



महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

मंगळवार, जुलै १७, २००७/आषाढ २६, शके १९२९

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Maharashtra Land Revenue Code (Second Amendment) Bill, 2007) (L. A. Bill No. XXXVII of 2007), Introduced in the Maharashtra Legislative Assembly on the 17th July 2007, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,
Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. XXXVII OF 2007.

A BILL

further to amend the Maharashtra Land Revenue Code, 1966.

Mah. WHEREAS it is expedient further to amend the Maharashtra Land
XLI of Revenue Code, 1966, for the purposes hereinafter appearing ; it is hereby
1966. enacted in the Fifty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Land Revenue Code (Second Amendment) Act, 2007. Short title and commencement.

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

(३२०)

- Amendment of section 99 of Mah. XLI of 1966. 2. In section 99 of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as "the said Code"),—
- (a) for the words "for reference to the concerned Divisional Commissioner" the words "for reference to the Maharashtra Revenue Tribunal" shall be substituted;
- (b) for the words "the Divisional Commissioner" the words "the Revenue Tribunal" shall be substituted;
- (c) for the words "the Divisional Commissioner" the words "the Revenue Tribunal" shall be substituted;
- (d) in the marginal note, for the words "Divisional Commissioner" the words "Revenue Tribunal" shall be substituted.
- Amendment of section 100 of Mah. XLI of 1966. 3. In section 100 of the said Code,—
- (a) in sub-section (1), for the words "the Divisional Commissioner" the words "the Revenue Tribunal" shall be substituted;
- (b) in sub-section (2), for the words "the Divisional Commissioner" the words "the Revenue Tribunal" shall be substituted.
- Insertion of section 245 in Mah. XLI of 1966. 4. After section 244 of the said Code, the following section shall be inserted, namely :—
- Saving. "245. Nothing contained in this Chapter shall apply to any proceeding before the Maharashtra Revenue Tribunal under Chapter XV."
- Insertion of section 246 in Mah. XLI of 1966. 5. In Chapter XIII of the said Code, below the heading "APPEALS, REVISION AND REVIEW", the following section shall be inserted, namely :—
- Application of this Chapter. "246. The provisions of this Chapter shall not apply to proceedings before the Maharashtra Revenue Tribunal under Chapter XV."
- Amendment of section 271 of Mah. XLI of 1966. 6. In section 271 of the said Code, after the words "the Commissioner," the words "or as the case may be, the Maharashtra Revenue Tribunal" shall be inserted.
- Amendment of section 272 of Mah. XLI of 1966. 7. In section 272 of the said Code,—
- (a) for the words "before the Commissioner" the words "before the Commissioner; or as the case may be, the Maharashtra Revenue Tribunal" shall be substituted;
- (b) after the words "to the Collector, the Commissioner," the words "or as the case may be, the Maharashtra Revenue Tribunal" shall be inserted;
- (c) for the words "of the Commissioner" the words "of the Commissioner or of the Maharashtra Revenue Tribunal" shall be substituted.
- Amendment of section 274 of Mah. XLI of 1966. 8. In section 274 of the said Code,—
- (a) for the words "the concerned Divisional Commissioner" the words "the Maharashtra Revenue Tribunal" shall be substituted;

(b) in the marginal note, for the words "concerned Divisional Commissioner" the words "Maharashtra Revenue Tribunal" shall be substituted.

9. In section 275 of the said Code, for the words "the Divisional Commissioner" the words "the Maharashtra Revenue Tribunal" shall be substituted.

Amendment of section 275 of Mah. XLI of 1966.

10. After Chapter XIV of the said Code, the following Chapter shall be inserted, namely :—

Insertion of Chapter XV in Mah. XLI of 1966.

" CHAPTER XV

MAHARASHTRA REVENUE TRIBUNAL

308. In this Chapter, unless the context requires otherwise,—

Definitions.

(a) "President" means the President of the Tribunal ;

(b) "Tribunal" means the Maharashtra Revenue Tribunal constituted under section 309.

309. (1) There shall be established for the State of Maharashtra, a Tribunal, to be called the Maharashtra Revenue Tribunal.

Maharashtra Revenue Tribunal.

(2) The Tribunal shall consist of the President and such number of other members as the State Government may, by notification in the *Official Gazette*, appoint.

310. The qualifications (including age) of the President and other members constituting the Tribunal, the period for which they shall hold office, and their conditions of service, shall be such as may be prescribed.

President and members.

311. (1) If any vacancy occurs by reason of the death, resignation or expiry of the appointment, or termination of the appointment, of the President or other members or for any other cause whatsoever, such vacancy shall be filled by appointment of a duly qualified person.

Vacancy and temporary absence.

(2) If any member of the Tribunal becomes, by reason of illness or other infirmity, temporarily incapable of performing the duties of his office, the State Government may appoint some other person to discharge his duties for any period not exceeding six months at one time and the person so appointed shall during that period have the same powers as the person in whose place he is appointed.

(3) If the office of the President falls vacant in circumstances specified in sub-section (1), the senior most member shall act as a President until the vacancy in the office of the President is duly filled by appointment of a President by the State Government.

(4) The Tribunal shall not be deemed to be invalidly constituted merely by reason of any vacancy or temporary absence referred to in the foregoing sub-sections.

Registrar
and Deputy
Registrars.

312. The State Government may, by notification in the *Official Gazette*, appoint a Registrar of the Tribunal having such qualifications as may be prescribed; and may also appoint, in like manner, such number of Deputy Registrars, having such qualifications, as may be prescribed, for such areas as may be specified in the notification.

Headquarters.

313. The Headquarters of the Tribunal shall be in *Brihan Mumbai*.

Place of
sitting.

314. The Tribunal shall ordinarily sit at the headquarters, Aurangabad and Nagpur and may also sit at any other place convenient for the transaction of business, in the State of Maharashtra, as the President, with the approval of the State Government, may direct by general or special order.

Jurisdiction
of Tribunal.

315. (1) Notwithstanding anything contained in Chapter XIII of this Code or any other law for the time being in force, but subject to the provisions of this section, in cases arising under the provisions of the enactments specified in the Schedule J, —

(a) an appeal shall lie to the Tribunal from original orders or decisions made or passed by the Collector ; and

(b) an application for revision shall lie to the Tribunal from an order or decision made or passed by the Collector in appeal, against an order or decision made or passed by any subordinate officer or authority.

(2) An application for revision under clause (b) of sub-section (1), shall lie on the following grounds only, that is to say —

(i) that the order or decision of the Collector was contrary to law ;

(ii) that the Collector failed to determine some material issue of law; and

(iii) that there was a substantial defect in following the procedure laid down by law which has resulted in the miscarriage of justice.

(3) Save as expressly provided in any enactment for the time being in force, the State Government may, by notification in the *Official Gazette*, direct that the Tribunal shall also have jurisdiction to entertain and decide appeals from and revise decisions and orders, of, such persons, officers and authority in such other cases as the State Government may determine; and for that purpose the State Government may, by notification in the *Official Gazette*, add to, amend or omit, any of the entries in Schedule J; and thereupon, the Tribunal shall have jurisdiction in such matter; and the jurisdiction of any other person, officer or authority therein shall cease.

(4) The State Government may, at any time in like manner, cancel such notification or omit any entry from Schedule J and resume to itself such jurisdiction:

Provided that, nothing herein shall prevent the State Government after such resumption of jurisdiction from conferring any such jurisdiction on any other person, officer or authority.

(5) Notwithstanding anything contained in any other law for the time being in force, when the Tribunal has jurisdiction to entertain and decide appeals from, and revise decisions and orders, of, any person, officer or authority in any matter aforesaid, no other person, officer or authority shall have jurisdiction to entertain and decide appeals from and revise decisions or orders of, such person, officer or authority in that matter.

(6) Every appeal or application for revision made under this section shall be filed within a period of sixty days from the day of the order or decision of the Collector. The provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963, shall apply to the filing of such appeal or application for revision.

316. (1) The Tribunal shall have no jurisdiction in any matter which is sub-judice in a court of law.

Jurisdiction barred in certain cases.

(2) The Tribunal shall also have no jurisdiction in respect of a matter which in its opinion involves a question as to the validity of any Act, Ordinance or Regulation, or any provision contained in an Act, Ordinance or Regulation, the determination of the invalidity of which in its opinion is necessary to the disposal of that matter.

Explanation.— In this section, “Regulation” means any Regulation of the Bombay Code or Regulation as defined in the General Clauses Act, 1897, or in a General Clauses Act in force in any part of the State.

317. Nothing contained in this Chapter shall affect any powers or functions of the Tribunal conferred on it, or which may be conferred on it, by or under any other law for the time being in force to entertain and decide any appeals, applications for revision, or other proceedings.

Powers of Tribunal under other laws not affected.

318. (1) In exercising the jurisdiction conferred upon it by or under this Chapter, the Tribunal shall have all the powers of a civil court, for the purpose of taking evidence on oath, affirmation or affidavit, or summoning and enforcing the attendance of witnesses, of compelling discovery and the production of documents and material objects, requisitioning any public record or any copy thereof from any court or office, issuing commissions for the examination of witnesses or documents, and for such other purpose as may be prescribed; and the Tribunal shall be deemed to be a civil court for all the purposes of sections 195, 345 and 346 of the Code of Criminal Procedure, 1973, and its proceedings shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Tribunal to have power of civil court.

2 of 1974. 45 of 1860.

(2) In the case of any affidavit to be filed, any officer appointed by the Tribunal in this behalf may administer the oath to the deponent.

319. (1) Subject to the provisions of this Chapter and with the previous approval of the State Government, the President may make regulations for regulating the practice and procedure of the Tribunal, including the award of costs by the Tribunal, the levy of any process fee (including provisions for recovery thereof in the form of court-fee stamps), the right of audience before the Tribunal, the sittings of the members

Practice and procedure.

either singly, or in benches constituted by the President (or such member as is authorised by him from amongst the members of the Tribunal), the disposal by the Tribunal, or a bench thereof, of any proceedings before it notwithstanding that in the course thereof there has been a change in the persons sitting as members of the Tribunal or bench; and generally for the effective exercise of its powers and discharge of its functions under this Chapter. Where any members sit singly or where any benches are constituted, such members or bench shall exercise and discharge all the powers and functions of the Tribunal.

(2) The regulations made under this section shall be published in the *Official Gazette*.

State
Government
to be heard
in certain
cases.

320. (1) If at any stage in any proceeding before the Tribunal it appears to the Tribunal that the proceedings raise a question, as to the interpretation of law, which is of such a nature and of such public importance that, it is expedient to issue notice to the State Government, the Tribunal shall issue notice to that Government, and that Government may, if it thinks fit, appear and the Tribunal shall then hear the State Government before deciding the question.

(2) If it appears to the State Government that in its opinion the interpretation of a provision of law in any proceedings before the Tribunal, is of such nature and of such public importance that it is expedient that the State Government be heard before decision of the question, it may apply to the Tribunal in such proceedings to be heard; and the Tribunal shall not decide the question without hearing the State Government.

No appeal to
State
Government
and
jurisdiction
of court
barred.

321. (1) No appeal shall lie to the State Government against any order passed by the Tribunal in the exercise of its powers of appeal or revision under section 315.

(2) Every order or decision of the Tribunal made or passed by or under this Code shall be final and shall not be questioned in any suit or other legal proceedings.

Review of
orders of
Tribunal.

322. (1) The Tribunal may, either on its own motion or on the application of any party interested, and where the State Government is heard, under section 320 on the application by that Government, review its own decision or order in any case, and pass in reference thereto such order as it thinks just and proper :

Provided that, no such application made by any party shall be entertained, unless the Tribunal is satisfied that there has been the discovery of new and important matter or evidence which after the exercise of due diligence, was not within the knowledge of such party or could not be produced by him at the time when its decision was made, or that there has been some mistake or error apparent on the face of the record, or for any other sufficient reason :

Provided further that, no such decision or order shall be varied or

revised, unless notice has been given to the parties interested to appear and be heard in support of such order.

(2) An application for review under sub-section (1) by any party or, as the case may be, by the State Government shall be made within ninety days from the date of the decision or order of the Tribunal :

36 of 1963. Provided that, in computing the period of limitation, the provisions of the Limitation Act, 1963, applicable to applications for review of a judgment or order of a civil court, shall, so far as may be, apply to applications for review under this section.

323. All orders passed by the Tribunal shall be executed in the same manner in which similar orders, if passed by the State Government or other competent authority, as the case may be, could have been executed. Manner of executing orders passed by Tribunal.

Bom. XXX- VI of 1959. 324. Notwithstanding anything contained in the Bombay Court-fees Act, 1959, but subject to the provisions of section 275, every appeal or application made to the Tribunal shall bear a court-fee stamp of one hundred rupees if the value of the suit property is ten thousand rupees or less and of five hundred rupees if such value exceeds ten thousand rupees : Provision for court-fees.

Provided that, where the Tribunal exercises any powers or functions under any relevant tenancy law or other special law and that law provided for the levy of court-fee on any appeal or application to the Tribunal, nothing contained in this section shall affect the provisions for levy of such fee.

325. (1) The State Government may, by notification in the *Official Gazette*, make rules consistent with the provisions of this Chapter for carrying into effect the purposes of this Chapter. Rules.

(2) In particular and without prejudice to the generality of the foregoing provision such rules may provide for the following matters, namely :—

(a) the qualifications (including age) of the President and other members of the Tribunal ;

(b) the period of office and the terms and conditions of service of the President and other members of the Tribunal ;

(c) the qualifications of the Registrar and Deputy Registrars ;

(d) any other powers of a Civil Court which may be vested in the Tribunal.”

11. In section 328 of the said Code, in sub-section (2), in clause (xxxvi), for the words “the Divisional Commissioner” the words “the Tribunal” shall be substituted. Amendment of section 328 of Mah. XLI of 1966.

Mah. of 2007. 12. On the coming into force of the Maharashtra Land Revenue Code (Second Amendment) Act, 2007, all cases and proceedings pending before the Divisional Commissioner, on the day immediately preceding the coming into force of the said Act, shall be transferred to the Maharashtra Revenue Tribunal and shall be disposed of by the Tribunal under the provisions of the said Code or, as the case may be, the relevant Act. Transfer of pending cases and proceedings.

Insertion of Schedule J in Mah. XLI of 1966.

13. After Schedule I appended to the said Code, the following Schedule shall be inserted, namely :—

“SCHEDULE J

(See section 315)

Serial No.	Name of Enactment	Appellate or revisional jurisdiction against orders or decisions in cases arising under the following provisions.
(1)	(2)	(3)
1	The Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966).	Section 24. Section 27. Section 59, except clause (b) thereof. Section 65. Section 66.
2	The Hyderabad Tenancy and Agricultural Lands Act, 1950 (Hyderabad Act XXI of 1950).	Section 18, sub-section (2). Section 44, sub-section (1). Section 47. Section 48. Section 49. Section 71. Section 75.
3	The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (Madhya Pradesh Act I of 1951).	Section 24. Section 25. Section 26. Section 27.”

Construc-
tion of
reference to
Divisional
Commissioner.

14. On revival of the Maharashtra Revenue Tribunal by the Maharashtra Land Revenue Code (Second Amendment) Act, 2007, the reference to the Maharashtra Revenue Tribunal in any of the enactments specified in the Schedule appended to this Act as also any such reference in any rules, regulations, bye-laws, notifications, orders issued under any of these or other enactments or in any instrument which was to be construed as the Divisional Commissioner by virtue of the provisions of section 14 of the Maharashtra Land Revenue Code (Amendment) Act, 2002, shall be now referred to as the Maharashtra Revenue Tribunal.

Mah.
of
2007.

Mah.
XXV
of
2002.

SCHEDULE

(See section 14)

Revenue Acts

1. The Hyderabad Court of Wards Act.
2. The Hyderabad Stamp Act.

Tenancy Act

3. The Bombay Tenancy and Agricultural Lands Act, 1948.
4. The Hyderabad Tenancy and Agricultural Lands Act, 1950.
5. The Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958.

Ceiling on Holdings Act

6. The Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961.

Tenure Abolition Acts

7. The Bombay Khoti Abolition Act, 1949.
8. The Bombay Pargana and Kulkarni Watans (Abolition) Act, 1950.
9. The Salsette Estates (Land Revenue Exemption Abolition) Act, 1951.
10. The Bombay Personal Inams Abolition Act, 1952.
11. The Bombay Merged Territories (Janjira and Bhor) Khoti Tenure Abolition Act, 1953.
12. The Bombay Kauli and Katuban Tenures Abolition Act, 1953.
13. The Bombay Merged Territories and Area (Jagirs Abolition) Act, 1953.
14. The Bombay Service Inams Useful to Community Abolition Act, 1953.
15. The Bombay Land Tenure Abolition (Amendment) Act, 1953.
16. The Bombay Bhil Naik Inams Abolition Act, 1955.
17. The Bombay Merged Territories Miscellaneous Alienations Act, 1955.
18. The Bombay Shetgi Watan Rights (Ratnagiri) Abolition Act, 1956.
19. The Bombay Inferior Village Watans Abolition Act, 1958.
20. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950.
21. The Maharashtra Revenue Patels (Abolition of Office) Act, 1962.
22. The West Khandesh Mehwasssi Estates (Proprietary Rights Abolition, etc.) Regulation, 1961.

Other Acts

23. The Bombay Public Trusts Act, 1950.
24. The Bombay Hereditary Offices Act, 1874.
25. The Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974.
26. The Maharashtra Private Forest (Acquisition) Act, 1975.

STATEMENT OF OBJECTS AND REASONS

The Maharashtra Revenue Tribunal established under the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966) was abolished by Maharashtra Act No. XXV of 2002. By the said Amendment Act, the powers of the Maharashtra Revenue Tribunal were conferred on the Divisional Commissioners appointed under section 6 of the said Code.

2. However, the validity of the said Maharashtra Amendment Act of 2002 was challenged in the Bombay High Court of Judicature at Mumbai and the said Act was declared *ultra-vires* the Constitution of India on the grounds that the same is violative of principle of separation of powers and independence of judiciary. Considering the judgment of the Hon'ble High Court and the number of appeals and revision applications filed under the said Code and other enactments, and are pending with the Divisional Commissioners, the Government has taken a decision to re-constitute the Maharashtra Revenue Tribunal by restoring the earlier provisions of the Maharashtra Land Revenue Code, 1966.

3. The Bill seeks to achieve the above objectives.

Mumbai,

Dated the 12th July 2007.

NARAYAN RANE,

Minister for Revenue.