

GOVERNMENT OF GOA

LAW COMMISSION

Appointment of all Junior Division Civil Courts in Goa as Controller and vesting District Court with the power of Appellate Authority by amending the Goa, Buildings, (Lease, Rent, and Eviction) Control Act, 1968.

Report No. 9

February 2010

LAW COMMISSION, GOA
(REPORT No. 9)

Appointment of all Junior Division Civil Courts in Goa as Controller and vesting District Court with the power of Appellate Authority by amending the Goa, Buildings, (Lease, Rent, and Eviction) Control Act, 1968.

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

The 2nd Law Commission was constituted for a period of one year in the first instance by Government Order No. 9/5/2008-LA/100 dated the 20th January, 2009 issued by the Law Department, Government of Goa.

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
www.goalawcommission.gov.in

Any enquiry relating to this Report should be addressed to the O.S.D. to Chairman 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

REPORT

Section 41 of The Goa, Daman, and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968 as amended from time to time referred hereinafter as Rent Control Act for brevity provides for constitution of Rent Controllers, Rent Tribunals, Appellate Boards and Administrative Tribunal for the purpose of adjudicating matters arising out of disputes between landlords and tenants.

The Government has followed the practice of appointing Dy. Collector as Rent Controller. The appointment of Dy. Collector as Rent Controller under Rent Control Act was perhaps done with hope that such officers would decide all matters arising under Rent Control Act expeditiously. It was also expected that landlords and tenants may not engage lawyers and that a Dy Collector could offer a congenial atmosphere for landlord-tenant litigations.

In practice however, it is seen that all disputes between landlords and tenants are fought like any other civil litigation with lawyers appointed by both parties. The Courts of the Rent Controller are also clogged. The issue of delays in deciding eviction cases was recently considered in a writ petition by the High Court. The Government has informed the High Court that they are considering appointment of Civil Courts as Rent Controller in order to expedite disposal of Rent cases. Fortunately for Goa we have Courts of Civil Judge Junior Division in all Talukas. If the Courts are vested with powers of Rent Controller and Rent Tribunal, the cases now pending before Rent Controller, in major towns of Goa will be distributed in all 11 Talukas and thereby save the precious time and money of the litigant.

Most of the Civil Courts in Goa have adequate number of judges. We feel that the litigant before the Civil Court will find it cheaper and expeditious to prosecute their cases before Civil Judges.

If this proposal is accepted consequential amendments will be required for appointment of Appellate Authorities keeping in view the hierarchy of Civil Court administration.

Recommendations:

The Law Commission is therefore pleased to recommend that

- 1) All Junior Division Civil Courts in Goa be appointed as Controller in place of Rent Controller and Rent Tribunal.
- 2) The District Courts be vested with Appellate Authority.

Draft Bill incorporating the above recommendations is enclosed for ready reference and appropriate decisions.

THE GOA BUILDINGS (LEASE, RENT AND EVICTION, CONTROL ACT (AMENDMENT) BILL 2010

(Bill No. of 2010)

AN ACT

Further to amend the Goa Buildings (Lease, Rent and Eviction) Control Act, 1968(Act 2 of 1969).

Be it Enacted by the Legislative Assembly of the State of Goa in the Sixtieth Year of the Republic of India, as follows:-

1. Short title and commencement.-This act may be called the Goa Buildings (Lease, Rent and Eviction) Control (Amendment) Act 2010

2. It shall come in force at once

3. (a) Amendment to Section 2 of the principal Act

(i) Delete sub section (a), (c), and (o) of section 2

(ii) Replace sub section (d) with the following

Authorized Officer means an Officer appointed by the Government for performing functions under Chapter II.

(iii) Replace sub section (f) of section 2 as under-

(f) “Controller” means a person appointed as a Civil Judge Junior Division appointed in the Court of the Civil Judge Junior Division having territorial jurisdiction over that area under the Goa Civil Courts Act 1965.

4. Amendment to section 12

The words “Rent Tribunal” appearing in section 12 be replaced by “Controller”.

5. Amendment to section 33

The words Rent Tribunal appearing in section 33 be substituted by “Controller”.

6. Amendment to section 37

The words “Rent Tribunal” appearing in section 37 be substituted by the word “Controller”.

7. Amendment to section 38

The words “Rent Tribunal” appearing in section 38 be substituted by the word “Controller”.

8. Amendment to section 39

The words “Rent Tribunal” appearing in section 39 be substituted by the word “Controller”.

9. Amendment to section 41

Section 41 be replaced with the following

1. From every order other than an interim order passed by the Controller or by the authorized Officer an appeal shall lie to the District Court.

10. Amendment to section 42

Replace existing section 42 with the following

Transfer of proceedings

The District Court may after giving due notice to the parties and after giving them a reasonable opportunity of being heard, transfer any proceedings from one Controller to another Controller within the District.

11. Amendment to section 43

Replace existing section 43 with the following.

Limitations

- (i) The limitation period for filing appeal shall be 30 days from the date of the order.

(ii) The provision of Indian Limitation Act 1963 shall be applicable to this Act.

12. Amendment to section 44

Substitute the following

Section 44 - The Controller shall follow the provision of the Civil Procedure Code in all disputes and proceedings filed before it and endeavour to dispose such proceedings within the period of 18 months from the date such proceedings are filed.

13. Amendment to section 45

Replace existing section 45 with the following

Pending proceedings.

Section 45 –

(i) All proceedings pending before the Controller/ and Rent Tribunal (as defined by the pre amendment Act) immediately before the Goa Buildings (Lease, Rent and Eviction) Control (Amendment) Act 2010 shall on such commencement stand transferred to the concerned Controller. The Controller may proceed to deal with such proceedings from the stage which was reached before such transfer or from any earlier stage or de novo as such Controller may deem fit .

(ii) All appeals pending before the Administrative Tribunal shall stand transferred to the District Court and the District Court may proceed to deal with such cases and/or matters and/or proceedings from the stage which was reached before such transfer or from any earlier stage or de novo as such Controller may deem fit .

14. Amendment to section 46

Substitute section 46 with the following.

The District Court may in exceptional circumstances, on the application of any party, call for and examine the records relating to any order passed or proceedings under this Act for the purpose of satisfying itself as to the correctness, legality or propriety of such order or proceedings and may pass such order thereon as it thinks fit:

Provided that no such record shall be called for after the expiry of ninety days from the date of the order.

15. Amendment to Section 47

The words “Rent Tribunal” appearing in section 47 be deleted.

16. Amendment to Section 58

The words “Rent Tribunal and Appellate Board” be deleted and the words “Administrative Tribunal” be substituted by District Court”.

2. RECOMMENDATION

2.1 It is therefore suggested that The Goa Buildings (Lease, Rent, and Eviction) Control (Amendment) Bill 2010 may be introduced in the forthcoming Assembly Session as proposed.

2.2 We recommend accordingly.

**(Ramakant D. Khalap)
Chairman**

**(Cleofato Coutinho)
Member**

**(Mario Pinto Almeida)
Member**