

The Goa Mundkars (Protection from eviction) (Amendment) Bill, 2009
(Bill No---- of 2009)

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BILL

Further to amend The Goa Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act No1. Of 1976);

Be it enacted by the legislative Assembly of the State of Goa in sixtieth year of the republic of India as follows:-

1. Short title and commencement.-

(1) This Act may be called the Goa Mundkars (Protection from Eviction) (Amendment) Act, 2009;

(2) It shall come into force at once.

2. Amendment of title of the Act. - In the title “The Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act No.1 of 1976) (hereinafter referred to as the “principal Act”), the figure and the words, “Daman and Diu”, shall be omitted.

3. Amendment of section 1.- In section 1 of the principal Act,-

(i) The figure and the words, “Daman and Diu shall be omitted.”

(ii) In subsection (2), for the expression “the whole of the district of Goa of Union Territory of Goa, Daman and Diu,” the expression “the whole of the state of Goa” shall be substituted.

4. Amendment of section 2.- In section 2 of the principal Act,-

(i) After clause (g), for the expression “in the Union Territory of Goa, Daman and Diu” the expression “in the State of Goa” shall be substituted.

(ii) For clause (k), the following clause shall be substituted, namely:-

(k) “Government” means the Government of Goa;

(iii) In clause (l), for the expression “ The Goa , Daman and Diu Village Panchayat regulation, 1962, the expression “ the Goa, Panchayat Raj Act, 1994 (Goa Act No.14 of 1994);”

(iv) After the definition (j) insert the following :

(ja) “The Goa Housing Board” means the Housing Board established under the Goa Housing Board Act, 1968 (Act No.12 of 1968);

(v) After the definition (p) insert the following:

(pa) “Mundkar Housing Special Scheme” means Scheme devised by the Goa Housing Board for the purpose of the Act;

5. Amendment of section 16. - In section 16 of the principal Act, in sub-section (8), for the word “collector’, the word “Mamlatdar” shall be substituted.

6. Amendment of section 17 of the Principal Act, in sub-section 1 of section 17 for the word “three” the word “thirty” shall be substituted.

7. - After the Section 17 add the following :-

“17A- Mundkars deemed to have purchased the dwelling houses on the commencement of this Amendment Act.-

(1) On and from the commencement The Goa Mundkars (Protection from Eviction) (Amendment) Act, 2009, every Mundkar shall, subject to other provisions of this Act, be deemed to have purchased from his landlord the dwelling house occupied by him as a Mundkar and such dwelling shall vest in him free from all encumbrances thereof.

(2) Where a Mundkar, on account of its eviction from the dwelling house by the Bhatkar before the appointed day, is not in possession of his dwelling house on the said day, but has made or makes an application for the possession of his dwelling house under sub-section (3) of section 4 of the Act to the Mamlatdar, within whose jurisdiction, the dwelling house is situated and if the application is allowed by the Mamlatdar or, as the case may be, in appeal or revision by the Administrative Tribunal, he shall be deemed to have purchased the dwelling house on the day of which the final order allowing the application is passed.

(3) Where the Mundkar is unable to pay purchase price as determined by the Mamlatdar under sub-section (3) of section 16 due to financial crises or poverty, as the case may be, he is entitled to approach the Goa Housing Board for financial assistance either by way of securing housing loan or for obtaining the benefit under the Mundkar Housing Special Scheme, as devised by the Housing Board as the case may be.

“17B- Notwithstanding anything contained in The Goa Mundkars (Protection from Eviction) Act, 1975 and the Amendment Act 2009, the Bhatkar may approach the Mamlatdar admitting a person to be his Mundkar, and the Mamlatdar shall, after giving a notice to the Mundkar and upon holding an inquiry as to the area of the dwelling house declare that the person is entitled to the dwelling house and the area so demarcated and the Mamlatdar shall also determine the price to be paid in terms of section 17 A “.

8. Amendment of section 21.- In section 21 of the principal Act,-

(i) The sub section (1) of Section 21 shall be substituted by the following sub-section:

Subject to the other provisions of this Act in this behalf , the procedure to be followed by the Mamlatdar, the Administrative Tribunal in all inquiries , appeals, applications for review or other proceedings under this Act shall be such as may be prescribed’

(ii) The sub-section (3) of Section 21 shall be substituted by the following sub-section:

(3) All inquiries and proceedings before the Mamlatdar and before the Administrative Tribunal shall be deemed to be judicial proceedings within the meaning of the Sections 193, 219 and 228 of the Indian Penal Code.

9. Amendment of section 22.- in section 22 of the principal Act,-

The sub-section (1) of Section 22 shall be substituted by the following sub-section:
Any sum, the payment of which has been directed by an order of the Mamlatdar or the Administrative Tribunal including an order awarding costs, shall be recoverable from the person ordered to pay the same as arrears of land revenue.

The sub-section (3) of Section 22 shall be substituted by the following sub-section:
An order or the decision of the Mamlatdar in execution proceedings shall subject to appeal or review if any be final.”

10. Amendment of section 23. - In section 23 of the principal Act, for the word, “Collector”, the words, “Administrative Tribunal” shall be substituted.

11. Amendment of section 24.- For section 24 of the principal Act, the following section shall be substituted:-

“24. Appeal. - from every original order, other than an interim order, passed by the Mamlatdar under this Act, an appeal shall lie to the Administrative tribunal and the order of the Administrative Tribunal, shall be final.

Explanation: For the purpose of this section, “interim order” shall not include injunction order and such orders shall be subject to an appeal.

12. Insertion of new section.- After section 24 of the principal Act, the section 25 shall be substituted by the following:-

“25 Review - The Administrative tribunal on application of any party may review its own order and in reference thereto, pass such orders as it deems fit.

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

Provided that further no such Order shall be made under this sub-section, unless a notice has been given to all interested parties and they have been afforded a reasonable opportunity of being heard:

(1) Sub-section (2) shall be omitted.

13. Amendment of section 26- In section 26 of the principal Act,-

(i) For sub-section (1) the following sub-section shall be substituted, namely.-

“(1) the Administrative Tribunal in appeal or in review , may, confirm, modify or rescind the order or may pass such order as may be legal and just in accordance with the provision of this Act.”

14. Amendment of section 27- For section 27 of the principal Act, the following section shall be substituted:-

“27.- powers of Civil Court to be exercised in the conduct of inquiries and proceedings under this Act”.- The Mamlatdar or Administrative Tribunal shall exercise in all inquiries, proceedings, appeals, reviews , the powers as are exercised by the concerned trial court, appellate court or provisional court or a Court exercising review jurisdiction, under the Code of Civil Procedure, 1908 (Central Act 5 of 1908)”.

15. Amendment of section 28.- In section 28 of the principal Act.-

(i) In sub-section (1) for the expression “application for revision”, the expression “application for revision or review” shall be substituted.

(ii) The figure and words “the Collector” shall be omitted.

(iii) For the words “application for revision”, the words “application for revision or review”, shall be substituted.

(iv) In sub-section (2).-

(i) For the word “for revision”, the words “revision or review”, shall be substituted.

(ii) For the figure and words “the collector, Administrative Tribunal or the Government”, the words “or the Administrative Tribunal” shall be substituted.

16. - Amendment of section 29. - In section 29 of the principal Act,-

(i) In sub-section (8), for the word “Collector”, the words “Administrative Tribunal’ shall be substituted.

(ii) In sub-section (9), for the word, “Collector” the words “Administrative Tribunal’ shall be substituted.

17. Amendment of Section 31. - In section 31 of the principal Act, in sub-section (2), the words “Collector” or the “Government” shall be omitted.

18. Amendment of section 32. - In section 32 of the principal Act,

(i) In sub-section (1), for the word “Collector” wherever it occurs, the word “Administrative Tribunal” shall be substituted.

(ii) In sub-section (2) for the word “Collector”, the words “Administrative Tribunal” shall be substituted.

19. Amendment of section 33.- In section 33 of the Principal Act,- for the word “Collector” wherever it occurs, the word, “Administrative Tribunal” shall be substituted.

20. Amendment of Section 36. - In section 36 of the principal Act,-

(i) In sub-section (1), the words “or the Collector” shall be omitted.

(ii) In sub-section (2), for the expression “the Legislative Assembly of Goa, Daman and Diu”, the expression “the Legislative Assembly of the state of Goa” shall be substituted.

21. Insertion of new section. - After section 39 of the principal Act, the following section shall be inserted, namely:

“39A. Act not to apply to pending proceedings.--- the provisions of the Goa Mundkars (Protection from Eviction) (Amendment Act) Act, 2009, shall not apply to the proceedings pending before the collector or Administrative tribunal, as the case may be, on and from the date of commencement of this Amendment Act, 2009.

22. Amendment of section 40. In section 40 of the principal Act, in sub-section (2), for the expression “Legislative Assembly of Goa, Daman and Diu,” the expression “Legislative Assembly of the State of Goa” shall be substituted.

23.- . Amendment of section 41. In section 41 of the principal Act, in sub-section (2), for the expression “Legislative Assembly of Goa, Daman and Diu,” the expression “Legislative Assembly of the State of Goa” shall be substituted.

