

# THE DELHI LAND REFORMS ACT, 1954

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### **1. Short title, extent and commencement**

(1) This Act may be called the Delhi Land Reforms Act, 1954.

(2) It extends to the whole of the Union territory of Delhi, but shall not apply to -

(a) [the areas which are or may before the first day of November, 1956 be] [\*\*\*] included in a Municipality or a Notified Area under the provisions of the Punjab Municipal Act, 1911, or a Cantonment under the provisions of the Cantonments Act, 1924,

(b) [areas] included in any estate owned by the Central Government or any local authority, and

(c) areas held and occupied for public purpose or a work of public utility and declared as such by the Chief Commissioner or acquired under the Land Acquisition Act, 1894, or any other enactment other than this Act, relating to acquisition of land for a public purpose.

(3) It shall come into force at once.

(4) The declaration of the Chief Commissioner under clause (c) of sub-section (2) shall be conclusive evidence that the land is held and occupied for a public purpose or a work of public utility.<sup>1</sup>

1. Subs. by Delhi Act 16 of 1956, Section 2, for the words "the areas which".

2. The word "are omitted by Act 4 of 1959, Section 2 (w.e.f. 12.3.1959).

## **2. Repeal**

(1) The following Act, in so far as they apply to areas to which this Act extends, are hereby repealed:

(i) the Punjab Tenancy Act, 1887, as modified by Punjab Act No. 9 of 1939,

(ii) the Agra Tenancy Act, 1901,

(iii) the Punjab Tenants (Security of Tenure) Act, 1950,

(iv) the Punjab Land Revenue Act, 1887, in so far as its provisions are inconsistent with this Act,

(v) The U.P Land Revenue Act, 1901, in so far as its provisions are inconsistent with this Act, and

(vi) So much of any other law or of any rule having the force of law for the time being in force as is inconsistent with the provisions of this Act.

(2) Notwithstanding such repeal, anything done or action taken in exercise of any power conferred by or under any of the Acts aforesaid, to the extent of its being consistent with the provisions of this Act, shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or action was taken.

## **3. Definitions**

In this Act, unless the context otherwise requires,--

[(1) "agricultural year" or fasli year means the year commencing on the 1st day of July and ending on the 30th day of June;]

(2) all words and expressions used to denote the possessor of any right, title or interest in land, whether the same be proprietary or otherwise, shall be deemed to include the predecessors and successors in right, title or interest of such possessor;

(3) Charitable purpose include relief of the poor, education, medical relief or the advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teaching or worship;

(4) decree has the meaning assigned to it in the Code of Civil Procedure, 1908;

[(5) Delhi town means the areas which immediately before the establishment of the Municipal Corporation of Delhi were included in the limits of Delhi Municipality, Civil Station Notified Area, West Delhi Municipality and the Fort Notified Area;]<sup>2</sup>

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1. Subs. by Act 4 of 1959, Section 2, for the words "areas controlled, notified, held, occupied or owned by the Delhi Improvement Trust, or" (w.e.f. 20.7.1954).  
2. Clause (1) subs. by Act 4 of 1959, Section 3 (w.e.f. 12.3.1959).



[(6) Deputy Commissioner includes

(i) a Collector;

(ii) an Additional Collector;

(iii) a Revenue Assistant empowered by the Chief Commissioner by notification in the Official Gazette to discharge all or any of the functions of a Deputy Commissioner under this Act; and

(iv) an Assistant Collector of the first grade or class empowered as aforesaid;]

(7) economic holding is a holding which is not an un-economic holding;

(8) estate means the area included under one entry in any of the registers prepared and maintained in any of the registers prepared and maintained under clause (a), (b), (c) or (d) of section 31 of the Punjab Land revenue Act, 1887, or section 32 of the U.P. Land Revenue Act, 1901, and includes share in or of an estate;

(9) "Gaon Sabha Area" Fund means the fund of the Gaon Sabha area constituted or established under section 150 of this Act;

(10) "Gaon Sabha" and "Gaon Panchayat" mean the Gaon Sabha and the Gaon Panchayat established under section 150 and 151 respectively of this Act;

(11) "Gaon Sabha Area" means the Gaon Sabha Area constituted under section 150 of this Act;

[(11a) "holding" means

(a) in respect of

(i) Bhumidar or Asami; or

(ii) tenant or sub-tenant under the Punjab Tenancy Act, 1887, or the Agra tenancy Act, 1901; or

(iii) lessee under the Bhoodan Yagna Act, 1955, a parcel or parcels of land held under one tenure, lease, engagement or grant; and

(b) in respect of proprietors, a parcel or parcels of land held as sir or khudkasht].

(12) "Improvement" means with reference to a holding<sup>3</sup>

(i) a dwelling house erected on the holding by the tenure-holder for his own occupation

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1. Clause (5) subs. by Act 4 of 1959, Section 3 (w.e.f. 12.3.1959).  
2. Clause (6) subs. by Act 1 of 1966, Section 2 (w.e.f. 20.7.1954).  
3. Ins. by Delhi Act 16 of 1956, Section 3.

or any other constructions erected or set up by him on the holding for purpose connected with agriculture, horticulture or animal husbandry which includes pisciculture and poultry farming;

(ii) any work which adds materially to the value of the holding and is consistent with the purpose aforesaid, which if not executed on the holding, is either executed directly for its benefit or is, after execution, made directly beneficial to it; and subject to the foregoing provisions of this clause, includes

(a) the construction of wells, water channels and other works for the supply or distribution of water for the purposes aforesaid;

(b) The construction of works for the drainage of land or for the protection of land from floods or from erosion or other damage by water;

(c) the reclaiming, clearing, enclosing, levelling or terracing of land;

(d) the erection in the immediate vicinity of the holding otherwise than on the village site, of buildings required for the convenient or profitable use or occupation of the holding;

(e) the construction of tanks or other works for the storage of water for purposes aforesaid;

(f) the planting of trees and groves on the holding;

(g) the renewal or reconstruction of any of the foregoing works or such alterations therein or additions thereto, as are not of the nature of mere repairs:

Provide that such water channels, embankments, enclosures, temporary wells, or other works as are made by a tenure- holder in the ordinary course of his requirements for purposes aforesaid , shall not be deemed to be improvements;

[(12A) "khudkasht" means land (other than Sir) cultivated by a proprietor either by himself or by servants or by hired labour, --

(a) at the commencement of this Act, or

(b) at any time during the period of five years immediately before the commencement of this Act, whether or not it was so cultivated at such commencement,

Provided that it has not at any time after having been so cultivate, been let out to a tenant];

(13) land except in sections 23 and 24, means land held or occupied for purpose connected with agriculture, horticulture or animal husbandry including pisciculture and poultry farming and includes-<sup>4</sup>

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1. Ins. by Act 4 of 1959, Section 3 (w.e.f. 20.7.1954).

(a) buildings appurtenant thereto,

(b) village abadis,

(c) grovelands,

(d) lands for village pasture or land covered by water and used for growing singharas and other produce or land in the bed of a river and used for casual or occasional cultivation, but does not include - land occupied by building in belts or areas adjacent to Delhi town, which the Chief commissioner may by a notification in the official Gazette declare as an acquisition thereto;

(14) "legal representative" has the meaning assigned to it in the Code of Civil Procedure 1908;

(15) "New Delhi town means" the areas included in the limits of the New Delhi Municipality and Cantonment:

(16) "Prescribed" means as prescribed by rules made under this Act;

(17) "Proprietor" means as respects an estate a person owing, whether in trust or for his own benefit the estate and includes the heirs and successors in interest of proprietor;

(18) "Proprietor grove" means grove- land held or occupied by a proprietor as such;

(19) "religious purpose" includes a purpose connected with religious worship, teaching or service or with the performance of religious rites;

[(19A) "Revenue Assistant" includes any Assistant Collector of the first grade or class empowered by the Chief commissioner to perform all or any of the function of a Revenue Assistant under this Act;]

(20) "standard acre" means a measure of area convertible into ordinary acres of any class of land according to the prescribed scale with reference to the quantity of yield and quality of soil;

(21) "State" means the [Union territory of Delhi] ;

(22) "Uneconomic holding" means a holding of less than eight standard acres which, according to local conditions, is not sufficient to maintain a family unit consisting of a person, his minor children , his wife or her husband, as the case may be, and if the person himself is a minor, his father and mother;<sup>5</sup>

(23) "village" means any local area whether compact or otherwise recorded as a village

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1. Clause (19-A) ins. by Act 4 of 1959, Section 3 (w.e.f. 20.7.1954) and further subs. by Act 1 of 1966, Section 2 (w.e.f. 20.7.1954).
  2. Subs. by A.O. (No. 5) 1957, for the words "State of Delhi".

in the revenue records of the Delhi State and includes any area which the Chief commissioner may, by a general or special order published in the official Gazette, declare to be a village;

(24) Words and expressions, grove, grove- holder, rent , cess Sir, [\*\*\*] rent free grantee, landholder, ex-proprietary tenant, occupancy tenant, non-occupancy tenant, sub-tenant, [\*\*\*] and crops or any other expressions, not defined in this Act and used in the Agra Tenancy Act, 1901, or the Punjab Tenancy Act, 1887, shall have the meaning assigned to them in the Agra Tenancy Act, 1901, or the Punjab tenancy Act, 1887, according as the context refers to the Shahdara or the remaining circles;

(25) Words and expressions, land revenue, [\*\*\*] and Tahsildar, not defined in this Act and used in the U.P Land Revenue Act, 1901, or the Punjab Revenue Act, 1887, shall have the meaning assigned to them in those Acts, as the case may be.

## CHAPTER II

### A. Tenures

#### 4. Classes of tenure and sub-tenure

(1) There shall be, for the purpose of this Act, only one class of tenure- holder, that is to say, Bhumidar and one class of sub tenure, that is to say, Asami

(2) Tenure holder means a person who holds land directly under and is liable to pay land revenue for that land to the State, and sub- tenure holder is a person who holds land from a tenure- holder or Gaon Sabha and is liable to pay rent therefor to the tenure- holder or Gaon Sabha;

[Provided that land given in exchange to a tenure holder or a sub tenure holder, as a result of consolidation of holdings, shall for the purposes of this Act be deemed to be land originally held by the tenure holder or the sub tenure holder as the case may be.]<sup>6</sup>

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1. The word “*khudkash*” omitted by Act 4 of 1959, Section 3 (w.e.f. 20.7.1954).
  2. The word “holding” omitted by Delhi Act 16 of 1956, Section 3.
  3. The words “Revenue Assistant” omitted by Act 4 of 1959, Section 3 (w.e.f. 20.7.1954).

## 5. Bhumidar

Every person belonging to any of the following classes shall be a Bhumidar and shall have all the rights and be subject to all the liabilities conferred or imposed upon a Bhumidar by or under this Act, namely:

(a) a proprietor holding Sir or Khudkasht land [\*\*\*] a proprietor grove holder , an occupancy tenant under section 5 of the Punjab Tenancy Act, 1887, paying rent at revenue rates or a person holding land under Patta Dawami, [or Istamrari] with rights of transfer by sale, who are declared Bhumidhars on the commencement of this Act;<sup>7</sup>

(b) every class of tenants other than those referred to in clause (a) and sub-tenants who are declared Bhumidhars on the commencement of this Act; or<sup>8</sup>

(c) every person who, after the commencement of this Act, is admitted to land as Bhumidar or who acquires Bhumidar in rights under any provisions of this Act.

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1. The words “under his self-cultivation” omitted by Act 4 of 1959, Section 4 (w.e.f. 20.7.1954)  
2. Ins. by Act 4 of 1959, Section 4 (w.e.f. 20.7.1954)

## **6. Asami**

Every person belonging to any of the following classes shall be an Asami and shall have all the rights and be subject to all the liabilities conferred or imposed upon an Asami by or under this Act, namely:

(a) every person who, in the agricultural year immediately before the commencement of this Act, occupied or held land

(i) as a non- occupancy tenant of proprietor grove;

(ii) as a sub-tenant of tenants grove;

(iii) as a non-occupancy tenant of pasture land, or of land covered by water and used for the purpose of growing singharas and other produce or land in the bed of a river and used for casual or occasional cultivation;

(b) every person who, in accordance with the provisions of [section 36, or section 64A], becomes a lessee of land comprised in the tenure of a Bhumidhar referred to in that section;

(c) every person who is admitted as a lessee of land referred to in sub-clause (iii) of clause (a) by the Gaon Sabha or a person authorised to do so under the provisions of this Act;

(d) every person who is a tenant of Sir or a sub-tenant of an occupancy tenant under section 5 of the Punjab Tenancy Act, 1887, or of a Pattadar Dawami or Istamrari, with right of transfer by sale, who belongs to any of the categories of persons referred to in sub section (2) of section 10, and every person who is a sub-tenant of tenants referred to in clauses (a) , (b) and (c) of sub-section (1) of section 12 to whom the provision of sub-section (2) of section 10 applies; and

(e) every person who acquires the rights of an Asami under any other provisions of this Act.

## **B. Acquisition of certain rights of proprietors**

### **7. Rights of proprietors in wastelands, pasture lands or lands of common utility etc. to vest in Gaon Sabha and compensation to be paid for them**

(1) All rights of an individual proprietor or proprietors pertaining to waste lands, grazing or collection of forest produce from forest or fish from fisheries lands of common utility, such as customary common pasture lands, cremation or burial grounds, abadi sites pathways, public wells, tanks and water channels, or Khalihans, whether covered by an existing contract between such proprietor or proprietors and any other person or not, shall with effect from the commencement of this Act be terminated in accordance with the provision of sub-section (2) and the said contracts, if any, shall become void with effect from such commencement:<sup>9</sup>

[Provided that where such land was as a result of consolidation of holdings made

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1. Subs. by Act 38 of 1965, Section 2, for the word and figures "Section 36" (w.e.f. 30.11.1965).

available for use for any purposes other than those referred to in this sub-section, land kept aside in exchange thereof, as a result of such consolidation, shall for the purposes of this Act be deemed to be land originally meant for purposes referred to in this sub section]

Explanation. - For the purposes of this sub-section-

(i) Waste land shall include cultivable and uncultivable waste area of the village [\*\*\*] [including any land in the bed of a river occupied or held by an Asami referred to in section 6 (a) (iii) of the Act] [except the uncultivated areas included in the holdings of such proprietor or proprietors) except the uncultivated areas-

(a) Included in the holdings of such proprietor or proprietors, or

(b) Used for purposes other than those mentioned in clause (13) of section 3, at any time before the 28th day of October, 1956, or

(c) acquired by a bona fide purchaser for value at any time before the 28th day of October, 1956, for purpose other than those mentioned in clause (13) of section 3.]

(ii) lands of common utility shall include such lands as are recorded as such at the last settlement or have been or would have been customarily recorded as such on 1st July, 1950.

(2) On the commencement of this Act, the Deputy Commissioner shall pass an order in respect of the proprietor or proprietors of each village either singly or collectively divesting the individual proprietor or proprietors of the rights mentioned in sub- section (1) and vesting those rights in the Goan Sabha [\*\*\*] or in any person or authority appointed by the Chief Commissioner under section 161 with effect from the commencement of this Act and stating that a compensation equal in value to four times the amount of annual land revenue assessed at the last settlement for the cultivable and uncultivable waste area of the village [\*\*\*] shall be paid by the government to the proprietor or proprietors concerned.

[If no such assessment of land revenue was made at the last settlement the rate of land revenue applied at the last settlement for similar areas in any other village in the same assessment circle shall be taken to be the rate of land revenue applicable to such areas or failing this the rate of land revenue applicable to such areas shall be computed at 75 per cent of the land revenue assessed on the lowest class of soil in the village.] /P> (3) The amount of compensation shall be calculated separately for each village for the respective proprietor or proprietors in accordance with rules made under this Act and payments thereof shall be made in such number of annual instalments, [not exceeding four, as the Chief Commissioner may determine, the first of which shall be paid -<sup>10</sup>

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1. Ins. by Delhi Act of 1956, Section 5.
  2. The words "recorded as such on 1<sup>st</sup> July, 1950" omitted by Act 4 of 1959, Section 5 (w.e.f. 20.7.1954).
  3. Ins. by Delhi Act 16 of 1956, Section 5.
  4. Subs. by Act 4 of 1959, Section 5, for the words "except the uncultivated areas included in the holdings of such proprietor or proprietors" (w.e.f. 20.7.1954).
  5. The words "consisting of all the adults residents of the village" omitted by Act 4 of 1959, Section 5 (w.e.f. 20.7.1954).
  6. The words "recorded as such on 1<sup>st</sup> July, 1950" omitted by Act 4 of 1959, Section 5 (w.e.f. 20.7.1954).
  7. Ins. by Delhi Act 16 of 1956, Section 5.

(a) in any case where such calculation has been made before the date on which the Delhi Land Reforms (Amendment) Act, 1959, receives the assent of the President, on the first day of fasli year next following such date; and

(b) in any other case, on the first day of the fasli year next following the date of such calculation.]

[(4) Where the amount of compensation is not paid by the due date specified in subsection (3), such amount shall be paid with interest thereon at the rate of 21/2 percent. Per annum from the said date until payment.]

### **8. Private wells, trees in abadi and buildings**

(1) All private wells in or outside holdings, all tanks, groves and all buildings situate within the limits of an estate belonging to or held by a proprietor tenant or other person, whether residing in the village or not, shall continue to belong to or be held by such proprietor, tenant or person, as the case may be, on such terms and conditions as may be prescribed by the Chief Commissioner.

(2)[Trees planted by a person other than a proprietor of land other than land comprised in his holding shall continue to belong to or be held by such person on such terms and conditions as may be prescribed by the Chief Commissioner]<sup>11</sup>

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1. Subs. by Act 4 of 1959, Section 5, for the words “not exceeding two, as the Chief Commissioner may determine, commencing from the fasli year next following the commencement of this Act” (w.e.f. 20.7.1954).
  2. Ins. by Act 4 of 1959, Section 5 (w.e.f. 20.7.1954)
  3. Subs. by Delhi Act 16 of 1956, Section 6.



### **9. Power to make rules**

The Chief Commissioner may make rules [\*] for the purpose of carrying into effect the provisions of this chapter.

## **CHAPTER III**

### **A. Declaration of Bhumidhari rights, Compensation and Land Revenue**

#### **10. Tenants of Sir and sub-tenants of occupancy tenants under section 5 of the Punjab Tenancy Act, 1887, and sub tenants of Tenants holding land with Patta Dawami or Istamrari and having right of right of transfer by sale**

(1) Every tenant of Sir and sub-tenant of an occupancy tenant under section 5 of the Punjab Tenancy Act, 1887, or sub-tenant of a tenant holding land under a Patta Dawami or Istamrari, with right of transfer by sale, who in the fasli year immediately before the commencement of this Act, is recorded as a tenant of Sir or as a sub-tenant, shall be deemed to be a non occupancy tenant of land held by him at the rate of rent payable by him in the said year and the land held by such tenant and sub-tenant shall not for the purposes of section 11 be available to the Sir-holder, occupancy tenant under section 5 of the Punjab Tenancy Act, 1887, or to the Pattadar Dawami or Istamrari for acquisition to Bhumidhari rights.

(2) Nothing in sub-section (1) shall apply to a tenant of Sir or a sub-tenant of occupancy tenant under section 5 of the Punjab Tenancy Act or of the said Pattadar, if his land holder belongs to any of the following categories of persons

(i) a women,

(ii) a minor,

(iii) a lunatic,

(iv) an idiot,

(v) a person incapable of cultivation by reason of blindness or physical infirmity, or

(vi) a person in the armed forces of the Indian Union, both at the commencement of tenancy and on the commencement of this Act.

(vii) a person under detention or imprisonment, on the commencement of this Act:

Provided that where a holding is held jointly by several landholders of whom one or more but not all are persons belonging to any of the above categories, nothing in sub-section (1) shall apply to the share of these persons in the holding and such share shall be available for the acquisition of Bhumidhari rights by these persons.<sup>12</sup>

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1. See Notifi. No. F. 3(16)/54-GA & R dated 11.1.1954, published in the Delhi Gazette, Pt. V, p. 27, dated 20.1.1955.

## **11. Declaration of Bhumidari rights in favour of proprietors and superior class of tenants, compensation and land revenue**

(1) Subject to the provisions of section 10, the Deputy Commissioner shall declare as Bhumidhars persons holding the following lands, namely:--

(a) Khudkasht land or a proprietor grove in the tracts to which the Punjab tenancy Act, 1887, was applicable or Sir land or khudkasht land or a proprietor grove in the tracts to which the Agra Tenancy Act, 1901, was applicable;

(b) Land held by occupancy tenant under section 5 of the Punjab Tenancy Act, 1887, with right of transfer by sale; and

(c) land held under Patta Dawami or Istamrari by tenants with right of transfer by sale.

[(2) For the purpose of this section shall be the records of the fasli year immediately proceeding the commencement of this Act) For the purposes of sub-section (1), the Deputy Commissioner shall take into consideration the entries in the revenue records which shall be presumed to be correct unless the contrary is proved]:

Provided that where land held as khudkasht by a proprietor belonging to any of the categories of persons referred to in sub-section (2) of section 10 has been before the commencement of this Act, let out to another person by or on behalf of such proprietor within six months of the commencement of this Act and after giving an opportunity to the tenant of being heard, shall declare such land to be the proprietor KhudKasht for purposes of this section.

(3) While making a declaration under clauses (b) and (c) of sub-section (1), the deputy Commissioner shall order the occupancy tenant or the Pattadar to deposit in Government Treasury an amount equal to four times the land revenue as ascertained in sub-section (4) for the area of which he is declared as Bhumidhar as compensation thereof . If he fails to deposit the amount within six months of the date of declaration, the same shall be realized as arrears of land revenue. The amount deposited or so realized shall be disbursed to the proprietor under the order of the Revenue Assistant.

(4) Every person , who is declared as Bhumidhar under this section, shall, with effect from the commencement of this Act, be liable to pay to the Government for land , held by him as such , on account of land revenue, an amount which shall proportionately correspond to the land revenue payable immediately before the commencement of this Act for the area in respect of which he is declared Bhumidhar, with due regard to the class of soil comprised therein, together with the cesses and local rates.

## **12. Sub- tenants of occupancy ex-proprietary tenants, etc.**

(1) Every sub tenant -

(a) Of an occupancy tenant other than an occupancy tenant under section 5 of the Punjab Tenancy Act, 1887, or<sup>13</sup>

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1. Subs. by Act 4 of 1959, Section 6 (w.e.f. 20.7.1954).

(b) Of an ex-proprietary tenant, or of a non occupancy tenant of over twelve years or less, or [of a rent free grantee or a grantee at a favourable rate of rent or]

(c) Of a tenant holding land under a Patta Dawami or Istamrari but without right of transfer by sale,

Who is recorded as such in the fasli year, before the commencement of this Act, shall be deemed to be a non- occupancy tenant of the land held by him and such land, for the purposes of section 13, shall not be available to the occupancy tenant, ex-proprietary tenant [non-occupancy tenants, rent free grantee or a grantee at rate of rent or Pattadar] for acquisition of Bhumidhari rights.

(2) The provisions of sub-section (2) of section 10 shall apply, mutatis mutandis, to this section.

### **13. Bhumidhari rights in other cases**

(1) On the commencement of this Act, the Deputy Commissioner shall also declare the following classes of tenants as Bhumidhars, who shall, with effect from the same date, have all the rights and be subject to all the liabilities conferred or imposed upon Bhumidhars under this Act, namely:--

- (a) a rent free grantee or a grantee at favourable rate of rent;
- (b) an ex-proprietary tenant in Shahdara Circle;
- (c) an occupancy tenant except those under section 5 of the Punjab Tenancy Act,1887;
- (d) a non-occupancy tenant, who pays rent at revenue rates with or without Malikana;
- (e) a tenant of Sir or a sub-tenant declared as non- occupancy tenant under section 10 or 12;

[(f) a tenant of or over twelve years in Shahdara Circle and a non occupancy tenant in any part of the Union territory of Delhi other than a non- occupancy tenant referred to in clause (d);]

- (g) a tenant grove holder; and
- (h) a holder of Patta Dawami or Istamrari without any right to sell.

(2) Every person who, after the commencement of this Act, is admitted to land as Bhumidhar or who acquires Bhumidhari rights under any provisions of this Act, shall have all the rights and be subject to all the liabilities conferred or imposed upon Bhumidhars under this Act with effect from the date of admission or acquisition, as the case may be.

### **14. Compensation and land revenue payable by Bhumidhars declared as such under section 13**

<sup>14</sup>(1) Every person, declared as Bhumidhar under sub- section (1) of section 13, shall

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1. Ins. by Delhi Act 16 of 1956, Section 7.
  2. Subs. by Delhi Act 16 of 1956, Section 7, for the words “non-occupancy tenants or Pattadar.”
  3. Subs. by Act 1 of 1966, Section 3, for Clause (f) (w.e.f. 20.7.1954)

with effect from the commencement of this Act, cease to pay rent of the land in respect of this Act, cease to pay rent of the land in respect of which the declaration has been made to the proprietor or the landholder, as the case may be.

(2) Every such person, other than a sub-tenant deemed to be a non-occupancy tenant under section 10 or 12, shall

(a) be liable for payment of such amount on account of land revenue for the holding or his share therein, as the case may be, as shall be one half of the amount of rent payable by him in the fasli year immediately preceding the commencement of this Act together with cesses and local rates of the area of which he is declared Bhumidhar from the commencement of this Act;

Provided that where half the amount of rent payable or deemed to be payable by him in the fasli year immediately preceding the commencement of this Act is less than the actual amount of land revenue payable immediately before the commencement of this Act for the holding or his share therein, the land revenue shall be the said actual amount of land revenue, and where the said half the amount of rent is greater than twice the actual amount of land revenue payable immediately before the commencement of this Act, the land revenue shall be twice the said actual amount of land revenue,

(b) be liable to pay as compensation in the Government Treasury to the credit of the proprietor concerned an amount which shall in the case of tenants with permanent and heritable rights, i.e., in the case of tenants under clauses (b)m (c) and (h) of sub-section (1) of section 13, be eight times the amount of land revenue so determined and in the case of non-occupancy tenants, i.e., tenants, of Sir or tenants under clauses (a), (d), (f) and (g) of sub-section (1) of section 13, be sixteen times the land revenue so determined.

(3) Every such person, being a sub-tenant who is declared as Bhumidhar under clause (e) of sub-section (1) of section 13 shall ---

(a) be liable for payment of such amount on account of land revenue for the holding or his share therein as is determined on the same principle as laid down in clause (a) of sub-section (2).

(b) and be liable to pay as compensation an amount equal to 20 times the land revenue so determined under clause (a) which shall be distributed between his immediate landholder and the proprietor in accordance with the following scale:--

Tenants with a right of transfer, i.e. tenants holding land under clauses (b) and (c) of sub-section (1) of section 11	Occupancy tenants with permanent and heritable rights, i.e., tenants under clauses (b), (c) (h) of sub-section (1) of section 13	Non-occupancy tenants, i.e., tenants of Sir and tenants under clauses (a) (d), (f) and (g) of sub-section (1) of section 13
Compensation to the Proprietor	48	16
Compensation to the	1612	4

Landholder		
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(4) The tenant or sub tenant declared as Bhumidhar under section 13 shall pay the compensation either in one lump sum within six months of his declaration, or if he does not elect to pay the compensation in one lump sum, in ten annual equal instalments together with interest at such rate as may be prescribed, beginning from the commencement of this Act.

(5) In the case of default in the payment on the date fixed of any instalment under sub-section (4), the amount shall be recovered as arrear of land revenue.

(6) If during the period of instalment the land revenue is postponed, suspended or remitted for reasons of agricultural calamity in the area concerned, the payment of compensation shall also be postponed or suspended but in the case of remission of land revenue, the payment of compensation shall not be remitted but recovered in subsequent instalments to be fixed by the Deputy Commissioner.

(7) The Revenue Assistant shall annually disburse the instalment of the compensation paid by the Bhumidhar under sub-section (4) or direct the payment of the amount deposited as compensation by the Bhumidar in one lumpsum under sub section (2) or (3) of this section to the proprietor or to the proprietor and landholder or their successor- in interest, as the case may be , in accordance with the rules on the subject. The annual disbursements made to a proprietor and landholder in cases under sub section (3), where payments are made by instalments, shall be in the same proportion as the total compensations payable to them bear to each other.

(8) In this section the expression rent deemed to be payable means

(i) Where the rent is paid in kind, or is based on an estimate or appraisalment of standing crops or on rates varying with the crops sown or partly in one of such ways and partly in another or other of such ways, the rent shall be deemed to be an amount, which the average value of the landlord share of the crops grown in the preceding five years, subject to such rules as may be prescribed and

(ii) Where there was no rent payable or fixed for the holding or area concerned or part thereof, or where it was held rent-free or at favorable rate of rent, the rent for the said area shall be calculated at the prevailing village rate of rent.

(iii) [Where it is not possible to ascertain the crops grown in the preceding five years, the rent shall be calculated at the prevailing village rate of rent].

(9) Every person, who, after the commencement of this Act, is admitted to land as Bhumidhar or who acquired Bhumidhari rights under any provisions of this Act, shall pay the same amount of land revenue as was payable for the land immediately before his admission to or acquisition of Bhumidhari rights in the land, together with cesses and local rates:

Provided that if the last Bhumidhar, [Whom] he has replaced was [to pay compensation], he shall resume and complete the payments in the same manner:

Provided further that in any other case, i.e., where the last Bhumidhar had already paid up the total amount of compensation to the proprietor, he shall not be called upon to pay any compensation.

## **B. General consequences of the termination of intermediaries rights.**

### **15. Estate in possession of a mortgagee with possession**

(1) A mortgagee in possession of an estate or share therein shall cease to have any right in such estate or share, if the proprietor mortgagor deposits the mortgage money together with interest thereon in Government Treasury and applies for redemption of the mortgage in the proper court, within a period of nine months from the commencement of this Act.

[(2) If the proprietor mortgagor deposits the amount and applies for redemption as provided in sub section (1), he shall be declared as Bhumidhar in respect of the mortgaged area which was under the personal cultivation of the mortgagee on the date of such application for redemption, and if any part of the mortgaged area was on the said date let out to a tenant , such tenant shall be declared as Bhumidhar in respect of the area that was so let out to him.]

(3) Where the proprietor mortgagor fails to take action under sub section (1) within the time specified therein, the mortgagee of the area mortgaged with possession, [\*\*\*] shall be declared as the Bhumidhar of so much of the area mortgaged as is under the personal cultivation of the mortgagee.

(4) Where the area mortgaged or part thereof is let out to tenants, the mortgagee shall be declared as the Bhumidhar of the part under his personal cultivation and the tenants shall be declared as Bhumidhars of their respective areas let out to them.

(5) Subject to section 11 or 13 the provisions of sub section (1) to (4) shall apply mutatis mutandis to mortgagees with possession where the mortgagors were---

(a) occupancy tenants under section 5 of the Punjab Tenancy Act, 1887,

(b) tenants holding land on Patta Dawami or Istamrari, with right of transfer by sale, or

(c) exproprietary tenants, occupancy tenants other than those under section 5 of the Punjab Tenancy Act, 1887, grove holders or tenants holding land on Patta dawami or Istamrari without right of transfer by sale.<sup>15</sup>

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1. Subs. By Delhi Act 16 of 1956, Section 8.
  2. Subs. By Delhi Act 16 of 1956, Section 8, for the word “when”.
  3. Subs. by Delhi Act 16 of 1956, Section 8, for the words “making payment of compensation by instalment”.
  4. Subs. by Act 4 of 1959, Section 7, for sub-section (2) (w.e.f. 20.7.1954).
  5. The words “whether or not it was the *sir* or *khudkasht* of the mortgagor on the date of mortgage” omitted by Act 4 of 1959, Section 7 (w.e.f. 20.7.1954).

## **16. Consequences of acquisition of Bhumidhari rights by mortgagees etc, under section 15**

Notwithstanding anything contained in any other law for the time being in force or in any mortgage deed or other instrument or agreement, where a proprietor mortgagor fails to apply for the redemption of his mortgage within the time specified in sub section (1) of section 15 and the mortgagee and tenants, if any, in respect of the mortgaged property or any portion thereof are declared Bhumidhars in accordance with the provisions of sub section (3) or sub section (4) as the case may be, of that section, the following consequences shall follow, namely:-

(1) the proprietor mortgagor shall be absolutely debarred of his right to redeem the mortgage;

(2) the mortgagee and the tenants, if any; in respect of the mortgaged property or any portion thereof, who have been declared as Bhumidhars as aforesaid, shall pay to the proprietor mortgagor compensation which shall be determined as follows:

(a) the amount of compensation payable by the mortgagee and each of the tenants, if any, shall be determined separately in accordance with the provisions laid down in clauses (a) and (b) of sub section (2) of section 14 for determining the amount of compensation, payable by a Bhumidhar;

(b) the amount of compensation as determined under clause (a) payable by each of the tenant shall be paid by him to the proprietor mortgagor through court either in one lump sum or in instalments in the manner laid down in sub section (4) of section 14;

(c) the total amount due from the proprietor mortgagor to the mortgagee under the mortgage deed on the date of the commencement of this Act shall then be determined in the prescribed manner after deducting the receipts if any, by the mortgagee from the mortgaged property;

(d) if the amount of compensation payable by the mortgagee to the proprietor mortgagor to the proprietor mortgagor is greater than the amount determined under clause (c) the mortgagee shall pay through court to the proprietor mortgagor as compensation the difference between the two in one lump sum; [within six months from the date of the order] and where the amount of compensation payable by the mortgagee is less than the amount determined under clause (c), the entire mortgage money with interest, if any thereon, shall be deemed to have been fully satisfied by the enjoyment of the usufruct of the mortgaged property and the proprietor mortgagor shall not be required to pay anything under the mortgage deed to the mortgagee.

(3) where a tenant mortgagor, referred to in sub section (5) of section 15, fails to apply for redemption within the period specified in sub section (1) and of clause (a) of sub section (2) shall apply mutatis mutandis and the amount of compensation payable by the mortgagee and his tenants, if any, in respect of mortgaged land in possession of each to the proprietor shall be determined separately, in accordance with the provisions of clauses (a) and (b) of sub section (2) of section 14. The compensation so determined shall be paid as follows: -<sup>16</sup>

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1. Ins. by Delhi Act 16 of 1956, Section 9.
  2. Ins. by Delhi Act 16 of 1956, Section 9.



(i) where the mortgagor tenant is an occupancy tenant under section 5 of the Punjab Tenancy Act, 1887, or a Pattadar Dawami or Istamrari with right of transfer by sale, the amount due from the mortgagor to the mortgagee under the mortgage shall also be determined in accordance with clause (c) of sub section (2). The mortgagee or his tenants shall each first pay out of the total compensation determined above, an amount equal to four times the land revenue payable for the land in his possession immediately before the commencement of this Act, to the proprietor, If the balance of the compensation payable by the mortgagee and his tenants, is greater than the amount due to the mortgagee from the mortgagor under the mortgage, the difference shall be paid by the mortgagee and his tenants, as compensation to the mortgagor tenant [(Note: Ins. by s.9 of Delhi Act 16 of 1956) in one lump sum within six months from the date of the order, first by the mortgagee tenant upto the extent of the amount left over , if any] If it is less, the entire mortgage money with interest shall be deemed to have been fully satisfied by the enjoyment of the usufruct and nothing shall be payable to the mortgagee in adjustment of the mortgage money.

(ii) where the mortgagor tenant is a tenant, other than an occupancy tenant under section 5 of the Punjab Tenancy Act, 1887, or a Pattadar Dawami or Istamrari with right of transfer by sale, the entire amount of compensation payable by the mortgagee and his tenants, if any, shall be paid direct to the proprietor of the mortgagor tenant and the mortgage money, shall be deemed to have been fully satisfied by the enjoyment of the usufruct.

[16A. Compensation payable by tenant declared Bhumidhar of redeemed land. - Where tenant is declared as Bhumidhar in respect of any part of mortgaged area that has been redeemed under sub- section (1) of section 15, the compensation payable by such tenant to the mortgagor shall be determined and paid in the manner provided in clause (2) or clause (3) of section 16 according as such tenant is declared a Bhumidhar under sub- section (2) or sub-section(5) of section 15.]

### **17. Variation in rent on or after July 1, 1950, not to be recognized**

Notwithstanding any contract made or anything done or permitted to be done, on or after the first day of July, 1950 by or on behalf of a proprietor or a tenant, in respect of any land in the State, the rent payable therefor by the tenant in the fasli year immediately preceding the commencement of this Act shall be deemed to be an amount equal to the rent payable by the tenant or his predecessor in title on the date aforesaid and any reduction or remission made therein after the said date otherwise than in pursuance of a decree or order of a court shall not be taken into account:

Provided that where the rent reduced in pursuance of any decree or order aforesaid is less than the amount computed at the prevailing village rate of rent the rent payable shall be an amount so computed.<sup>17</sup>

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1. Ins. by Act 4 of 1959, Section 8 (w.e.f. 20.7.1954).
  2. Ins. by Act 4 of 1959, Section 9 (w.e.f. 20.7.54).



### **18. Contract agreement or eviction to defeat provisions of this Act to be void**

(1) Any contract or agreement made between a proprietor and any person on or after the 1st day of July, 1950, which has the effect, directly or indirectly of defeating the provisions of this Act shall be and is hereby declared null and void.

(2). Notwithstanding any decree or order where a tenant of Sir or sub tenant of tenants referred to in sub section (1) of section 10 or sub-tenant of tenants referred to in section 12 or a non-occupancy tenant referred to in clause (f) or sub- section (1) of section 13 was evicted from land after 1st July 1950, on any ground other than for arrears of rent, the tenant or the sub- tenant shall be entitled to regain possession thereof on his making an application in this behalf to the Revenue Assistant [and, shall on regaining possession have the same rights as he would have had but for such eviction decree of order] .

Provided that the land is not in the possession of any other tenant in the fasli year immediately before the commencement of this Act.

[(3) Nothing in this section shall affect the rights of a proprietor in any land held or occupied at the commencement of this Act for purposes other than those mentioned in clause (13) of section 3.]

### **19. Cesses, local rates and Sayar**

A Bhumidhar shall pay to Government all the cesses, local rates and sayar proportionately to his land revenue, in respect of his holding.

Any contract or agreement between the proprietor and any person compounding, releasing or reducing the payment of cesses, local rates or sayar after the 1st of July, 1950, shall be void.

### **20. Stay of suits**

All proceedings whether of the first instance, appeal or revision, of the nature specified in Schedule II, pending in any court for hearing on the commencement of this Act shall be stayed.

### **21. Stay of proceedings**

All proceedings whether of the first instance, appeal or revision, of the nature specified in Schedule II, pending in any court for hearing on the commencement of this Act and all proceedings (except in so far as they relate to the realisation, otherwise than by ejection of the judgement debtor, of cost of compensation awarded in any suit or proceedings) upon any decree or order, unless it is a decree or order which become final before the commencement of this Act, but is not decree which may be executed by ejection of the judgement debtor passed in any such suit or proceedings previous to the commencement of this Act, shall be stayed.<sup>18</sup>

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1. Ins. by Act 4 of 1959, Section 9 (w.e.f. 20.7.1954).

## **C. Use of land and improvements (Bhumidhars and Asamis)**

### **22. Right of Bhumidhar or Asami to the exclusive possession of land in his holding**

A Bhumidhar or Asami shall, subject to the provisions of this Act, have the right to the exclusive possession of all land comprised in his respective holding and to use land for any purpose connected with agriculture, horticulture or animal husbandry which includes pisciculture and poultry farming and make any improvement.

### **23. Use of holding for industrial purposes**

(1) A Bhumidhar or Asami shall not be entitled to use his holding or part thereof for industrial purposes, other than those immediately connected with any of the purposes referred to in section 22, unless the land lies within the belt declared for the purpose by the Chief Commissioner by a notification in the official Gazette:

Provided that the Chief Commissioner may, on application presented to the Deputy Commissioner in the prescribed manner, sanction the use of any holding or part thereof by a Bhumidhar for industrial purposes even though it does not lie within such a belt.

(2) Where permission for industrial purposes is accorded the provisions of this Chapter relating to devolution shall cease to apply to the Bhumidhar with respect to such land and he shall thereupon be governed in the matter of devolution of the land by personal law to which he is subject.

### **24. Reversion to agriculture**

(1) Whenever any land held by a Bhumidhar which is used for industrial purposes has become land used for purposes connected with agriculture, horticulture or animal husbandry, which includes pisciculture and poultry farming, the Deputy Commissioner on being so satisfied, may with the sanction of the Chief Commissioner make a declaration to that effect and thereupon the Bhumidhar shall, as respects the land, be subject to the provisions relating to devolution in this chapter.

(2) Upon the grant of the declaration under sub- section (1) in respect of any land any person other than the Bhumidhar in possession of the land shall

(a) If he holds it under any contract or lease, which is inconsistent with any of the provisions of this chapter, be deemed to be an occupant liable to ejection under section 84.

(b) if he holds it under any contract or lease, which is not inconsistent with any of the provisions of this chapter, be entitled to the rights in the land determined in accordance with the provisions thereof.

(3) Any contract or lease referred to in sub-clause (a) of sub section (2) which is inconsistent with the provisions of this chapter shall, to the extent of the inconsistency, become void with effect from the date of declaration:<sup>19</sup>

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1. Subs. by Act 4 of 1959. Section 10, for the words “except with the written permission of the landholder of such land or the Gaon Panchayat, as the case may be” (w.e.f. 12.3.1959).

Provided that any mortgage with possession existing on any such land shall, to the extent of the amount due and secured on such land, be deemed to have been substituted by a simple mortgage carrying such rate of interest as may be prescribed.

#### **25. Registration of the sanction or declaration under section 23 or 24**

A copy of every sanction given or declaration made under section 23 or 24 shall be forwarded by the Deputy Commissioner to the Sub-Registrar concerned, who shall, notwithstanding anything contained in the Indian Registration Act, 1908, register the same free of cost in the manner prescribed.

#### **26. Restriction on improvements**

No Bhumidhar or Asami shall make an improvement on, or detrimental to, any land which is not included in the holding to be benefited thereby [except -

(a) With the written permission of the landholder of such land or the Gaon Panchayat, as the case may be, or

(b) where such permission is not given within the within the prescribed period, with the written permission of the Revenue Assistant granted in accordance with rules made under this Act this behalf.]

#### **27. Works benefiting other land**

(1) Where a Bhumidhar or Asami has made an improvement on land and such land is sold in lieu of arrears of land revenue or in execution of a decree for payment of money or the Bhumidhar or Asami is ejected from such land, the purchaser or the landholder, as the case may be, shall become the owner of the improvement but the Bhumidhar or Asami shall be entitled to other benefit of the improvement in respect of the land remaining in his possession to the same extent and in the same manner as it had hitherto benefited thereby.

(2) Where the Bhumidhar or Asami has made an improvement on land which remains in his possession after a portion of his land has been sold in lieu of arrears of land revenue or in execution of a decree or order of Court for payment of money or after he has been ejected from a portion of his land, the purchaser or the landholder, as the case may be, shall be entitled to the benefit of such improvement in respect of land which does not remain in the possession of the Bhumidhar or Asami to the same extent and in the same manner as it had hitherto benefited thereby.

#### **28. Right to compensation for improvement made by an Asami**

(1) An Asami who has made any improvement with the written permission of the landholder the Gaon Panchayat or the Revenue Assistant], as the case may be, shall be entitled to compensation.<sup>20</sup>

(a) when a decree or order for his ejection is passed on any ground other than his

- 
1. Subs. by Act 4 of 1959, Section 11, for the words "written consent of the Gaon Panchayat or the landholder" (w.e.f. 12.3.1959).
  2. Subs by Act 4 of 1959, Section 11, for the word "consent" (w.e.f. 12.3.1959).

making any transfer in contravention of the provisions of this Act or on the ground of his using the land for any purpose other than agriculture, horticulture or animal husbandry, which includes pisciculture and poultry farming;<sup>21</sup>

(b) when he has been wrongfully deprived of possession by the Gaon Panchayat or his landholder, as the case may be, and has not recovered possession of his holding; or

(c) when he vacates the holding on the expiry of his lease or on becoming liable to ejection on any ground mentioned in clause (a)

(2) No compensation shall be payable to an Asami where the improvement was made without the written [permission] as aforesaid.

### **29. Determination of the amount of compensation**

In determining the amount of compensation for improvement regard shall be had to

(a) the cost of the work,

(b) the condition of the work and the period during which it is likely to add materially to the value of the holding,

(c) the amount by which the quantity or value of the produce of the holding is increased by the work.

(d) the length of time during which the Asami claiming compensation has had the benefit of the improvement, and

(e) the age of the trees, their class and the income likely to accrue from them.

### **30. Court to assess the compensation for improvements**

(1) In any suit or other proceeding for ejection of an Asami, the Court shall, where compensation for improvement is payable, before passing a decree or order for ejection, assess the amount of compensation payable to the Asami under section 29.

(2) If the amount of compensation exceeds the amount recoverable from the Asami as arrears of rent, whether decreed or not, on account of the holding, together with costs, if any, the decree or order for ejection shall be conditional on the payment by the landholder or the Gaon Sabha of the balance due to the Asami within such time as the Court may direct.

(3) If the amount of compensation does not exceed the amount recoverable from the Asami as specified in sub-section (2), the same shall be deemed to have been satisfied on his ejection, and the balance shall, subject to the Asami rights to the value of the standing crops and trees be recoverable from him.

## **D. Transfers (Bhumidhars and Asamis)**

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1. Subs. by Act 24 of 1960, Section 28.

2. Section 33 renumbered as sub-section (1) by Act 38 of 1965, Section 3 (w.e.f. 30.11.1965).

### **31. Interest of a Bhumidhar to be transferable**

The interest of a Bhumidhar shall be transferable subject to the conditions hereinafter contained.

### **32. Interest of an Asami not transferable**

The interest of an Asami shall not be transferable except as expressly permitted by this Act.

### **33. Restrictions on the transfers by a Bhumidhar**

[(1)] No Bhumidhar shall have the right to transfer by sale or gift or otherwise any land to any person, other than a religious or charitable institution or any person in charge of any such Bhoodan movement, as the Chief Commissioner may, by notification in the Official Gazette, specify, where as a result of the transfer, the transferor shall be left with less than eight standard acres in the Union Territory of Delhi:

Provided that the Chief Commissioner may exempt from the operation of this section, the transfer of any land made before the 1st day of December, 1958, if the land covered by such transfer does not exceed one acre in area and is used or intended to be used for purposes other than those mentioned in clause (13) of section 3]

[(2)] Nothing contained in sub section (1) shall preclude the transfer of land by a Bhumidhar who holds less than eight standard acres of land, if such transfer is of the entire land held by him;

Provided that such Bhumidhar may transfer a part of such land to any religious or charitable institution or other person referred to in sub section (1)

Explanation. - For the purposes of this section, a religious or charitable institution shall mean an institution established for a religious purpose or a charitable purpose, as the case may be.]

### **34. Only simple mortgage of land by a Bhumidhar allowed**

No Bhumidhar shall have the right to mortgage any land belonging to him as such where possession of the mortgaged land is transferred or is agreed to be transferred in future to the mortgagee as security for the money advanced or to be advanced.

### **35. Letting of land**

No Bhumidhar or Asami shall let, for any period whatsoever, any land comprised in his holding except in the cases provided for in section 36.

Explanation - Any arrangement whereby a person is entitled to a right merely to share in the produce grown on the land in consideration of such person assisting or participating with the tenure holder in the actual performance of agricultural operations is not a lease.<sup>22</sup>

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1. Ins. by Act 38 of 1965, Section 3 (w.e.f. 30.11.1965).

### **36. Lease by a disabled person**

(1) A Bhumidhar who is

(a) an unmarried woman, or if married, divorced or separated from her husband, or a widow;

(b) a minor whose father has died;

(c) a lunatic or an idiot;

(d) a person incapable of cultivating by reason of blindness or physical infirmity:

(e) Prosecuting studies in a recognize institution and does not exceed 25 years in age;

(f) In the armed forces of the Indian union; [\*\*\*]

[(g) Dependent for assistance in agricultural operation on a person serving in the armed forces of the Union and certified by the Deputy Commissioner to be so dependent; or]

[(h)] Under detention or imprisonment;

may let the whole or any part of his holding;

Provided that in the case of a holding held jointly by more persons than one where but one or more of them, but not all, are subject to the disabilities mentioned in [clauses (a) to (h)], the person or persons may let out his or their share in the holding.

(2) Where any share of a holding has been let out under the proviso to sub-section (1), the Court may, on the application of the Asami or any tenure holder, determine the share of the lessor in the holding and partition the same.

(3) A Bhumidhar, who holds only less than 8 standard acres in the State, may where he does not join a co-operative farm lease the whole of his holding to an Asami;

Provided that the lease is for not less than 5 years.

Provided further that the Bhumidhar shall not be entitled to resume it except for self-cultivation or for breach of terms of the lease.

### **37. Registration of a lease**

Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908, a lease for a term exceeding one year or from year to year may be made either by a registered instrument or in the prescribed manner.

### **38. Failure to register the lease under section 37**

A lease which fails merely to comply with the provisions of section 37 shall not, for purposes of [section 42] , be deemed to be a transfer made in contravention of the provisions of this Act.<sup>23</sup>

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1. The word “or” omitted by Act 38 of 1965, Section 4 (w.e.f. 30.11.1965).
  2. Ins. by Act 38 of 1965, Section 4 (w.e.f. 30.12.1965).
  3. Clause (g) relettered as Clause (h) by Act 38 of 1965, Section 4 (w.e.f. 30.11.1965).
  4. Subs. by Act 38 of 1965, Section 4 for “Clauses (a) to (g)” (w.e.f. 30.11.1965).

### **39. Successor in interest bound by a lease**

When a holding has been let in accordance with the provisions of section 36, the successor in interest of the Bhumidhar shall be bound by the terms of the lease in so far as they are not consistent with the provision of this Act.

### **40. Exchange**

(1) Subject to the provisions of section 33, Bhumidhar may exchange lands held by him as such

(a) for lands held by any other Bhumidhar as such or

(b) for lands for the time being vested in a Gaon Sabha or local authority or in Government:

Provided that no such exchange shall be made except with permission of the Deputy Commissioner, who will refuse permission if the difference between the area of the land given in exchange and of land received in exchange in terms of standard acres is more than ten per cent. Of the area in standard acres of the land which is smaller in area.

(2) Where the Deputy Commissioner permits exchange, he shall also order the relevant annual register to be corrected accordingly.

(3) On exchange made in accordance with the sub section (1), the parties to such exchange shall have the same rights in the land received in exchange as they had in the land given in exchange.]

### **41. Land revenue not affected by exchange**

Nothing in section 40 shall affect the amount of the land revenue assessed on or payable for land so exchanged.

### **42. Transfer in contravention section 33**

(1) Where a transfer of any holding or part thereof has been made in contravention of the provisions of [this chapter by a Bhumidhar or Asami], [the transferee and every person who may have obtained possession of such holding or part] shall, notwithstanding anything in any law, be liable possession of such holding or part shall, notwithstanding anything in any law, be liable to ejection from such holding or part on the suit of the [Gaon Sabha, or the landholder as the may be] , which shall thereupon become vacant land; but nothing in this section shall prejudice the right of the transferor to realize the whole or portion of the price remaining unpaid, or the right of any other person other than the transferee to proceed against such holding or land in enforcement of any claim thereto.<sup>24</sup>

(2) To every suit for ejection under this section the transferor shall be made a party.

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1. Subs. by Act 38 of 1965, Section 5, for "Section 46" (w.e.f. 30.11.1965).
  2. Subs. by Act 38 of 1965, Section 6, for "Section 40" (w.e.f. 30.11.1965).
  3. Subs. by Act 38 of 1965, Section 7, for the word and figures "Section 33" (w.e.f. 30.11.1965).
  4. Subs. by Act 38 of 1965, Section 7, for the words "the transferee" (w.e.f. 30.11.1965).
  5. Subs. by Act 38 of 1965, Section 7, for the words "Gaon Sabha" (w.e.f. 30.11.1965).ss



[(3) [Notwithstanding anything contained in sub section (1), the Revenue Assistant also may on receiving information or on his own motion, take action to eject the transferee and every person who have may obtain possession aforesaid, after following such procedure as may be prescribed.]

#### **43. Transfer with possession by a Bhumidhar to be deemed a sale**

Any transfer of any holding or part thereof made by a Bhumidhar by which possession is transferred to the transferee for the purpose of securing any payment of money advanced or to be advanced by way of loan, and existing or future debt or the performance of an engagement which may give rise to a pecuniary liability, shall, notwithstanding anything contained in the document of transfer or any law for the time being in force, be deemed at all times and for all purposes to be a sale to the transferee and to every such sale to the provisions of section 33 and 42 shall apply.

#### **44. Effect of lease in contravention of section 36**

When a Bhumidhar other than one referred to in section 36 has let out his holding or any part thereof, the lessee will, notwithstanding anything contained in any law or contract or document of lease become and be deemed to be a purchaser and the provisions of section 33 and 42 shall mutatis mutandis apply.

#### **45. Transfer made in contravention of this Chapter to be void**

(1) Any transfer made by or on behalf of a Bhumidhar or Asami in contravention of the provision of this Chapter shall be void.

[(2) Nothing in sub- section (1) shall apply to any transfer which has been exempted by the Chief Commissioner [under the proviso to sub- section (I) of section 33.]

#### **46. [\*\*\*]**

#### **47. Consequences of ejectment under section 46**

Upon ejectment [under section 42], all the rights and interests of the Bhumidhar or Asami in the holding or in any improvements made therein or to get compensation for such improvements shall be extinguished.

### **E. Devolution (Bhumidhar and Asami)**

#### **48. Bequest by a Bhumidhar**

(1) A Bhumidhar may by will bequeath his holding or any part thereof except as provided in sub- section.(2).<sup>25</sup>

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1. Sub-section (3) Subs. by Act 38 of 1965, Section 7, (w.e.f. 30.11.1965)
  2. Section 45 renumbered as sub-section (1) thereof by Act 4 of 1959, Section 13 (w.e.f. 20.7.1954).
  3. Ins. by Act 4 of 1959, Section 13 (w.e.f. 20.7.1954).
  4. Subs. by Act 38 of 1965, Section 8 for the words figures “from the operation of Clause (b) of Section 33” (w.e.f. 30.11.1965).
  5. Section 46 omitted by Act 38 of 1965, Section 9 (w.e.f. 30.11.1965).
  6. Subs. by Act 38 of 1965, Section 10, for the words of figures “in a suit under Section 46” (w.e.f. 30.11.1965)



(2) No Bhumidhar entitled to any holding or part in the right of a widow, mother step-mother, father's father, father's mother, unmarried daughter, or unmarried sister, may bequeath by will such holding or part.

(3) Every will made under provisions of sub-section (1) shall, notwithstanding anything contained any law, custom or usage, be in writing and attested by two persons.

**49. Bequest by an Asami**

No Asami shall have the right to bequeath by will his holding or part thereof.

**50. General order of succession from males**

Subject to the provisions of section 48 and 52, when a Bhumidhar or Asami being a male dies, his interest in his holding shall devolve in accordance with the order of the succession given below:

(a) male lineal descendants in the male line of the descent:

Provided that no member of this class shall inherit if any male descendant between him and the deceased is alive:

Provided further that the son or sons of a predeceased on how low so ever shall inherit the share which would have devolved upon the deceased if he had been then alive:

(b) widow

(c) father

(d) mother, being a widow;

(e) step mother, being a widow;

(f) father father

(g) father mother, being a widow;

(h) widow of a male lineal descendant in the male line of descent;

(i) unmarried daughter;

(j) brother, being the son of same father as the deceased;

(k) unmarried sister;

(l) brother son, the brother having been a son of the same father as the deceased;

(m) father father son;

(n) brother son son;

(o) father father son son;

(p) daughter son.

### **51. Succession in the case of a woman holding an interest inherited as a widow, mother, daughter etc**

(1) When a Bhumidhar or Asami, who has after the commencement of this Act inherited an interest in any holding as a widow, mother, step-mother, father mother, unmarried daughter or unmarried sister, [dies or marries or the Asami abandons or surrenders such holding, it] shall devolve upon the nearest surviving heir (such heir being ascertained in accordance with the provisions of section 50) of the last male Bhumidhar or Asami other than one who inherited as a father father.

(2) When a Bhumidhar who has before the commencement of this Act, inherited an interest in any holding as a widow, mother, step- mother, father-mother, father mother, daughter, sister or step-sister,

(a) dies and such Bhumidhar was on the date proprietor of the land comprised in the holding and --

(i) she was in accordance with the personal law applicable to her entitled to a life estate only in the holding, the holding shall devolve upon the nearest surviving heir (such heir being ascertained in accordance with the provision of section 50) of the last male proprietor or tenant aforesaid; and if

(ii) she was in accordance with the personal law applicable to her entitled to the holding absolutely the holding shall devolve in accordance with the table mentioned in section 53;

(b) [dies or marries] and such Bumidhar on the date immediately before the said date held the holding otherwise than as a proprietor, the holding shall devolve upon the nearest surviving heir (such heir being ascertained in accordance with the provision of the section 50) of the last male tenant other than one who inherited as a father's father.

(3) The provision of sub-section (1) shall mutatis mutandis apply to an Asami who inherited the holding before the commencement of this Act.

(4) Nothing in sub-section (1) shall apply to a person, succeeding to an interest in any holding under the provision of section 53.<sup>26</sup>

### **52. Succession in the case of a holding inherited as father father**

When a Bhumidhar or Asami, who has, whether before or after the commencement of this Act, inherited an interest in a holding as a father father [dies or the Asami abandons or

- 
1. Subs. by Delhi Act 26 of 1956, Section 10, for the words, "dies, marries abandons or surrenders such holding or part thereof, the holding or the part".
  2. Subs. by Delhi Act 16 of 1965, Section 10, for the words "dies, marries, abandons or surrender such holding".

surrenders such holding, it] shall devolve upon the nearest surviving heir (such heir being ascertained in accordance with the provisions of section 50) of the last male Bhumidhar or Asami from whom such father father inherited the interest in the holding.

### **53. Succession to a woman holding an interest otherwise**

When a Bhumidhar or Asami, other than one mentioned in section 50 or 51, who is a woman dies, her interest in the holding shall devolve in accordance with the order of succession given below:

(a) Male lineal descendants in the male line of descent:

Provided that no member of this class shall inherit of any male descendant between him and the deceased is alive:

Provided further that the son or sons of a predeceased son how low so ever shall inherit the share which would have developed upon the deceased if he had been then alive;

(b) husband

(c) widow of male lineal descendant in the male line of descent;

(d) daughter;

(e) daughter son;

(f) husband brother;

(g) husband brother son

### **54. Passing of interest by survivorship**

In the case of a co- widow or a co-tenure or co-sub-tenure holder, who dies living no heir entitled to succeed under the provision of this Act, the interest in such holding shall pass by survivor ship.

F. Partition (Bhumidhar)

### **55. Holding of a Bhumidar partible**

(1) A Bhumidar may sue for partition of his holding.

(2) To every such suit the Gaon Sabha concerned shall be made a party.

### **56. One suit for partition of several holdings**

One suit may be instituted for the partition of more than one holding provided that all the parties to the suit are jointly interested in each of the holdings.<sup>27</sup>

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1. Subs. by Delhi Act 16 of 1956, Section 11, for the words, "dies, marries, abandons or surrenders such holding or part thereof, such holding or part".

### **57. Mode of partition of a holding**

(1) Except as provided in sub-section (3) whenever in a suit for partition, the Court finds

(a) That the aggregate area of holding or holdings to be partition does not exceed eight standard acres, or

(b) That the partition will result in a holding of less than eight standard acres, the Court shall in the cases falling under clause (a) instead of proceeding to divide the holding or holdings direct the sale of the same and a distribution of the proceeds thereof, and in cases falling under clause (b) either proceed to divide the holding in accordance with such principles as may be prescribed or in the alternative dismiss the suit.

(2) The rules framed under sub-section (1) shall prescribe the circumstances in which compensation may be awarded to a co-tenure holder in lieu of his share of holding and for the admission by the Gaon Sabha of such co-tenure-holder to land under provision of section 73.

(3) In the case of a co-tenure holder to whom the provisions of section 36 apply and such tenure holder has let out his share or part thereof in the holding, the Court shall divide the holding by separating the share aforesaid, but in respect on the remainder of the holding the Court will proceed in accordance with the provisions of this section, if applicable.

### **58. Valuation of the holding to be sold**

Where a court has under section 57, ordered a sale of the holding or holdings, it shall order a valuation of the same to be made in such manner as may be prescribed and shall offer to sell the same at the price so ascertained to the co-tenure-holders in such order of preference as may be prescribed.

### **59. Preferential right of purchase**

If two or more co-tenure holders having an equal preferential right severally ask for leave to buy, the Court shall order the sale of the same to such one of them as offers to pay the highest price above the price ascertained under section 58.

### **60. Sale in default of purchase under Section 59**

If no shareholder offers to buy at or above the price ascertained under section 58, the Court shall order the sale of the same to the share- holder who offers to pay the highest price.

### **61. Procedure in sale**

Save as hereinbefore provided, when any holding is ordered to be sold in pursuance of any order made under section 57, the Court shall follow such procedure as may be prescribed.

G. Surrender, Abandonment, Extinction and Acquisition (Bhumidhars and Asamis)

### **62. Surrender of holding by Asam**

An Asami may surrender the whole of his holding but not any part thereof by giving a notice in writing to the Gaon Sabha or the land holder, as the case may be, intimating his intention to do so and by giving up possession thereof.

### **63. Notice of surrender**

Notwithstanding the surrender, unless the Asami applies or gives notice in writing before the first day of April, he shall be able to pay the rent for the holding for the agricultural

year next following the date of surrender.<sup>28</sup>

#### **64. Abandonment**

(1) Where an Asami has not used his holding for a purpose connected with agriculture, horticulture, or animal husbandry, which includes pisciculture and poultry farming, for two consecutive agricultural years, the Gaon Sabha or the land-holder may apply to the Tahsildar for a notice to such Asami to show cause why the holding be not treated as abandoned.

(2) The application shall contain such particulars as may be prescribed.

(3) If the Tahsildar finds that the application has been duly made he shall cause to be served on the Asami or publish in the manner prescribed a notice in the form to be prescribed requiring him to appear and show cause on a date to be fixed why the holding be not held as abandoned.

(4) If the Asami does not appear in answer to the notice or appears but does not contest it, the Tahsildar shall declare the holding as abandoned and thereupon, except as provided in section 51 and 52, the holding shall be deemed to be vacant land.

#### **65. Admission of Asami to the holding of a disabled Bhumidhar**

Where a Bhumidhar, being minor, lunatic or idiot, has not used his holding for a purpose connected with agriculture, horticulture or animal husbandry which includes pisciculture and poultry farming, for two consecutive agricultural years, the Gaon Sabha may, notwithstanding anything contained in any law, after notice to the Bhumidhar and his guardian and after such enquiry as may be prescribed, after the expiry of the two years aforesaid, admit on behalf of the Bhumidhar, any person as Asami to the land comprised in the holding in the manner and upon the terms as may be prescribed and all the provisions of this Act applicable to an Asami shall apply to him as if he had been admitted to the land by the Bhumidhar personally.

#### **65A. Consequences where Bhumidhar or Asami leaves land uncultivated].-**

(1) Where on the basis of any information received by him or otherwise the Deputy Commissioner has reason to believe that any land included in the holding of a Bhumidhar or Asami has not been used for two consecutive agricultural years immediately preceding for a purpose connected with agriculture, horticulture or animal husbandry which includes or poultry farming, he may, unless the land lies within the belt referred to in section 23 or unless sanction under that section has been obtained in respect thereof, notice require---

(i) the Bhumidhar to appear and show cause why the land may not be let out for any such purpose as aforesaid to any person;

(ii) the Asami to appear and show cause why his interest may not be extinguished and the land restored to the Bhumidhar or the Gaon Sabha, as the case may be.

(2) The notice under sub-section (1) shall state the grounds for believing that the land has not been used for any purpose referred to in that sub- section and such other particulars as

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1. Ins. by Act 38 of 1965, Section 11 (w.e.f. 30.11.1965).

may be prescribed.

(3) If the Bhumidhar or the Asami appears and satisfies the Deputy Commissioner-

(a) that the land was used for a purpose connected with agriculture, horticulture or animal husbandry which includes pisciculture and poultry farming during the period mentioned in sub-section (1);

(b) that he had sufficient cause for not using it as aforesaid; or

(c) that he shall, within one year next following the date of service of the notice under sub-section (1), use the land for any such purpose as aforesaid unless in the meantime the land is included within any belt referred to in section 23 or the use of the land for industrial purposes is sanctioned under that section, the Deputy Commissioner shall, in a case falling under clause (a) or clause (b), discharge the notice forthwith and in a case falling under clause (c), postpone further proceedings to a date one year after the date of service of the said notice.

(4) On the date fixed under sub-section (3) or any other date to which the proceeding may be adjourned, the Deputy Commissioner, if he is satisfied that the land has been used for any such purpose as aforesaid during the said period of one year or that the land has been included within the belt referred to in section 23 or that sanction as aforesaid has been obtained in respect thereof, discharge the notice of if he is not so satisfied, unless for reasons to be recorded in writing he allows further time, he shall

(i) if the land is that of the Bhumidhar, lease it on behalf of the Bhumidhar to any person for a period of five years in such manner and on such terms and conditions as may be prescribed;

(ii) if the land is that of the Asami of the Bhumidhar, terminate the lease and restore the land to the Bhumidhar subject to the condition that the Bhumidhar shall undertake to cultivate the land within six months from the date it is restored to him; and if the Bhumidhar does not give such undertaking or fails, after giving such undertaking, to cultivate the land within the said period, the Deputy commissioner may lease the land on behalf of the Bhumidhar, to any person for a period of five years in such manner and on such terms and conditions as may be prescribed; and

(iii) if the land is that of the Asami of Goan Sabha, terminate the lease and restore the land to the Gaon Sabha;

Provided that the restoration of the land of the Asami under this subsection shall be without prejudice to any right of the Bhumidhar or Gaon Sabha, as the case may be, to recover any rent due from the Asami.

(5) If the Bhumidhar or Asami appears in response to the notice under sub-section (1) but does not undertake to use the land as provided in clause (c) of sub section (3) or if the Bhumidhar or Asami does not appear in response to such notice and the Deputy Commissioner, after such inquiry as he may consider necessary, is satisfied that the Bhumidhar or Asami has

failed to use the land as aforesaid during the period referred to in sub-section (1), he shall, unless for reasons to be recorded in writing he decides to discharge the notice, take action under clause (I) or clause (ii) or, as the case may be, clause (iii) of sub section (4).

(6) On the expiry of the period of any lease of land under sub-section (4) or sub section (5), if the Deputy Commissioner, after making such inquiry as he thinks fit, is satisfied

(a) that the land has been properly cultivated, he may declare the lessee to be Bhumidhar in respect of such land subject to the payment by him to the original Bhumidhar of compensation equal to twenty times the land revenue then payable for such land either in one lump sum or in such instalments together with interest as may be prescribed and upon such declaration the interest of the original Bhumidhar shall be extinguished;

(b) that the land has not been properly cultivated by the lessee, the Deputy Commissioner shall terminate the lease and may lease the land on behalf of the Bhumidhar, to another person for a period of five years in such manner and on such terms and conditions as may be prescribed and on the expiry of the period of such lease, the provisions of this sub-section shall apply:

Provided that no lease shall be terminated unless the lessee has been given reasonable opportunity of being heard.

(7) Nothing contained in this section shall apply to Bhumidhar to whom the provisions of section 65 apply.]

#### **66. Entry upon an abandoned holding**

A Gaon Sabha or a landholder who enters upon a holding in contravention of the provisions of section 64 shall be deemed to have ejected the Asami otherwise than in accordance with the provisions of this Act.

#### **67. Extinction of the interest of Bhumidhar**

The interest of Bhumidar in his holding or any part thereof shall be extinguished

(a) when he dies intestate leaving no heir entitled to inherit in accordance with the provisions of this Act,

(b) when the land comprised in the holding has been acquired under any law for the time being in force relating to the acquisition of land, [\*\*\*] [(bb) when a declaration in respect of such holding or part is made under clause (a) of sub section (6), of section 65 A,]

(c) when he has been ejected in accordance with the provisions of this Act, or

(d) when he has been deprived of possession and his right to recover possession is barred by limitation.<sup>29</sup>

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1. The word "or" omitted by Delhi Act 16 of 1956, Section 12.

2. Ins. by Act 38 of 1965, Section 12 (w.e.f. 30.11.1965).

### **68. Extinction of the interest of an Asami**

Subject to the provisions of section 51 and 52, the interest of an Asami in holding or any part thereof shall be extinguished

(a) When he dies leaving no heir entitled to inherit in accordance with the provisions of this Act,

(b) when the holding has been declared as abandoned in accordance with the provisions of section 64,

(c) when he surrenders his holdings. [\*\*\*]

(d) when the land comprised in the holding has been acquired under any law for the time being in force relating to the acquisition of land,

[(dd) where his lease is terminated under clause (ii) or clause (iii) of sub-section (4), or clause (b) of sub-section (6), of section 65A,]

(e) when he has been ejected in accordance with the provisions of this Act, or

(f) when he has been deprived of possession and his right to recover possession is barred by limitation.

### **69. Extinction of the interest of an Asami on extinction of the interest of the Bhumidhar**

(1) The extinction of the right, title and interest of a Bhumidhar shall operate to extinguish the interest of any Asami holding under him.

(2) Notwithstanding the provisions of section 75, whenever the interest of an Asami is extinguished under sub-section (1) the Gaon Sabha shall admit the Asami as an Asami to some other vacant land of such valuation computed at prevailing village rate of rent applicable to the land as shall be equal to the valuation of the land on which his right has determined.

### **70. Merger**

The interest of an Asami in his holding shall determine when his interest and the interest of the Bhumidhar in the whole of the holding become vested in one person in the same right.

### **71. Rights and liabilities of a Bhumidhar or Asami on extinction of his interest**

When the interest of a Bhumidhar or Asami is extinguished he shall vacate his holding and he shall, except in cases where his interest has extinguished under or in accordance with the provisions of any law for the time being in force relating to the acquisition of land, have in respect of removal of his standing crops and any construction existing on the holding the same right as he would have upon ejection under the provisions of this Act.<sup>30</sup>

### **72. Gaon Sabha to take over land after extinction of interest therein**

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1. The word "or part thereof" omitted by Delhi Act 16 of 1956, Section 13.
  2. Ins. by Act 38 of 1965, Section 13 (w.e.f. 30.11.1965).



The Gaon Sabha shall be entitled to take possession of land comprised in holding or part thereof if

(a) the land was held by Bhumidhar and his interest in such land is extinguished under [clause (a) or clause (c) of] section 67, or

(b) the land, being land falling in any of the clauses mentioned in sub- clause (iii) of clause (a) of section 6, was held by an Asami and the Asami has been ejected or his interest therein have otherwise extinguished under provisions of this Act.

### **73. Admission to land**

The Gaon Sabha shall have the right to admit any person as Bhumidhar to any land, other than land falling in any of the classes mentioned in sub- clause (iii) of clause (a) of section 6, where

(a) the land is vacant land ,

(b) the land is vested in the Gaon Sabha under section 72 or under any other provision of this Act.

(c) the land has come into the possession of Gaon Sabha under section 72 or under any other provision of this Act,

(d) the land is let in accordance with sub- section (4) of section 74.

### **74. Admission to land mentioned in sub- clause (iii) of clause (a) of section 6 or to waste land for reclamation**

(1) The Gaon Sabha shall have the right to admit any person as Asami to any land falling in any of the classes mentioned in sub- clause (iii) of clause (a) of section 6 where-

(a) the land is vacant land,

(b) the land is vested in the Gaon Sabha, or

(c) the land has come into the possession of the Gaon Sabha under section 72 or under any other provision of this Act.

(2) In order to encourage the reclamation of waste land, the Gaon Sabha shall also have the right to admit any person as Asami on a five years lease to any land which forms part of the cultivable or uncultivable waste area of the village, not included in holdings, which are vested in the Gaon Sabha under section 7, but which do not fall in any of the classes mentioned in sub-clause(iii) if clause (a) of section 6.

(3) The Asami shall have the right to hold the land for the period of five years at a rate of rent, which shall not be more than 50 per cent of the prevailing rate of rent of the village, payable for the land.<sup>31</sup>

(4) At the end of five years, the Gaon Sabha shall report to the Revenue Assistant the extent to which reclamation has been made. The Revenue Assistant shall, after necessary enquiry and after hearing the Asami, either order the termination of the lease and his ejection if there has been no reclamation or extend his lease for another period of two years. If, however, the land has been duly reclaimed during the period of five years or the extended

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1. Subs. by Delhi Act 16 of 1956, Section 14, "Clause (a) of".

period, the Revenue Assistant shall direct the Gaon Sabha to admit the Asami as Bhumidhar under section 73. The Asami on his admission as Bhumidhar shall be liable to pay such land revenue as shall be equal to 50 percent of the rent calculated at the prevailing village rate of rent together with cesses and local rates, but he shall not be liable to pay any compensation.

#### **75. Order of preference in admitting persons to land under section 73 and 74**

(1) In admitting any person as Bhumidhar or Asami under section 73 or 74, Gaon Sabha shall subject to the rules framed or any order made by Court in a suit for partition or in any other suit, observe the following order of preference

[(a) Persons in the armed forces of the Union and the dependents of such of those persons as are killed in action, special preference being given in the case of persons decorated for gallantry.]

[(aa)] a co- operative farm established under this Act holding land within l the jurisdiction of the Gaon Sabha to enable it to possess a suitable area of agricultural or cultivable land,

(b) a group of landless labourers or a landless labourer residing in the village,

(c) a Bhumidhar residing in the village, who is holding land less than eight standard acres in area in the State,

(d) an Asami holding land than eight standard acres in area in the village, and

(e) any other person:

Provided that the land allotted to a co-operative farm under [clause (aa)] shall, if the registration of such farm is cancelled within two years of the allotment, revert upon such cancellation to the Gaon Sabha, and any person holding or retaining possession of such land shall be deemed to be a person occupying it without title liable to ejection under clause (b) of [sub section (1) of section 84]:

Provided further that in the cases to which clauses (b), (c), (d) and (e) apply the area to which the person concerned is admitted together with the total area of any other tenure held by him shall in no case exceed 8 standard acres:

Provided also that in the case of reclamation of waste land under sub-section (2) of section 74, where available, preference in the first instance shall be given to either the co-operative farm or a tenure holder having established provision for mechanised farming in the Gaon Sabha area, and the Gaon Sabha in that case shall be entitled to let out in excess of eight standard acres with the previous sanction in writing of the Chief Commissioner.<sup>32</sup>

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1. Ins. by Act 38 of 1965, Section 14 (w.e.f. 30.11.1965)
  2. Clause (a) re-lettered as Clause (aa) by Act 38 of 1965, Section 14 (w.e.f. 30.11.1965).
  3. Subs. by Act 38 of 1965, Section 14, for "Clause (a)" (w.e.f. 30.11.1965).
  4. Subs. by Act 38 of 1965, Section 14, for "Section 84" (w.e.f. 30.11.1965).

[(2) The Deputy Commissioner may, on his own motion, and shall , on the application of any person aggrieved by an order of the Gaon Sabha passed under subsection (1), enquire in other prescribed manner and if he is satisfied that the Gaon Sabha has acted with substantial irregularity or otherwise than in accordance with the provisions of this Act, he may cancel such order.

(3) Where the deputy Commissioner cancels an order relating to admission of a person as Bhumidhar or Asami, the right, title and interest of such person or any person claiming through him shall cease in the land to which the order relates and shall revert to the Gaon Sabha and any person holding or retaining possession of such land after such cancellation shall be deemed to be a trespasser in respect of such land and shall be liable to ejectment in the manner prescribed.]

H. Ejectment (Bhumidhar and Asami)

#### **76. Bhumidhar not liable to ejectment**

Subject to the provisions of sections 33, 42, [81, 85, 86, 86A and 87] , no Bhumidhar shall be liable to ejectment.

#### **77. Ejectment of Asami**

[(1)] An Asami shall be liable to ejectment from his holding on the suit of the landholder or Gaon Sabha, as the case may be , on the following grounds only:--

(a) those mentioned in [(sections 42,]

(b) That he belongs to any of the classes mentioned in sub-clauses (I), (ii) and (iii) of clause (a) or in clause (c) of section 6 and that he holds the land from year to year or for a period which has expired or will expire before the end of the current agricultural year,

(c) that he belongs to the class mentioned in clause (b) or (d) of section 6 and that --

(i) the land holder wishes to bring the under his personal cultivation and in cases where the lease is for a fixed term such term has expired, or

(ii) the disability was determined, or

(d) that there is an unsatisfied decree of arrears of rent outstanding against him and such decree can be executed by ejectment.<sup>33</sup>

[(2) Notwithstanding anything contained in sub-section (1), a Bhumidhar referred to in clause (f) of sub-section (1) of section 36 may, on retirement or discharge from the armed forces of the Union or on being sent on Reserve, within six months of such retirement or discharge or of his being sent on Reserve, apply to the Deputy Commissioner for ejectment of the Asami of his land, and the Deputy Commissioner may , after notice to the Asami and

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1. Sub-section (2) subs. by Act 38 of 1965, Section 14, (w.e.f. 30.11.1965).
  2. Subs. by Act 38 of 1965, Section 15, for the figures, "46, 81, 86 and 87" (w.e.f. 30.11.1965).
  3. Section 77 renumbered as sub-section (1) thereof, by Act 38 of 1965, Section 16 (w.e.f. 30.11.1965).
  4. Subs. by Act 38 of 1965 Section 16, for "Section 46" (w.e.f. 30.11.1965).

subject to such conditions as he may think fit to impose, cause possession of the land to be delivered to such Bhumidhar as soon as possible or, where there are standing crops on such land, within one month of the harvesting of such crops.]

#### **78. Rights to crops and trees when ejection takes effect**

(1) Where in execution of any decree (other than a decree under section 84) or order for delivery of possession the Court is satisfied that any ungathered crops or trees which are the property of the judgment debtor exist on the land to be delivered, the Court executing the decree or order shall, notwithstanding anything in the Code of Civil Procedure, 1908, proceed as follows:

(a) if the amount due from the judgment debtor is equal to or greater than the value of such crops or trees, the Court shall deliver the possession of the land with the crops and the trees to the Gaon Sabha or the land holder, as the case may be, and all rights of the judgment debtor in or upon such crops or trees shall pass to the decree holder.

(b) if the amount due from the judgment debtor is less than the value of such crops or trees and-

(i) the Gaon Sabha or the land holder pays the difference between such amount and the value to the judgment debtor, the Court shall deliver the possession of the holding the Gaon Sabha or land holder concerned and all rights, of the judgment debtor in such crops or trees shall pass to decree holder;

(ii) the Gaon Sabha or the land holder does not pay such difference, the judgment debtor shall have a right of tending, gathering or removing such crops or trees or fruits of such trees until such crops or trees have been gathered and removed or die or are cut down, as the case may be, paying such compensation for the use and occupation of land as the Court may fix.

(2) the Court executing the decree or the order of ejection may on the application of any party determine the value of crops or trees and the compensation payable by the judgment debtor under the provisions of clause (b) of sub section (1)

#### **79. Failure to institute a suit for ejection under section 77 or execute the decree obtained thereunder**

If a suit for ejection of an Asami, to whom any of the sub clauses (I) and (ii) of clause (a) or clause (b) or (d) of section 6 applies, is not instituted or a decree obtained in such suit not executed within the period of limitation prescribed therefor, the Asami shall, on the expiry of the period, become a Bhumidhar of the land held by him.

#### **80. Consequence of ejection under section 77**

Where an asami has been ejected from his holding on the ground mentioned in clause (c) (I) of [sub-section (1) of section 77)], the land holder shall not grant a lease thereof any person within 2 years of the date of ejection.<sup>34</sup>

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1. Ins. by Act 38 of 1965, Section 16, (w.e.f. 30.11.1965).

### **81. Ejectment for use of land in contravention of the provisions of this Act**

[(1)] A Bhumidhar or an Asami shall be liable to ejectment on the suit of the Gaon Sabha or the land holder, as the case may be, for using land for any purpose other than a purpose connected with agriculture, horticulture or animal husbandry, which includes pisciculture and poultry farming, and also pay [damages] equivalent to the cost of works which may be required to render the land capable of use for the said purposes.

[(2) Notwithstanding anything contained in sub section (1) the Revenue Assistant also may, on receiving information or on his own motion, eject the Bhumidhar or Asami, as the case may be, and also recover the damages referred to in sub-section (1), after following such procedure as may be prescribed]

### **82. Decree for ejectment under section 81**

(1) A decree for ejectment under Section 81 may direct the ejectment of Bhumidhar or Asami from the whole or part of the holding as the Court, having regard to the circumstances of the case, may direct.

(2) The decree shall further direct that, if the Bhumidhar or Asami repairs the damage within three months next after the decree, the same shall not be executed except in respect of costs.

### **83. Suit for compensation and repair of the waste or damage**

Notwithstanding anything in section 81, the Gaon Sabha or the land holder may, in lieu of suing for ejectment sue --

- (a) for injunction with or without compensation, or
- (b) for the repair of the waste or damage caused to the holding.

### **84. Ejectment of persons occupying land without title**

[(1)] A person taking or retaining possession of land otherwise than in accordance with the provisions of the law for the time being in force, and --

(a) Where the land forms part of the holding of a Bhumidhar or Asami without the consent of such Bhumidhar or Asami, or

(b) Where the land does not form part of the holding of a Bhumidhar or Asami without the consent of the Gaon Sabha.

Shall be liable to ejectment on the suit of the Bhumidhar, Asami or Gaon Sabha, as the case may be and shall also be liable to pay damages.<sup>35</sup>

[(2) Where any person against whom a decree for ejectment from any land has been

- 
1. Subs. by Act 38 of 1965, Section 17, for "Section 77" (w.e.f. 30.11.1965).
  2. Section 81 & 84 renumbered as sub-section (1) by Act 38 of 1965, Section 18 & 19 (w.e.f. 30.11.1965).
  3. Subs. by Act 38 of 1965, Section 18, for the word "damage" (w.e.f. 30.11.1965).
  4. Ins. by Act 38 of 1965, Section 18 (w.e.f. 30.11.1965).

executed in pursuance of a suit under sub-section (1) re-enters or attempts to re-enter upon such land otherwise than under authority of law, he shall be presumed to have done so with intent to intimidate or annoy the person in possession or the Gaon Sabha, as the case may be, within the meaning of section 441 of the Indian Penal Code. (45 of 1860).]

**85. Failure to file suit under section 84 or to execute decree obtained thereunder.**

If a suit is not brought under [Sub-section (1) of section 84] or a decree obtained in any such suit is not executed within the period of limitation provided for the filing of the suit or the execution of the decree, the person taking or retaining possession shall

(i) where the land forms part of the holding of a Bhumidhar, become a Bhumidhar thereof;

(ii) where the land forms part of the holding of an Asami on behalf of the Gaon Sabha, become an Asami thereof;

(iii) in any case to which the provisions of clause (b) of section 84 apply, become a Bhumidhar or Asami as if he had been admitted to the possession of the land by the Gaon Sabha.

[Provided that if in the revenue records of the fasli year ending on the 30th June, 1954, the land referred to in clause (iii) was not included in the holding of the person taking or retaining possession or his predecessor-in interest, then , notwithstanding the expiry of the aforesaid period of limitation for such suit or decree, the suit may be filed or the decree obtained in such suit may be executed within a period of three years from the date of passing of the Delhi Land Reforms (Amendment) Act, 1965.

Provided further that the benefit of the extension of the period of limitation under the preceding proviso shall not be availed of in any case where a person who has become a Bhumidhar in respect of any land under clause (iii) has transferred such land to another person for valuable consideration before 10th May, 1965.]

**86. Ejectment of Bhumidhar to whom section 85 applies**

(1) Any person, who becomes a Bhumidhar under the provisions of clause (I) of section 85, may notwithstanding anything hereinbefore contained, be ejected from the land at the instance of the Gaon Sabha within such period as may be prescribed.

(2) Where a Bhumidhar has been ejected, his rights in the holding shall be extinguished and the land shall become vacant land.

**86A. Ejectment by Revenue Assistant of persons occupying land without title**

Notwithstanding anything contained in section 84, 85 and 86, the Revenue Assistant also may, on receiving information or on his own motion, eject any person who is liable to be ejected from any land on a suit of the Gaon Sabha under any of those sections, after following such procedure as may be prescribed.]<sup>36</sup>

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1. Subs. by Act 38 of 1965, Section 20 for "Section 84" (w.e.f. 30.11.1965).
  2. Subs. by Act 38 of 1965, Section 20 for "Section 84" (w.e.f. 30.11.1965).
  3. Ins. by Act 38 of 1965, Section 20 (w.e.f. 30.11.1965).
  4. Ins. by Act 38 of 1965, Section 21 (w.e.f. 30.11.1965).

### **87. Ejectment of persons form lands of public utility**

Any person who, on or after the first day of July, 1950, has been admitted as a tenure or grove holder of, or being proprietor has brought under his own cultivation or has planted a grove upon, land which was recorded as or was customary common pasture land, cremation or burial ground, tank, pathway or Khalian, shall be liable, on the suit of the Gaon Sabha to ejectment from the land, on payment of such compensation, if any, as may be prescribed.

#### **I. Rent (Asami)**

### **88. Rent payable by an Asami**

An Asami shall be liable to pay such rent as may be agreed upon between him and his land-holder or the Gaon sabha, as the case may be, subject to the condition that it shall not exceed one fifth of the produce of the land or [four times the land revenue payable for the land held by the Asami, whichever is less.]

### **89. Rent not to be varied**

The rent payable by an Asami shall not be varied except in the manner and to the extent provided under this Act.

### **90. Suit for fixation of rent**

(1) Where any person is admitted to or permitted to retain possession of any land as an Asami thereof by any person having a right to so admit or permit him, but no rent is fixed, the Asami or the land holder may, at any time during the period of occupation or within three years after the expiry of this period, instituted a suit for fixation of rent.

(2) In any such suit the plaintiff may, subject to the law of limitation, ask for a decree for the arrears of rent.

(3) The rent decreed in any such suit, shall be the rent payable in the years previous to the year of admission, permission or accrual of asami rights, or if no rent was payable in such year, it shall be fixed at the prevailing village rate of rent applicable to the land, subject to the maximum laid down in section 88.

### **91. Hypothecation of produce towards payment of rent**

The produce of every holding in the cultivation of an Asami and the fruit of every tree in such holding shall be deemed to be hypothecated for the rent payable by him in respect of the holding and, until the rent has been paid or otherwise satisfied, no other claim on such produce or fruit shall be enforced by sale thereof in execution of a decree or order of a Court.

### **92. Rent how payable**

(1) An Asami may pay his rent either direct or by postal money order, but the acceptance by the Gaon Sabha or the land holder of a sum so paid shall not debar the Gaon Sabha or the land holder, as the case may be, from proving that the amount due for any year or instalment was different from the amount paid.<sup>37</sup>

(2) Where rent is remitted by money order, the payee receipt or the endorsement of

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1. Subs. by Act 4 of 1959, Section 14, for the words "if the rent is paid in cash, its equivalent value" (w.e.f. 12.3.1959).



refusal on the money order duly stamped by the post office shall be admissible in evidence without formal proof and shall, until the contrary is proved, be presumed to record the receipt or refusal thereof.

### **93. Commutation of rent**

Where the rent is payable in kind or on estimate or appraisal of the standing crop or on rates varying with crops sown or partly in one of such ways and partly in another or other of such ways, the Revenue Assistant may at his own instance and shall at the instance of the Gaon Sabha or the person by or to whom rent is payable commute the rent in the manner prescribed.

### **94. instalments for payment of rent**

In the absence of contract to the contrary the rent shall be payable in two equal instalments on the fifteenth day of November and the fifteenth day of May of the agricultural year in respect of which the rent is due.

### **95. Application for arrears of rent ejection in default**

(1) The Gaon Sabha or the land- holder, as the case may be, may apply for an order for payment of the arrears and in default for the ejection of an Asami from his holding, if the Asami has been in arrears for the whole or part of the rent of the holding for a period of more than three months.

(2) The application shall be signed and verified in the manner prescribed for plaints in the Code of Civil Procedure, 1908.

### **96. Issue of notice to Asami**

(1) On receipt of the application mentioned in section 95, the Court of the Tahsildar having jurisdiction shall cause to be served on the Asami a notice requiring him to pay the amount of arrears together with the cost of the application within thirty days from the date of the service thereof or to show cause, within a period to be specified, why an order directing him to be ejected from the holding be not passed against him.

(2) If within the period allowed the Asami pays to the applicant or deposits in the Court the amount mentioned in the notice, the Court shall enter full satisfaction and dismiss the application and the amount deposited shall be paid to the applicant.

### **97. Order for payment on failure to comply with the notice under section 96**

(1) If the Asami, who has been duly served under section 96, fails to pay or deposit the said amount in the Court and also does not file any objection the Tahsildar shall make any order for the payment of the amount and in default for the ejection of the Asami from the holding.

(2) If the Asami appears and contests the claim, the application shall be treated as a suit and, if necessary, the Court shall order the applicant to pay any additional court fee payable according to the law relating to suit for arrears of rent or ejection.

(3) If the applicant fails to pay the court fee within the time so allowed, the application shall be rejected.

(4) If the court fee has been duly paid, the Court shall, where the Asami pleads that the applicant is not the land holder or that he himself is the Bhumidhar of the holding or any part thereof, transfer the case to the civil court having jurisdiction and the civil court shall thereupon proceed to hear and determine it as if it were a suit for arrears and ejection instituted in such



Court.

(5) The rejection of an application under sub section (3) shall not preclude the applicant from filing a suit for recovery of arrears of rent.

#### **98. Execution by ejectment, in default of payment**

(1) Notwithstanding anything contained in the Code of Civil Procedure 1908, a decree or order for the payment of arrears of rent against an Asami may, in addition to any other mode of execution, be executed in default of payment of the amount decreed by ejectment of the Asami from the holding:

Provided that no order for delivery of possession shall be passed unless notice has been served upon the judgment debtor to show cause on a date to be fixed why the order be not passed.

(2) If within one month after the delivery of possession the tenant deposits the full amount in respect of which he has been ejected, the ejectment order shall be cancelled and possession restored forthwith to the tenant.

#### **99. Interest on arrear of rent**

An Asami shall, from the date rent becomes due, be liable to pay interest at 6 1/4 per cent. Per annum on any instalment remaining unpaid.

#### **100. Recovery of arrear of rent in respect of Government property**

Arrear of rent due in respect of property vesting in the Government or in respect of area attached for arrears of land revenue may be recovered as arrear of land revenue.

#### **101. Remission for calamity by Court decreeing claim for arrears**

(1) It shall be lawful for the Court hearing a suit for recovery of arrears of rent, where it is satisfied that the area of the holding was substantially decreased by dilution or otherwise, or the produce thereof was substantially diminished by drought, hail, deposit of sand or other calamity during the period for which the arrear is claimed, to allow such remission from the rent as may appear to it to be just:

Provided that no such remission shall be deemed to vary the rent payable by the Asami otherwise than for the period in respect of which it is made.

(2) Where a court allows remission under sub section (1), the Chief Commissioner or any authority empowered by him in this behalf shall order consequential remissions in the land revenue in accordance with such principles as may be prescribed.

#### **General**

#### **102. Suit for arrears of irrigation dues**

Any person to whom any sum is due on account of irrigation dues under section 47 of the Northern Indian Canal and Drainage Act, 1873, may sue for the recovery of such sum.

#### **103. Vesting of trees existing on the boundary of the holding of a tenant**

Any tree existing on the boundary of the holding of a tenant on the commencement of this Act and not belonging to such tenant shall with effect from the commencement of this Act

belong to and vest in the Bhumidhars of the holding adjoining the said boundary in equal shares.

Explanation.- Where the holding belongs jointly to two or more Bhumidhars, all of them shall for the purposes of this section collectively count as one.

#### **104. Declaratory suit**

Notwithstanding anything to the contrary in section 42 of the Specific Relief Act, 1877, the Gaon Sabha may institute a suit against any person claiming to be entitled to any right in any land for the declaration of the right of such person in such land, and the Court in its discretion may make a declaration of the [right of such persons:]

Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

#### **105. Power to make rules**

The Chief Commissioner may make [rules] for the purpose of carrying into effect the provisions of this Chapter.

## **CHAPTER IV Land Revenue**

#### **106. Land Revenue assessed on a village**

(1) The aggregate of the land revenue payable by all the Bhumidhars in respect of land situate in any village shall be deemed to be the land revenue assessed on that village.

(2) The Land revenue assessed on any village shall be the first charge on all land in the entire village and on the rents, profits or produce thereof.

#### **107. Land held by Bhumidhars liable to payment of land revenue**

(1) All land held by a Bhumidhar as such and wherever situate is liable to the payment of land revenue to the Government, except such land as may be exempted wholly or partially from such liability under the provisions of section 122 or under any law for the time being in force.

(2) Land revenue may be assessed on land notwithstanding that such land revenue, by reason of its having been assigned, released, compounded for or redeemed, is not payable to the Government.

(3) No length of occupation of any land nor any grant made before the commencement of this Act by the Government or the landholder shall release such land from the liability to pay land revenue.

#### **108. Liability of the Bhumidhars for payment of land revenue assessed on the village<sup>38</sup>**

(1) All Bhumidhars in any village shall be jointly and severally(1) All Bhumidhars in

- 
1. Subs. by Delhi Act 16 of 1956, Section 15, for the words "right of such person, and the Gaon Sabha need not in such suit ask any further relief."
  2. See Delhi Land Reforms Rules, 1954, Vide Notification No. F.3 (16)/54 GA & R, dated the 11<sup>th</sup> November, 1954 Delhi State Gazette, Pt. V. dated 20.1.1955, p. 27.

any village shall be jointly and severally responsible to the Government for the payment of the land revenue for the time being assessed thereon, and all persons succeeding whether by devolution or otherwise, to the interests of such Bhumidhars shall be responsible for all arrears of land revenue due at the time of their succession.

(2) Notwithstanding the provisions of sub-section (1) a Bhumidhar shall not be compelled to pay any arrear of land revenue other than an arrear in respect of his holding to which he is wholly or in part entitled, unless the Chief Commissioner has, by notification in the official Gazette, declared that the provisions of sub-section (1) shall apply to any specific area.

#### **109. Amount of land revenue payable by a Bhumidhar**

(1) Subject to the provisions of this Act, every person, who is a Bhumidhar, shall be liable to pay to the Government for land, held by him as such, on account of land revenue

(a) if he is declared a Bhumidhar under section 11, the amount of land revenue, cesses and local rates as given in that section;

(b) if he becomes a Bhumidhar under section 13, the amount of land revenue, cesses and local rates as given in section 14;

(c) if he is declared a Bhumidhar under sub section (4) of section 74 , the amount of land revenue, cesses and local rates as given in that section.

(2) The payment of land revenue, cesses and local rates shall take effect from the commencement of this Act except in cases of admission or acquisitions of Bhumidhari rights after the commencement of this Act, in which case, it shall take effect from the date of admission or acquisition.

#### **110. Dates and instalments for payment of land revenue under section 109**

(1) The Chief commissioner may prescribe the date or dates from which and the instalments in which the land revenue shall be payable by Bhumidhars referred to in section 109.

(2) The land revenue or any instalment thereof not paid on or before the due date becomes an arrear of land revenue and the persons liable for it become defaulters.

#### **111. Variation in land revenue payable by a Bhumidhar**

(1) Notwithstanding anything contained in this Act, the land revenue payable by a Bhumidhar shall not be varied until the next settlement, except on the ground of increase or decrease in the area of his holding or in the productivity of the land comprised therein by fluvial action or other natural causes.

Provided that the Chief Commissioner may at any time, by a notification in the official Gazette, direct that any urban area that may have developed in any part of the State be taken out of the scope of the revenue settlement for levy of special urban rates in place of land revenue.

(2) Whenever the land revenue is enhanced or abated under sub-section (1), the Chief Commissioner may order the enhancement or abatement of the rent payable by an Asami in

occupation of such land.

#### **112. First settlement of land revenue**

The Chief Commissioner may, at any time after the commencement of this Act, direct a settlement (hereinafter referred to as first settlement) of the land revenue of the whole or part of the State.

#### **113. Revision settlement of land revenue**

The Chief Commissioner may, at any time after a period of thirty years from the first settlement, direct a fresh settlement (hereinafter referred to as revision settlement) of land revenue of the whole or part of the State;

Provided that no enhancement of revenue shall take effect before the expiration of the settlement for the time being in force.

#### **114. Notification as to settlement operations**

As soon as may be after the Chief Commissioner has decided that the whole or part of the State should be brought under a fresh settlement, he shall so notify in the official Gazette and thereupon the whole or part of the State shall be held to be under settlement, until a notification declaring settlement operations thereto be closed is published.

#### **115. Appointment and powers of settlement Officers**

The Chief Commissioner shall appoint a Settlement Officer to be in charge of the State or part thereof and as many Assistant Settlement Officers as he may deem fit; and such officers shall, during the settlement operations, exercise the powers conferred upon by this Act.

#### **116. Transfer of duties of Deputy Commissioner to Settlement Officer**

Where the State or any part thereof is under settlement, the Chief Commissioner may, by a notification in the official Gazette, transfer to the Settlement Officer the duty of maintaining the maps and the field books and preparing the annual register and the Settlement Officer shall thereupon possess all the powers conferred on the Deputy Commissioner under Chapter III of the U.P Land Revenue Act, 1901; or the Punjab Land Revenue Act, 1887, as the case may be.

#### **117. Term of Settlement**

A settlement shall remain in force for a period of thirty years:

Provided that in the case of any precarious tracts or alluvial areas the Chief Commissioner may direct that the settlement shall, for such tracts or areas as may be specified, remain in force for any period less than thirty years:

Provided further that when in the opinion of the Chief Commissioner a revision settlement is inexpedient or when such settlement has for any cause been delayed, the Chief Commissioner may extend the term of the settlement for the time being in force by such period as he deems fit.

#### **118. Settlement by Deputy Commissioner in precarious tracts or alluvial areas**

Where the period of settlement fixed in the case of any precarious tract or alluvial area is less than 30 years and such period expires or is about to expire, the Deputy commissioner shall assess and settle such tracts and areas in such manner as may be prescribed.

**119. Deputy Commissioner to exercise the powers of Settlement Officer under Section 118**

(1) For the purposes of making settlements or revising assessments under section 118 the Deputy Commissioner shall have all the powers of a Settlement Officer.

(2) No settlement, revision of assessment made under section 118 or suspension of revenue made under section 127 shall be final until it has been sanctioned by the Chief Commissioner.

**120. Procedure to be adopted by a Settlement Officer**

When the State or a part thereof has been brought under settlement, the Settlement Officer or an Assistant Settlement Officer shall inspect every village under settlement and shall, in such manner and on such principles as may be prescribed, divide the State or the part into soil classes and assessment circles.

**121. Assessment of revenues on revenue free lands in certain cases**

Settlement Officer shall enquire into the case of all land released conditionally or for a term from the payment of land revenue, and shall assess such land if it appears to him that the conditions have been transgressed or the term has expired.

**122. Title to hold land free of revenue**

(1) Any person claiming land free of revenue not recorded as revenue free shall be bound to prove his title to hold such land free of revenue.

(2) If he proves his title to the satisfaction of the Settlement Officer, the case shall be reported to the Chief Commissioner whose orders shall be final.

(3) If the title is not so proved, the Settlement Officer shall proceed to assess the land and to make the settlement of it with the persons entitled to the land.

**123. Land revenue to be assessed on the aggregate holdings area in a village**

The land which shall ordinarily be assessed to land revenue shall, except as hereinafter excepted, be the aggregate holdings area of Bhumidhars in a village in the year of record.

Exceptions: --

(1) lands occupied by building which are not improvements:

(2) all lands of common utility such as customary common pasture lands, cremation or burial grounds, abadi sites and pathways etc., that are vested in Gaon sabha under section 7; and

(3) such other lands as may be prescribed.

**124. Principles of assessment**

(1) In assessing the land revenue payable for a holding in an assessment circle, the Settlement Officer shall consider the estimated average surplus produce of such holding remaining after deducting the ordinary expenses of cultivation as ascertained or estimated in

such manner as may be prescribed, The land revenue shall be such percentage of surplus produce as may be fixed by the Chief Commissioner on the recommendations of the Settlement Officer. [\*\*\*]

(2) The percentage of land revenue to the surplus produce shall vary according to a graduated scale prescribed by the chief commissioner being largest on holding with the highest surplus produce and smallest on holdings with lowest surplus produce.

#### **125. Assessment proposals**

The Settlement Officer shall publish his proposals in such manner as may be prescribed as soon as he has completed the assessment of each village. He shall consider objections, if any, that may be preferred and shall then submit the proposals together with the objections, if any and such orders as he may have passed to the prescribed authority, who shall forward them to the Chief Commissioner with his comments.

#### **126. Orders of the Chief Commissioner on the assessment proposals**

After considering the proposals and the comments of the prescribed authority, the Chief Commissioner shall pass such orders as he deems fit. The orders of the Chief Commissioner shall not be called in question in any Court.

#### **127. Remission or suspension of land revenue and rent following an agricultural calamity**

(1) Notwithstanding anything contained in this Act the Chief Commissioner may, on the occurrence of an agricultural calamity affecting the crops of any village or part thereof, remit or suspend for any period the whole or any part of the land revenue of any holding affected by such calamity.

(2) Whenever the Chief Commissioner takes action under sub section (1) he may remit or suspend the whole or any part of the rent payable by an Asami in occupation of such land.

(3) Where the payment of rent has been suspended under sub-section (2), the period of suspension shall be excluded in computing limitation allowed for a suit for the recovery of rent.

#### **128. Order under section 127 not to be questioned in Court**

An order passed under section 127 shall not be questioned in a civil or revenue court, and no suit or application shall lie for the recovery of any sum the payment of which has been remitted under section 127, or, during the period of suspension, of any sum the payment of which has been suspended under the said section.

#### **129. Revision of settlement on account of decline in prices of agricultural produce**

Notwithstanding anything contained in this Act or in any other enactment for the time being in force, the Chief Commissioner, if he is satisfied that there has been a substantial decline in the price of agricultural produce which is likely to continue for sometime, may, by a notification in the official Gazette, direct a revision of settlement in any area.<sup>39</sup>

#### **130. Appointment of officer for settlement under section 129**

After the issue of notification under section 129, the Chief Commissioner may appoint

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1. Repealed by A.O. 1957.

in such area any officer with the powers of a Settlement Officer subject to such restrictions and conditions as he may think fit but not so as to enable him to enhance the land revenue thereof.

### **131. Annual enquiry into revenue free grants**

The Deputy Commissioner shall enquire annually into the case of all lands released conditionally for a term from the payment of land revenue.

If the condition is broken, he shall report the case to the Chief Commissioner for orders; and if the period has expired or if the grantee, where the grant is for the life of the grantee, has died, he shall assess the land and report his proceedings to the Chief Commissioner for sanction.

## **Collection of Land Revenue**

### **132. Arrangements for collecting land revenue**

The chief Commissioner may make such arrangements and employ such agency for the collection of land revenue as he may deem fit.

### **133. Collection of land revenue by Gaon Sabha**

(1) The Chief Commissioner may by general or special order published in the Official Gazette charge the Gaon Sabha constituted under section 150 of this Act with the duty of collecting and realizing the land revenue and such other dues as may be prescribed, for and on behalf of the Government, in the area for which the Gaon Sabha is established or any part thereof.

(2) Where the Gaon Sabha has been so charged, it shall be the duty of the Gaon Panchayat concerned to collect and realize, in accordance with the provisions of this Act or the rules made thereunder, the land revenue and the dues aforesaid payable to the Government from time in respect of the land comprised in its area.

### **134. Consequence of collection of land revenue by Gaon Sabha**

Where a Gaon Sabha has been charged with the duty of collecting and realizing the land revenue or other dues under section 133 the following consequence will follow: --

(a) every Bhumidhar shall, without prejudice to the provisions of section 108, be liable to the Gaon Panchayat for the payment of the land revenue or other dues for the time payable by the Bhumidhars,

(b) the amount of land revenue or other dues collected or realized by any member (including Pradhan or Up- Pradhan) or the Gaon Panchayat or any member of the Gaon Sabha and not paid to the Government may, without prejudice to his liability under any other law for the time being in force, be realized as arrears of land revenue from him or his property in the hands of his legal representatives, and

(c) the gaon Panchayat shall be paid a remuneration at such rate as may be prescribed on the collections made by it after the amount of land revenue or other dues collected have been credited to the prescribed fund.



### **135. Certified accounts to be evidence as to arrears of land revenue**

A statement of account certified by the Tahsildar shall, for the purposes of this Chapter, be conclusive evidence of the existence of the arrears of land revenue or its amount and of the person who is the defaulter:

Provided that in any village in respect of which an order under section 133 has been made, such statement, may, in respect of any individual defaulter, be certified by the Gaon Panchayat.

### **136. Procedure for the recovery of an arrear of land revenue\**

An arrear of land revenue may be recovered by any one or more of the following processes:

- (a) by serving a writ of demand or a citation to appear on any defaulter,
- (b) by arrest and detention of his person,
- (c) by attachment and sale of his moveable property including produce,
- (d) by attachment of the holding in respect of which the arrear is due,
- (e) by sale of the holding in respect of which the arrear is due or
- (f) by attachment and sale of other immovable property of the defaulter.

### **137. writ of demand and citation to appear**

(1) As soon as arrear of land revenue has become due a writ of demand may be issued by the Tahsildar on the defaulter calling upon him to appear and deposit the arrear due on a date to be specified.

(2) In addition to or in lieu of a writ of demand the Tahsildar may issue a citation against the defaulter to appear and deposit the arrear due on a date to be specified.

(3) Where a Gaon Sabha has been charged with the duty of collecting and realizing revenue under section 133, the Chief Commissioner may authorise a Gaon Panchayat, by a general or special order published in the official Gazette, to issue a writ of demand or a citation to appear on any defaulter under clause (a) of section 136, but for action under any other clause of section 136, the Gaon Sabha shall report to Tahsildar for necessary action.

### **138. Arrest and detention**

Any person who had defaulted in the payment of an arrear of land revenue may be arrested and detained in custody up to a period not exceeding 15 days unless the arrear with costs, if any, of the arrest and detention are sooner paid:

Provided that no woman or minor shall be liable to arrest or detention under this section:

[\*\*\*]



### **139. Attachment and sale of movable property**

(1) The Deputy Commissioner may, whether the defaulter has been arrested or not, attach and sell his movable property.

(2) Every attachment and sale under this section shall be made according to the law in force for the time being for the attachment and sale of movable property in execution of a decree of a civil court.

(3) In addition to the particulars mentioned in clauses (a) to (o) of the proviso to section 60 of the Code of Civil Procedure, 1908, articles set apart exclusively for the use of religious worship shall be exempted from attachment and sale under this section.

(4) The costs of attachment and sale shall be added to the arrear of land revenue.

### **140. Sale of holding for recovery of arrear of land revenue and application of proceeds thereof**

(1) Notwithstanding anything contained in this Act, where the land revenue payable in respect of a holding is in arrear, the deputy Commissioner may, either of his own motion or on the application of the Gaon Panchayat, sell the holding in such manner as may be prescribed and utilize the proceeds in satisfaction of the arrear and refund the excess, if any to the Bhumidhar.

(2) The Deputy Commissioner shall report to the prescribed authority any sale made under this section.

(3) Where any holding is sold under the provisions of this section, the proceeds thereof shall be utilized first in defraying the expenses of the sale and secondly in discharging the amount due as arrear of land revenue and the balance shall be payable to the person entitled.

### **141. Powers to proceed against interest of defaulter in other immovable property**

(1) If any arrear of land revenue cannot be recovered by any of the processes mentioned in clauses (a) to (e) of section 136, the Deputy Commissioner may realize the same from the interest of defaulter in any other immovable property of the defaulter as if the said arrears were arrears of land revenue assessed on and due in respect of such other property.

(2) Sums of money recoverable as arrears of land revenue, but not due in respect of a specific land, may be recovered under this section from any immovable property of the defaulter.

### **142. Recovery of arrear paid by a person appointed under section 132**

A Bhumidhar or a person appointed under section 132 or a member of a Gaon Panchayat, who has paid the arrear of land revenue due on account of any other Bhumidhar may, in addition to any other mode of recovery open to him, within six months of the payment of such amount, apply to the Deputy Commissioner to recover such arrear on his behalf as if it were an arrear of land revenue payable to Government.<sup>40</sup>

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1. Second proviso omitted by Act 38 of 1965, Section 22 (w.e.f. 30.11.1965).

The Deputy Commissioner shall on receipt of such application satisfy himself that the amount claimed is due to such a person and may then proceed to recover, as if it were an arrear of land revenue, such amount with costs and interest from the said Bhumidhar or any persons in possession of his tenure.

The Deputy Commissioner shall not be a defendant to any suit in respect of the amount for the recovery of which an order has been passed under this section.

No appeal shall lie against the order of the Deputy Commissioner under this section, but nothing contained therein and no order passed under this section shall debar the Bhumidhar from maintaining a suit for arrear of land revenue.

#### **143. Provisions applied to arrear due at commencement of Act**

The provisions of this Act with regard to the recovery of arrear of land revenue shall apply to all arrears of land revenue and sums of money recoverable as arrear of land revenue due at the commencement of this Act.

#### **144. Attachment of village and direct management by Deputy Commissioner**

(1) At any time after an arrear of land revenue has accrued, the Deputy Commissioner may attach the village or any area therein in respect of which the arrear is due and place it under his own management or that of an agent appointed by him for that purpose for such period as he may consider necessary:

Provided that the period for which any village or any area therein may be so attached shall not exceed three years from the commencement of the agricultural year next following the date of attachment and the attachment shall be cancelled, if the arrears are sooner liquidated.

(2) Upon the expiry of the period of attachment, the village shall be restored free of any claim on the part of the Government for any arrear of land revenue due in respect thereof.

#### **145. Powers and obligations of the Deputy Commissioner in respect of the area under his management**

While an area is so held by the Deputy Commissioner under his own management, he shall be bound by any engagement which at the time of attachment existed between the defaulter and the Asamis and shall be entitled to manage the property so held and to receive all rents and profits accruing therefrom. The collections so made from the property shall be applied to the payment of any instalment of land revenue which may become due after attachment and the cost of attachment and management, and the surplus, if any, shall be applied to wards discharge of the arrears on account of which the attachment is made.

#### **146. Powers of deputy commissioner to let out the holding in respect of which arrear is due**

(1) Where an arrear of land revenue is due in respect of a holding the Deputy Commissioner may, notwithstanding anything contained in this Act, let out the holding to any person other than the defaulter for a period not exceeding ten years commencing from the first day of July next following upon such terms and conditions as the Chief Commissioner may fix with due regard to the provisions of section 88.

(2) Nothing in this section shall affect the liability of any tenure holders who may be liable under this Act for the payment of the arrear of land revenue.

(3) Upon the expiry of the period of lease the holding shall be restored to the tenure-holder concerned free on any claim on the part of the Government for any arrears in respect of such holding.

#### **147. Payment of rent and other dues in respect of attached area**

When any area is attached under section 144 or is let out under section 146 no payment on account of rent or other dues made by the Asami or person in possession in respect of the land after the date of the attachment to any person other than the deputy commissioner shall be valid discharge.

#### **148. Provisions of the Punjab Land Revenue Act, 1887, Chapters V, VI and VII, as amended by this Act applicable to applications and proceedings under this Chapter**

The provisions of Chapters V, VI and VII of Punjab Land Revenue Act 1887, as amended by this Act, shall, in so far as they are not inconsistent with the provisions of this Act, apply to applications and proceedings made or taken under this Chapter.

#### **149. Power to made rules**

The Chief Commissioner may make [rules] for the purpose of carrying into effect the provisions of this Chapter.

## **CHAPTER V**

### **Gaon Sabha And Gaon Panchayat**

#### **150. Establishment and Incorporation Gaon sabha and gaon Sabha Area**

(1) The Chief commissioner may by notification in the official Gazette divide the entire area of the State into Gaon Sabha areas each comprising one or more contiguous revenue villages for the purposes of this Act and may by notification alter the boundaries of any area so notified:

[Provided that such areas shall not include any area to which the Delhi Panchayat Raj Act, 1954, does not extend.]

(2) There shall be established for each Gaon Sabha Area and from such date or dates and by such name as may be prescribed, a Gaon Sabha having perpetual succession which shall be a body corporate and subject to any other enactment vested with the capacity of suing and being sued in its corporate name of acquiring, holding , administering and transferring property, both movable and immovable, and of entering into contracts.<sup>41</sup>

[(3) If the whole of a Gaon Sabha area ceases to be included in rural areas as defined in the Delhi Municipal Corporation Act, 1957, by virtue of a notification under section 507 of that

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1. See the Delhi Land Reforms Rules, 1954, Vide Notification No. F.3 (16)/54 GA & R dated the 11<sup>th</sup> November, 1954; Delhi State Gazette, Pt. V. dated 20.1.1955, p. 27.
  2. Subs. by Act 4 of 1959, Section 15, for proviso (w.e.f. 12.3.1959).

Act, the Gaon Sabha constituted for that area shall thereupon stand dissolved and on such dissolution,

(a) all properties, movable and immovable, and all interests of whatsoever nature and kind therein , including moneys held in Gaon Sabha Area Fund, vested in the Gaon Sabha immediately before such dissolution, shall , with all rights of whatsoever description, used , enjoyed or possessed by Gaon Sabha, vest in the central Government.

(b) all duties, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Gaon Sabha before such dissolution shall be deemed to have been incurred, entered into or engaged to be done with or for the central Government;

(c) all rates, taxes, fees, rents and other charges due to the Gaon Sabha immediately before such dissolution shall be deemed to be due to the Central Government;

(d) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Gaon Sabha may be continued or instituted by or against the Union of India;

(e) the provisions of this Act shall apply in relation to lands in such Gaon Sabha area, not being lands vested in the Central Government under clause (a), subject to the codification that references therein to Gaon Sabha and Gaon Panchayat shall be construed as references to the Central Government;

(f) notwithstanding anything contained in clause (b) of sub- section (2) of section 1, the provisions of section 84, 85 86A and 87 and any other provision of this Act. Relating to ejection of persons shall apply in relation to land vested in the Central Government under clause (a) subject to the modification that references therein to Gaon Sabha and Gaon Panchayat shall be construed as references to the Central Government.

(4) If only a portion of a Gaon Sabha area ceases to be included in rural areas as aforesaid, the jurisdiction of the Gaon Sabha constituted for that area shall cease in respect of that portion and upon such cesser, the provisions of clause (a) to (f) of sub section (3) shall apply to that portion as if the Gaon Sabha had been constituted for that portion alone and dissolved, subject to such incidental and consequential orders as the Chief Commissioner may deem necessary to make.<sup>42</sup>

(5) If the size of a Gaon Sabha area is reduced as a result of a portion thereof ceasing to be included in rural areas as aforesaid and the Chief Commissioner is of the opinion that the size of the Gaon Sabha area is not sufficiently large to be under the jurisdiction of a separate Gaon Sabha area is not sufficiently large to be under the jurisdiction of a separate Gaon Sabha, he may, by notification in the Official Gazette, declare that such Gaon Sabha area shall, from a date to be specified in the notification, cease to be a separate Gaon Sabha area and the Gaon Sabha area and the Gaon Sabha constituted there for shall stand dissolved any may direct that the said area shall be included in one or more adjoining Gaon Sabha areas, and thereupon, the

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1. Ins. by Act 38 of 1965, Section 23 (w.e.f. 7.4.1958).

provisions of section 3 of the Delhi Panchayat Raj Act, 1954, shall, so far as may be, apply.]

### **151. Membership of Gaon Sabha and constitution of Gaon Panchayat**

(1) All persons registered by virtue of the provisions of the Constitution and the Representation of the People Act, 1950, as voters in so much of the electoral roll for any parliamentary constituency for the time being in force as relates to a Gaon Sabha Area shall be the members of the Gaon Sabha for that area.

Explanation. - In this section, the expression Parliamentary constituency has the meaning assigned to it under the Representation of the People Act, 1950.

(2) Every Gaon Sabha shall have an executive body to be known as the Gaon Panchayat.

(3) A Gaon Panchayat shall consist of a Pradhan and such number of panches, not less than four and not more than ten, as the Chief Commissioner may fix from time to time in this behalf.

(4) The Pradhan and the panches shall be elected by the members of the Gaon Sabha from among themselves.

(5) The Chief Commissioner shall, by order in the Official Gazette, determine the number of seats, if any, reserved for women and the Scheduled Castes in each Gaon Panchayat:

Provided that the number of seats so reserved for the Scheduled Castes shall bear as nearly as may be the same proportion to the total number of seats in the Gaon Panchayat as the population of the Scheduled Castes in the area of the Gaon Sabha bears to the total population of such area.]

### **152. Up Pradhan and other office bearers of Gaon Panchayat**

The Chief Commissioner shall arrange for the election of the Up- Pradhan by the members of the Gaon Panchayat from amongst themselves and for the appointment of such other officers or office bearers of the Gaon Panchayat as may be prescribed.

### **153. Disqualification for membership of the Gaon Panchayat**

No person shall be entitled to be or remain a member of the Gaon Panchayat, if he

[(a) ceases to be a member of the Gaon Sabha or]

(b) is suffering from leprosy; or

(c) is an undischarged insolvent; or

(d) is a servant of the Government ; or

(e) is convicted of an offence involving moral turpitude or ordered to give security for good behaviour under section 110 of the Code of Criminal Procedure, 1898.<sup>43</sup>

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1. Subs. by Act 4 of 1959, Section 16, for Section 151 (w.e.f. 12.3.1959).

Provided that the disqualifications under clause (c) or (e) may be removed by an order of the Chief Commissioner or the prescribed authority.

#### **154. Vesting of certain lands etc, in Gaon Sabha**

[(1)] On the commencement of this Act

(i) all lands whether cultivable or otherwise, except land for the time being comprised in any holding or grove,

(ii) all trees (other than trees in a holding or on the boundary thereof or in a grove or abadi) [or planted by a person other than a proprietor on land other than land comprised in his holding],

(iii) public wells,

(iv) fisheries,

(v) hats, bazaar and meals, except hats, bazaar and meals held on land to which provisions of clauses (a) to (c) of sub- section (1) of section 11 apply,

(vi) tanks, ponds, water channels, pathways and abadi sites,

(vii) forest, if any, situate in a Gaon Sabha Area, shall vest in the Gaon Sabha:

Provided that if the uncultivated area situate in any Gaon Sabha area is, in the opinion of the Chief Commissioner, more than the ordinary requirements of the Gaon Sabha, he may exclude any portion of the uncultivated area from vesting in the Gaon Sabha, he may exclude any portion of the uncultivated area from vesting in the Gaon Sabha under this section and may make such incidental and consequential order as may be necessary.

[(2) Where any land which is vested in the Central Government under sub section (3) or sub section (4) of section 150, is held immediately before such vesting by an Asami of a Gaon Sabha, then, notwithstanding anything contained in clause (b) of sub section (2) of section 1, and so long as it is held by such Asami, the provisions of this Act shall continue to apply to such land subject to the modification that all references therein to Gaon Sabha and Gaon Panchayat shall in relation to such land be construed as references to the Central Government.]

#### **155. Superintendence, management and control of land, etc, by the Gaon Sabha, or its transfer to District Board or other authorities**

(1) Subject to the provisions of this Act, the Gaon Sabha shall, from the date, this Act comes into force, be charged with the general superintendence, management and control of all lands, trees (other than trees in a holding, grove or abadi [or planted by a person other than a proprietor on land other than land comprised in his holding], public wells, fisheries, tanks , ponds, water channels, pathways, abadi sites, and hats, bazaar, melas, and forest, if any, vested in the Gaon Sabha under section 154.<sup>44</sup>

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1. Subs. by Act 4 of 1959, Section 17, for Clause (a) (w.e.f. 12.3.1959).

2. Section 154 renumbered as sub-section (1) Act 38 of 1965, Section 24 (w.e.f. 7.4.1958).

3. Ins. by Delhi Act 16 of 1956.

(2) Notwithstanding anything contained in this and the foregoing section, the Chief commissioner, may, at any time, by notification in the official Gazette declare that as from the date to be specified hats, bazaar, melas, and water channels, hereinbefore vested in the Gaon Sabha, shall be transferred to and be vested in the District Board or any other authority as may be specified, who shall thereupon, notwithstanding anything contained in this Act, be charged with the management, superintendence and control thereof in accordance with the law as may be applicable for the time being in force.

#### **156. Duties of Gaon Panchayats**

Without prejudice to the generality of the provisions contained in sections 154 and 155, the functions and duties of Gaon Panchayat shall include

- (a) the development and improvement of agriculture and horticulture,
- (b) the preservation, maintenance and development of forest and trees,
- (c) the Maintenance and development of abadi sites and village communications,
- (d) the management of hats, bazaar and melas,
- (e) the development of co-operative farming.
- (f) the development of animal husbandry, which includes pisciculture and poultry farming, and the development of piggery,
- (g) the consolidation of holdings,
- (h) the development of cottage industries;
- (i) the maintenance and development of fisheries, wells and tanks, and
- (j) such other matters as may be prescribed.

#### **157. Term and other matters about the Gaon Panchayat**

The term of Gaon Panchayat, the method of filling up casual vacancies, the procedure of its working and the conduct of its business shall be such as may be prescribed.

#### **158. Money received by Gaon Sabha or Gaon Panchayat under this Act to be credited to the Gaon Sabha Area Fund**

There shall be credited to the Goan Sabha Area Fund

(1) all sums received by the Gaon Sabha or the Gaon Panchayat under this Act whether on its own behalf or for and on behalf of all the adult members of the Gaon Sabha Area, and

(2) such other sums as may be prescribed.<sup>45</sup>

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1. Ins. by Act 38 of 1965, Section 24 (w.e.f. 7.4.1958).  
2. Ins. by Delhi Act 16 of 1965, Section 17.



### **159. Gaon Sabha Area Fund to be connection with this Act**

Notwithstanding anything contained in any law for the time being in force, the Gaon Panchayat may utilize, in the manner prescribed, the Gaon Sabha Area Fund to meet the charges in connection with the discharge of its duties or performance of its functions under this Act or rules made thereunder:

Provided that nothing in this section of in any for the time being in force, shall mean or be constructed to mean as authorising the Gaon Sabha to so utilize any sums, collected or realised or and on behalf of the Government, except as specifically provided in this Act.

### **160. Gaon Sabha or the Gaon Panchayat to carry out orders and directions of the Government**

(1) Notwithstanding anything contained in any law for the time being in force, the Chief Commissioner may issue such orders and directions to the Gaon Sabha or the Gaon Panchayat as may appear to be necessary for this Act.

(2) It shall be the duty of the Gaon Sabha or the Gaon Panchayat and its office bearers to forthwith carry out such orders and comply with such directions.

### **161. Alternative arrangement for carrying on the work of the Gaon Sabha or the Gaon Panchayat in certain circumstances**

(1) If at the commencement of this Act, the Chief Commissioner finds that there is an unavoidable delay in bringing the provisions of this Chapter into operation or if at any time the Chief Commissioner is satisfied that

(a) a Gaon Sabha or Gaon Panchayat has failed without reasonable cause or excuse to discharge the duties or to perform the functions imposed or assigned by or under this Act,

(b) circumstances have so arisen that a Gaon Sabha or a Gaon Panchayat is rendered unable or may be rendered unable to discharge the duties or perform the functions imposed or assigned by or under this Act, or

(c) it is otherwise expedient or necessary so to do, he may, by notification in the official Gazette, declare that the duties, powers and functions of the Gaon Sabha or the Gaon Panchayat under this Act shall be discharged, exercised and performed by such person or authority of a rank not inferior to that of Deputy Commissioner and for such period and subject to such restrictions as may be specified.

(2) The Chief Commissioner may make such incidental and consequential provisions as may appear to be necessary for this purpose.

### **161A. Government of India to be impleaded in certain suits by or against Gaon Sabhas**

Notwithstanding anything contained in the code of Civil Procedure, 1908, or any other law for the time being in force.<sup>46</sup>

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1. Ins. by Act 38 of 1965, Section 25 (w.e.f. 30.11.1965).



(a) no suit or other proceeding under sub-section (2) of section 36 of the Delhi Panchayat Raj Act, 1954, shall, after the date of passing of the Delhi Land Reforms (Amendment) Act, 1965, be instituted or, as the case may be, continued in any civil or revenue court unless the Union of India has been added as a plaintiff or defendant according as the case is by or against the Gaon Sabha;

(b) no such suit or other proceeding shall be decided on the admission by the Pradhan or any representative of the Gaon Sabha with respect to the right or title of any person to the property in dispute, whether made on his own motion or on the authority of a resolution of the Gaon Panchayat unless such admission has been authorised in writing by the Director of Panchayats. Delhi, or by such other officer as the Chief commissioner may specify in this behalf.

#### **161B. Certain decrees and orders to be set aside**

(1) Where in any suit or proceeding before any civil or revenue court filed under sub-section (2) of section 36 of the Delhi Panchayat Raj Act, 1954, the ownership of any land has been decided in favour of any person other than the Gaon Sabha before the date of passing of the Delhi Land Reforms (Amendment) Act, 1965, then notwithstanding anything contained in clause (b) of sub section (2) of section 1 or in any other law for the time being in force, such decree or order shall, on an application made by the Government of India within twelve months from that date or within such further period as the court may, for sufficient cause, allow, be set aside if in the revenue records of the fasli year ending on the 30th June, 1954, such land was not included in the holding of the person in whose favour the decree or order was passed or his predecessor in interest, or was not recorded as being in the cultivation of such person or his predecessor in interest.

(2) On the setting aside of any decree or order in any suit or proceeding by or against the Gaon Sabha under sub section (1), such suit or proceeding shall be tried or heard afresh with the Union of India added as party.]

#### **162. Powers to make rules**

The Chief Commissioner may make rules for the purpose of carrying into effect the provisions of this chapter.

## **CHAPTER VI Co-Operative Farms**

#### **163. Formation of a co operative farm**

Any ten or more members of a Gaon Sabha holding between them Bhumidhari rights in thirty standard acres or more in the area of a Gaon Sabha and desiring to start a co operative farm may apply in writing to the Registrar appointed under the Bombay co- operative farm may apply in writing to the Registrar appointed under the Bombay Co-operative Societies Act, 1925 as extended to the State (hereinafter referred to as the Registrar) for the registration thereof.

#### **164. Application for registration**

An application for the registration of a co operative farm shall be accompanied by

*For internal use of Office of Prashant 'Kanha', Advocate on Record, only.*

extracts from the record of rights showing the total area with the recorded numbers of all the fields offered by each of the applicants in the Gaon Sabha Area and shall contain such further particulars as may be prescribed.

#### **165. Registration of the co operative farm**

(1) The Registrar may, if he is satisfied after such inquiry as may be prescribed that the application has been duly made, register the co operative farm under the Bombay Co- operative Societies Act, 1925, as extended to the State and grant a certificate of registration.

(2) The Registrar shall cause a copy of the certificate to be forwarded to the Deputy Commissioner for such action as may be prescribed.

#### **166. Land offered by a member to be transferred to the farm**

When a co operative farm has been registered under section 165, all land in the Gaon Sabha Area offered by a member, whether as Bhumidhar or by Asami, shall for so long as the registration of the co-operative farm is not cancelled, be deemed to be transferred to and held by the co-operative farm which shall thereupon hold such land in accordance with the provisions of this Chapter, and may, notwithstanding anything contained in this Act, use it for any purpose mentioned in section 22 or the development of cottage industries.

#### **167. Formation of a co operative farm of un- economic holdings**

Not less than two thirds of the total number of persons other than those who have applied under section 163 holding Bhumidhari right in an economic holdings in a Gaon Sabha Area or holding between them not less than two thirds of the aggregate area comprised in all un-economic holdings in the Gaon Sabha Area may apply jointly to the Deputy Commissioner that a co-operative farm be established, and on such application the Deputy Commissioner may, by notice, require all Bhumidhars of the remainder of un-economic holdings in the Gaon Sabha Area to show cause why a co-operative farm comprised of all the land included in un-economic holdings in the Gaon Sabha Area be not established and constituted.

#### **168. Disposal of objections and service of the order**

(1) The Deputy Commissioner shall hear the objection or objections of the tenure-holders who may desire to be heard and after hearing them he shall unless he is satisfied that it is not in the best interests of the persons affected, order that a co- operative farm consisting of all the land comprised in the un-economic holdings in the Gaon Sabha Area be established.

(2) Notice of an order passed directing a co-operative farm to be established shall be served on every person affected and shall also be proclaimed in the Gaon Sabha area in the prescribed manner.

#### **169. Appeal.**

Any person aggrieved by an order of the Deputy Commissioner under section 168 may appeal to the Chief Commissioner within sixty days from the date thereof and the order passed by the Chief Commissioner in appeal shall be final and conclusive.<sup>47</sup>

#### **170. Registration of the co-operative farm of uneconomic holdings**

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1. Ins. by Act 38 of 1965, Section 25 (w.e.f. 30.11.1965).

(1) The Deputy Commissioner shall cause a copy of the order passed under section 168 or 169 directing that a co- operative farm be established to be forwarded to the Registrar, who may thereupon register the farm under the Bombay Co- operative Societies Act, 1925, as extended to the State, and if he agrees to do so, shall grant a certificate of registration.

(2) The Registrar shall cause a copy of the certificate to be forwarded to the Deputy Commissioner for such action as may be prescribed.

#### **171. Land in the un-economic holdings to be transferred to the farm**

When a co- operative farm has been registered under section 170, all land comprised in the un- economic holdings in the Gaon Sabha Area held by any Bhumidhar or an Asami under him shall, for so long as the registration of the co- operative farm is not cancelled, be deemed to be transferred to and held by the co- operative farm which shall thereupon hold such land in accordance with the provisions of this Chapter and may, notwithstanding anything contained in this Act, use it for any purpose mentioned in section 22 or the development of cottage industries.

#### **172. Consequences of registration**

When a certificate of registration in respect of any co operative farm has been granted under section 165 or 170 the provisions of the Bombay Co- Operative Societies Act, 1925 , as extended to the State, shall , in so far as they are not inconsistent with the provisions of this Act or rules made thereunder, be applicable thereto.

#### **173. Bye- laws of the farm**

Every application submitted under section 163 or 167 shall be accompanied with a copy of the proposed bye laws of the co operative farm and such Bye laws shall be deemed to be the bye laws required to be filed under sub section (3) of section 9 of the Bombay Co- operative Societies Act, 1925 as extended to the State.

#### **174. Land contributed to the farm to continue to vest in the Bhumidhar thereof**

Nothings in this Chapter shall be construed to mean that the interest of a Bhumidhar in the land contributed to the co-operative farm by or on his behalf has ceased to vest in him.

#### **175. Disposition of land contributed to the farm**

(1) No member of a co-operative farm shall except as provided in sub-section (2), be entitled to make any disposition of any land contributed by him to the farm.

(2) Every member of a co-operative farm, who is a Bhumidhar of any land contributed by him to the co-operative farm, may make a testamentary disposition of such land, and with the permission of co operative farm, any other disposition. Such permission shall not be withheld if the transferee is willing to join the farm.

#### **176. Rights, privileges, obligations and liabilities of members**

Every member of a co- operative farm shall be entitled to such rights and privileges, be subject to such obligations and liabilities, and be bound to discharge such duties as may be conferred or imposed upon him by or under this Act.

#### **177. Liability on the Farm to pay land revenue and other dues**

The co-operative farm, shall ,as from the date it is constituted, be liable for the payment of all the land revenue, cesses, local rates or rent payable by the Bhumidhar or Asami in respect of the land held by it under section 166 or 171.

#### **178. Admission of new members or heirs**

(1) Any person, who is a resident of the Gaon Sabha Area where the co operative farm is situate or who intents to settle down in the Gaon Sabha Area or who cultivates land therein, may be admitted as a member thereof upon such terms and conditions as may be laid down by the farm.

(2) When a member, whose land is held by a co- operative farm, dies, his heirs under this Act shall become members of the co- operative farm.

#### **179. Concessions and facilities for the co-operative farm**

(1) A co-operative farm shall be entitled to such concessions and facilities as may be prescribed.

(2) Without prejudice to the generality of the foregoing provision , the concessions and facilities may include

- (a) reduction of land revenue,
- (b) reduction of or exemption from any tax on agriculture,
- (c) free technical advice from experts employed by the Government on farming and use of mechanical aids,
- (d) financial aid and grant of subsidy and loans with or without interest, including loans for purchase of agricultural machinery such as tractors, etc.,
- (e) admission to land by the Gaon Sabha,
- (f) priority in irrigation from State irrigation works, and
- (g) priority in consolidation proceedings.

#### **180. Power to make rules**

The Chief Commissioner may made [rules] for the purpose of carrying into effect the provisions of this Chapter.

## **CHAPTER VII**

### **Miscellaneous**

#### **181. Delegation of powers**

The chief Commissioner may, by notification in the official Gazette, delegate to any officer or authority subordinate to him any of the powers conferred on the Chief Commissioner by this Act to be exercised subject to any restrictions and conditions as may be specified in the notification.

#### **182. Powers to enter upon land, and to make survey etc**

Subject to any conditions or restrictions that may be prescribed, any officer appointed under this Act may, for the purposes of this Act, enter at any time upon any land with such

public servants as he considers necessary and make a survey or take measurements thereof or do any other act which he considers to be necessary for carrying out any of his duties under this Act.

### **183. Mode of service of notice**

Any notice or other document required or authorised to be served under this Act may be served either

(a) by delivering it to the person on whom it is to be served, or

(b) by leaving it at the usual or last known place of abode of that person, or

(c) by sending it in a registered letter addressed to that person at his usual or last known place of abode, or

(d) in case of an incorporated company or body, by delivering it or sending it in a registered letter addressed to the Secretary or other principal functionary of the company or body at its principal office, or

(e) in such other manner as may be laid down in the code of Civil Procedure, 1908.

### **184. Right to inspection and copies of documents, statement and registers**

All documents, statements and registers maintained under this Act or the rules framed thereunder shall be open to inspection during such hours and subject to such conditions, and payments of fees, as may be prescribed, and any person shall, on payment of such fees, be entitled to be furnished with a copy of or any portion of any such documents, statement or register.

### **185. Cognizance of suits, etc, under this Act**

(1) Except as provided by or under this Act no court other than a court mentioned in column 7 of Schedule I shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, take cognizance of any suit, application, or proceedings mentioned in column 3 thereof.

(2) Except as hereinafter provided no appeal shall lie from an order passed under any of the proceedings mentioned in column 3 of the Schedule aforesaid.

(3) An appeal shall lie from the final order passed by a court mentioned in column 3 to the court or authority mentioned in column 8 thereof.

(4) A second appeal shall lie from the final order passed in an appeal under sub section (3) to the authority, if any, mentioned against it in column 9 of the Schedule aforesaid.<sup>48</sup>

### **186. Procedure when question of title is raised**

(1) Notwithstanding anything contained in section 185, if in any suit or proceeding mentioned in column 3 of Scheduled I, question is raised regarding the title of any party to the

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1. See Delhi Land Reforms Rules, 1954, Vide Noti. No. F. 3(16)/54 GA&R, dated the 11.11.1954; Delhi Gazette Pt. V, dated 20.1.1955, p. 27.

land which is the subject matter of the suit or proceeding and such question is directly and substantially in issue the Court shall, unless the question has already been decided by a competent civil court for the decision of that issue only.

Explanation:- A plea regarding the title to the land which is clearly untenable and intended solely to oust the jurisdiction of the revenue court shall not be deemed to raise a question regarding the title to the land within the meaning of this section.

(2) The civil court, after reframing the issue, if necessary, shall decide such issue only and return the record together with its finding thereon to the revenue court which submitted it.

(3) The revenue court shall then proceed to decide the suit or , accepting the finding of the civil court on the issue referred to it.

(4) An appeal from a decree of a revenue court in a suit or proceeding in which an issue regarding title has been decided by a civil court under sub-section (2) shall lie to the civil court which having regard to the valuation of the suit has jurisdiction to hear appeal from the Court to which the issue of title has been referred.

#### **187. Power of Chief Commissioner to call for cases**

The Chief Commissioner may call for the record of any suit or proceeding referred to in Schedule I decided by any subordinate court [in which no appeal lies to him] and if such subordinate court appears

(a) to have exercised a jurisdiction not vested in it in law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of jurisdiction illegally or with material irregularity, the Chief Commissioner may pass such order in the case as he thinks fit.

#### **188. Protection of action taken under this Act**

(1) No officer or servant of Government shall be liable in any civil or criminal proceeding in respect of any act done or purporting to be done under this Act or under any rule made thereunder, if the act was done in good faith and in the course of executing of the duties or the discharge of functions, imposed by or under this Act.

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

#### **189. No right of pre-emption in the area to which this Act applies**

(1) Notwithstanding anything contained in any law, custom, usage or agreement, the right of pre-emption shall not exist in respect of any sale of any immovable property in the area to which this Act applies whether made voluntarily or under order of court.

(2) All suits for pre-emption pending in respect of any such property in any court

whether of the first instance or appeal or revision shall stand dismissed, but award of the costs incurred in any such suit shall be in the discretion of the court.

### **190. Application of certain Acts to the proceedings of this Act**

(1) Unless otherwise expressly provided by or under columns 4 and 6 of Schedule I of this Act, the provisions of the Indian Court Fees Act, 1870, the Code of Civil Procedure, 1908, and the [\*] Indian Limitation Act, 1908, shall apply to the proceedings under this Act.

(2) The provision of the General Clauses Act, 1897 shall mutatis mutandis apply, as far as may be, to this Act in the same manner as they apply to a Central Act.

### **191. Rules in general**

(1) Every power to make [rules] given by this Act shall be deemed to include the power to provided for

(a) Imposing limits of time within which things to be done for the purposes of the rules must be done, with or without powers to any authority therein specified to extend limits imposed;

(b) the procedure to be followed in suits, applications and other proceedings under this Act, in cases for which no specific provisions has been made herein;

(c) the duties of any officer or authority having jurisdiction under this Act, the procedure to be followed by such officer and authority;

(d) the time within which applications and appeals may be presented under this Act, in cases for which no specific provision in that behalf has been made herein;

(e) the fees to be paid in respect of appeals and applications under this Act, in cases for which no specific provisions in that behalf has been made herein;

(f) the application of the provisions of the [\*] Indian Limitation Act, 1908, to applications, appeals and proceedings under this Act, other than those mentioned in Schedule I;

(g) the delegation of powers conferred by this Act on the Chief Commissioner or any other authority, officer or person; and

(h) the transfer of proceedings from one authority or officer to another.

(2) All rules made under this Act, shall be published in the Official Gazette, and shall, unless some later date is appointed, come into force on the date of such publication.

[(3) All rules made under this Act shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.]

### **192. Saving**

Nothing contained in this Act shall apply to any land which is evacuee property as

defined in the Administration of Evacuee Property Act, 1950, except in the following cases;--

(1) Evacuee land held by tenants under lease or agreement entered into before the 15th day of August 1947, and

(2) Evacuee share in lands of common utility which would vest in the Gaon Sabha.