

GOVERNMENT OF GOA

LAW COMMISSION

Report recommending a set of rules for implementation of Goa, Daman, and Diu Land Revenue Code 1968 as amended vide The Goa, Daman, and Diu Land Revenue Code (Amendment) Act, 2009 (Act No. 24 of 2009) and Goa, Daman, and Diu Land Revenue Code (Amendment) Act 2010 (Act No. 1 of 2010)

Report No. 10

April 2010

LAW COMMISSION, GOA

(REPORT No. 10)

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Forwarded to the Chief Minister, Government of Goa by Shri Ramakant D. Khalap, Chairman, Law Commission, Goa on the 23rd day of April 2010.

The 2nd Law Commission constituted by Government of Goa for a period of one year (Order No. 9/5/2008-LA/100 dated 20th January 2009) and further extended for two years w.e.f. 06/04/2010 (Order No. 22/1/2010-LD(Estt.)/LC/530 dated 05/04/2010).

The Law Commission consists of the Chairman, and the two Members.

Chairman

Shri Ramakant D. Khalap

Members

Shri Cleofato Coutinho

Shri Mario Pinto Almeida

The Law Commission is located at B S/1, 3rd Floor, Paraiso de Goa, Porvorim-Goa.

Secretarial Support

1. Shri Manohar Shetye, O.S.D. to Chairman/ Acting Secretary

The text of this Report is available on the internet
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Any enquiry relating to this Report should be addressed to the O.S.D. to Chairman/ Acting Secretary and sent either by post to the Law Commission, B S/1, 3rd Floor, Paraiso de Goa, Porvorim-Goa or email to chairman-glc.goa@nic.in or rdkhalap@rediffmail.com

REPORT

The Law Commission had submitted 2 Reports recommending Amendments to the Land Revenue Code 1968. Report No. 5 of the Commission dated 16th July 2009 had recommended amendments to sections 32, 96, 97, 98, 99, 100, 101, and 102 of the Land Revenue Code 1968. Report No. 7 of the Law Commission had recommended amendments to section 32 A, 33, and 97 of the Land Revenue Code, 1968. The sum and substance of the 2 Reports was to vest Mamlatdar of the Taluka with powers to effect mutation of Record of Rights and for settling all disputes relating to mutation as well as for certifying the mutations. Along with Report No. 5 the Law Commission had also submitted Draft Amendment Rules which would facilitate implementation of the amendments to the Land Revenue Code as passed by the House. Report No 7 in addition also proposed incorporation of the deeming clause in the Land Revenue Code providing for deemed conversion for residential purposes of all lands depicted as settlement zones in the Outline Development Plan/ Regional Plan duly notified subject to payment of conversion fees.

The Law Commission is happy to note that the Government of Goa accepted our Reports and proceeded to amend the Land Revenue Code on the lines of our suggestions. Act No 24 of 2009 and Act No 1 of 2010 were accordingly passed by the House. Thus, the Land Revenue Code stands amended as per Goa, Daman, and Diu Land Revenue Code (Amendment) Act 2009 (Act No. 24 of 2009) and Goa, Daman, and Diu Land Revenue Code (Amendment) Act 2010 (Act No 1 of 2010).

These amendments, on enforcement, will eliminate the delays in mutation of Land Records by creating a single window system for mutation of Land Records. This however, needs a proper set of rules for its implementation.

The Law Commission has held several meetings with the Collectors of the North and South Goa as well as the Joint Secretary, Law for the purpose of preparing a proper set of rules. We also considered the Draft Rules submitted by Shri Mihir Vardhan, Collector of North Goa.

The Rules must pertain to the following aspects:

- 1) An easy and expeditious methodology for reporting acquisitions of rights, acknowledgement of notices of acquisitions, inquiries, settlement of disputes if any and certification of the mutation entries.
- 2) Specific Rules for acquisition of rights pursuant to-
 - i) judgements of competent Courts.
 - ii) Death of an occupant, tenant or other right holder.
 - iii) Sub division of properties.

We have accordingly framed the Draft Rules in pursuance to the above and are pleased to request the government to adopt the same expeditiously. The salient feature of the Draft Rules is the time frame for disposal of applications for mutation.

We hope, that in case these Rules are adopted by the Government, general public can expect mutation of Record of Rights within a maximum period of say three months. The Rules will provide an opportunity to the Government to update the Record of Right particularly in matters of acquisition of rights upon the death of occupant, tenant or other right holder as well as land acquisition, and sub division.

It is common knowledge that the Record of Right which were prepared three decades ago have to a large extent remained un updated and the names of the deceased in particular continue to remain in the records for number of years. These Rules will also do away with the necessity of approaching Civil courts for Inventario in cases where there are no disputes among the heirs.

RECOMMENDATION

It is therefore recommended that the annexed set of rules be notified under the Goa, Daman, and Diu Land Revenue Code 1968 as amended vide The Goa, Daman, and Diu Land Revenue Code (Amendment) Act, 2009 (Act No 24 of 2009) and Goa, Daman, and Diu Land Revenue Code (Amendment) Act 2010 (Act No 1 of 2010).

We recommend accordingly.

**(Ramakant D. Khalap)
Chairman**

**(Cleofato Coutinho)
Member**

**(Mario Pinto Almeida)
Member**

DRAFT RULES

9. - Acknowledgement of reports under section 96 and Register of Mutations.

(1) On receipt of a report or intimation in writing under sections 96 or 102 or of death of occupant or of adjudication by any Court, or of acquisition of land under Land Acquisition Act 1984 or of Acquisition of Rights under Goa, Daman, and Diu Agricultural Tenancy Act, 1964 or Goa, Daman, and Diu Mundar (Protection from Eviction) Act 1976 along with the documents of acquisition of rights or of any other right title or interest in any immovable property situated within his jurisdiction and accompanied with correct and complete addresses of the interested parties, the Mamlatdar shall at once acknowledge its receipt in Form VIII and make separate entries in the mutation register in Form IX maintained for each village as per the report or intimation as the case may be.

10. Notices to interested parties

1. Within seven days of recording the report or intimation in Form IX the Mamlatdar shall

issue notices to the interested parties in Form X and shall also display a copy thereof on the Notice Board of the office of the Mamlatdar.

(2) Interested parties may waive notices by providing their no objection to the proposed mutation through their no objection duly supported by affidavits sworn before competent authority.

(3) No notice shall be issued when the land is acquired under the land acquisition Act 1894 or where a party acquires rights under Goa Daman Diu Agricultural Tenancy Act, 1964 and Goa, Daman, and Diu Mundkar (Protection from Eviction)Act 1976.

(4) Notices shall be served by registered post A.D or by courier services. Where the Mamlatdar is satisfied that the notices are not possible by Regd post or courier the Mamlatdar shall upon an application made by the applicant order notice to be published in any newspaper having a wide circulation in the locality.

The Mamlatdar shall issue notices for publication in a newspaper within 7 days of the application for such service .

(11) Objections-

(1)- In case, any objection is received against the proposed mutation entry, the Mamlatdar shall enter the objection in the register of disputed cases in Form No.....

(2)- The Mamlatdar shall issue notice in Form XII to the person who objects the mutation entry, and upon hearing the objector shall decide the said objection within a period of sixty days from the date of objection.

12- Certification of Mutation-

(1)- In case, however, the interested parties do not object to the proposed mutation within ten days of service of notice in person or through advertisement as the case may be or if the mutation application is accompanied with no objection in writing supported by an affidavit, the Mamlatdar shall proceed to confirm the mutation within ten days thereafter.

(2)- All decisions of the Mamlatdar shall be entered in Form IX and fees shall be charged as prescribed under Goa Land Revenue Code (Amendment) Act 2009. The entry shall be effected by bracketing the existing entry and entering the name of the persons who have acquired rights without any further notice.

(3)- The Mamlatdar shall enter certification under Form IX within ten days of receipt of the fees prescribed.

13) Mutation pursuant to judgement by competent Court.

(i) Whenever the title and/or occupancy of any land, house or other immovable property which bears a survey or sub division number or any part or fraction thereof is decided by a competent court by a judgment and decree, the person in whose favour the title and/or occupancy and/or possession has been adjudicated shall submit the certified copy of the said judgment and decree or certified copy of such adjudication to the Mamlatdar under whose jurisdiction the said Revenue Village falls.

(ii) Upon receipt of such a certified copy the Mamlatdar shall forth with make an order for payment of fees in terms of section 96 of the Goa Land Revenue Code and upon such payment the Mamlatdar shall make an entry about the mutation in the mutation register within ten days of payment of such fees.

14. Mutation upon death of an occupant

(1)- The Mamlatdar shall upon information being received by him in writing or otherwise that the "occupant tenant, or other right holder" of any holding has died the said Mamlatdar shall make inquiries or shall get inquiries made in the village about the surviving spouse if any of the deceased and about the legal representatives of the deceased entitled to inherit the deceased occupant. Such inquiries shall be completed within thirty days of receipt of information. The Report of Enquiry shall be entered in Form No. IX A.

(2)- Within ten days thereafter the Mamlatdar shall issue notices to the persons whose names have been ascertained,

calling upon them to file a statement on oath or produce any document establishing the name of the spouse of the deceased and the names of the legal representatives or other persons entitled by law to inherit the estate of the deceased within thirty days of receipt of such notice.

(3) Upon the Mamlatdar being satisfied through a summary inquiry about the veracity of such a statement the Mamlatdar shall make an entry in the mutation register by bracketing but not deleting the name of the deceased and entering the name of the spouse and or the legal representatives. The Mamlatdar shall complete the enquiry within sixty days and issue provisional certificate of inheritance in Form.....

(4) If any, of the persons entitled to inherit, produces any document from a Court to the effect that the estate and/or inheritance of the deceased occupant stands partitioned by a competent judgment and decree, the Mamlatdar shall make the entries in terms of the allotment or adjudication and in the event the said

holding to which the adjudication refers has been sub divided the Mamlatdar shall direct the Survey Authorities to effect the necessary updating /changes in the survey plan subject to payment of fees prescribed under section 96.

(5) Within ten days of such payment the Mamlatdar shall make an entry about the mutation in the mutation register. The names of the persons to whom the said areas stand allotted shall be effected by bracketing the existing entries.

15. Mutations pursuant to sub divisions:-

(1) Upon a sub division of a land holding being granted under the Town and Country Planning Act, any person interested may approach the Mamlatdar for mutation with the copy of Sub Division Plan.

(2) The Mamlatdar shall forward the plan to the Director of Land Survey for carrying out changes in the Plan as per Sub Division .

(3) Upon receipt of the copy of such a plan the Director of Land Survey shall within

fifteen days from the receipt of such plan carry out changes as per the said Sub Division Plan.

(4)The Director of Land Survey shall allot separate survey numbers or Sub Division numbers as the case may be to each Sub divided part and send a copy of the said plan to the Mamlatdar.

(5)- The Mamlatdar shall within fifteen days from the receipt of the Sub Division Plan from the Director Land Survey to make necessary entries in the Record of Rights after following the procedure under Rules 9 to 12.

(16) - A register prescribing Form 1 in Survey Plan indicating the boundary of each survey No. or sub division No in Form XV shall be maintained by the Survey Officer and the Revenue Officer.

