

REPORT NO.5

REPORT

The Goa Land Revenue code, 1968 is a comprehensive Legislation which provides for Land survey, land classification, land revenue, land use, acquisition of rights, mutation of land records, etc.

Section 32 of the Land Revenue Code deals with the change of land use from one purpose to another. It prescribes and elaborates procedure for obtaining permission for conversion of use of land from one purpose to another. The process is cumbersome and time consuming.

The Town and Country Planning Act, 1974 provides for preparation of Regional Plan for whole of Goa and National development plan for planning and development areas. The regional plans are prepared taking into consideration the existence and proposed land use. It demarcates the areas for various categories depending upon the present and proposed land use. It thus divides the entire State of Goa into zones demarcated as Agriculture, Settlement, Industrial, Commercial, Educational and non development zones. Even though the existing use of land earmarked as above may be purely of agricultural use.

No permission is entitled for conversion of use of his land for any purpose demarcated in the Regional Plan or in the O.D.P. It therefore, stands to reason to expect that the holder of Agricultural land which is demarcated say as Settlement Zone should be able to seek its conversion from Agriculture to settlement as a matter of course. However, the existing provisions of Land Revenue Code Act make him go through rigorous procedure of Section 32 and Rules made there under. This consumes considerable time.

The Commission proposes to recommend amendment to Section 32 so as to provide easier route for the land holder to take the benefit of Regional Plan. Care, however has be taken not to deprive the State of its rightful revenue when the change of use takes place.

The Talathi is the lowest Official under the Land Revenue Code, who holds the charge and custody of Land Records in the Village. The Land Revenue Code has burdened him with various onerous duties. One among them being the power of enabling Mutation of the record of rights of the village.

The Talathi is usually poorly educated personnel, whereas Record of Rights are of great importance vesting in him the power of enabling the Mutation of the Record of Rights have come under severe criticism from various quarters.

Section 96 prescribes that any acquisition of right has to be first to be reported to the Talathi within three months from the date of such acquisition. Section 97, 98, 99, 100 and 101 also vest the Talathi with heavy burden of duties of maintaining the registers of mutation, dispersed cases of cultivation and crops and also empowers him in collecting fines and requisitioning of assistance in preparations of village maps etc. These provisions appraise to burden the Talathi more than even the Taluka Mamlatdar who is usually a Law graduate with sufficient expertise and training in Revenue matters. Being a petty official the Talathi is also prone to pressures of the powers that be. As such it is proposed that the power maintaining village registers and effecting mutation should vest in the Mamlatdar of the Taluka. Section 96 of Land Revenue Code is proposed to be amended. Sections 96 to 101 are given effect to through the Rules. The Commission therefore feels that the relevant Rules also to undergo changes to be in consonance with the proposed amendment to Section 96 to 101.

The Commission in its wisdom has drafted an amendment Legislation to the Land Revenue Code 1968 and the Rules framed there under to carry out the purposes mentioned in the legislation.

THE GOA LAND REVENUE CODE (AMENDMENT) BILL 2009
Bill No. Of 2009

A Bill further to amend the Goa Land Revenue Code 1968 (Act 9 of 1969),be it enacted by the Legislative Assembly of Goa in the Sixtieth Year of the Republic of India as follows:

1. Short title and commencement:-

- 1) This Act may be called the Goa Land Revenue Code (Amendment) Act, 2009
- 2) It shall come into force at once

2. Amendment to section 32: -

In the Goa Land Revenue Code, 1968 (Act 9 of 1969) (here after refer to as the Principal Act), after clause 7 insert clause 8 as under:-

“(8) Notwithstanding anything contained in clauses 1to 6 of this section, in case any land is demarcated as settlement zone in the outline development plan and the Regional Plan notified under the Town and Planning Act 1974, such lands shall be deemed to be converted to housing purpose, however no development work can commence in such land without payment of fees prescribed under the Act and Rules.

In case any development work is commenced without the payment of fees prescribed, the person commencing such work

shall be liable to pay such fine not exceeding the market value of the land as the Collector may, subject to the rules made in this behalf.

3. Amendment of Section 96 :-

In the Goa Land Revenue Code , 1968 (Act 9 of 1969) in Section 96 of the Principal Act the short title of the Section shall read as under: 96.- **Acquisition of rights to be recorded whenever reported or whenever the knowledge of death of an occupant comes to the knowledge of the Mamlatdar.**

And in the same section wherever the word “Talathi” appears the same shall stand “deleted” and the same shall stand substituted by the word **“Mamlatdar of the Taluka” in Section 96 of the said Act** and the words **“within three months”** appearing in section 96 shall stand deleted.

Similarly in the sections 97, 98, 99, 100, 101 wherever the word “Talathi” appears the same shall stand “deleted” and the same shall stand substituted by the word **“Mamlatdar” of the Taluka in Section 96 of the said Act**

Statement of Objects and Reasons

The Bill seeks to amend Section 32,96, 97, 98, 99, 100, 101 and 102 of the Land Revenue Act 1968 so as to facilitate development of housing in settlement areas and vest powers on the Mamlatdar of Taluka instead of the Talathi and further seeks to enable the Mamlatdar do take up mutations without any application specially in cases where other authorities have already adjudicated on issues and which are entitled to deal with .

The amendments are aimed at facilitating housing in settlement areas and the system of mutation which has so far been cumbersome and time consuming to the citizens.

The Bill seeks to achieve the above objects.

Financial Memorandum

The exact financial implication cannot be quantified.

The Commission proposes amendments to the relevant rules as follows:

Amendment to the Rules

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

(1) On receipt of a report either orally or in writing under section 96 about at once acknowledge its reception Form VIII and enter the mutation register in Form IX maintained for each village.

(2) As soon, as an intimation sent to him by the Registering officer under Section 102 is received, the Mamaltdar shall make a separate

entry in the mutation register about the mutation made by each document mentioned in such intimation.

(3) Where the acquisition of rights in any land is as a result of transfer of such land and such transfer cannot be made without the previous permission of any officer of Government, the Mamlatdar shall require the person making the report to him under section 96 to produce before him such permission or such evidence of the order by which such permission is given, within fifteen days. If such permission or evidence is produced, the Mamlatdar shall record this fact at the end of the entry in column 2 of the mutation register. If the permission is obtained but not produced or not at all obtained the Mamlatdar shall record this fact as aforesaid.

(4) Whenever the Mamlatdar receives from the Director of Settlement and land Records or officers superior to him:-

(i) Any intimation about the passing of any order as a result of which mutation has taken place; or

(ii) Any intimation about any hypothecation of any land for legal loan shall make an entry about the mutation in the mutation register.

5) Whenever the title and/or occupancy of any land, house or other immoveable 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 about such an adjudication and the Mamlatdar shall make an entry about the mutation in the mutation register.

6) Whenever there occasions a transfer by way of any legal document of the title and/or occupancy of any land, house or other

immoveable property which bears a survey or sub-division number or any part or fraction thereof , the person in whose favour the title and/or occupancy and/or possession has been transferred shall submit the said document to the Mamlatdar under whose jurisdiction the said Revenue Village falls and the Mamlatdar shall make an entry about the mutation in the mutation register.

a) In the event the transferor is the recorded occupant in the Form I & XIV of the Record of rights the Mamlatdar shall within thirty days from the receipt of the said intimation delete the name of the occupant and enter the name of the person in whose favour the title and/or occupancy has been adjudicated by the Court irrespective of any other formalities.

b) In the event the transferor is not the recorded occupant in the Record of Rights in that event the transferor shall also deliver to the Mamlatdar a copy of the document evidencing how the rights of the person recorded occupant have vested in the transferor or such other person against whom the said judgment is pronounced.

7. Where by any document which is registered under the Indian Registration Act or by any judgment and decree of the Civil Court any title and/or occupancy to any land, house or other immoveable 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 or transferred or assigned by any person and from the said document it is ascertainable through a map annexed to the said document that the area is sub-divided, the Mamlatdar under whose jurisdiction the same falls, shall within fifteen days from the receipt of the said document forward the same to the Directorate of Survey or such other Authorities to implement the said order and get the said survey corrected as per the said document and upon receipt from the Survey Department within fifteen days from the receipt of the report of the Survey authorities make the necessary entries after deleting the

old entries and wherever necessary after giving fresh sub-division or survey numbers and the Mamlatdar shall make the necessary entry/entries in the mutation register.

8. The Mamlatdar shall upon information being received by him in writing or otherwise that the "occupant" 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 and thereupon get a notice issued to the persons whose names have been ascertained to within thirty days from the receipt of such notice file a statement on oath or produce any document establishing the name of the spouse of the deceased and the names of the sons and daughters and other successors or other persons entitled by law to inherit the estate of the deceased and upon the Mamlatdar being satisfied about the veracity of such a statement the Mamlatdar shall make an entry in the mutation register by striking out but not deleting the name of the deceased and entering the name of the spouse and legal representatives.

Provided however if any of the persons entitled to inherit, produce any document from the Civil Court to the effect that the estate and 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 changes in the survey plan and thereafter upon the receipt of the same sub-division of the said holding in the records of the Survey the Mamlatdar shall make an entry about the mutation in the mutation register make the entries of the names of the persons to whom the said areas stand allotted.

9. Whenever the Town and Planning Authorities receive any application for sub-division of any holding and such sub-division is finally approved under the Town and Planning Act the authority granting the final NOC for sub-division shall cause a copy of the plan of said sub-division to be delivered to the Directorate of Land Survey and the Directorate of Land Survey shall within fifteen days from the receipt of such a final No Objection Certificate get the plans corrected as per the said sub-division. Upon the correction of the said survey records the Directorate of Land Survey shall forward the copy of the said sub-division to the Mamlatdar of Record of Rights or to the City Survey Authorities as the case may be and the Mamlatdar of Record of Rights or the City Survey authorities shall within fifteen days from the receipt of the same the Mamlatdar shall make an entry about the mutation in the mutation register and make the corrections in their Records .

In the event any advocate enrolled in the rolls of the Bar Council files an statement on oath of his having conducted title search with respect to the said holding and gives his legal opinion on oath as to the persons entitled to succeed in the estate of the deceased occupant the Mamlatdar shall on the basis of such a statement on oath submitted before the same direct the necessary changes to be made provided however the said statement on oath is preceded by a Public Notice inviting objections from persons interested and the public within fifteen days from the date of publication of such notice in two local newspapers one in English language and the other in vernacular language and the advocate certified that he has examined the objections and has come to the conclusion that the objections or claims are without any substance or that there have been no objections or claims from any persons with respect to the said holding or holdings the Mamlatdar shall on the basis of such a statement on oath shall make an entry about the mutation in the mutation register.

10. Whenever any authority under the Land Revenue Code grants any conversion Sanat a copy of the same shall be forwarded to the respective Mamlatdar and a copy shall be forwarded to the Directorate of land Survey and the Directorate of land Survey shall make an entry in the survey records depicting in the survey records the area which has been converted and also describe in the survey plan whether such conversion is residential, commercial, industrial or institutional or any other as per the conversion sanad and forward the copy of the plan so corrected to the Mamlatdar and the Mamlatdar shall within fifteen days of the receipt of such corrected survey plan incorporate the same in the Record of Rights

2 RECOMMENDATIONS

2.1 It is therefore suggested that the Goa Land Revenue Code (Amendment) Bill 2009 incorporating propositions made in the Reports may be introduced in the forthcoming Assembly Session.

2.2 We recommend accordingly.

Sd/-

(Ramakant D. Khalap)

Chairman

Sd/-

(Cleofato Coutinho)

Member

Sd/-

(Mario Pinto Almeida)

Member