

## REPORT NO. 2

### AGRICULTURAL TENANCY ACT

1 The Goa, Daman and Diu Agricultural Tenancy Act 1964 is one of the land reforms legislations enacted by the Union territory of Goa, Daman and Diu in 1964. The Act was intended to secure tenure of agricultural tenants, to limit the rent payable by the tenants to the owners and to provide for common obligation of the cultivating tenants and their joint responsibilities of maintaining protective bunds, sluice gates, ponds and fisheries, water resources, etc. The Act was further amended to vest ownership rights of the tenanted land into the cultivating tenants. This amendment Act was called The Land to the Tillers Act. It fixed price of the land deemed to be purchased by the tenant.

1.1 It is observed that the tenants who have deemed to have purchased the tenanted lands are required to apply for certificate of purchase and to pay the price in lumpsum or in instalments.

1.2 The intention of the legislature in vesting of rights of tenanted land upon the tenants has largely remained unimplemented due to many factors. The revenue records of rights prepared under the Land Revenue Code provide that the entries in the Form No. 1 and 14 are presumed to be true until proved otherwise. This has lead to a conflict between the owners and tenants as the owners normally refuse to accept the entries in the Record of Rights and force the tenant to prove the tenancy under the Agricultural Tenancy Act. Almost four decades have passed since the Agricultural Tenancy act was enacted. Any objection to the tenancy rights if now raised will be difficult to answer. Wherever, the tenants are so declared by the Mamlatdars Court or admitted by the owner the purchase price is payable in lumpsum or in instalments. Invariably the purchase price is not immediately paid and the landowner has to continue to chase the tenant for recovery of purchase price. The Commission feels that a fund be created by the government through budgetary allocations. The purchase price could be in the first instance paid by the government if not paid by the tenant within a specified period and recover the same from the tenants

over a fixed period of time under a special scheme prepared by the government.

1.3 An agricultural tenant has certain joint responsibilities. These include repair and maintenance of agricultural bunds, channels, waterways, sluice gates, fishing rights, etc. This is covered under section 26 of the Agricultural Tenancy Act and section 42 provides the procedure for the discharge of the joint responsibilities of the tenant and for constitution and functions of the Tenants Associations. In view of the vesting of ownership rights in the tenants, the original agricultural tenant has become deemed purchaser. In short, he is now the owner of the land cultivated by him. As such, the provisions of the Tenancy Act are no more applicable to the tenant purchaser. He cannot now become or remain member of the Tenant Association. The Association in turn is unable to enforce the joint responsibilities of the erstwhile tenant upon the new tenant purchaser. In fact, the entire concept of the Tenant Association has become redundant as all tenants have become the owners of their land. The Commission feels that the Tenancy Act be appropriately amended to include tenant purchaser for the purpose of Section 42 A. This can be achieved by amending the explanation to section 42 A by including the words “deemed purchaser and” after the words “shall include”. This amended explanation would read as under.

Sec 42 A.....

Explanation- For the purpose of this section the “tenant” shall include deemed purchaser and every person who cultivates the land personally.

By now every eligible tenant by virtue of being deemed purchaser should have paid the price of the land and his name should have been deleted from the tenants column and entered in the occupants column in place of the owners name. How long should the tenants wait for the completion of this procedure?.

1.4 The Commission strongly recommends that a time bound programme for implementation of the Act in all respects must be chalked out. In another report we are proposing establishment of Revenue Courts on the

lines of Civil Courts to exclusively deal with tenancy and other cases. Pending the Constitution of Revenue Courts, the Government may forthwith by administrative order, bifurcate the work of the Mamlatdars into following three categories:

- a) Judicial work
- b) Election work
- c) All other administrative work

One or more Mamlatdars in the Taluka be designated as Mamlatdars (Judicial) directed to exclusively function as such. Similarly one of the Collectors/ Dy. Collectors be designated as Collectors/Dy Collectors (Judicial) with direction to exclusively function as appellate authority under the tenancy and other relevant laws.

## **2 RECOMMENDATION**

**2.1 It is therefore suggested that the Goa, Daman and Diu Mundkars (Protection from Eviction) Bill 2009 may be introduced in the forthcoming Assembly Session as proposed.**

**2.2 We recommend accordingly.**

**Sd/-**

**(Ramakant D. Khalap)**

**Chairman**

**Sd/-**

**(Cleofato Coutinho)**

**Member**

**Sd/-**

**(Mario Pinto Almeida)**

**Member**