

The Goa Land Revenue Code (Amendment) Bill, 2017

(Bill No. 25 of 2017)

A

BILL

further to amend the Goa Land Revenue Code, 1968 (Act No. 9 of 1969).

BE it enacted by the Legislative Assembly of Goa in the Sixty-eighth Year of the Republic of India as follows: -

1. Short title and commencement.- (1) This Act may be called the Goa Land Revenue Code (Amendment) Act, 2017.

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

2. Amendment of section 24.- In section 24 of the Goa Land Revenue Code, 1968 (Act No. 9 of 1969) (hereinafter referred to as the "principal Act"), for the word "Collector", wherever it occurs, the word "Government" shall be substituted.

3. Amendment of section 37.- In section 37 of the principal Act, for the words "Central Government", wherever they occur, the words "Central Government or Government" shall be substituted.

4. Insertion of new sections 37A and 37B.- After section 37 of the principal Act, the following sections shall be inserted, namely:-

"37A. Confirmation of title to Alvara land.— (1) Every person occupying the land under the provisions of the Decree No. 3602 dated 24-11-1917 shall make an application in the prescribed form to the Collector within a period of six months from the date of commencement of the Goa Land Revenue Code (Amendment) Act, 2017, along with all the documents to substantiate that all the conditions laid down in the said Decree No. 3602 dated 24-11-1917 have been complied with and that he has a definitive title under the said Decree to such land:

Provided that the Government may direct the Collector to entertain the application made beyond the said period of six months if it is satisfied that the applicant could not make application within the said period for the reasons beyond his control.

(2) The Collector shall after receipt of application under sub-section (1) verify all the documents submitted by the applicant and after conducting such inquiry as he deems fit, submit his report thereon to the Government inter-alia stating as to whether the applicant has definitive title to the land occupied by him.

(3) The Government may, after considering the report submitted by the Collector under sub-section (2), either approve or reject his report or give such other direction to the Collector as it deems fit in the matter. In the event the Government finds that the applicant has definitive title to the land, it may direct the Collector to issue a certificate of confirmation of the definitive title to the applicant in the prescribed form.

(4) A person, whose application is rejected under sub-section (3) or is occupying Government/Alvara land without the definitive title to such land under the said Decree No. 3602 dated 24-11-1917, he shall apply for regularization of such land, in the prescribed form along with the prescribed fee, within a period of thirty days from the date of such rejection or six months from the date of commencement of the Goa Land Revenue Code (Amendment) Act, 2017, as the case may be.

(5) The Collector shall after receipt of application under sub-section (4) verify all the documents submitted by the applicant and after conducting such inquiry as he deems fit, submit his report thereon to the Government.

(6) The Government may, after considering the report submitted by the Collector under sub-section (5), either direct the Collector to regularize such land as occupant Class -II on payment of amount as specified in sub-section (7) or reject the application or give such other direction to the Collector as it deems fit in the matter .

(7) Notwithstanding anything contained in any law for the time being in force, no land referred in sub-section (4) shall be regularized unless an amount equivalent to the total value of the land calculated at rupees 05/- per square meter has been deposited with the Government.

(8) Where any person fails to comply with the provisions of sub-section (1) or (4) or his application is rejected under sub-section (3) or (6), the Government/Alvara land shall revert back to the Government free from all encumbrances and the Government shall be free to deal with such land as it deems fit.

37B. Restriction on transfer of occupancy of Land.—(1) Notwithstanding anything contained in sub-section (4) of section 24 and section 37A, no person having definitive title to land conferred under section 37A and/or classified as occupant Class – I under section 24 shall transfer the said land to any person without remitting to the Government ten percent of the prevailing market value of such land as on the date of such transfer or proceeds of such transfer, whichever is higher.

(2) The transfer of occupancy of the land in contravention of provision contained in sub-section (1) shall be null and void.

5. Substitution of section 38.- For section 38 of the principal Act, the following section shall be substituted, namely:-

“38. Regularisation of encroachments.— Nothing contained in section 37 shall prevent the Government, if the person making the encroachment so makes request, to charge the said person a sum not exceeding five times the value of the land so encroached upon and to grant the land to the encroacher on such terms and conditions as the Government may impose subject to rules made in this behalf; and then to cause the said land to be entered in land records in the name of the such person as Occupant – Class II:

Provided that no Land shall be granted as aforesaid, unless a public notice of intention so to do is given, and any objections or suggestions which may be received before granting the land as aforesaid are considered. The expenses incurred in giving such public notice shall be paid by the person making the encroachment; and on his failure to do so on demand within a reasonable time, shall be recovered from him as an arrear of land revenue.”.

6. Amendment of section 39.- In section 39 of the principal Act, in sub-section (1), for the expression “(except Alvara holder and person in occupation of Land before the appointed day)” shall be omitted.

7. Amendment of section 40.- In section 40 of the principal Act, for the words “Central Government”, wherever they occur, the words “Central Government or Government” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend section 37 of the Goa Land Revenue Code 1968(Act 9 of 1969) so as to include the word "Government" and by inserting section 37A and 37B prescribing the process for regularization for grants under Alvara.

The Bill further seeks to amend section 24 to provide powers to Government for transferring land held under occupancy class II to Occupancy Class I and to suitably amend section 38, 39 and 40 corresponding to insertion of new sections 37A and 37B.

This Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

The Bill would generate additional revenue on account of fees payable, which cannot be quantified at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Government to frame Rules for prescribing the form of application for confirmation of title of Alvara land and of Certificate of Confirmation of definitive title.

Clause 4 of the Bill also empowers the Government to frame rules prescribing form of application and fee for regularization of Alvara land.

Clause 5 empowers the Government to make rules as regards to regularization of encroachment.

These delegations are of normal character.

**Assembly Hall,
Porvorim, Goa.
13th December, 2017**

**(Rohan A. Khaunte)
Minister for Revenue**

**Assembly Hall,
Porvorim, Goa.
13th December, 2017**

**(Nilkanth Subhedar)
Secretary to the Legislative
Assembly of Goa**

**Governor's Recommendation under Article 207 of the Constitution
of India**

In pursuance of Article 207 of the Constitution of India, I, Smt. Mridula Sinha, the Governor of Goa, hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Land Revenue Code (Amendment) Bill, 2017.

RAJ BHAVAN

Date:

MRIDULA SINHA

Governor of Goa

ANNEXURE

EXTRACT OF SECTION 24, 37, 38, 39, 40 OF THE GOA LAND REVENUE CODE, 1968 (ACT NO. 9 OF 1969).

24. **Occupancy to be transferable and heritable subject to certain restrictions.**— (1) An occupancy shall, subject to the provision contained in section 46 and to any conditions lawfully annexed to the tenure, and save as otherwise provided by law, be deemed an heritable and transferable property.

(2) Notwithstanding anything contained in the foregoing sub-section, occupancies of persons belonging to such Scheduled Castes and Scheduled Tribes as the Government, having regard to the ability of the occupants to cultivate the land personally or any other relevant factors, may by notification in the Official Gazette if any, declare for the purpose of this section for the whole or any part of the State of Goa, shall not be transferred except with the previous sanction of the Collector.

(3) Notwithstanding anything contained in sub- section (1) or in any other provisions of this Code, or in any other law for the time being in force, it shall be lawful for an Occupant — Class II — to mortgage his property in favour of the Government in consideration of a loan advanced to him by the Government under the Land Improvement Loan Act, 1883, the Agriculturists Loans Act, 1884, or in favour of a co-operative society in consideration of a loan advanced to him by such co-operative society, and without prejudice to any other remedy open to the Government, or as the case may be, the co-operative society in the event of such occupant making default in payment of such loan in accordance with the terms on which such loan is granted, it shall be lawful for the Government, or as the case may be, the co-operative society to cause the occupancy to be attached and sold and the proceeds to be applied towards the payment of such loan.

(4) The Collector may, on the application of the purchaser, and payment of the premium prescribed by the Government in this behalf, by order in writing reclassify the occupant—as Occupant—Class I; and on such re-classification, the occupant shall hold the occupancy of the land without any restriction on transfer under this Code.

Explanation 1:— For the purposes of this section "Scheduled Castes" means such castes, races or tribes or parts of or groups within such castes, races or tribes, as are deemed to be Scheduled Castes in relation to Union territory of Goa, Daman and Diu under article 341 of the Constitution of India.

Explanation 2:— For the purposes of this section, "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the Union territory of Goa, Daman and Diu under article 342 of the Constitution of India.

37. Removal of encroachments on land vesting in Central Government; provisions for penalty and other incidental matters.— (1) In the event of any encroachment being made on any land vested in the Central Government (whether or not in charge of any local authority), it shall be lawful for the Collector to summarily abate or remove any such encroachment and the expenses incurred therefor shall be leviable from the person in occupation of the land encroached upon and the person who is responsible for the encroachment.

(2) The person who made such encroachment or who is in unauthorised occupation of the land so encroached upon shall pay, if the land encroached upon forms part of an assessed survey number, assessment for the entire number for the whole period of the encroachment, and if the land has not been assessed, such amount of assessment as would be leviable for the said period in the same village on the same extent of similar land used for the same purpose. Such person shall pay in addition a fine which shall be not less than five rupees but not more than one thousand rupees if the land is used for an agricultural purpose, and if used for a purpose other than agriculture such fine not exceeding two thousand rupees.

(3) The Collector may, by notice duly served under the provisions of this Code, prohibit or require the abatement or removal of encroachments on any such lands, and shall fix in such notice a date which shall be a reasonable time after such notice, on which the same shall take effect.

(4) Every person who makes, causes, permits or continues any encroachment on any land referred to in a notice issued under sub-section (3), shall in addition to the penalties specified in sub-section (2), be liable at the discretion of the Collector to a fine not exceeding twenty-five rupees in the case of encroachment for agricultural purposes and fifty rupees in other cases for every day or part of a day during which the encroachment continues after the date on which the notice takes effect.

(5) An order passed by the Collector under this section shall be subject to appeal and revision in accordance with the provisions of this Code.

(6) Nothing contained in sub-sections (1) to (4) shall prevent any person from establishing his rights in a civil court within a period of one year from the date of the final order under this Code.

38. Regularisation of encroachments.— Nothing in section 37 shall prevent the Collector, if the Alvara holder or a person in occupation of land before the appointed day or if the person making encroachment so desires, to charge the Alvara holder or the occupant of such land, a market value as prevailing on the appointed day which shall be payable within a period of two years from the date of regularisation of the Alvara or occupation of land, as the case may be, and the other person who so desires, to charge the said person a sum not exceeding five times the value of the land so encroached upon and to grant the land to the encroacher on such terms and conditions as the Collector may impose subject to rules made in this behalf; and then to cause the said land to be entered in land records in the name of the said person:

Provided that no land shall be granted as aforesaid, unless the Collector gives public notice of his intention so to do in such manner as he considers fit, and considers any objections or suggestions which may be received by him before granting the land as aforesaid. The expenses incurred in giving such public notice shall be paid by the person making the encroachment; and on his failure to do so on demand within a reasonable time, shall be recovered from him as an arrear of land revenue.

39. Value and land revenue how calculated.— (1) For the purposes of sections 37 and 38 (except Alvara holder and person in occupation of land before the appointed day), the value of land that has been encroached upon shall be fixed by the Collector according to the market value of similar land in the same neighbourhood at the time of such valuation; and the annual revenue of such land shall be assessed at the same rate as the land revenue of similar land in the vicinity.

(2) The Collector's decision as to the value of land and the amount of land revenue or assessment payable for the land encroached upon shall be conclusive, and in determining the amount of land revenue, occupation for a portion of year shall be counted as for a whole year.

40. Summary eviction of person unauthorisedly occupying land vesting in Central Government.— (1) If in the opinion of the Collector any person is unauthorisedly occupying or wrongfully in possession of any land—

(a) vesting in the Central Government; or

(b) to the use or occupation of which he is not entitled or has ceased to be entitled by reason of—

(i) any of the provisions of this code, or

(ii) the expiry of the period of lease or termination of the lease for breach of any of the conditions annexed to the tenure, or

(iii) it being not transferable without the previous permission under sub-section (2) of section 24 or by virtue of any condition lawfully annexed to the tenure under the provision of sections 20, 25 or 32, it shall be lawful for the Collector to summarily evict such person in the manner provided in sub-section (2).

(2) The Collector shall serve a notice on such person requiring him within such time as may appear reasonable after receipt of the said notice to vacate the land, and if such notice is not obeyed, the Collector may remove him from such land.

Provided that in case the land is unauthorizedly occupied for the purpose of dumping mining rejects or like material, the Collector shall proceed to remove such unauthorized occupation.

(3) A person unauthorizedly occupying or wrongfully in possession of land after he has ceased to be entitled to continue the use, occupation or possession by virtue of any of the reasons specified in sub-section (1), shall also be liable at the discretion of the Collector to pay a penalty not exceeding two times the assessment or rent for the land for the period of such unauthorized use or occupation.