B, the land so held by him, and

(b) in any other case, such part of the land held by the tenant as is left with him after the termination of tenancy under section 43-1B.

(2) The right to purchase land under sub-section (1) shall be exercised within one year from the date on which possession of the land is obtained by the landlord in pursuance of the provisions of section 43-1B; or as the case may be, from the date of the expiry of the period referred to in the proviso to sub-section (2) of section 43-1B; and intimation of exercise of the right shall be sent to the landlord and the Tribunal in the prescribed manner within the period aforesaid.

(3) The provisions of sections 32 to 32E (both inclusive) and sections 32G to 32N (both inclusive) and sections 32P, 32Q and 32R shall apply to the purchase of the land by a tenant under sub-section (1) as those provisions apply in relation to the purchase of land under section 32.

43-1E. Nothing in this Chapter shall apply in relation to land which before the Savings Act, 1965 is purchased by any tenant under the provisions of Chapter III." Guj. 24 of 1965.

11. In Chapter VI of the Bombay Tenancy Act, for the heading "PROCEDURE AND JURISDICTION OF TRIBUNAL AND MAMLATDAR AND APPEALS." the heading "PROCEDURE AND JURISDICTION OF TRIBUNAL, MAMLATDAR AND COLLECTOR : APPEALS AND REVISION." shall be substituted. Amendment of heading of Chapter VI of Bom. LXVII of 1948.

12. After section 73 of the Bombay Tenancy Act, the following new section shall be inserted, namely :— Insertion of section 73A in Bom. LXVII of 1948.

"73A. (1) For the purposes of an inquiry under sub-section (3A) of section 29, the Collector shall have the same powers as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit namely :— Powers of Collector in inquiries under sub-section (3A) of section 29 ; provision as respects revision and execution of orders.

(a) proof of facts by affidavits,

(b) summoning and enforcing attendance of any person and examining him on oath, and

(c) compelling the production of documents.

(2) The order of the Collector under sub-section (3A) of section 29 shall, subject to revision under sub-section (3), be final.

(3) The State Government may, *suo motu* or on an application from any person interested in the land, call for the record of any such inquiry for the purpose of satisfying itself as to the legality or propriety of the order passed by the Collector and pass such order thereon as it deems fit.

Provided that no such order shall be modified annulled or reversed, unless an opportunity has been given to the interested parties to show cause why such order should not be modified, annulled or reversed.

(4) Every such order of the Collector or of the State Government in revision awarding possession of any land shall be executed in the manner provided for the execution of the orders of the Mamlatdar or Tribunal under section 73.”.

PART—II.

AMENDMENT OF THE BOMBAY TENANCY AND AGRICULTURAL LANDS (VIDARBHA REGION AND KUTCH AREA) ACT, 1958 IN ITS APPLICATION TO THE KUTCH AREA OF THE STATE.

Amendment
of section 36
of Bom.
XCIX of
1958.

13. In the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 in its application to the Kutch area of the State (hereinafter referred to as “the Kutch Tenancy Act”), in section 36,—

Bom.
XCIX
of
1958.

(1) in sub-section (2), for the words “No landlord” the words, brackets, figures and letter “Save as otherwise provided in sub-section (3A), no landlord” shall be substituted;

(2) after sub-section (3), the following shall be inserted, namely:—

“(3A) where a landlord proceeds for termination of the tenancy under sub-section (1) of section 57B, then notwithstanding anything contained in this Act, the application for possession of the land shall be made to the Collector, who shall, after holding an inquiry in the prescribed manner, pass such order thereon as he deems fit.”;

(3) in sub-section (4), for the words, brackets and figures “sub-section (1) or (2), as the case may be” the words, brackets, figures and letter “sub-section (1), (2), or as the case may be, (3A)” shall be substituted.

Amendment
of section 38
of Bom.
XCIX of
1958.

14. In section 38 of the Kutch Tenancy Act—

(1) in sub-section (1), for the words “landlord may” the words, brackets, figures and letter “landlord (not being a landlord within the meaning of Chapter III-A) may” shall be substituted;

(2) in sub-section (2)—

(i) clause (c) shall be deleted; and

(ii) in paragraph (A), item (ii) shall be deleted.

15. In section 41 of the Kutch Tenancy Act,—

Amendment
of section 41
of Bom.
XCIX of
1958.

(1) in sub-section (1), after the word “personally” the words, figure and letters “unless the land is held by him as a tenant from a landlord to whom the provisions of Chapter III-A are applicable” shall be inserted;

(2) in sub-section (2),—

(a) clause (c) and item (ii) shall be deleted;

(b) in the first proviso for the words, brackets and letters “clauses (a) to (d)” the words, brackets and letters “clauses (a), (b) and (d)” shall be substituted.

16. In section 50 of the Kutch Tenancy Act, for the words “tenancy created” the words, brackets, figure and letter “tenancy created by the landlord (not being a landlord within the meaning of Chapter III-A)” shall be substituted.

Amendment
of section 50
of Bom.
XCIX of
1958.

17. In section 52 of the Kutch Tenancy Act, after sub-section (4), the following shall be added, namely :—

Amendment
of section 52
of Bom.
XCIX of
1958.

“(5) The provisions of this section shall not apply to a landlord who becomes a serving member of the armed forces; and on that account fails to use the land or ceases to use it, for the purpose specified in the notice referred to in sub-section (1) and within the period specified in that sub-section.”

18. In section 57 of the Kutch Tenancy Act, in sub-section (1), after the figures “46” the word, figures and letter “or 57D” shall be inserted.

Amendment
of section 57
of Bom.
XCIX of
1958.

19. After section 57 of the Kutch Tenancy Act, the following new Chapter shall be inserted, namely :—

Insertion of
Chapter III-
A in Bom.
XCIX of
1958.

“ CHAPTER III A

SPECIAL PROVISIONS FOR TERMINATION OF TENANCY BY LANDLORDS WHO ARE OR HAVE BEEN SERVING MEMBERS OF THE ARMED FORCES ; AND FOR PURCHASE OF THEIR LANDS BY TENANTS.

57A. In this Chapter, unless the context requires otherwise “landlord” means a landlord who is, or has ceased to be, a serving member of the armed forces; and in relation to the land of a landlord who is dead, includes his widow, son, son’s son, unmarried daughter, father or mother.

Definition.

57B. (1) Notwithstanding anything contained in the foregoing provisions of this Act, but subject to the provisions of this section, it shall be lawful to a landlord at any time after the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965, to terminate the tenancy of any land and obtain possession thereof, but

Right
of
landlord
to
terminate
tenancy.

(a) of so much of such land as will be sufficient to make up the total land in his actual possession equal to three family holdings; and

(b) where the landlord is a member of a joint family, only to the extent of his share in the land (not exceeding three family holdings) held by the joint family, provided that the Collector on inquiry is satisfied that such share has (regard being had to the area, assessment, classification and value of land), been separated by metes and bounds in the same proportion as his share in the entire joint family property, and not in a larger proportion.

(2) No tenancy of any land shall be terminated under sub-section (1), unless a notice in writing is given to the tenant and an application for possession under sub-section (3A) of section 36 is made to the Collector :

Provided that in the case of a landlord ceasing to be a serving member of the armed forces or dying while being or after ceasing to be such member, whether before or after the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965, such notice shall be given and such application be made not later than the date of the expiry of a period of two years—

(a) from the date of such cesser or as the case may be, death, or

(b) from the date of the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965, whichever event occurs later.

(3) Nothing in this Chapter shall—

(a) apply to a tenancy of land created (after obtaining possession thereof under the provisions of this Chapter) by a landlord who has ceased to be serving member of the armed forces; but the provisions of section 50 shall apply to such tenancy as they apply in relation to a tenancy created after the date referred to in sub-section (1) of section 46;

(b) entitle a landlord who has ceased to be a serving member of the armed forces (as a result of his being duly dismissed or discharged after a court martial or on account of bad character or as a result of desertion) or who has not been attested, to terminate the tenancy of his land under this section.

(4) Nothing in the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, shall affect the termination of any tenancy under this Chapter.

57C. All proceedings for recovery or restoration of possession of land filed under section 38 by a landlord pending immediately before the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965 before a Mamlatdar shall (subject to any rules made as respects such transfer or any matter incidental thereto), on such commencement, stand transferred to the Collector, and all such proceedings pending in appeal before the Collector or in revision before

Bom.
LXII
of
1947.

Transfer of
pending pro-
ceedings to
Collector and
State Go-
vernment.

Guj. 24
of
1965.

the Gujarat Revenue Tribunal shall likewise stand transferred to the State Government; and such proceedings shall be deemed to have been instituted for restoration of the land before the Collector under section 57B or as the case may be, pending in revision before the State Government under section 106A and be disposed of accordingly.

57D. (1) Notwithstanding anything contained in the foregoing provisions of this Act, or any law, agreement, custom or usage to the contrary but subject to the provisions of this section, a tenant holding land from a landlord shall, subject to the provisions of section 42, be entitled to purchase from the landlord—

Right of tenant to purchase land from landlord.

(a) where the landlord fails to make an application as required by section 57 B, the land so held by him, and

(b) in any other case, such part of the land held by the tenant as is left with him after the termination of tenancy under section 57 B.

(2) The right to purchase land under sub-section (1) shall be exercised within one year from the date on which possession of the land is obtained by the landlord in pursuance of the provisions of section 57B; or as the case may be, from the date of the expiry of the period referred to in the proviso to sub-section (2) of section 57B; and intimation of exercise of the right shall be sent to the landlord and the tribunal in the prescribed manner within the period aforesaid.

(3) The provisions of sections 43 and 44 shall apply to the purchase of the land by a tenant under sub-section (1) as those provisions apply in relation to the purchase of land under section 41.

57E. Nothing in this Chapter shall apply in relation to land which before the commencement of the Gujarat Tenancy Law (Defence Personnel) (Amendment) Act, 1965 is purchased by any tenant under the provisions of this Act.”

Guj.
24 of
1966.

Saving.

20. In Chapter X of the Kutch Tenancy Act, for the heading “PROCEDURE AND JURISDICTION OF TRIBUNAL AND MAMLATDAR AND APPEALS” the heading “PROCEDURE AND JURISDICTION OF TRIBUNAL, MAMLATDAR AND COLLECTOR : APPEALS AND REVISION” shall be substituted.

Amendment of heading of Chapter X of Bom. XCLIX of 1958.

21. After section 106 of the Kutch Tenancy Act, the following new section shall be inserted, namely:—

Insertion of section 106A in Bom. XCIX of 1958.

“106A. (1) For the purposes of an inquiry under sub-section (3A) of section 36, the Collector shall have the same powers as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908 in trying a suit, namely:—

5 of
1908.

Powers of Collector in inquiries under sub-section (3A) of section 36. Provision as respects revision and execution of orders.

(a) proof of facts by affidavits,

(b) summoning and enforcing attendance of any person and examining him on oath, and

(c) compelling the production of documents.

(2) The order of the Collector under sub-section (3A) of section 36 shall, subject to revision under sub-section (3), be final.

(3) The State Government may, *suo motu* or on an application from any person interested in the land, call for the record of any such inquiry, for the purpose of satisfying itself as to the legality or propriety of the order passed by the Collector and pass such order thereon as it deems fit:

Provided that no such order shall be modified, annuled or reversed, unless an opportunity has been given to the interested parties to show cause why such order should not be modified, annuled or reversed.

(4) Every such order of the Collector or of the State Government in revision awarding possession of any land shall be executed in the manner provided for the execution of the orders of the Mamlatdar or Tribunal under section 106."