

LL.B. SEMESTER –VI**LAND LAWS INCLUDING TENURE AND TENANCY SYSTEM****UNIT -I**

THE MADHYA PRADESH LAND REVENUE CODE 1959 is an act to consolidate and amend the law relating to land revenue, the powers of Revenue Officers, rights and liabilities of holders of land from the State Government agricultural tenures and other matters relating to land and the liabilities incidental there to in Madhya Pradesh.

THE M. P. LAND REVENUE CODE, 1959

(M. P. Act No. 20 of 1959)

The Madhya Pradesh Land Revenue Code, 1959.

It extends to the whole of Madhya Pradesh but nothing contained in this Code except the provisions relating to liability of land for payment of land revenue, the assessment of land revenue with reference to the use of land, realisation of land revenue and all provisions ancillary thereto shall apply to such areas as may, from time to time, be constituted as reserved or protected forest under the Indian Forest Act, 1927 (XVI of 1927)

Provided that the aforesaid provisions of the Code shall apply with reference to the use of land in such areas for one or more of the purposes specified in Section 59.]

This Code shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions.— (1) In this Code, unless there is anything repugnant to the subject or context, —

(a) "**abadi**" means the area reserved from time to time in a village in a nonurban area for the residence of the inhabitants thereof or for purposes ancillary thereto, and any other local equivalent of this expression such as "village site" or "gaonsthan" shall also be construed accordingly;

(b) "**agricul ture**" includes—

(i) the raising of annual or periodical crops including betel leaves (Pan) and water nut s (*singhara*) and garden produce;

(ii) horticulture;

(iii) the planting and upkeep of orchards; and

(iv) the reserving of land for fodder, grazing or thatching grass;

(v) the use of land for poultry, fisheries or animal husbandry in an area situated more than five kilometres away from the periphery of urban areas;]

(c) "**agricul tural year**" means the year commencing on the first day of July or such other date as the State Government may, by notification, appoint;

(d) "**Board**" means the Board of Revenue constituted under Section 3; .

(e) "**bonaf ide agricul turi st** " means a person who cultivates land personally

or who may reasonably be expected to cultivate personally;

(f) "*co-operative society*" means a society registered as such under any law relating to Co-operative Societies in force for the time being in any region of the State;

(g) "*Government forest*" means a forest constituted as a reserve forest or protected forest in accordance with the provisions of the Indian Forest Act, 1927 (XVI of 1927) ;

(h) "*Government lessee*" means a person holding land from the State Government under Section 181;

(i) "*holding*" means —

(i) a parcel of land separately assessed to land revenue and held under one tenure; and

(ii) in reference to land held by a tenant a parcel of land held from a bhumi swami under one lease or set of conditions;

(j) "*improvement*" means with reference to a holding, -any work which adds materially to the value of the holding which is suitable thereto and consistent with the purpose for which it is held and which, if not executed on the holding, is either executed directly for its benefit or is after execution, made directly beneficial to it; and, subject to the foregoing provisions, includes —

(i) The construction of tanks, wells, water channels, embankments and other works for storage, supply or distribution of water for agricultural purposes;

(ii) The construction of works for the drainage of land or for the protection of land from floods, or from erosion or other damage from water;

(iii) The planting of trees and the reclaiming, clearing, enclosing, levelling or terracing of land;

(iv) The erection of buildings on or in the vicinity of the holding, elsewhere than in the abadi or urban area, required for the convenient or profitable use or occupation of the holding; and

(v) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto;

but does not include —

(a) temporary wells and such water channels, embankments, levelling, enclosures or other works or petty alterations in or repairs to such works, as are commonly made by cultivators of the locality in the ordinary course of agriculture; or

(b) any work which substantially diminishes the value of any land, wherever situated, in the occupation of any other person, whether as bhumiswami or occupancy tenant;

Explanation. —A work which benefits several holdings may be deemed to be an improvement with respect to each of such holdings;

(k) "*land*" means a portion of the earth's surface whether or not under water ;

and, where land is referred to in this Code, it shall be deemed to include all things attached to or permanently fastened to any thing attached to such land;

(l) "**landless person**" means a person who is bonafide agriculturist and who whether individually or jointly with other members of his family hold no lands or land less than the area which may be prescribed in this behalf;

Explanation.— For purposes of this clause the family of a person shall be deemed to consist of his spouse, issue and parents.

(m) "**land records**" means records maintained under the provisions of this Code;

(n) "**legal practitioner**" means any person entitled to practice in any of the Courts in Madhya Pradesh under the Legal Practitioners Act, 1879 (XVII I of 1879)¹, or under any other law for the time being in force;

(o) "**mango grove**" means mango trees planted in such numbers that they preclude or when full grown are likely to preclude the land on which they stand or any major portion thereof from being used primarily for any purpose other than planting of trees;

(oa) "**market Value**" means the value of land assessed according to guidelines issued by the Collector under the Madhya Pradesh Bajar Mulya Margdarshak Siddhanton ka Banaya Jana Tatha. Unka Punrikshan Niyam, 2000 made under the Indian Stamp Act, 1899 (No. 2 of 1899) ;]

(p) "**orchard**" means fruit trees planted in such numbers that they preclude or when full grown are likely to preclude the land on which they stand or any major portion thereof from being used primarily for any purpose other than planting of trees;

(q) "**plot number**" means a portion of land in urban area formed into or recognised as a plot number under Section 93, in respect of which the area and the land revenue payable are separately entered in the prescribed records under an indicative number and includes any portion of land entered in the previous records under an indicative number known as khasra or survey number;

(r) "**recognised agent**" in reference to a party to a proceeding under the Code means—

(i) a person authorised under a power of attorney by such party to make appearance and applications and to do other acts on his behalf in such proceedings; and

(ii) a person authorised in writing by such party to make appearance on his behalf in such proceedings;

(s) "**region**" means the Mahakoshal region, the Madhya Bharat region, the Bhopal region, the Vindhya Pradesh region and the Sironj region, or any of these, as the case may be;

(t) "**rents**" means whatever is paid or is payable in money or in kind —

(i) by an occupancy tenant to his bhumiswami according to the provisions of Section 188 or by a lessee to his bhumiswami on

account of the use or occupation of land held by him from such bhumiswami; or

(ii) by a Government lessee to the Government on account of the use or occupation of land leased out to him by the Government;

(u) "**Revenue Officer**" in any provision of this Code means such Revenue Officer as the State Government may, by notification, direct to discharge the functions of a Revenue Officer under that provision;

(v) "**revenue year**" means the year commencing on such date as the State Government may, in the case of any special local area, by notification, appoint;

(w) "**sub-division of a survey number**" means a portion of a survey number in respect of which the area and the land revenue payable are separately entered in the land records under an indicative number subordinate to that of the survey numbers of which it is a portion;

18

(x) "**survey number**" means a portion of land in non-urban area formed into, or recognised as a survey number at the last preceding revenue survey, or subsequently recognised as such by the Collector, in respect of which the area and land revenue payable are separately entered under an indicative number in the land records; and includes, any portion of land entered in the land records under an indicative number known as the khasra number ;

(y) "**tenant**" means a person holding land from a bhumiswami as, an occupancy tenant under Chapter XIV;

(z) "**tenure-holder**" means a person who holds land from the State Government and who is or is deemed to be bhumiswami under the provisions of this Code;

(z-1) "**timber trees**" means trees of the following species, namely : --

(i) *Tectona grandis* (sagwan);

(ii) *Pterocarpus Marsumpium* (bija);

(iii) *Dalberia latifolia* (shisham) ;

(iv) *Shorea robusta* (sal) ;

(v) tinsa;

(vi) *Terminalia tomentosa* (ain or saj);

(vii) *Santalum album* (Chandan) ;

[(viii) *Adina Cordifolia* (Haldu) ;

(ix) *Mitragyna Parviflora* (Mundi) ;

(x) *Terminalia Arjuna* (Arjun) ;

(xi) *Diaspyros melaxylon* (Tendu);

(xii) *Gmelina arborea* (khamhar) .]

(z-2) "**to cultivate personally**" means to cultivate on one's own account —

(i) by one's own labour; or

19

(ii) by the labour of any member of one's family; or

(iii) by servants on wages payable in cash or kind but not in crop

share; or

(iv) by hired labour under one's personal supervision or the personal supervision of any member of one's family;

(z-3) "*unoccupied land*" means the land in a village other than the abadi or service land, or the land held by a bhumi swami, a tenant or a Government lessee;

(z-4) "*urban area*" means the area for the time being included within the limits of any municipal corporation or any municipality or notified area constituted under any law for the time being in force relating to municipalities or any village or group of villages which may be specified by the State Government as urban area; and the expression "non-urban area" shall be construed accordingly;

(z-5) "*village*" means any tract of land which, before the coming into force of this Code, was recognised as or was declared as -a village under the provisions of any law for the time being in force and any other tract of land which is hereafter recognised as a village at any revenue survey or which the State Government may, by notification, declare to be a village.

(2) Any reference made in this Code to the date of coming into force of this Code shall be construed as a reference to the date appointed by notification under sub-section (3) of Section 1.

UNIT -II

BOARD OF REVENUE- CHAPTER II OF ACT

3. Constitution of Board of Revenue.— (1) There shall be a Board of Revenue for Madhya Pradesh consisting of a President and two or more other members as the State may, from time to time, think fit to appoint.

(2) The Board of Revenue as constituted and functioning for the several regions of this State immediately before the coming into force of this Code, hereinafter in this chapter referred to as the existing Board, shall with effect from the date of coming into force of this Code, be deemed to be the Board of Revenue for Madhya Pradesh constituted under this section.

(3) The President and members of the existing Board shall be the first President and members respectively of the Board of Revenue for Madhya Pradesh.

4. Principal seat and other places of sittings of Board of Revenue.— (1)

The principal seat of the Board shall be at such place as the State Government may, by notified order, appoint.

(2) Notwithstanding anything contained in sub-section (1), the President and members of the Board may also sit at such other place or places as the President and the Board may with the approval of the State Government, appoint.

5. Conditions of service of members of Board.— (1) When any member is, by reason of absence or otherwise, unable to perform the duties of his office, the State Government may, by notification, appoint any person to be, for the time being, a member of the Board.

(2) Except as expressly provided by this Code, the terms and conditions of service of the President and members of the Board shall be such as may be prescribed and the terms and conditions laid down by the State Government for the President and members of the existing Board shall continue in force until modified or superseded under this section.

(3) A person shall not be qualified for appointment as a member of the Board unless he —

(a) is eligible for appointment as a Judge of the High Court; or

(b) has been a Revenue Officer, and has held, for at least five years, an office not lower in rank than that of a Collector.

6. Salaries and allowances.—There shall be paid to the members of the Board such salaries and allowances as the State Government may determine and those salaries and allowances shall be charged on the consolidated fund of the State.

7. Jurisdiction of Board. — (1) The Board shall exercise the powers and discharge the functions conferred upon it by or under this Code and such functions of the State Government as may be specified by notification by the State Government in that behalf and such other functions as have been conferred or may be conferred by or under any Central or State Act on the Chief Revenue Authority or the Chief Controlling Revenue Authority.

(2) The State Government may, subject to such conditions as it may deem fit to impose, by notification, confer upon, or entrust to the Board or any member of the Board additional powers or functions as assigned to the State Government by or under any enactment for the time being in force.

8. Powers of Superintendence of Board.—The Board shall, in respect of all matters subject to its appellate or revisional jurisdiction, have superintendence over all authorities in so far as such authorities deal with such matters and may call for returns.

9. Exercise of jurisdiction by single members and benches.— The Board may make rules for the exercise of powers and functions of the Board by benches constituted of one or more members thereof, and all decisions given by such benches in exercise of such powers or functions shall be deemed to be the decisions of the Board.

10. Cases pending at commencement of Code.—All appeals, applications for revision and other proceedings pending before the existing Board immediately before the coming into force of this Code shall be heard and decided by the Board.

(2) (a) All cases of

(i) First appeal against the order of the Collector whether exercising the powers of Collector or Settlement Officer during the currency of settlement, pending before the Board;

(ii) Second appeal against the order of the Sub-Divisional Officer or the Collector pending before the Board;

(iii) Second appeal against the order of the Sub-Divisional Officer pending before the Collector ;

shall stand transferred to the Commissioner ;

(b) All cases of revision, review and other proceedings which stood transferred to the Board from the Commissioner after 23rd November, 2002 and pending before the Board, shall stand transferred to the Commissioner ;

(c) In the case of revision instituted on an application made by any party after 23rd November, 2002 and pending before the Board the party may make an application for transfer of such case to the Commissioner and if such an application is made, the Board shall transfer the case to the Commissioner .]

UNIT -II

REVENUE OFFICERS, THEIR CLASSES AND POWERS - CHAPTER II I OF ACT

11. Revenue Officers.—There shall be the following classes of the Revenue Officers, namely : —

Commissioners (including Additional Commissioners) ;
 Settlement Commissioner (including Additional Settlement Commissioners);
 Collectors (including Additional Collectors) ; Settlement Officers ;
 Sub-Divisional Officers;;
 Assistant Collectors;
 Joint Collectors (including Deputy Collectors) ;
 Deputy Settlement Officers;
 Assistant Settlement Officers ;
 Tahsildars (including Additional Tahsildars) ;
 Superintendents of Land Records;
 Naib Tahsildars;
 Assistant Superintendents of Lands Records.

12. Control over Revenue Officers.— (1) All Revenue Officers shall be subordinate to the State Government.

(2) All Revenue Officers in a Division shall be subordinate to the Commissioner .

(3) Unless the State Government otherwise directs all Revenue Officers in a district shall be subordinate to the Collector .

13. Power to alter, create or abolish divisions , districts, sub-divisions and tahsil s.—

(1) The State Government may create divisions comprising of such districts as it may deem fit and may abolish or alter the limits of such divisions.

(2) The State Government may alter the limits of any district or tahsil and may create new, or abolish existing districts or tahsils, and may divide any district into sub-divisions and may alter the limits of or abolish, any sub-division Provided that the State Government before passing any orders under this section on any proposal to alter the limits of any division or district or tahsil or to create new or abolish existing divisions , districts or tahsils, shall publish in the prescribed form such proposals for inviting objections and shall take into consideration any objections to such proposal.

(3) Subject to the orders of the State Government under sub-section (2),

every tahsil shall be deemed to be a sub-division of a district .

14. Power to appoint Commissioners of divisions.— (1) The State Government shall appoint in each division a Commissioner who shall exercise therein the powers and discharge the duties conferred and imposed on a Commissioner by or under this Code or by or under any other enactment for the time being in force.

(2) The State Government may, subject to such condition as it may deem fit to impose, by notification, confer upon the Commissioner any of the powers or functions assigned to the State Government by or under any enactment for the time being in force.

15. Power to appoint Additional Commissioner.— (1) The State Government may appoint an Additional Commissioner in a division or in two or more divisions.

(2) An Additional Commissioner shall exercise such powers and discharge such duties conferred and imposed on a Commissioner by or under this Code or by under any other enactment for the time being in force in such cases or class of cases as the State Government may, by a general order, notify or as the Commissioner of the division may, subject to any general or special restrictions imposed by the State Government, by an order in writing direct.

(3) This Code and every other enactment for the time being in force and any rule made under this Code or any such other enactment shall, except where expressly directed otherwise, apply to the Additional Commissioner when exercising any powers or discharging any duties under sub-section (2) as if he were the Commissioner of the division.

16. Power to appoint Collector.— The State Government shall appoint in each district a Collector who shall exercise therein the powers and discharge the duties conferred and imposed on a Collector by or under this Code or any other enactment for the time being in force.

17. Power to appoint Additional Collectors.—(1) The State Government may appoint one or more Additional Collector in a district.

(2) An Additional Collector shall exercise such powers and discharge such duties conferred and imposed on a Collector by or under this Code or by or under any other enactment for the time being in force, in such cases or class of cases as the State Government may, by a general order, notify or as the Collector of the district may, subject to any general or special restrictions imposed by the State Government, by an order in writing direct.

(3) This Code and every other enactment for the time being in force and any rule made under this Code or any such other enactment shall, except where expressly directed otherwise, apply to the Additional Collector, when exercising any powers or discharging any duties under sub-section (2), as if he were the Collector of the district.

18. Appointment and powers of Assistant Collectors, Joint Collectors and Deputy Collectors.— The State Government may appoint for each district as many persons as it thinks fit to be —

(i) Assistant Collectors of the first and second grades;
 (ii) Joint Collector s; and
 (iii) Deputy Collector s,
 who shall exercise such powers as the State Government may, by notification, direct.

19. Appointment of Tahsildars , Additional Tahsildars and Naib

Tahsildars.— (1) The State Government may appoint in each tahsil a Tahsildar and one or more Naib-Tahsildars who shall exercise therein the powers and perform the duties conferred or imposed on them by or under this Code or under any other Enactment for the time being in force.

(2) The State Government may appoint one or more Additional Tahsildars in a tahsil. An Additional Tahsildar shall exercise such power and discharge such duties conferred or imposed on a Tahsildar by or under this Code or by or under any other enactment for the time being in force as the Collector of the district may by an order in writing direct.

20. Appointment of Superintendents of Land Records and Assistant

Superintendents of Land Records.— (1) The State Government may appoint to each district as many persons as it thinks fit, to be Superintendents of Land Records and Assistant Superintendents of Land Records .

(2) The Superintendents and Assistant Superintendents of Land Records shall exercise the powers and perform the duties conferred and imposed on them by or under this Code or any other enactment for the time being in force.

21. Other Officers.— (1) The State Government may appoint such other officers and invest them with such power as may be necessary to give effect to the provisions of this Code.

(2) Such officers shall discharge such duties and be subordinate to such authorities as the State Government may direct.

22. Sub-Divisional Officers.-(1) The Collector may place one or more Assistant Collector s or 3[Joint Collector or Deputy Collector] in-charge of a subdivision of a district or in-charge of two or more sub-divisions of a district.

(2) Such Assistant Collector or 1[Joint Collector or Deputy Collector] shall be called a Sub-Divisional Officer and shall exercise such powers of a Collector as the State Government may, by notification, direct.

23. Subordination of Revenue Officers.—Unless the Collector otherwise directs, every Revenue Officer in a sub-division shall be subordinate to the Sub-Divisional Officer and a Naib-Tahsildar in a tahsil shall be subordinate to the Tahsildar .

24. Conferral by State Government of powers of Revenue Officers on Officials and other persons.—

(1) The State Government may confer on any person the powers conferred by or under this Code on any Revenue Officer .

(2) The State Government may confer on any Assistant Collector , Tahsildar or Naib-Tahsildar the powers conferred by this Code on a Revenue Officer of a higher grade.

25. Powers exercisable on transfer.—If any Revenue Officer, who has been

invested with any powers under this Code in any tahsil or district, is transferred to an equal or higher office of the same nature in any other tahsil or district, he shall, unless the State Government otherwise directs, exercise the same powers under this Code in such other tahsil or district.

26. Collector in case of temporary vacancy.— If the Collector dies or is disabled from performing his duties, the officer who is temporarily placed in charge of the current duties of the Collector shall be held to be the Collector under this Code until the State Government appoints a successor to the Collector so dying or disabled and such successor takes charge of his appointment.

UNIT -II

PROCEDURE OF REVENUE OFFICERS AND REVENUE COURTS- CHAPTER IV OF THE ACT

27. Place of holding enquiries.— Except for reasons to be recorded in writing, no Revenue Officer shall enquire into, or hear, any case at any place outside the local limits of his jurisdiction

Provided that a Sub-Divisional Officer may enquire into, or hear, any case at any place within the district to which he is appointed.

28. Power to enter upon and survey land.—All Revenue Officers, Revenue Inspectors, measurers and patwaris and when under their observation and control, their servants and workmen when so directed, may enter upon and survey land and demarcate boundaries and do other acts connected with their duties under this Code or any other enactment for the time being in force and in so doing shall cause no more damage than may be required for the due performance of their duties :

Provided that no person shall enter into any building or upon any enclosed Court or garden attached to a dwelling house, unless with the consent of the occupier thereof, without giving such occupier at least twenty-four hours' notice, and in making such entry due regard shall be paid to the social and religious sentiments of the occupier.

29. Power to transfer cases. --:(1) Whenever it appears to the Board that an order under this section is expedient for the ends of justice, it may direct that any particular case be transferred from one Revenue Officer to another Revenue Officer of an equal or superior rank in the same district or any other district.

(2) The Commissioner, on an application made to him in this behalf may, if he is of opinion that it is expedient for the ends of justice, order that any particular case be transferred from a Revenue Officer to another Revenue Officer of an equal or superior rank in the same district or any other district in the same division.

30. Power to transfer cases to and from subordinates- (1) 2A Collector or a Sub-Divisional Officer, may make over any case or class of cases arising under the provisions of this Code or any other enactment for the time being in force, for a decision from his own file to any Revenue Officer subordinate to him competent to decide such case or class of cases, or may withdraw any case or class of cases from any such Revenue Officer and may deal with such case or class of cases himself or refer the same for disposal to any other Revenue Officer subordinate to him competent to decide such case or class of cases.

(2) A Commissioner, a Collector, a Sub-Divisional Officer, or a Tahsildar may make over for inquiry and report any case or class of cases arising under the

provisions of this Code or any other enactment for the time being in force from his own file to any Revenue Officer subordinate to him.

31. Conferral of Status of Courts on Board and Revenue Officers. -The Board or a Revenue Officer, while exercising power under this Code or any other enactment for the time being in force to enquire into or to decide any question arising for determination between the State Government and any person or between parties to any proceedings, shall be a Revenue Court.

32. Inherent power of Revenue Courts. - Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Revenue Court to make such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the Court.

33. Powers of Revenue Officers to require attendance of persons and production of documents and to receive evidence.- (1) Subject to the provisions of Sections 132 and 133 of the Code of Civil Procedure, 1908 (V of 1908) and to rules made under Section 41, every Revenue Officer acting as a Revenue Court shall have power to take evidence, to summon any person whose attendance he considers necessary either to be examined as a party or to give evidence as a witness or to produce any document for the purposes of any inquiry or case arising under this Code or any other enactment for the time being in force.

(2) No person shall be ordered to attend in person, unless he resides —

- (a) within the limits of the tahsil if the Revenue Officer acting as a Revenue Officer is a Naib-Tahsildar and in the case of any other Revenue Officer, within the local limits of his jurisdiction; or
- (b) without such limits but at a places less than fifty, or where there is a railway communication or other established public conveyance for five-sixths of the distance between the place where he resides and the place where he is summoned to attend, less than two hundred miles distant from such place.

(3) Any person present may be required by any such Revenue Officer to give evidence or to produce any document then and there in his possession or power.

(4) Every such Revenue Officer shall have power to issue a commission to examine any person who is exempted from attending Court or who cannot be ordered to attend in person or is unable to attend on account of sickness or infirmity.

34. Compelling attendance of witness.— If any person on whom a summons to attend as witness or to produce any document has been served falls to comply with the summons, the officer by whom the summons has been issued under Section 33 may —

- (a) Issue available warrant of arrest;
- (b) Order him to furnish security for appearance; or
- (c) Impose upon him a fine not exceeding rupees [one thousand].

35. Hearing in absence of party.— (1) If on the date fixed for hearing a case or proceeding, a Revenue Officer finds that a summons or notice was not served on any party due to the failure of the opposite party to pay the requisite process fees for such service, the case or proceeding may be dismissed in default of payment of such process fees.

(2) If any party to a case or proceeding before a Revenue Officer does not appear on the date fixed for hearing after due service of a notice or summons on him the case may be heard and determined in his absence or may be dismissed in default, as the case may be.

(3) The party against whom any order is passed under sub-section (1) or (2) may apply along with his affidavit within thirty days from the date of such order or knowledge of the order in case the notice or summons was not duly served to have it set aside on the ground that he was prevented by any sufficient cause from paying the requisite process fees for service of a summons or notice on the opposite party or from appearing at the hearing and the Revenue Officer may, after notice to the opposite party which was present on the date on which such order was passed and after making such inquiry as he considers necessary, set aside the order passed.

(4) Where an application filed under sub-section (3) is rejected, the party aggrieved may file an appeal to the authority to whom an appeal lies from an original order passed by such officer.

(5) Except as provided in sub-section (4) or except where a case or proceeding before any Revenue Officer has been decided on merits, no appeal shall lie from an order passed under this section.

36. Adjournment of hearing.— (1) A Revenue Officer may, from time to time, for reasons to be recorded and on such terms as to costs, adjourn the hearing of a case or proceeding before him :

Provided that each party may be granted not more than three adjournments during the entire hearing of the case and each such adjournment should be granted only with cost.]

(2) The date and place of an adjourned hearing of a case or proceeding shall be intimated at the time of the adjournment to such of the parties and witnesses as are present.

37. Power to award costs —A Revenue Officer may award costs incurred in any case or proceeding arising under this Code or any other enactment for the time being in force in such manner and to such extent, as he thinks fit

Provided that the fees of a legal practitioner shall not be allowed as costs in any such case or proceeding, unless such officer considers otherwise for reasons to be recorded by him in writing.

38. Manner of executing order to deliver possession of immovable property. — Where any person against whom an order to deliver possession of immovable property has been passed under this Code such order shall be executed in the following manner , namely : —

(a) by serving a notice on the person or persons in possession requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land; and

(b) if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same; and

(c) if the officer removing any such person is resisted or

obstructed by any person, the Revenue Officer shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance or obstruction still continues, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, take or cause to be taken, such steps and use, or cause to be used, such force as may, in the opinion of such officer, be reasonably necessary for securing compliance with the order.

39. Persons by whom appearances and applications may be made before and to Revenue Officers. — Save as otherwise provided in any other enactment for the time being in force, all appearances before, applications to and acts to be done before any Revenue Officer under this Code or any other enactment for the time being in force may be made or done by the parties themselves or by their recognised agents or by any legal practitioner

Provided that subject to the provisions of Sections 132 and 133 of the Code of Civil Procedure, 1908 (V of 1908), any such appearance shall, if the Revenue Officer so directs, be made by the party in person

Provided further that appearance alone may be made by a recognised agent falling under item (ii) of clause (r) of sub-section (1) of Section 2.

40. Effect of rules in Schedule I.— The rules in Schedule I shall have effect as if enacted in the body of this Code until annulled or altered in accordance with the provisions of this Chapter.

41. Power of Board to make rules. — (1) The Board may, from time to time, make rules consistent with the provisions of this Code regulating the practice and procedure of the Board and the procedure to be allowed by other Revenue Courts and may by such rules annul, alter or add to all or any of the rules in Schedule I.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1), such rules may provide for all or any of the following matters, namely

- (a) The service of summons, notices and other processes by post or in any other manner either generally or in any specified areas, and the proof of such service;
- (b) The regulation of power of Revenue Officers to summon parties and witnesses and the grant of expenses to witnesses;
- (c) The regulation of recognised agents with regard to appearances, applications and acts done by them in proceedings under this Code;
- (d) Procedure to be observed in effecting attachment of movable and immovable properties;
- (e) Procedure for publishing, conducting, setting aside and confirming sales and all ancillary matters connected with such proceedings;
- (f) The maintenance and custody, while under attachment, of live-stock and other movable property, the fees payable for such maintenance and custody, the sale of such live-stock and property and the proceeds

of such sale;

(g) Consolidation of appeals and other proceedings;

(h) All forms, registers, books, entries and accounts which may be necessary or desirable for the transaction of the business of Revenue Courts;

(i) The time within which, in the absence of any express provision, appeals or applications for revision may be filed;

(j) The cost of and incidental to any proceedings;

(k) Examination of witnesses on commission and payment of expenses incidental to such examination;

(1) Licensing of petition-writers and the regulation of their conduct.

(3) Such rules shall be subject to the condition of previous publication and approval of the State Government, and after they are so made and approved they shall be published in the Gazette, and shall, from the date of publication or from such other date as may be specified, have the same force and effect as if they were contained in Schedule I.

42. Orders of Revenue Officer when reversible by reason of error or

irregularity. — No order passed by a Revenue Officer shall be reversed or altered in appeal or revision on account of any error, omission or irregularity in the summons, notice, proclamation, warrant or order or other proceedings before or during enquiry or other proceedings under this Code, unless such error, omission, or irregularity has in fact occasioned a failure of justice.

Explanation. — In determining whether any error, omission or irregularity in any proceedings under this Code has occasioned a failure of justice regard shall be had to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

43. Code of Civil Procedure to apply when no express provision made in

this Code.— Unless otherwise expressly provided in this Code, the procedure laid down in the Code of Civil Procedure, 1908 (V of 1908) shall, so far as may be, be followed in all proceedings under this Code.

UNIT -II

APPEAL, REVISION AND REVIEW- CHAPTER V OF THE ACT

44. Appeal and appellate authorities.— (1) Save where it has been otherwise provided, an appeal shall lie from every original order under this Code or the rules made there under—

(a) If such order is passed by any Revenue Officer subordinate to the Sub-Divisional Officer, whether or not the officer passing the order is invested with the powers of the Collector—to the Sub-Divisional Officer ;

(b) If such order is passed by the Sub-Divisional Officer, whether or not invested with the powers of the Collector—to the Collector ;

(c) If such order is passed by any Revenue Officer subordinate to the

Settlement Officer — to the Settlement Officer ;

(d) If such order is passed by any Revenue Officer in respect of whom a direction has been issued under sub-section (3) of Section 12 or subsection (2) of Section 21— to such Revenue Officer as the State

Government may direct;

(e) If such order is passed by a Collector whether exercising the powers of Collector or Settlement Officer , during the currency of the term of settlement — to the Commissioner;

(f) If such order is passed by a Settlement Officer, whether exercising the powers of Settlement Officer or the powers of a Collector in connection with any settlement operation unless otherwise expressly provided— to the Settlement Commissioner ;

(g) If such order is passed by the Commissioner or the Settlement Commissioner—to the Board.

(2) Save as otherwise provided a second appeal shall lie against every order passed in first appeal under this Code or the rules made thereunder —

(i) by the Sub-Divisional Officer or the Collector to the Commissioner;

(ii) by the Settlement Officer to the Settlement Commissioner;

(iii) by the Commissioner to the Board —

(a) if the original order has in the first appeal been varied or reversed otherwise than in a matter of cost; or

(b) on any of the following grounds and no other, namely :—

(i) that the order is contrary to law or usage having the force of law; or

(ii) that the order has failed to determine some material issue of law or usage having force of law; or

(iii) that there has been a substantial error or defect in the procedure as prescribed by this Code, which may have produced error or defect in the decision of the case upon merits.

(3) An order passed in review varying or reversing any order shall be appealable in like manner as the original order.

45. Transfer of certain pending proceedings to Settlement Commissioner.

— All proceedings arising from the Madhya Bharat region and pending before the Director of Land Records in appeal, revision or review immediately before the coming into force of this Code, shall stand transferred to the Settlement Commissioner and every such proceeding shall be heard and decided by the Settlement Commissioner as if it had been entertained by him under the provisions of this Code.

46. No appeal against certain orders.—No appeal shall lie under this Code from an order —

(a) admitting an appeal or application for review on the grounds specified in Section 5 of 2[the Limitation Act, 1963 (36 of 1963)1; or

(b) rejecting an application for review; or

(c) granting or rejecting an application for stay; or

- (d) of an interim nature; or
 (e) relating to appointment under sub-section (2) of Section 104 or subsection (1) of Section 106.1

47. Limitation of appeals.— No appeal shall lie —

- (a) to the Sub-Divisional Officer or Collector or Settlement Officer or Settlement Commissioner, after the expiration of 3[thirty days] from the date of the order to which objection is made; or
 (b) to the Commissioner after the expiration of 4[forty-five days] from such date; or
 (c) to the Board, after the expiration of [sixty days] from such date

Provided that where the order, against which the appeal is being preferred, made before the coming into force of the Madhya Pradesh Land Revenue Code (Amendment) Act, 2011, in such case appeal shall be entertained within the time limit provided in the Code prior to this said Amendment Act:]

Provided further that where a party, other than a party against whom the order has been passed *ex-parte*, had no previous notice of the date on which the order is passed, limitation under this section shall be computed from the date of the communication of such order .

48. Copy of order objected to accompany petition.— Every petition for appeal, review or revision shall be accompanied by a certified copy of the order to which objection is made unless the production of such copy is dispensed with.

49. Power of appellate authority.— (1) The appellate authority may either admit the appeal or, after calling for the record and giving the appellant an opportunity to be heard, may summarily reject it

Provided that the appellate authority shall not be bound to call for the record where the appeal is time-barred or does not lie.

(2) If the appeal is admitted date shall be fixed for hearing and notice shall be served on the respondent.

(3) After hearing the parties, the appellate authority may confirm, vary or reverse the order appealed against, or may take such additional evidence as it may consider necessary for passing its order

Provided that the appellate authority shall not remand the case for disposal by any Revenue Officer subordinate to it :

Provided further that all such cases which have been remanded to the Subordinate Revenue Officers by the Appellate or Revisional Authorities before the commencement of the Madhya Pradesh Land Revenue Code (Amendment) Act, 2011 shall be heard and decided by such Revenue Officer .

50. Revision.— (1) The Board may, at any time on its motion or on the application made by any party or the Collector or the Settlement Officer may, at any time on his motion, call for the record of any case which has been, decided or proceeding in which an order has been passed by any Revenue Officer subordinate to it or him and in which no appeal lies thereto, and if it appears that such subordinate Revenue Officer,—

- (a) has exercised a jurisdiction not vested in him by this Code, or

(b) has failed to exercise a jurisdiction so vested, or
 (c) has acted in the exercise of his jurisdiction illegally or with material irregularity the Board or the Collector or the Settlement Officer may make such order in the case as it or him thinks fit

Provided that the Board or the Collector or the Settlement Officer shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of the proceeding, except where,—

(a) The order, if it had been made in favour of the party applying for revision to the Board, would have finally disposed of the proceedings, or

(b) The order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made.

(2) The Board or Collector or the Settlement Officer shall not, under this section vary or reverse any order against which an appeal lies either to the Board or to any Revenue Officer subordinate thereto.

(3) A revision, shall not operate as a stay of proceeding before the Revenue Officer except where such proceeding is stayed by the Board or the Collector or the Settlement Officer, as the case may be.

(4) No application for revision shall be entertained, —

(a) against an order appealable under this Code;

(b) against an order to the Settlement Commissioner under Section 210;

(c) unless presented within sixty days to the Board :

Provided that where the order, against which the application for revision is being presented, made before the coming into force of the Madhya Pradesh Land Revenue Code (Amendment) Act, 2011, in such case revision shall be entertained within ninety days from the date of order.

(5) No order shall be varied or reversed in revision unless notice has been served on the parties interested and opportunity given to them of being heard.

(6) Notwithstanding anything contained in 'sub-section (1) ,—

(i) where proceedings in respect of any case have been commenced by the Board under sub-section (1), no action shall be taken by the Collector or the Settlement Officer in respect thereof ;

(ii) where proceeding in respect of any such case have been commenced by the Collector or the Settlement Officer under sub-section (1) , the Board may either refrain from taking any action under this section in respect of such case until the final disposal of such proceedings by the Collector or the Settlement Officer , as the case may be, or may withdraw such proceedings and pass such order as it may deem fit.

51. Review of orders.— (1) The Board and every Revenue Officer may, either on its/his own motion or on the application of any party interested review any order passed by itself /himself or by any of its/his predecessors in office and pass such order in reference thereto as it/he thinks fit:

Provided that —

• if the Commissioner, Settlement Commissioner, Collector or Settlement Officer thinks it necessary to review any order which he has not himself passed, he shall first obtain the sanction of the Board, and if an officer subordinate to a Collector or Settlement Officer proposes to review any order, whether passed by himself or by any predecessor, he shall first obtain the sanction in writing of the authority to whom he is immediately subordinate;]

(i-a) no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard in support of such order;

(ii) no order from which an appeal has been made, or which is the subject of any revision proceedings shall, so long as such appeal or proceedings are pending be reviewed;

(iii) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings, and no application for the review of such order shall be entertained unless it is made within 3[sixty days] from the passing of the order :

Provided that where the order, against which the application for review is being presented, made before the coming into force of the Madhya Pradesh Land Revenue Code (Amendment) Act, 2011, in such case review shall be entertained within ninety days from the date of order.]

(2) No order shall be reviewed except on the grounds provided for in the Code of Civil Procedure, 1908 (V of 1908) .

(3) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue Officer who has left the district or who has ceased to exercise powers as a Revenue Officer and to whom there is no successor in the district.

(4)An order which has been dealt with in appeal or on revision shall not be reviewed by any Revenue Officer subordinate to the appellate or revisional authority.

52. Stay of execution of orders. - (1) A Revenue Officer who has passed any order or his successor in office may, at any time before the expiry of the period prescribed for appeal or revision, direct the execution of such order to be stayed for such time as may be requisite for filing an appeal or revision and obtaining a stay order from the appellate or revisional authority.

(2) The appellate or revisional authority may, at any time direct the execution of the order appealed from or against which a revision is made to be stayed for such time as it may think fit:

Provided that the execution of order shall not be stayed for more than three months at a time or until the date of next hearing, whichever is earlier .]

(3) The authority exercising the powers conferred by Section 50 or Section 51 may direct the execution of the order under revision or review to be stayed for such time as it may think fit :

Provided that the execution of order shall not be stayed for more than three months at a time or until the date of next hearing, whichever is earlier .]

(4) The Revenue Officer or the authority directing the execution of an order to be stayed may impose such conditions or order such security to be furnished as he or it thinks fit.

(5) No order directing the stay of execution of any order shall be passed except in accordance with the provisions of this section.

53. Application of limitation Act. - Subject to any express provision contained in this Code, the provision of [the Limitation Act, 1963 (36 of 1963) shall apply to all appeals and applications for [review and revision] under this code.

54. Pending revisions- Notwithstanding anything contained in this chapter, all proceeding pending in revision before any Revenue Officer immediately before the coming into force of the Madhya Pradesh Land Revenue code (Amendment) Act,2011 shall be heard and decided by such Revenue Officer as if this Amendment Act had not been passed.]

55. Application of Chapter.—For avoidance of doubt, it is hereby declared that save as otherwise expressly provided in this Code, the provisions of this Chapter shall apply to —

(a) all orders passed by any Revenue Officer before the date of coming into force of this Code and against which no appeal or revision proceedings are pending before such date; and

(b) all proceedings before Revenue Officers, notwithstanding that they were instituted or commenced or arose out of proceedings instituted or commenced before the coming into force of this Code.

56. Construction of order.— In this Chapter, unless the context otherwise requires, expression "order" means the formal expression of the decision given by the Board or a Revenue Officer in respect of any matter in exercise of its/his powers under this Code or any other enactment for the time being in force, as the case may be.

UNIT-II

LAND AND LAND REVENUE- CHAPTER VI

57. State ownership in all lands.— (1) All lands belong to the State Government and it is hereby declared that all such lands, including standing and flowing water, mines, quarries, minerals and forests reserved or not, and all rights in the sub-soil of any land are the property of the State Government : z Provided that nothing in this section shall, save as otherwise provided in this Code, be deemed to affect any rights of any person subsisting at the coming into force of this Code in any such property.]

(2) Where a dispute arises between the State Government and any person in respect of any right under sub-section (1) such dispute shall be decided by the 4[State Government.]

(3) Omitted.

(3-a) Omitted.

(4) Omitted

58. Liability of land to payment of land revenue.— (1) All land, to whatever purpose applied and wherever situate, is liable to the payment of revenue to the State Government, except such land as has been wholly exempted from such liability by special grant of or contract with the State Government or under the provisions of any law or rule for the time being in force Provided that the abadi land, subject to the provisions of Section 245, and the land which is situated in non-urban areas and used for agricultural purposes and not exempted from such liability, is liable to payment of revenue to the Gram Sabha.]

(2) Such revenue is called "land revenue"; and that term includes all moneys payable to the State Government for land, notwithstanding that such moneys may be described as premium, rent, lease money, quit-rent or in any other manner, in any enactment, rule, contract or deed.

58-A. Certain land to be exempted from payment of land revenue,—

Notwithstanding anything contained in this Code, no land revenue shall be payable in respect of an uneconomic holding used exclusively for the purpose of agriculture.

Explanation I.—For the purpose of this section, —

• '*uneconomic holding*' shall mean a holding the extent of which is not more than 5 acres;]

(b) '*holding*' shall mean the entire land held by a person in the State, notwithstanding the fact that any portion thereof is separately assessed to land revenue; and

(c) '*land revenue*' shall not include moneys payable to the State Government for land by way of premium, rent or lease moneys in respect of land leased out for a period of less than five years or quit-rent.

Explanation II.— For the purpose of clause (b) of Explanation I "entire land held by a person in the State" shall mean —

(a) the entire land held by a person in the State individually and shall include —

(i) where land is held by such person jointly with one or more persons, so much portion of the land as falls to his share; and

(ii) land held by such person as Bhoodan holder under the Madhya Pradesh Bhoodan Yagna Act, 1968 (28 of 1968); and

(b) where land is held by a person jointly with one or more persons, the single holding so jointly held.]

58-B. Half of the assessed land revenue shall be payable for holding used exclusively for the purpose of a project of micro and small enterprise.— (1)

Notwithstanding anything contained in this Code, only half of the assessed land

revenue shall be payable in respect of a holding upto two hectares used exclusively for the purpose of a project of micro and small enterprise.

(2) For the purpose of sub-section (1), the Collector shall, after affording reasonable opportunity of being heard to the persons interested and after making such enquiry as he may deem necessary, decide that the concerning holding is of project of micro and small enterprise.

Explanation. —For the purpose of this Section, the micro enterprise and small enterprise shall have the same meaning as assigned to them in sub-clauses (i) and (ii) of clause (a) of sub-section (1) of Section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 (No. 27 of 2006)

59. Variation of land revenue according to purpose for which land is

used.— (1) The assessment of land revenue on any land [shall be made] with reference to the use of land-

(a) for the purpose of agriculture of such farm house which is situated on holding of one acre or more;

(b) as sites for dwelling houses;

(c) for educational purpose;

(d) for industrial purpose;

(e) for commercial purpose;

(f) for the purpose of mining under a mining lease within the meaning of the Mines and Minerals (Regulation and Development) Act, 1957 (No. 67 of 1957);

(g) for purpose other than those specified in items (a) to (f) above:

Provided that the assessment of land revenue on any land situated in the areas which are constituted as reserved or protected forests under the Indian Forest Act, 1927 (16 of 1927), with reference to use of land for any of the purposes aforesaid shall not be proceeded with or any procedure relating to the assessment to be followed under the relevant provisions of the Code shall not be commenced except on a certificate permitting the use of land issued by an officer of the Forest Department duly authorized by the State Government in this behalf.]

Explanation. —For the purpose of clause (a) "Farm House" means such building or construction which is any improvement as defined in clause (j) of subsection

(1) of Section 2, the plinth area of which shall not exceed one hundred square metre and the built up area shall not exceed one hundred fifty square metre.

(2) Where land assessed for use for any one purpose is diverted to any other purpose, the land revenue payable upon such land shall, notwithstanding that the term for which the assessment may have been fixed has not expired, be liable to be altered and assessed in accordance with the purpose to which it has been diverted.

(2-a) The alteration or assessment referred to in sub-section (2) shall be carried out by the Sub-Divisional Officer.]

(3) Where the land held free from the payment of land revenue on condition

of being used for any purpose is diverted to any other purpose it shall become liable to the payment of land revenue and assessed in accordance with the purpose to which it has been diverted.

(4) The assessment made under sub-sections (2) and (3) shall be in accordance with the rules made by State Government in this behalf and such rules shall be in accordance with the principles contained in Chapter VII or VIII, as the case may be.

(5) Where land for use for any one purpose is diverted to any other purpose, and land revenue is assessed there on under the provisions of this section, the [Sub-Divisional Officer] shall also have power to impose a premium on the diversion in accordance with rules made under this code:

Provided that no premium shall be imposed for the diversion of any land for charitable purposes.

(6) Notwithstanding any usage or grant or anything contained in any law, the right of all persons holding land, which immediately before the coming into force of the Madhya Pradesh Land Revenue Code, 1954 (II of 1955) , was held in malik makbuza right, to exemption from payment of premium on diversion of such land is hereby abolished; but every such person shall, on diversion of such land, be entitled in lieu of such right to a rebate equal to the land revenue for one year payable for such land from the amount of premium determined under sub-section (5) .

59-A. Assessment when to take effect .- The alteration or assessment made under the provision of Section 59 shall take effect from the date on which the diversion was made.

59-B. Reassessment on diversion of land prior to coming into force of the code- Where prior to the coming into force of this code land in any area assessed for any one purpose was subsequently diverted for use to any other purpose, the land revenue payable upon such land shall, notwithstanding that the term for which the assessment may have been fixed has not expired, be liable to be altered and assessed-

(1) in accordance with the purpose to which it has been diverted with effect from —

(a) The date on which such diversion was made if in the area concerned there was in force any enactment repealed under Section 261 which contained provision for alteration or reassessment on such diversion;

(b) The date of coming into force of this Code in any other case; and

(2) in case of (a) above in accordance with the provisions of such repealed Act, and in the case of (b) above in accordance with the provisions of this Code.]

60. Assessment by whom to be fixed.— On all lands on which the

assessment has not been made the assessment of land revenue shall be made by the Collector in accordance with rules made under this Code.

UNIT-II

REVENUE SURVEY AND SETTLEMENT IN NON-URBAN AREAS- CHAPTER VI I

A-Application of Chapter and Officers to conduct Revenue Survey and/or Settlement

61. Application of this Chapter to lands in non-urban areas,—The provisions of this Chapter shall apply in respect of lands in non-urban areas.

62. Appointment of Settlement Commissioner.—The State Government may appoint a Settlement Commissioner who shall, subject to the control of the State Government, control the operation of the revenue survey and/or settlement.

63. Appointment of Additional Settlement Commissioners and their powers and duties. — (1) The State Government may appoint one or more Additional Settlement Commissioners.

(2) An Additional Settlement Commissioner shall exercise such powers and discharge such duties, conferred and imposed on a Settlement Commissioner by this Code or by any other enactment for the time being in force or by any rule made under this Code or any such other enactment, in such cases or classes of cases, as the State Government or Settlement Commissioner may direct and while exercising such powers and discharging such duties, the Additional Settlement Commissioner shall be deemed to have been appointed as a Settlement Commissioner for the purposes of this Code or any other enactment or any rule made under this Code or such other enactment.

64. Appointment of Settlement, Deputy Settlement and Assistant Settlement Officers.—

(1) The State Government may appoint an officer hereinafter called the Settlement Officer to be in charge of a revenue survey, and/or settlement and as many Deputy Settlement Officers and Assistant Settlement Officers as it thinks fit.

(2) All Settlement, Deputy Settlement and Assistant Settlement Officers shall be subordinate to the Settlement Commissioner and all Deputy Settlement and Assistant Settlement Officers in a local area shall be subordinate to the Settlement Officer.

65. Powers of Settlement, Deputy Settlement and Assistant Settlement Officers. —

(1) The State Government may invest any Settlement Officer or Deputy Settlement Officer or Assistant Settlement Officer with all or any of the powers of a Collector under this Code, to be exercised by him in such cases or classes of cases as the State Government may direct.

(2) The State Government may invest any Deputy Settlement Officer or Assistant Settlement Officer with all or any of the powers of a Settlement Officer under this Code or any other enactment for the time being in force.

B-Revenue Survey

66. Definition of Revenue Survey.—The operations carried out in

accordance with the provisions of this part, that is to say —

- (1) All or any of the operations pertaining to the division of land into survey numbers and grouping them into villages, recognition of existing survey numbers, reconstitution thereof or forming new survey numbers and operations incidental thereto;
- (2) Soil classification;
- (3) Preparation or, as the case may be, revision or correction of field map;
- (4) Preparation of record of rights, in order to bring the land records up to date in any local area; are called a revenue survey.

67. Notification of proposed revenue survey.— (1) Whenever the State Government decides that a revenue survey should be made of any local area, it shall publish a notification to that effect, and such local area shall be held to be under such survey from the date of such notification until the issue of a notification declaring the operation to be closed.

(2) Such notification may extend to all lands generally in the local area or to such lands only as the State Government may direct.

68. Formation of survey numbers and villages.—Subject to rules made under this Code, the Settlement Officer, may —

- (a) Take measurements of the land to which the revenue survey extends and construct such number of survey marks thereon as may be necessary;
- (b) Divide such lands into survey numbers and group the survey numbers into villages; and
- (c) Recognize existing survey numbers, reconstitute survey numbers or form new survey numbers

Provided that except as hereinafter provided, no survey numbers, comprising land used for agricultural purposes shall henceforth be made of less extent than a minimum to be prescribed for the various classes of land

Provided further that the limit prescribed under the aforesaid provision shall not apply in the case of survey numbers, already existing immediately before the date of the notification under sub-section (1) of Section 67.

69. Separate demarcation of land diverted or specially assigned.—

Notwithstanding the provisions of Section 68 when any portion of agricultural land is diverted under the provisions of Section 172 to any non-agricultural purpose, or when any portion of land is specially assigned under Section 237, or when any assessment is altered on any portion of land under sub-section (2) of Section 59, the Settlement Officer may make such portion into a separate survey number or sub-division of a survey number.

70. Power to re-number or sub-divide survey numbers.— (1) The Settlement Officer may either re-number or sub-divide survey numbers into as many sub-divisions as may be required in view of the acquisition of rights in land or for any other reason.

(2) The division of survey numbers into sub-divisions and the apportionment of the assessment of the survey number amongst the sub-divisions shall be

carried out in accordance with rules made under this Code and such rules may provide limits either of area or of land revenue or both, below which no subdivision shall be recognised : Provided that the total amount of assessment of any survey number shall not be enhanced during the term of a settlement unless such assessment is liable to alteration under the provisions of this Code.

(3) Where a holding consists of several khasra numbers the Settlement Officer shall assess the land revenue payable for each khasra number and record them as separate survey numbers .

(4) Whenever the survey numbers are re-numbered, the Settlement Officer shall correct the entries in all records prepared or maintained under Chapter IX.

71. Entry of survey numbers and sub-divisions in records.—The area and assessment of survey numbers and sub-divisions of survey numbers shall be entered in such records as may be prescribed.

72. Determination of abadi of village.— The Settlement Officer shall, in the case of every inhabited village, ascertain and determine, with due regard to rights in lands, the area to be reserved for the residence of the inhabitants or for purposes ancillary thereto, and such area shall be deemed to be the abadi of the village.

73. Power of Settlement Officer to divide or unite villages or exclude area there from.—The Settlement Officer may divide a village to constitute two or more villages or may amalgamate two or more villages and constitute one village or may alter the limits of a village by including therein any area of a village in the vicinity thereof or by excluding any area comprised therein, in accordance with the rules made under this Code.

74. Grouping of villages.— The villages of each district or tahsil or part of a district or tahsil comprised in the area under revenue survey shall be formed into groups, and in forming such group regard shall be had to physical features, agricultural and economic conditions and trade facilities and communications.

C-Settlement of rent

75. Definition of Settlement-, — The result of the operations carried out in accordance with this part in continuation of revenue survey in order to determine or revise the land revenue payable on lands in any local area called “settlement” and the period during which the revised land revenue be in force is called the term of settlement.

76. Notification of proposed settlement.-On issue of a notification declaring the operations of revenue survey to be closed under sub-section (1) of section 67, the State Government, if it decides that settlement operations should be undertaken in the local area in which revenue survey is closed, shall publish a notification to that effect and such area shall be held to be under settlement from the date of such notification until the announcement of settlement under section 82 in respect of a land in the local area is complete :

Provided that if the notification is issued after expiration of a period of five years from the date of issue of notification declaring, the operations of revenue survey to be closed under sub-section (1) of section 67, record of rights shall be

prepared under section 108 before the Settlement operations are undertaken in accordance with the provisions contained in this part.

77. Fixation of assessment rates.-On completing the necessary inquiries, as may be prescribed, the settlement officer shall forward to the state Government his proposals for assessment rates for different classes of land in such form and along with such other particulars as may be prescribed.

(2) The State Government may approve the assessment rates with such modifications as it may deem fit.

[78. Omitted]

79. Fixation of fair assessment.-The settlement officer shall fix the assessment on each holding in accordance with the assessment rates approved under section 77 and the provisions of the section 81 such assessment shall be the fair assessment of such holding.

80. All lands liable to assessment.-The settlement officer shall have the power to make fair assessment on all lands whatsoever to which the settlement extends, whether such lands are liable to the payment of land revenue or not.

81. Principles of assessment.-(1) The fair settlement of all lands shall be calculated in accordance with the principles and restrictions set forth in the section.

(2) No regard shall be had to any claim to hold land on privileged terms.

(3) Regard shall be had in the case of agriculture land to the profits of agriculture, to the consideration paid for leases, to the sale prices of land and to the principal moneys on mortgages, and in the case of non-agricultural land, to the value of the land for the purpose for which it is held.

(4) The Fair assessment on land used for non-agricultural purpose shall be fixed in accordance with the rules made under section 59.

(5) Where an improvement has been effected at any time in any holding held for the purpose of agriculture by or at the expense of the holder thereof, the fair assessment of such holding shall be fixed as if the improvement had not been made.

(6) Omitted.

82. Announcement of settlement.-(1) When the assessment of any land has been fixed in accordance with section 79, notice thereof shall be given in accordance with rules made under this Code, and such notice shall be called the announcement of the settlement.

(2) The assessment of any land, as announced under this section, shall be the land revenue payable annually on such land during the term of the settlement unless it is modified in accordance with the provisions of this Code, or any other law.

83. Introduction of Settlement. – The term of a settlement shall commence from the beginning of the revenue year next following the date of announcement or from the expiry of the previous term of settlement, whichever is later.

84. Remission of enhancement of bhumi swami who relinquishes – During

the first year of the term of settlement any bhumi swami who is dissatisfied with the new assessment shall, on relinquishing his rights in his holding in the manner prescribed by Section 173 may, one month before the commencement of the agricultural year, receive a remission of any increase imposed thereby;

Provided that the relinquishment of only part of a holding or of a holding, which, or any part of which, is subject to an encumbrance or a charge shall not be permitted.

85. Term of settlement.— (1) The term of settlement shall be fixed by the State Government and shall not be less than thirty years

Provided that if, at any time during the currency of the settlement, the State Government finds that having regard to changes in general conditions subsequent to the settlement, it is desirable that the assessment should be reduced, it may reduce such assessment for such period as it may deem fit.

(2) Notwithstanding anything contained in sub-section (1) in any area where there is ample scope for extension of cultivation or for agricultural development or where the pitch of rents is unduly low or where there has been a rapid development of resources owing to the construction of roads, railways or canals since the last settlement, the State Government may, for reasons to be recorded, fix a term which may be less than thirty years but which shall in no case be less than twenty years.

(3) Notwithstanding that the term of settlement fixed under sub-section

(1) or sub-section (2) for any local area has expired, the term shall be deemed to have been extended till the commencement of the term of the subsequent settlement in that area.

86. Power of Collector to complete unfinished proceedings.— Where the settlement operations are closed all applications and proceedings then pending before the Settlement Officer shall be transferred to the Collector who shall have the powers of a Settlement Officer for their disposal.

D-General

87. Inquiry into profits of agriculture and value of land.— (1) With effect from the coming in force of this Code the State Government may take steps to institute and may cause to be constantly maintained, in accordance with rules 55

made under this Code, an inquiry into the profits of agriculture and into the value of land used for agricultural and non-agricultural purposes.

(2) For the purpose of determining the profits of agriculture, the following elements shall be taken into account in estimating the cost of cultivation, namely :

—

- (a) the depreciation of stock and buildings;
- (b) the money equivalent to the cultivator's and his family's labour and supervision;
- (c) all other expenses usually incurred in cultivation on the land which is under inquiry; and
- (d) interest on the cost of buildings and stock and on expenditure for seed

and manure, and on cost of agricultural operations paid for in cash.

(3) The Settlement Officer shall take in consideration the information collected in the course of this inquiry, when framing his proposals for assessment rates.

88. Power to transfer, duty of maintaining maps and records to

Settlement Officer. — When a local area is under revenue survey, the duty of maintaining the maps and records may, under the orders of the State Government, be transferred from Collector to the Settlement Officer, who shall thereupon exercise all the powers conferred on the Collector in any of the provisions in Chapters IX and XVII I .

89. Power of Sub-Divisional Officer to correct errors.— The Sub-

Divisional Officer may, at any time after the closure of the revenue surveys and during the term of settlement, correct any error in the area or assessment of any survey number of holding due to mistake of survey or arithmetical miscalculation. Provided that no arrears of land revenue shall become payable by reason of such correction.

90. Power of Collector during term of Settlement etc.— After the closure of the revenue survey and during the term of a settlement, the Collector, shall,

when so directed by the State Government, exercise the powers of a Settlement Officer under Sections 68, 69, 70, 72 and 73.

91. Power to grant power of Settlement Officer during term of

Settlement. — The State Government may, after the closure of the revenue survey and during the term of settlement, invest any Revenue Officer with all or any of the power of the Settlement Officer under this Chapter, within such area and subject to such restrictions and for such period as it may think fit.

91-A. Power to make rules.—The State Government may make rules for regulating generally the conduct of a revenue survey or settlement under this Chapter .

UNIT-II

ASSESSMENT AND RE-ASSESSMENT OF LAND IN URBAN AREAS- CHAPTER VII I

92. Provisions of Chapter to apply to land in urban areas. — (1) The provisions of this Chapter shall apply to land held in urban area, whether for agricultural or non-agricultural purposes . —

(1) by a bhumi swami;

(2) by a Government lessee under a lease granting a right of renewal; and

(3) by a holder of service land.

(2) Whenever the land revenue or rent assessed on a plot number falls due for revision the Collector shall assess the plot in accordance with the provisions of this Chapter.

Explanation.— For the purposes of this section, the land revenue or rent payable for a plot shall be deemed due for revision —

(i) if the plot is held on a lease when the lease becomes due for renewal;

and

(ii) in the case of a plot held by a bhumi swami on the expiry of the original term of settlement.

93. Powers of Collector to divide lands into plot numbers . — Subject to rules made under thi s Code, the Collector may —

(a) divide the lands in an urban area into plot numbers; and

(b) recognize exi sting survey numbers as plot numbers, reconst itute plot numbers or form new plot number s.

94. Powers of Collector to re-number or sub-divide plot numbers. — (1)

The Collector may either re-number or sub-divide plot numbers into as many subdivisions as may be required in view of the acqui sition of r ight s in land or for any other reason.

(2) The division of plot numbers into sub-divi sions and the appor tion- ment

of the as sessment of the plot number amongst the sub-divisions shall be carr ied out in accordance with rules made under thi s Code and such rules may provide limit s either of area or of land revenue or rent, as the case may be, or both in any local area, below which no sub-divi sion shall be recognised

Provided that the total amount of asses sment of any plot number shall not be enhanced during the term of settlement unless such assessment i s liable to alteration under the provi sions of thi s Code.

95. Area and as sessment of plot numbers and sub-divi sions to be

entered in records. — The area and assessment of plot number and sub-divi sions of plot numbers shall be entered in such records as may be prescr ibed.

96. Area in town formed into blocks for as sessment.— For the purposes

of as sessment, the area in a town shall be formed into blocks and in forming such blocks regard shall be had to use of land for industr ial, commercial, residential or such other special purposes as may be prescr ibed.

97. Omitted.

98. Fair assessment.—The fair asses sment of lands used for agricultural purpose shall be calculated and f ixed in accordance with the pr inciples and restr ictions set for th in Section 81 and lands used for non-agricultural purpose shall be f ixed in accordance with the rules made under Section 59.1

(2) The average annual letting value of lands in each block in respect of land held for purposes mentioned in sub-section (1) of section 59 shall be determined separately in the prescr ibed manner on the basi s of transactions of sales and leases in respect of the land held for each of the aforesaid purposes in such block dur ing the per iod of f ive years immediately preceding the year in which the letting value is being determined, so far as the information about such transactions is available:

Provided that if the transactions which have taken place in any block in respect of any land held for any of the aforesaid purpose are not suff iciently representative transactions in respect of the land held for the cor responding purpose dur ing the same per iod in adjacent block may be taken as basi s for determining the letting value.

(3) The standard rate of assessment for lands held for purposes mentioned in clause (b) or (c) of sub-section (1) of Section 59 shall be equal to one-third of

the average annual letting value determined or the block in respect of such land under sub-section (2) and for purposes mentioned in clause (b) of sub-section (1) of Section 59 shall be one-half of the average annual letting value determined for the block in respect of such land.

(4) The standard rates for lands held for agricultural purposes shall be fixed with due regard to soil and position of land and to the profits of agriculture to the consideration paid for leases and to the sale prices of such lands.

99. Omitted.

100. Fixation of fair assessment at the time of revision.—In the case of lands which are being assessed for a purpose with reference to which they were assessed immediately before the revision, the assessment so arrived at exceeds, in the case of agricultural land one and a half times the land revenue or rent and in the case of other lands six times the land revenue or rent payable immediately before the revision the assessment shall be fixed at one and a half times such land revenue or rent in the case of agricultural land and at six times such land revenue or rent in the case of other lands : Provided that where an improvement has been effected at any time in any holding held for the purpose of agriculture by or at the expense of the holder thereof, the assessment of such holding shall be fixed as if the improvement had not been made.

101. Term of settlement. —The assessment fixed under Section 10 shall remain in force for a period of thirty years or for such longer period as may elapse before re-assessment after that period and such period shall be deemed to be the term of settlement for all purposes.

102. Assessment fixed shall be land revenue or rent. —The assessment fixed under Section 100 shall be the land revenue or rent payable annually on such plot number unless it is modified in accordance with the provisions of this Code or any other law.

103. Land revenue or rent fixed under previous settlement or leases to continue. The land revenue or rent fixed for any land in an urban area under a settlement or a lease from Government with rights of renewal made before the coming into force of this Code shall, notwithstanding the expiry of the term of such settlement or lease, continue in force until the assessment on such land is fixed in accordance with the provisions of this Chapter .

LAND RECORDS- CHAPTER IX

104. Formation of patwaris' circles and appointment of patwaris thereto.

(1) The Collector shall from time to time arrange the villages of the tahsil in patwari circle and may, at any time, alter the limits of any existing circle and may create new circles or abolish existing ones.

(2) [The Collector] shall appoint one or more patwaris to each patwari circle for the maintenance and correction of land records and for such other duties as the State Government may prescribe.

(3) Notwithstanding any usage or anything contained in any treaty, grant, or other instrument, no person shall have any right or claim to continue or to be appointed as a patwari on the ground of right to succeed to such office by

inheritance.

105. Formation of Revenue Inspectors' circles.—The Collector shall arrange the patwar i circles in the tahsil into Revenue Inspector s' circles and may, at any time, alter the limits of any existing circle and may create new circles or abolish existing circles.

106. Appointment of Revenue Inspectors, etc.— (1) The Collector may appoint to each district as many persons as he thinks fit to be revenue inspectors, town surveyors, assistant town surveyors and measurers to supervise the preparation and maintenance of land records and to perform such other duties as may be prescribed.

(2) The town surveyor and assistant town surveyor shall be deemed to be a patwar i for the purposes of Sections 28, 109, 110, 112, 118 and 120 in respect of the areas under their charge.

107. Field map.—(1) There shall be prepared a map showing the boundaries of survey numbers or plot numbers and waste lands called the field map for every village except when otherwise directed by the State Government.

(2) There may be prepared for the abadi of each village a map showing the area occupied by private holders and the area not so occupied and such other particulars as may be prescribed.

(3) If the State Government considers that in the case of any village it is necessary to show separately in the map prepared under sub-section (2) the plots occupied by private holders, it may direct the Collector to get the map so prepared or revised.

(4) If any Gram Panchayat passes a resolution that a map of the village abadi should be prepared showing separately the plots occupied by private holders and is willing to contribute to the cost of survey operations in such proportion as may be prescribed, the State Government may undertake the preparation of such map.

[(5) Such map shall be prepared or revised, as the case may be, by the Settlement Officer at [revenue survey] and by the Collector at all other times and in all other circumstances.]

108. Record of rights. -3[(1) A record-of-rights shall in accordance with rules made in this behalf be prepared and maintained for every village and such record shall include following particulars : —

- (a) the names of all bhumiswamis together with survey numbers or plot numbers held by them and their area, irrigated or unirrigated;
- (b) the names of all occupancy tenants and Government lessees together with survey numbers or plot numbers held by them and their area, irrigated or unirrigated;
- (c) the nature and extent of the respective interests of such persons and the conditions or liabilities, if any, attaching thereto;
- (d) the rent or land revenue, if any, payable by such persons; and
- (e) such other particulars as may be prescribed.

[(2) The record-of-rights mentioned in sub-section (1) shall be prepared

during a [revenue survey] or whenever the State Government may, by notification, so direct.]

109. Acquisition of rights to be reported.— (1) Any person lawfully acquiring any right or interest in land [x x x] shall report orally or in writing his acquisition of such right to the patwari within six months from the date of such acquisition, and the patwari shall at once give a written acknowledgement for such report to the person making it in the prescribed form :

Provided that when the person acquiring the right is a minor or is otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwari.

[*Explanation I.*—The right mentioned above does not include an easement or a charge, not amounting to a mortgage, of the kind specified in Section 100 of the Transfer of Property Act, 1882 (IV of 1882).]

[*Explanation II.* — A person, in whose favour a mortgage is redeemed or paid off or a lease is determined, acquires a right within the meaning of this section.

[*Explanation III.*—For the purpose of this chapter , the term "patwari" includes any person appointed to perform the duties of a Patwari under this chapter.

[*Explanation IV*—Intimation in writing required to be given to the patwari under this section may be given either through a messenger or handed over in person or may be sent by registered post.

(2) Any such person as is referred to in sub-section (1) may also report in writing his acquisition of such rights to the Tahsildar within six months from the date of such acquisition. ,

[110. Mutation of acquisition of right in Field Book and other relevant land records.— (1) The Patwari shall enter into a register prescribed for the purpose every acquisition of right reported to him under Section 109 or which comes to his notice - from intimation from Gram Panchayat or any other source.

(2) The Patwari shall intimate all the reports regarding acquisition of right received by him under sub-section (1) to the Tahsildar within thirty days of the receipt thereof by him.

(3) On receipt of the intimation from patwari under sub-section (2) , the Tahsildar shall have it published in the village in the prescribed manner and shall also give written intimation thereof to all persons appearing to him to be interested in the mutation and also to such other persons and authorities as may be prescribed.

(4) The Tahsildar shall after affording reasonable opportunity of being heard to the persons interested and after making such further enquiry, as he may deem necessary, make necessary entry in the Field Book and other relevant lands records.]

111. Jurisdiction of Civil Courts. — The Civil Courts shall have jurisdiction to decide any dispute to which the State Government is not a party relating to any right which is recorded in the record-of-rights.

[112. Intimation of transfers by Registering Officers.—When any document purporting to create, assign or extinguish any title to or any charge on

land used for agricultural purposes, or in respect of which a field book has been prepared, is registered under the Indian Registration Act, 1908 (XVI of 1908), the Registering Officer shall send intimation to the Tahsildar having jurisdiction over the area in which the land is situated in such form and at such times as may be prescribed by rules under this Code.]

113. Correction of clerical errors.— The [Sub-Divisional Officer] may at any time, correct or cause to be corrected any clerical errors and any errors which the parties interested admit to have been made in the record-of-rights.

[114 Land records.— In addition to the map and Bhoo Adhikar Pustikas, there shall be prepared for each village a khasra or field book and such other land records as may be prescribed.

114-A. Bhoo Adhikar Avam Rin Pustika.— (1) It shall be obligatory upon every bhumi swami, whose name is entered into the khasra or field book prepared under Section 114, to maintain a Bhoo Adhikar Avam Rin Pustika in respect of his all holdings in a village which shall be provided to him on payment of such fee as may be prescribed.

(2) The Bhoo Adhikar Avam Rin Pustika shall be in two parts, namely Part I 'consisting of rights over holding and encumbrances on the holding and Part II consisting of rights over holding, recovery of land revenue in respect of the holding and the encumbrances on the holding and shall contain —

- (i) such of the entries of khasra or field book pertaining to a holding of a bhumiswami as may be prescribed;
- (ii) particulars in respect of recovery of land revenue, Government loan and non-Government loan in respect of such holding;
- (iii) such other particulars as may be prescribed.

(3) In case of any difference between the entries contained in the khasra or field book and the Bhoo Adhikar Avam Rin Pustika, the Tahsildar may, either on his own motion or on an application made to him in that behalf and after making such enquiry as he may deem fit, decide the same and the decision of the Tahsildar shall be final.]

[115. Correction of wrong entry in khasra and any other land records by superior of ficers.— If any Tahsildar finds that a wrong or incorrect entry has been made in the land records prepared under Section 114 by an officer subordinate to him, he shall direct necessary changes to be made therein in red ink after making such enquiry from the person concerned as he may deem fit after due written notice.]

[116. Disputes regarding entry in khasra or in any other land records.—

(1) If any person is aggrieved by an entry made in the land records prepared under Section 114 in respect of matters other than those referred to in Section 108, he shall apply to the Tahsildar for its correction within one year of the date of such entry.

(2) The Tahsildar shall, after making such enquiry as he may deem fit, pass necessary orders in the matter.]

117. Presumption as to entries in land records.—All entries made under

this Chapter in the land records shall be presumed to be correct until the contrary is proved.

118. Obligation to furnish information as to title.— (1) Any person, whose rights, interest or liabilities are required to be or have been, entered in any record or register under this Chapter, shall be bound on the requisition in writing of any Revenue Officer, Revenue Inspector or Patwari engaged in compiling or revising the record or register to furnish or produce for his inspection, within one month from the date of such requisition, all such information or documents needed for the correct compilation or revision thereof as may be within his knowledge or in his possession or power.

(2) The Revenue Officer, Revenue Inspector or Patwari to whom any information is furnished, or before whom any document is produced under subsection (1) shall at once give a written acknowledgement thereof to the person furnishing or producing the same and shall endorse on any such document a note under his signature stating the fact of its production and the date the receipt of.

119. Penalty for neglect to furnish information.— (1) Any person neglecting to make the report required by Section 109, or furnish the information or produce the documents required by Section 118, within the specified period shall be liable, at the discretion of the [Tahsildar], to a penalty not exceeding one thousand rupees], which shall be recoverable as an arrear of land revenue.

(2) Any report regarding the acquisition of any right [under Section 109] received by the patwari after the specified period shall be dealt with in accordance with the provisions of Section 110.

[Provision Omitted.]

120. Requisition of assistance in preparation of maps and record of rights.— Subject to rules made under this Code, any Revenue Officer, Revenue Inspector, Measurer or Patwari may, for the purpose of preparing or revising any map or plan required for or in connection with any record or register under this Chapter, call upon any holder of land and any holder of plot in abadi to point out the boundaries of his land or plot:

121. Power to make rules for land records.— The State Government may make rules for regulating the preparation, maintenance and revision of land records required for the purposes of this Code.

122. Exemption from provisions of this Chapter.— The State Government may, by notification, direct that this Chapter or any provisions thereof shall not apply to any specified local area or to any lands or any class of villages or lands.

123. Record-of-rights at commencement of Code.— (1) Until record of rights for the villages in the Madhya Bharat, Bhopal, Vindhya Pradesh and Sironj regions is prepared in accordance with the provisions of Section 108 the jamabandi or khatauni of every such village for the agricultural year as the State Government may notify shall, so far as it contains the particulars specified in Section 108, be deemed to be the record-of-rights, for that village.

(2) The jamabandi or khatauni referred to in sub-section (1) shall be published in the village in such manner as may be directed by the Collector.

[(3) Objections may be filed to any entry in jamabandi or khatauni which shall be disposed of by the Tahsildar in such manner as may be prescribed.]

(4) The jamabandi of the villages in the Mahakoshal region for the agricultural year 4[1954-55] shall continue to be deemed to be record-of-rights of such village until a record-of-rights is prepared in accordance with the provisions of Section 108.

BOUNDARIES AND BOUNDARY MARKS, SURVEY MARKS - CHAPTER X

124. Construction of boundary marks of villages and survey numbers or plot numbers.—

(1) Boundaries of all villages shall be fixed and demarcated by permanent boundary marks.

(2) The State Government may, in respect of any village by notification, order that the boundaries of all survey numbers or plot numbers shall also be fixed and demarcated by boundary marks.

(3) Such boundary marks shall, subject to the provisions hereinafter contained, be of such specification and shall be constructed and maintained in such manner as may be prescribed.

(4) Where the rules prescribed boundary marks of a specification different from that prevailing in any village, the new specification shall not be enforced in such village except upon application to a 1[Tahsildar] Made by not less than half of the number of holders of land in the village. When such application is made, the 2[Tahsildar] shall have new boundary marks constructed throughout the village and shall distribute the cost thereof proportionately among the holders of land in the village in accordance with rules made under this Code. The share of each holder shall be recoverable as an arrear of land revenue.

(5) Every holder of land shall be responsible for the maintenance and repair of the permanent boundary and survey marks erected thereon.

125. Disputes regarding boundaries between villages, survey numbers and plot numbers.—

All disputes regarding boundaries of villages, survey numbers and plot numbers where such boundaries have been fixed under the provisions of Section 124, shall be decided by the 3[Tahsildar] after local inquiry at which all persons interested shall have an opportunity of appearing and producing evidence.

126. Ejectment of persons wrongfully in possession.— (1) When a boundary has been fixed under the provisions of Section 124, the Tahsildar may summarily eject any person who is wrongfully in possession of any land which has been found not to appertain to his holding or to the holding of any person through or under whom he claims.

69

(2) Where any person has been ejected from any land under the provisions of sub-section (1), he may, within the period of one year from the date of the ejectment, institute a civil suit to establish his title thereto. Provided that the Tahsildar, or any Revenue Officer as such, shall not be made a party to such suit.

(3) The Tahsildar may at any time make an order for redistribution of land revenue which, in his opinion, should be made as a result of the decree in a

civil suit instituted under sub-section (2) and such re-distribution shall take effect from the beginning of the revenue year following the date of the order .

127. Demarcation and maintenance of boundary lines.— (1) Every holder of the land adjoining a village road, village waste or land reserved for communal purposes, shall at his own cost and in the manner prescribed —

(a) demarcate the boundary between his land and village road, village waste or land reserved for communal purposes adjoining it by boundary marks; and

(b) repair and renew such boundary marks for time-to-time.

(2) If the holder fails to demarcate the boundary or to repair or renew the boundary marks as required by sub-section (1), the Tahsildar may, after such notice as he deems fit, cause the boundary to be demarcated or the boundary marks to be repaired or renewed and may recover the cost incurred as an arrear of land revenue.

(3) In the event of any dispute regarding the demarcation of the boundary or the maintenance of the boundary marks in proper state of repair, the matter shall be decided by the Collector whose decision shall be final.

Explanation.— Village road for the purpose of this section means a road which, bears an indicative survey number or plot number .

128. Enforcement of repair of boundary or survey marks .— (1) After the end of November in each year the patel of the village shall give written notice to every holder on whose land the boundary or survey marks are defective calling upon him to put them into proper repair before the first day of March following.

70

(2) After the first day of March in any year, the Tahsildar or any other Revenue Officer empowered to act may cause any defective boundary or survey marks to be properly repaired and shall recover the cost of such repair from the holder or holders responsible for the maintenance of such boundary or survey marks, together with a penalty which may extend to [one thousand rupees] for every boundary marks so repaired. Such cost and penalty shall be recoverable as an arrear of land revenue.

129. Demarcation of boundaries of survey number or sub-division or plot number.— (1) The Tahsildar or any other Revenue Officer empowered to act may, on the application of a party interested, demarcate the boundaries of a survey number or of a sub-division or of a plot number and construct boundary marks thereon

(2) The State Government may make rules for regulating the procedure to be followed by the Tahsildar or any other Revenue Officer empowered to act in demarcating the boundaries of survey number or of a sub-division or of a plot number prescribing the nature of the boundary marks to be used, and authorising the levy of fees from the holders of land in a demarcated survey number or subdivision or plot number :

130. Penalty for destruction, injury or removal of boundary or survey marks .— If any person wilfully destroys or injures, or without lawful authority removes, a boundary or survey mark lawfully constructed, he may be ordered by

the Tahsildar or any other Revenue Officer empowered to act to pay such fine, not exceeding [one thousand rupees] for each mark so destroyed, injured or removed, as may, in the opinion of the Tahsildar or any other Revenue Officer empowered to act be necessary to defray the expense of restoring the same and of rewarding the informant, if any.

131. Rights of way and other private easements.— (1) In the event of a dispute arising as to the route by which a cultivator shall have access to his fields or to the waste or pasture lands of the village, otherwise than by the recognised roads, paths or common land, including those roads and paths recorded in the village Wajib-ul-arz prepared under Section 242 or as to the source from or course by which he may avail himself of water, a Tahsildar may, after local enquiry, decide the matter with reference to the previous custom in each case and with due regard to the conveniences of all the parties concerned.

71

(2) No order passed under this section shall debar any person from establishing such rights of easement as he may claim by a civil suit.

[132. Penalty for obstruction of way, etc.]—Any person who encroaches upon, or causes any obstruction to the use of a recognised road, path or common land of a village including those roads and paths recorded in the village Wajib-ul-arz or who disobey the decision of a Tahsildar passed under Section 131, shall be liable, under the written order of a Tahsildar stating the facts and circumstances of the case, to a penalty which may extend to 3[ten thousand rupees]

[133. Removal of obstruction.]—If a Tahsildar finds that any obstacle impedes the free use of a recognised road, path or common land of a village or impedes the road or water course or source of water which has been the subject of a decision under Section 131, he may order the person responsible for such obstacle to remove it and if such person fails to comply with the order, may cause the obstacle to be removed and may recover from such person the cost of removal thereof and such person shall be liable, under the written order of a Tahsildar stating the facts and circumstances of the case, to a penalty which may extend to ten thousand rupees.]

134. Execution of bond for abstaining from repetition of certain acts.—

Any person who encroaches upon or causes any obstruction under Section 131, 132 or 133 may be required by the Tahsildar to execute a personal bond for such sum not exceeding five hundred rupees, as he may deem fit, for abstaining from repetition of such act.

135. Acquisition of land for road, paths, etc.— (1) If, on the application of the villagers or otherwise, the Collector is, after enquiry satisfied that it is expedient to acquire any land for the purpose of providing a road not exceeding ten feet in width cart track or path for the use of the village community in such village he may call upon the residents of the village to deposit the amount of compensation, payable in respect of such land under sub-section (3) within a specified period. On such deposit being made the Collector may, by order published in the prescribed manner, acquire such land and upon the making of such

order , such land shall vest absolutely in the State Government.

72

(2) Any person claiming any interest in any such land may within period of one year from the date of vesting under sub-section (1) make an application to the Collector for compensation in respect of his interest.

(3) The compensation payable in respect of such land shall be fifteen times the land revenue assessed or assessable thereon.

136. Power to exempt from operation of this Chapter.—The State Government may, by notification, declare that any of or all of the provisions of this Chapter shall not apply in any village or classes of villages .

REALISATION OF LAND REVENUE- CHAPTER XI

137. Land revenue first charge on land.— The land revenue assessed on any land shall be first charge on that land and on the rents and profits thereof .

138. Responsibility for payment of land revenue.— (1) The following person shall be primarily liable for the payment of the land revenue assessed on a holding —

(a) in a bhumiswami 's holding the bhumi swami;

(b) in a holding consisting of land leased by the State Government the lessee thereof .

(2) When there are more than one bhumi swami or lessee in a holding, all such bhumi swamis or lessees , as the case may be, shall be jointly and severally liable to the payment of the land revenue on such holding

139. Land revenue recoverable from any person, in possession.—In case of default by any person who is primarily liable under Section 138, the land revenue, including arrears, shall be recoverable from any person in possession of the land Provided that such person shall be entitled to credit for the amount recovered from him in account with the person who is primarily liable.

140. Dates on which land revenue falls due and is payable. — (1) The land revenue payable on account of a revenue year shall fall due on the first day of that year .

(2) The State Government may make rules providing for the payment of land revenue in instalments and on dates (hereinafter referred to as prescribed dates) subsequent to the first day of the revenue year, and such rules may prescribe the persons to whom and the places where at such instalments shall be paid.

(3) The payment of land revenue to the person prescribed under subsection (2) may be made in cash or may, at the cost of the remitter , be remitted by money order .

(4) Any period elapsing between the first day of the revenue year and any date fixed for the payment of land revenue by such rules shall be deemed to be a period of grace, and shall not affect the provisions of sub-section (1) .

141. Definitions of "arrear" and "defaulter".—Any land revenue due and not paid on or before the prescribed date becomes therefrom an arrear , and the persons responsible for it, whether under the provisions of Section 138 or Section

139 become defaulters.

142. Patel, Patwari, Gram Sabha or Gram Panchayat bound to give

receipt.— (1) Where a Patel, Patwari, Gram Sabha or Gram Panchayat receives a payment from any person on account of land revenue or on account of any sum of money recoverable as an arrear of land revenue he/it shall grant a receipt for such sum in the prescribed form.

(2) If any Patel, Patwari, Gram Sabha or Gram Panchayat fails to give a receipt as required by sub-section (1) such patel, patwari or in the case of Gram Sabha or Gram Panchayat the persons responsible for passing such receipt on behalf of such Gram Sabha or Gram Panchayat as the case may be, shall, on application of the payer, be liable by an order of the Tahsildar to pay a penalty not exceeding double the amount paid.

143. Penalty for default of payment of land revenue.—If any instalment of land revenue or any part thereof is not paid within one month after the prescribed date the Sub-Divisional Officer may in the case of a wilful defaulter, impose penalty not exceeding [hundred] per cent of the amount not so paid

Provided that no such penalty shall be imposed for the non-payment of an instalment, the payment of which has been suspended by the order of Government, in respect of the period during which the payment remained suspended.

144. Remission or suspension of land revenue on failure of crops .— (1)

The State Government may grant remission or suspension of land revenue in years in which crops have failed in any area or in which crops could not be grown in any area in consequence of any order made under any law by a competent authority, and such remission or suspension shall be determined in accordance with rules made under this Code.

(2) No appeal or revision shall lie against any order passed by a Revenue Officer under such rules and no suit shall lie in a Civil Court to contest any such order .

145. Certified account to be evidence as to arrear and defaulter.—(1) A

statement of account, certified by the Collector or by the Tahsildar shall, for the purpose of this Chapter, be presumed to be correct statement of the arrears payable to Government or its amount, and of the person who is the defaulter, until the contrary is proved.

(2) No notice to defaulter shall be necessary before drawing up the statement referred to in sub-section (1) .

146. Notice of demand.— A Tahsildar or Naib-Tahsildar may cause a notice of demand to be served on any defaulter before the issue of any process under Section 147 for the recovery of an arrear.

147. Process for recovery of arrear. —An arrear of land revenue payable to Government [or Gram Sabha] may be recovered by a Tahsildar by anyone or more of the following processes : —

(a) by attachment and sale of movable property;

(b) by attachment and sale of the holding on which arrear is due and where such holding consists of more than one survey number or plot number by

_sale of one or more of such survey numbers, or plot numbers as may be considered necessary to recover the arrears :

[Provided that no holding shall be sold for the recovery of any dues of a co-operative society without first exhausting the procedure prescribed in Section 154-A]

[(bb) by attachment of holding on which arrears are due and letting the same under Section 154-A;

(bbb) by attachment of any other holding belonging to the defaulter which is used for the purposes of agriculture and letting the same under Section 154-A;]

(c) by attachment and sale of any other immovable property belonging to the defaulter

Provided that the processes specified in clauses (a) and (c) shall not permit the attachment and sale of the following, namely : —

- the necessary wearing apparel, cooking vessels, beds and bedding of the defaulter, his wife and children, and such personal ornaments, as, in accordance with the religious usage, cannot be parted with by any woman;
- Tools of artisans and, if the defaulter is an agriculturist, his implements of husbandry, except an implement driven by mechanical power and such cattle and seed as may, in the opinion of the Tahsildar, be necessary to enable him to earn his livelihood as such;

(iii) articles set aside exclusively for the use of religious endowments;

(iv) house and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for the enjoyment) belonging to an agriculturist and occupied by him

[Provided further that the process specified in clause (b) shall not permit attachment and sale of holding where the defaulter holds, —

- six hectares or less than six hectares of land in the Scheduled Area; or
- four hectares or less than four hectares of land in other areas.

Explanation.— For the purpose of this proviso, "Scheduled Area" means any area declared to be Scheduled Area within the State of Madhya Pradesh under paragraph 6 of the Fifth Schedule to the Constitution of India.]

148. Costs recoverable as part of arrear —The cost of serving a notice of demand under Section 146 or of issuing and enforcing any process in Section 147 shall be recoverable as part of the arrear in respect of which the notice was served or the process was issued.

149. Enforcement of processes in other districts. — The processes specified in clauses (a) and (e) of Section 147 may be enforced either in the district in which the default has been made or in any other district.

150. Payment under protest and suit for recovery.— (1) If proceedings are taken under this Chapter against any person for the recovery of an arrear of land revenue, he may, at any time before the property is knocked down at a sale, pay the amount claimed and may, at the same time, deliver a protest signed by

himself or by his authorised agent to the Revenue Officer taking such proceedings, and thereupon they shall be stayed.

(2) Any person complying with the provisions of sub-section (1) may, notwithstanding anything contained in Section 145, apply to the Sub-Divisional Officer that nothing was due or that the amount due was less than the amount for the recovery of which proceedings were taken and the Sub-Divisional Officer shall decide the objection so raised.

(3) No appeal shall lie against the order of the Sub-Divisional Officer passed under sub-section (2), but the person concerned may institute a civil suit for the recovery of the sum or part thereof paid under protest.

151. Application of proceeds of sale.— (1) The proceeds of every sale under this Chapter shall be applied, firstly, in satisfaction of the arrears on account of which the sale was held and of the expenses of such sale, secondly, to the payment of any arrears of cesses due by the defaulter under any law for the time being in force in the region concerned, thirdly, to the payment of any other arrears payable to the State Government by the defaulter, and fourthly to the payment of any arrears due by the defaulter to a Co-operative Society, and the surplus, if any, shall then be payable to him, or where there are more defaulters than one, to such defaulters according to their respective shares in the property sold :

Provided that the surplus shall not be paid to the defaulter or defaulters until after the expiry of two months from the date of the sale in the case of movable property from the date of the confirmation of sale in the case of immovable property.

(2) Notwithstanding anything in sub-section (1), the proceeds of sale under clause (c) of Section 147 shall be applied first to the payment of arrears of land revenue payable by the defaulter for the immovable property sold up to the date of the sale, and the surplus, if any, shall be applied in accordance with sub-section (1).

152. Land sold for arrears to be free from encumbrances.— (1) Unless the Sub-Divisional Officer in ordering the sale otherwise directs, purchaser of the land sold for arrears of land revenue due in respect thereof, shall acquire it free of all encumbrances imposed on it, and all grants and contracts made in respect of it, by any person other than the purchaser.

(2) Any transfer, grant or contract in respect of trees or the produce of trees which are or at any time have been the property of the bhumi swami of the land in which they stand, shall be deemed to be a grant or contract made in respect of such land within the meaning of sub-section (1).

153. Purchaser's title.— Where immovable property is sold under the provisions of this Chapter and such sale has become absolute, the property shall be deemed to have vested in the purchaser from the time when the property is sold and not from the time when the sale becomes absolute.

154. Purchaser not liable for land revenue due prior to sale.— Notwithstanding anything in Section 138, or Section 139, the person named in the

certificate of purchase shall not be liable for land revenue payable in respect of the land for any period previous to the date of the sale.

[154-A. Powers of the Tahsildar to let out the holding in respect of which arrear is due or any other holding of the defaulter. — [(1) Where the arrear of land revenue is due in respect of a holding or where any money is recoverable in the same manner as an arrear of land revenue under Section 155, the Tahsildar may, notwithstanding anything, contained in this Code, after attachment of holding under clause (b) for the recovery of dues of a Co-operative Society, or clause (bb) or clause (bbb) of Section 147 as the case may be, let out the holding on which arrear is due or any other holding belonging to the defaulter which is used for the purpose of agriculture to any person other than the defaulter for a period not exceeding ten years commencing from the first day of agricultural year next following upon such terms and conditions as the Collector may fix Provided that the holding attached for the recovery of the dues of a Cooperative Society shall be let out for a period not exceeding ten years :]

[Provided further that any land of a holding of a bhumi swami belonging to a member of a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165, shall not be let out to any person other than a member of such tribe.]

(2) Nothing in this section shall affect the liability of any person who may be liable under this Code for the payment of the arrears of land revenue or of any money recoverable in the same manner as an arrear of land revenue under Section 155.

(3) Upon the expiry of the period of lease the holding shall be restored to the person concerned free of any claim on the part of the State Government for the arrears in respect of such holding or free of any claim on the part of the State Government or any other authority whatsoever for the moneys recoverable in the same manner as an arrear of land revenue under Section 155 for the satisfaction whereof the same was let out under sub-section (1) :]

[Provided that nothing in this sub-section shall apply to the holding attached and let out for the recovery of the dues of a Co-operative Society where the dues for the satisfaction whereof the same was let out under sub-section (1) are not fully satisfied on the expiry of the period of lease.]

155. Moneys recoverable as an arrear of land revenue.— The following moneys may be recovered, as far as may be, under the provisions of this Chapter in the same manner as an arrear of land revenue : —

- (a) except such charges as are included in the land revenue under subsection (2) of Section 58, all rents, royal ties, water rates, cesses, fees, charges, premia, penalties, fines and cost payable or leviable under this Code or any other enactment for the time being in force;
- (b) all moneys falling due to the State Government under any grant, lease or contract which provides that they shall be recoverable in the same manner as an arrear of land revenue;

[(bb) all moneys guaranteed by the State Government to the extent of

amount guaranteed under a contract of guarantee which provides that they shall be recoverable in the same manner as an arrear of land revenue;]

(c) all sums declared by this Code, or any other enactment for the time being in force to be recoverable in the same manner as an arrear of land revenue; and

(d) any sum ordered by a liquidator appointed under any law relating to Co-operative Societies in force for the time being in any region of the State to be recovered as a contribution to the assets of a society or as the cost of liquidation

Provided that no action shall be taken on application for recovery of a sum specified in clause (d), unless such application is accompanied by a certificate signed by the Registrar appointed under such law that the sum should be recovered as an arrear of land revenue;

[(e) all moneys becoming payable to the Madhya Pradesh State Agro Industries Development Corporation Limited —

(i) on account of penalty, cost of agricultural implements or other materials sold by the Corporation to agriculturists for the purpose of agriculture or improvement of land or otherwise, under any agreement of sale of such implements or materials by the said Corporation;

(ii) in repayment of any loan advanced by the said Corporation or of any amount due to the said Corporation under any lease, contract, or agreement with or any other dealing of the said Corporation

Provided that no action shall be taken on application for recovery of a sum specified in this clause, unless such application is accompanied by a certificate signed by the Managing Director of the said Corporation that the sum should be recovered as an arrear of land revenue;]

[(f) all moneys becoming payable to the Madhya Pradesh Laghu Udyog Nigam Limited and the Madhya Pradesh Audyogik Vikas Nigam Limited- -

(i) on account of service charge, penalty, interest, cost of machinery or other materials sold by the said Nigams to entrepreneurs for the purpose of establishing, expanding or running an industry or for any other purpose ancillary to an industry under any agreement of sale on hire purchase or otherwise of such machinery or materials by the said Nigams;

(ii) on account of rent or cost of building hired out or sold, as the case may be, by the said Nigams under any lease, contract or agreement;

(iii) in repayment of any loan advanced by the said Nigams, or of any amount due to the said Nigams under any lease, contract or agreement with or any other dealing of the said Nigams

Provided that no action shall be taken on application for recovery of a sum specified in this clause unless such application is accompanied by a certificate signed by the Managing Director of the said Nigam that the said sum should be recovered as an arrear of land revenue;

(g) all moneys becoming payable to the Madhya Pradesh Lift Irrigation Corporation Limited on account of —

- (i) construction charges of the tube-wells;
- (ii) water rates for the water supplied for the purpose of irrigation from any Lift Irrigation Schemes;
- (iii) any sum due to the said Corporation under any lease, agreement or contract executed with the said Corporation

Provided that no action shall be taken on application for recovery of a sum specified in this clause unless such application is accompanied by a certificate signed by the Managing Director of the said corporation that the said sum should be recovered as an arrear of land revenue.]

156. Recovery of moneys from surety—Every person who may have become a surety under any of the provisions of this Code or under any other enactment or any grant, lease or contract where under the sum secured is recoverable from the principal as an arrear of land revenue shall, on failure to pay the amount or any portion thereof which he may have become liable to pay under the terms of his security bond, be liable to be proceeded against under the provisions of this Code in the same manner as for an arrear of land, revenue.

UNIT-III

TENURE-HOLDERS- CHAPTER XI I OF THE ACT

157. Class of tenure . - There shall be only one class of tenure- holders of land held from the state to be known as bhumiswami

158. Bhumi swami.— [(1)] Every person who at the time of coming into force of this Code, belongs to any of the following classes shall be called a bhumiswami and shall have all the rights and be subject to all the liabilities conferred or imposed upon a bhumi swami by or under this Code, namely : —

- (a) every person in respect of land held by him in the Mahakoshal region in bhumiswami or bhumidhar rights in accordance with the provisions of the Madhya Pradesh Land Revenue Code, 1954 (I I of 1955) ;
- (b) every person in respect of land held by him in the Madhya Bharat region as a Pakka tenant or as a Muafidar , Inamdar or Concessional holder, as defined in the Madhya Bharat Land Revenue and Tenancy Act, Samvat, 2007 (66 of 1950) ;
- (c) every person in respect of land held by him in the Bhopal region as an occupant as defined in the Bhopal State Land Revenue Act , 1932 (IV of 1932) ;
- (d) (i) every person in respect of land held by him in the Vindhya Pradesh region as a pachapan paintali s tenant, pattedar tenant, a grove holder or

as a holder of tank as defined in the Vindhya Pradesh Land Revenue and Tenancy Act, 1953 (I I I of 1955) ;

(ii) every person in respect of land (other than land which is a grove or tank or which has been acquired or which is required for Government or public purposes) held by him in the Vindhya Pradesh region as a gair haqdar tenant and in respect of which he is entitled to a patta in accordance with the provisions of subsection (4) of Section 57 of the Rewa State Land Revenue and Tenancy Code, 1935;]

(iii) every person in respect of land held by him as a tenant in the Vindhya Pradesh region and in respect of which he is entitled to a patta in accordance with the provisions of sub-sections (2) and (3) of Section 151 of the Vindhya Pradesh Land Revenue and Tenancy Act, 1953 (I I I of 1955), but has omitted to obtain such patta before the coming into force of this Code,

(e) every person in respect of land held by him in Sironj region as a khatedar tenant or as a grove holder as defined in the Rajasthan Tenancy Act, 1955 (3 of 1955) .

[(2) A Ruler of an Indian State forming part of the State of Madhya Pradesh who, at the time of coming into force of this Code, was holding land or was entitled to hold land as such Ruler by virtue of the covenant or agreement entered into by him before the commencement of the Constitution, shall, as from the date of coming into force of this Code, be a bhumi swami of such land under the Code and shall be subject to all the rights and liabilities conferred and imposed upon a bhumiswami by or under this Code.

Explanation.—In this section, the expression "Ruler" and "Indian State" shall have the same meanings as are assigned to these expressions in clauses (22) and (15) respectively by Article 366 of the Constitution of India.]

[(3) Every person--

(i) who is holding land in bhumi swami right by virtue of a lease granted to him by the State Government or the Collector or the Allotment Officer on or before the commencement of the Madhya Pradesh Land Revenue Code (Amendment) Act, 1992 from the date of such commencement, and

(ii) to whom land is allotted in bhumi swami right by the State Government or the Collector or the Allotment Officer after the commencement of the Madhya Pradesh Land Revenue Code (Amendment) Act, 1992 from the date of such allotment, shall be deemed to be a bhumi swami in respect of such land and shall be subject to all the rights and liabilities conferred and imposed upon a bhumiswami by or under this Code

Provided that no such person shall transfer such land within a period of ten years from the date of lease or allotment.]

159. Land revenue payable by bhumiswami s. — Every person becoming a bhumiswami under Section 158 shall pay as land revenue

(a) if he was paying land revenue in respect of the lands held by him — such land revenue; or

(b) if he was paying rent in respect of the lands held by him— an amount equal to such rent.

160. Revocation of exemption from liability for land revenue.— (1) Every Muafi or Inam land, wherever situate, which was heretofore exempted from payment of the whole or part of the land revenue by a special grant from the Government or under the provisions of any law for the time being in force or in pursuance of any other instrument shall, notwithstanding anything contained in any such grant, law or instrument be liable from the commencement of the revenue year next following the coming into force of this Code, to the payment of full land revenue as assessable thereon,

(2) Where any such Muafi or Inam land is held for the maintenance or upkeep of any public, religious or charitable institution, the State Government may, on the application of such institution, in the prescribed form and made within such time as may be prescribed] grant to it such annuity not exceeding the amount of the exemption from land revenue enjoyed by it, as may be considered reasonable for the proper maintenance or upkeep of such institution or for the continuance of service rendered by it.

(3) The annuity granted under sub-section (2) shall be subject to such conditions as may be prescribed and may from time to time be revised or withdrawn by the State Government.

(4) Where an application is made under sub-section (2), the recovery of land revenue from the institution concerned shall be stayed until the decision of the application.

161. Reduction of revenue during the currency of settlement. — (1) At any time during the currency of the settlement the Collector may, in accordance with such rules as may be made in this behalf, on the application of a bhumiswami or of his own motion reduce the revenue in respect of any land on any of the following grounds, namely : —

(i) that the land has been wholly or partially rendered unfit for cultivation in consequence of floods or other cause beyond the control of such bhumiswami;

(ii) that any irrigation source, whether new or old, constructed and maintained at the cost of the State has fallen into disrepair and has ceased to irrigate the whole or any part of his holding to which an enhanced rate of revenue has been applied on account of irrigation;

(iii) that any private irrigation source has for any cause beyond the control of bhumiswami, ceased to irrigate the whole or any part of the holding which has been assessed to enhanced land revenue on account of irrigation;

(iv) that the revenue payable by the bhumiswami in respect of the land is more than the revenue calculated at the rate fixed at the last

settlement or under any other law for such land;

(v) that the area of the holding of such bhumi swami has decreased for any reason below the area on which the existing land revenue was assessed.

(2) Where any reduction is ordered under sub-section (1), such reduction shall take effect from the commencement of the revenue year next following the date of the order.

(3) If the cause for which revenue has been reduced under sub-section (1) subsequently ceases or is removed, the Collector may, after giving the bhumi swami a reasonable opportunity of being heard, make an order directing that such reduction shall cease to be in force and on such order being passed, the reduction shall stand revoked from the commencement of the revenue year next following the date of the order.

[162. x x x]

163. Pending applications for conferral of bhumi swami rights .—All

applications by bhumidhar is for conferral of bhumi swami rights pending before any Revenue Court in the Mahakoshal region immediately before the coming into force of this Code whether in appeal, revision, review or otherwise, shall be filed and the amount, if any, deposited by such bhumidhar is shall be refunded to them.

[164 Devolution.— Subject to his personal law the interest of bhumi swami shall, on his death, pass by inheritance, survivorship or bequest, as the case may be.]

165. Rights of transfer.—(1) Subject to the other provisions of this section and the provision of Section 168 a bhumi swami may transfer [x x x] any interest in his land.

(2) Notwithstanding anything contained in sub-section (1)—

(a) no mortgage of any land by a bhumi swami shall hereafter be valid unless at least five acres of irrigated or ten acres of unirrigated land is left with him free from any encumbrance or charge;

(b) subject to the provisions of clause (a), no usufructuary mortgage of any land by a bhumi swami shall hereafter be valid if it is for a period exceeding six years and unless it is a condition of the mortgage that on the expiry of the period mentioned in the mortgage deed, the mortgagee shall be deemed, without any payment whatsoever by the bhumi swami to have been redeemed in full and the mortgagee shall forthwith redeliver possession of the mortgaged land to the bhumiswami;

(c) if any mortgagee in possession of the land mortgaged does not hand over possession of land after the expiry of the period of the mortgage or six years whichever expires first the ...mortgagee shall be liable to ejectment by the orders of the Tahsildar as trespasser and the mortgagor shall be placed in

possession of the land by the Tahsildar

[Provided that nothing in this sub-section shall apply in the case of a mortgage of any land held by a bhumi swami for non-agricultural purpose]

(3) Where a bhumi swami effects a mortgage other than a usufructuary mortgage of his land in pursuance of the provisions of sub-section (2), then notwithstanding anything contained in the mortgage deed, the total amount of interest accruing under the mortgage shall not exceed half the sum of the principal amount advanced by the mortgagee.

(4) Notwithstanding anything contained in sub-section (1), no bhumi swami shall have the right to transfer any land--

(a) in favour of any person who shall as a result of the transfer become entitled to land which together with the land, if any, held by himself or by his family will in the aggregate exceed such ceiling limits as may be prescribed;

[(b) x x x]

[Provided that

(i) nothing in this sub-section shall apply—

(a) (i) in the case of transfer in favour of an institution established for a public, religious or charitable purpose or a transfer for industrial purpose or a transfer by way of mortgage;

(ii) in the case of transfer in favour of Co-operative Society for industrial purpose or a transfer by way of mortgage subject, however, to the condition that no mortgage for agricultural purposes shall authorise sale for recovery of an advance in contravention of clause (b) of Section 147;

(b) in the case of a transfer of land held for non-agricultural purposes]

Provided further that the transfer of land under sub-clause (a) of clause (i) of the preceding proviso for an industrial purpose shall be subject to the following conditions, namely : —

(i) if such land is to be diverted to a non-agricultural purpose, the permission of the Sub-Divisional Officer under Section 172 for such diversion is obtained prior to such transfer; and

(ii) the provisions of Section 172 shall apply to such transfer with the modification that the period of three months and I [one month] 2[six months] mentioned in the proviso to sub-section

(1) thereof shall, for the purposes of an application for such diversion, be forty-five days and 3[one month] In ninety days] respectively.]

Explanation.—For the purposes of this sub-section, a person's family shall consist of the person himself, the minor children and the spouse of such person living jointly with him and if such person is a minor then his parents living jointly with him.

(5) Notwithstanding anything to the contrary in any other enactment for the

time being in force, no land of a bhumiswami shall, in execution of a decree or order of a Court, be sold to any person who as a result of such sale shall become entitled to land which together with the land, if any, held by himself or by his family will in the aggregate exceed such ceiling limits as may be prescribed [Provided that nothing in this sub-section shall apply in the case of a cooperative society where any land is to be sold in execution of a decree or order passed in favour of such society after exhausting the procedure prescribed in Section 154-A]

Explanation—For the purposes of this sub-section, the expression "a person's family" shall have the same meaning as assigned to it in sub-section (4).

[(6) Notwithstanding anything contained in sub-section (1) the right of bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe by the State Government by a notification in that behalf, for the whole or part of the area to which this Code applies shall-

(i) in such areas as are predominately inhabited by aboriginal tribes and from such date as the State Government may, by notification, specify, not be transferred nor it shall be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe in the area specified in the notification;

(ii) in areas other than those specified in the notification under clause (i), not to be transferred or be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to such tribe without the permission of a Revenue Officer not below the rank of Collector, given for reasons to be recorded in writing.

90

Explanation.—For the purposes of This sub-section the expression "otherwise" shall not include lease.]

[(6-a) Notwithstanding anything contained in sub-section (1) , 2[the right of a bhumiswami other than a bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6), in the land excluding the agricultural land] shall not be transferred or be transferable either by way of sale or otherwise or as a consequence of transaction of loan to a person not belonging to aboriginal tribe without the permission of the Collector given for reasons to be recorded in writing

Provided that every such transfer effected 3[after the 9th day of June, 1980 but before the 20th April, 1981] which is not in accordance with the provisions herein contained shall, unless such transfer is ratified by the Collector in accordance with the provisions hereinafter contained, be void and shall be of no effect whatsoever, notwithstanding anything contained in this Code or any other law for the time being in force.

(6-b) Notwithstanding anything contained in the Limitation Act, 1963 (No. 36 of 1963), the Collector may on his own motion at any time or on an application made in this behalf within three years of such transaction in such form as may be

prescribed, make an enquiry as he may deem fit, and may, after giving a reasonable opportunity of being heard to the persons affected by the transfer, pass an order ratifying the transfer or refusing to ratify the transfer.

(6-c) The Collector shall in passing an order under sub-section (6-a) granting or refusing to grant permission or under sub-section (6-b) ratifying or refusing to ratify the transaction shall have due regard to the following : —

(i) whether or not the person to whom land is being transferred is a resident of the Scheduled Area;

(ii) the purpose to which land shall be or is likely to be used after the transfer;

(iii) whether the transfer serves, or is likely to serve or prejudice the social, cultural and economic interest of the residents of the Scheduled Area;

(iv) whether the consideration paid is adequate;

(v) whether the transaction is spurious or benami and

(vi) such other matters as may be prescribed.

The decision of the Collector granting or refusing to grant the permission under sub-section (6-a) or ratifying or refusing to ratify the transaction of transfer under sub-section (6-b), shall be final, notwithstanding anything to the contrary contained in this Code.

Explanation.—For the purpose of this sub-section, —

(a) "Scheduled Area" means any area declared to be a Scheduled Area within the State of Madhya Pradesh under paragraph 6 of the Fifth Schedule to the Constitution of India;

(b) the burden of proving that the transfer was not spurious, fictitious or benami shall lie on the person who claims such transfer to be valid.

(6-d) On refusal to grant the permission under sub-section (6-a) or ratification under sub-section (6-b), the transferee, if in possession of the land shall vacate the possession forthwith and restore the possession thereof to the original bhumiswami.

(6-e) If the *bhumi swami* for any reason whatsoever fails or is unable to take possession of the land of which the right of possession stands restored to him under sub-section (6-d), the Collector shall cause the possession of land to be taken and cause the land to be managed on behalf of the *bhumi swami* subject to such terms and conditions as may be prescribed till such time as the original *bhumi swami* enters upon his land

Provided that if any resistance is offered in restoring possession, the Collector shall use or cause to be used such force as may be necessary.

[(6-ee) The agricultural land transferred by the *bhumiswami* other than a *bhumiswami* belonging to an aboriginal tribe declared under sub-section (6) to a person not belonging to an aboriginal tribe shall not be diverted for any other purpose before the expiry of period of ten years from the date of transfer;]

(6-f) The provisions of sub-section (6-a) to 2[(6-ee)] shall have effect,

notwithstanding anything to the contrary contained in this Code or any other law for the time being in force.]

(7) Notwithstanding anything contained in sub-section (1) or in any other law for the time being in force —

[(a) where the area of land comprised in a holding or if there be more than one holding the aggregate area of all holdings of a bhumi swami is in excess of five acres of irrigated or ten acres of unirrigated land, then only so much area of land in his holding or holdings shall be liable to attachment or sale in execution of any decree or order as is in excess of five acres of irrigated or ten acres of unirrigated land;]

(b) no land comprised in a holding of a bhumi swami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) shall be liable to be attached or sold in execution of any decree or order ;

(c) no receiver shall be appointed to manage the land of a bhumi swami under Section 51 of the Code of Civil Procedure, 1908 (V of 1908) nor shall any such land vest in the Court or any receiver under the Provincial Insolvency Act, 1920 (V of 1920), contrary to the provisions of clause (a) or clause (b)

Provided that nothing in this sub-section shall apply where a charge has been created on the land by a mortgage.

[(7-a) Notwithstanding anything contained in sub-section (1), no bhumiswami specified in Section 33 of the Madhya Pradesh Bhoodan Yagna Adhiniyarn, 1968 (No. 28 of 1968) shall have the right to transfer any interest in his land specified in the said section without the permission of the Collector .]

[(7-b) Notwithstanding anything contained in sub-section (1), [a person who holds land from the State Government or a person who holds land in bhumiswami rights under sub-section (3) of Section 158] or whom right to occupy land is granted by the State Government or the Collector as a Government lessee and who subsequently becomes bhumi swami of such land, shall not transfer such land without the permission of a Revenue Officer , not below the rank of a

Collector , given for reasons to be recorded in writing.]

(8) Nothing in this section shall prevent a bhumi swami from transferring any right in his land to secure payment of, or shall affect the right of the State Government to sell such right for the recovery of an advance made to him under the Land Improvement Loans Act, 1883 (XIX of 1883) or the Agriculturist Loans Act, 1884 (XI I of 1884) .

[(9) Nothing in this section shall —

(i) prevent a bhumiswami from transferring any right in his land by way of mortgage to secure payment of an advance made to him by cooperative society subject to the condition that the land shall not be sold to secure recovery, without exhausting the procedure prescribed in Section 154-A; or

(ii) affect the right of any such society to secure recovery or an advance made to him, in accordance with the provisions of Section 154-AI

[(9-a) Nothing in this section shall prevent a bhumiswami who is a displaced person from transferring any right in his land to secure payment of an advance made to him by the Dandakaranya Development Authority or shall affect the right of that Authority to sell such right for the recovery of such advance.

Explanation. — In this sub-section "displaced person" means a person displaced from the territories now comprised in East Pakistan who is resettled in Madhya Pradesh on or after the 1st day of April, 1957, under any scheme of resettlement of displaced persons sanctioned by the Central Government or the State Government.]

[(9-b) Nothing in this section shall prevent a bhumiswami from transferring any right in his land to secure payment of an advance made to him by a Commercial Bank for purpose of agriculture or improvement of holding or shall affect the right of any such Bank to sell such right for the recovery of such advance.]

(10) Notwithstanding anything contained in the Indian Registration Act, 1908 (XVI of 1908), no officer empowered to register documents thereunder shall admit to registration any document which purports to contravene the provisions of this section.

(11) Nothing in this section shall —

- (a) invalidate any transfer which was validly made; or
- (b) validate any transfer which was invalidly made; before the coming into force of this Code.

Explanation — For purposes of this section one acre of irrigated land shall be deemed to be equal to two acres of unirrigated land and vice-versa.

166. Forfeiture in cases of certain transfers .— (1) If a transfer of land is made in contravention of the provisions of clause (a) of sub-section (4) of Section 165 so much of the land as is in excess of the prescribed ceiling limit with the transferee shall, after its selection by the transferee within the prescribed period and demarcation by a Sub-Divisional Officer in accordance with such rules as may be made in that behalf, stand forfeited to the State Government
Provided that if the transferee fails to make the selection within the prescribed period such selection shall be made by the Sub-Divisional Officer .

[(2) x .x x]

(3) The Sub-Divisional Officer shall in the cases referred to in sub-sections (1) and (2) fix the land revenue in the prescribed manner in respect of the land left with the transferee.

167. Exchange of land.—Subject to the provisions of Section 165 bhumiswami may exchange by mutual agreement the whole or any part of their holding for purposes of consolidation of holdings or securing greater convenience in cultivation.

UNIT-IV

168. Leases.— (1) 3[Except in cases provided for in sub-section (2) , no bhumiswami shall lease any land comprised in his holding for more than one year

during any consecutive period of three years :

[Provided that nothing in this sub-section shall apply to the lease of any land —

95

- made by bhumi swami who is a member of a registered cooperative farming society to such society;
- held by a bhumi swami for non-agricultural purposes .]

Explanation. —For the purposes of this section —

- (a) "lease" means a transfer of a right to enjoy any land, made for a certain time, expressed or implied in consideration of a price paid or promised or of money or any other thing of value to be given periodically to the transferor by the transferee who accepts the transfer on such terms,
- (b) any arrangement whereby a person cultivates any land of a bhumiswami with bullocks belonging to or procured by such person (lessee) and on condition of his giving a specified-share of the produce of the land to the bhumi swami shall be deemed to be a lease.
- (c) the grant of a right merely to cut grass or to graze cattle or to grow 'singhara' or to propagate or collect lac, pluck or collect tendu leaves shall not be deemed to be a lease of the land.

(2) A bhumi swami who is —

- (i) a widow; or
 - (ii) an unmarried woman; or
 - (iii) a married woman who has been deserted by her husband; or
 - (iv) a minor ; or
 - (v) a person subject to physical or mental disability due to old age or otherwise; or
 - (vi) a person detained or imprisoned under any process of law; or
 - (vii) a person in the service of Armed Forces of the Union; or
 - (viii) a public, charitable or religious institution; or
 - (ix) a local authority or a Co-operative Society;
- may lease the whole or any part of his holding •

Provided that where a holding is held jointly by more than one person the provisions of this sub-section shall not be applicable unless all such persons belong to any one or more of the classes aforesaid

Provided further that any lease made in pursuance of this sub-section shall cease to be in force after one year of the determination of the disability by death or otherwise.

[(3) x x x]

(4) Where a lease is granted in pursuance of [sub-section (2)] the lessee shall hold the land on such terms and conditions as may be agreed upon between him and the bhumi swami and may be ejected by an order of a Sub-Divisional Officer on the application of the bhumi swami on the ground of contravention of any material term or condition of the lease or on the lease ceasing to be in force.

(5) Where on the coming into force of this Code any land is held on lease

from a bhumi swami who belongs to any one or more of the classes mentioned in sub-section (2), such lease shall, on the coming into force of this Code, be deemed to be a lease granted in pursuance of sub-section (2).

[169. Unauthorised lease etc.—If a bhumi swami

- (i) leases out for any period any land comprised in his holding in contravention of Section 168; or
- (ii) by an arrangement which is not a lease under sub-section (1) of Section 168 allows any person to cultivate any land comprised in his holding otherwise than as his hired labour and under that arrangement such person is allowed to be in possession of such land for a period exceeding two years without being evicted in accordance with Section 250;

the rights of an occupancy tenant shall, —

(a) in the case of (i) above, thereupon accrue to the lessee in such land; and

(b) in the case of (ii) above, on the expiration of a period of two years from the date of possession, accrue to such person in that land

Provided that nothing in this section shall apply to a land comprised in the holding of a bhumi swami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 and which is leased out by him or in respect of which he has made an arrangement as aforesaid, as the case may be.]

170. Avoidance of transfer in contravention of Section 165.—[(i) Where

possession is transferred by a bhumiswami in pursuance of a transfer which is in contravention of sub-section (6) of Section 165 any person who, if he survived the bhurniswami without nearer heirs would inherit the holding, may,—

(i) till the 31st December, 1978, in the case of transfer of possession prior to the 1st July 1976; and

(ii) within [twelve years] of such transfer of possession, in subsequent cases,

apply to the Sub-Divisional Officer to be placed in possession subject so far as the Sub-Divisional Officer may, in accordance with the rules made in this behalf

determine to his acceptance of the liabilities for arrears of land revenue or any other dues which form a charge on the holding, and the Sub-Divisional Officer shall dispose of such application in accordance with the procedure as may be prescribed.]

(2) Where any land of a bhumi swami is sold in contravention of sub-section

(3) of Section 165, the Court by which such sale is ordered shall, on the application of the bhumiswami or any person who, if he survived the bhumi swami without nearer heirs would inherit the holding made within two years of such sale, set aside the sale and Place the applicant in possession of the land subject to his accepting the liability for arrears of land revenue or any other dues which form a charge on the land.

[170-A. Certain transfers to be set aside.— (1) Notwithstanding anything

contained in the Limitation Act, 1963 (No. 36 of 1963), the Sub-Divisional Officer may, on his own motion or on an application made by a transferor of agricultural land belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 on or before the 31st December, 1978, enquire into a

transfer effected by way of sale, or in pursuance of a decree of a Court of such land to a person not belonging to such tribe or transfer effected by way of accrual of right of occupancy tenant under Section 169 or of bhumiswami under subsection (2-A) of Section 190 at any time during the period commencing on the 2nd October, 1959 and ending on the date of commencement of the Madhya Pradesh Land Revenue Code (Third Amendment) Act, 1976 to satisfy himself as to the bonafide nature of such transfer. •

(2) If the Sub-Divisional Officer on an enquiry and after giving a reasonable opportunity to the persons owning any interest in such land, is satisfied that such transfer was not bonafide, he may notwithstanding anything contained in this Code or any other enactment for the time being in force, —

[(a) subject to the provisions of clause (b), set aside such transfer if made by a holder belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 and restore the land to the transferor ; or]

[(a) subject to the provisions of clause (b), set aside such transfer if made by a holder belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 and 4[restore the land to the transferor by putting him in possession of the land forthwith] ; or

(b) where such land has been diverted for non-agricultural purposes, he shall fix the price of such land which it would have fetched at the time of transfer and order the transferee to pay the difference, if any, between the price so fixed and the price actually paid to the transferor within a period of six months.]

[170-B. Reversion of land of members of aboriginal tribe which was

transferred by fraud.— (1) Every person who on the date of commencement of the Madhya Pradesh Land Revenue Code (Amendment), 1980 (hereinafter referred to as the Amendment Act of 1980) is in possession of agricultural land which belonged to a member of a tribe which has been declared to be an aboriginal tribe under subsection (6) of Section 165 between the period commencing on the 2nd October,

1959 and ending on the date of the commencement of Amendment Act, 1980 shall, within 6] two years] of

such commencement, notify to the Sub-Divisional Officer in such form and in such manner as may be prescribed, all the information as to how he has come in possession of such land.

(2) If any person fails to notify the information as required by subsection

(1) within the period specified therein it shall be presumed that such person

has been in possession of the agricultural land without any lawful authority and the agricultural land shall, on the expiration of the period aforesaid revert to the

person to whom it originally belonged and if that person be dead, to his legal heirs .[(2-A) If a Gram Sabha in the Scheduled area referred to in clause (1) of

Article 244 of the Constitution finds that any person, other than a member of an aboriginal tribe, is in possession of any land of a bhumiswami belonging to an aboriginal tribe, without any lawful authority, it shall restore the possession of such land to that person to whom it originally belonged and if that person is dead to his legal heirs

Provided that if the Gram Sabha fails to restore the possession of such land, it shall refer the matter to the Sub-Divisional Officer , who shall restore the possession of such land within three months from the date of receipt of the reference.]

(3) On receipt of the information under sub-section (1), the Sub-Divisional Officer shall make such enquiry as may be deemed necessary about all such transactions of transfer and if he finds that the member of aboriginal tribe has been defrauded of his legitimate right he shall declare the transaction null and void and pass an order revesting the agricultural land in the transferor and, if he is dead, in his legal heirs .]

[(3) On receipt of the information under sub-section (1) the Sub-Divisional Officer shall make such enquiry as may be necessary about all such transactions of transfer and if he finds that the member of aboriginal tribe has been defrauded of his legitimate right he shall declare the transaction null and void and —
100

(a) Where no building or structure has been erected on the agricultural land prior to such finding pass an order revesting the agricultural land in the transferor and if he be dead, in his legal heirs,

(b) Where any building or structure has been erected on the agricultural land prior to such finding, he shall fix the price of such land in accordance with the principles laid down for fixation of price of land in the Land Acquisition Act, 1894 (No. 1 of 1894) and order the person referred to in sub-section (1) to pay to the transferor the difference, if any, between the price so fixed and the price actually paid to the transferor :

Provided that where the building or structure has been erected after the 1st day of January, 1984, the provisions of clause (b) above shall not apply
Provided further that fixation of price under clause (b) shall be with reference to the price on the date of registration of the case before the Sub-Divisional Officer .]

[170-C. Advocate not to appear in proceedings under Section 170-A or 170-B without permission.— Notwithstanding anything contained in the Advocates Act, 1961 (No. 25 of 1961) no Advocate shall appear before a Revenue Officer under any proceeding under Section 170-A or 170-B without the permission of such officer :

Provided that if permission is granted to one party not belonging to a member of a tribe which has been declared to be an aboriginal tribe under subsection (6) of Section 165, similar assistance shall always be provided to the other party belonging to such tribe at the cost of and through legal aid agency.]

[170-D. Second appeal barred.— Notwithstanding anything contained in this Code, no second appeal shall lie against the orders passed on or after the 24th October, 1983 under Section 170-A and Section 170-B.]

171. Right to make improvements.— A bhumiswami of land held for the purpose of agriculture is entitled to make any improvement thereon for the better cultivation of the land or its more convenient use for the purpose aforesaid.

172. Diversion of land.— (1) [If a bhumiswami of land held for any purpose in—

(i) urban area or within a radius of five miles from the outer limits of such area;

(ii) a village with a population of two thousand or above according to last census; or

(iii) in such other areas as the State Government may, by notification, specify;

wishes to divert his holding or any part thereof to any other purpose except agriculture,] he shall apply for permission to the Sub-Divisional Officer who may, subject to the provisions of this section and to rules made under this Code, refuse permission or grant it on such conditions as he may think fit

Provided that should the Sub-Divisional Officer neglect or omit for three months after the receipt of an application under sub-section (1) to make and deliver to the applicant an order of permission or refusal in respect thereof, and the applicant has by written communication called the attention of the Sub-Divisional Officer to the omission or neglect, and such omission or neglect continues for a further period of 4[one month], the Sub-Divisional Officer shall be deemed to have granted the permission without any condition :

[Provided further that if a bhumiswami of a land, which is reserved for a purpose other than agriculture in the development plan but is used for agriculture, wishes to

divert his land or any part thereof to the purpose for which it is reserved in the development plan, a written information of his intention given by bhumiswami to the Sub-Divisional Officer shall be sufficient and no permission is required for such diversion

Provided also that if a bhumiswami of a land wishes to divert his land or any part thereof which is assessed for agriculture purpose and situated in any area other than an area covered by development plan to the purpose of industry, a written information of his intention given by bhumiswami to the Sub-Divisional Officer shall be sufficient and no permission is required for such diversion.]

[Provided also that if a competent authority undertakes the work of regularisation of the illegal colony, the land of which is not diverted, then the land, subject to the provisions of development plan, shall be deemed to have been

diverted and such land shall be liable for premium and revised land revenue under Section 59.

Explanation.— For the purpose of this section the competent authority shall have the same meaning as assigned to it in the Madhya Pradesh Nagar Palika (Registration of Coloniser, Terms and Conditions) Rules, 1998 made under the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956) and the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961).]

(2) Permission to divert may be refused by the Sub-Divisional Officer only on the ground that the diversion is likely to cause a public nuisance, or the bhumiswami is unable or unwilling to comply with the conditions that may be imposed under sub-section (3).

(3) Conditions may be imposed on diversion for the following objects and no other, namely, in order to secure the public health, safety and convenience, and in the case of land which is to be used as building sites, in order to secure in addition that the dimensions, arrangement and accessibility of the sites are adequate for the health and convenience of occupiers or are suitable to the locality.

(4) If any land has been diverted without permission by the bhumiswami or by any other person with or without the consent of the bhumiswami the Sub-Divisional Officer on receiving information thereof, may impose on the person responsible for the diversion a penalty not exceeding 20 [twenty per centum of the market value of such diverted land] and may proceed in accordance with the provisions of sub-section (1) as if an application for permission to divert had been made.

(5) If any land has been diverted in contravention of an order passed or of a condition imposed under any of the foregoing sub-sections, the Sub-Divisional Officer may serve a notice on the person responsible for such contravention, directing him, within a reasonable period to be stated in the notice, to use the land for its original purpose or to observe the condition; and such notice may require such person to remove any structure, to fill up any excavation, or to take such other steps as may be required in order that the land may be used for its original purpose, or that the condition may be satisfied. The Sub-Divisional Officer may also impose on such person a penalty not exceeding 20 [twenty per centum of the market value of such diverted land] for such contravention, and a further penalty not exceeding 2000 [one thousand rupees] for each day during which such contravention is persisted in.

(6) If any person served with the notice under sub-section (5) fails within the period stated in the notice to take the steps ordered by the Sub-Divisional Officer under that sub-section, the Sub-Divisional Officer may himself take such steps or cause them to be taken; and any cost incurred in so doing shall be recoverable from such person as if it were an arrear of land revenue.

[(6-a) If any land has been diverted in contravention of sub-section (6-ee) of Section 165, the Sub-Divisional Officer in addition to taking action laid down in sub-sections (5) and (6), shall also impose a penalty not exceeding five thousand rupees for such contravention and a further penalty not exceeding one hundred rupees for each day during which such contravention is persisted in.!

[(7) x x x]

[*Explanation I.*]—Diver sion in thi s section means using land assessed to one purpose under Section 59 to any other purpose mentioned therein but using land for the purpose of agricul ture where it is as sessed with reference to any other purpose shall not be deemed to be diver sion.

[*Explanation II.*] — For the purposes of this section, the words 'development plan' shall have the same meaning as assigned to it in the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (No. 23 of 1973) .]

173. Relinquishments.—Subject to rules made under thi s Code, a bhumiswami may relinquish hi s rights, that is, resign them in favour of the State Government, but subject to any r ight s, tenures, encumbrances or equities lawfully subsi sting in favour of any per son, other than the State Government or the bhumiswami, by giving notice in writing to the Tahsildar not less than thir ty days before the date of commencement of the agr icultural year and thereupon he shall cease to be a bhumi swami f rom the agricultural year next following such date of such order . In case of the relinquishment of only a par t of the holding the bhumiswami shall appor tion the as sessment of the holding in accordance with the rules made under thi s Code :

Provided that the relin quishment of a holding or any part of a holding, which i s subject to an encumbrance or a charge, shall not be valid.

174. Disposal of relinqui shed sub-division.— If any sub-divi sion of a survey number or plot number is relinqui shed under Section 173, the Tahsildar shall offer the r ights to occupy such sub-division at such premium as he thinks fit to the bhumi swami of the other sub-divi sions of the same survey number .or plot number and if there be competition among such bhumi swami he shall sell such r ight to the highest bidder amongst them.

175. Right of way to relinquished land.— If any per son relinqui shes his r ight to land, the way which lies through other land retained by him any, future holder of the land relinquished shall be entitled to a right of way through the land retained.

176. Abandonment of holding.— (1) If a bhumiswami ceases to cultivat e his holding for two years either by himself or by some other person, does not pay land revenue and has lef t the village in which he usually resides, the 1[Tahsildar] may, af ter such enquiry as he may deem necessary, take posses sion of the land compr ising the holding and ar range for it s cultivation by letting it out on behalf of the bhumi swami for a per iod of one agr icultural year at a time.

(2) Where the bhumiswami or any other per son lawfully entitled to the land claims it within a per iod of three year s f rom the commencement of the agr icultural year next following the date on which the [Tahsildar] took pos ses sion of the land, it shall be restored to him on payment of the dues, if any, and on such terms and conditions as the [Tahsildar] may think f it.

(3) Where no claim i s prefer red under sub-section (2) or if a claim is prefer red and di sallowed, the 4[Tahsildar] shall make an order declar ing the holding abandoned and the holding shall vest absolutely in the State Government,

from such date as may be specified in that behalf in the order .

(4) Where a holding is declared abandoned under sub-section (3) , the liability of the bhumi swami for the arrears of revenue due from him in respect thereof shall stand discharged.

177. Disposal of holdings.— (1) If a bhumiswami whose land has been assessed for the purpose of agriculture under Section 59, or who holds land for dwelling purposes, dies, without known heirs, the 1[Tahsildar] shall take possession of his land and may lease it for a period of one year at a time.

(2) If within three years of the date on which the 2[Tahsildar] takes possession of the land any claimant applies for the holding being restored to him, the 3[Tahsildar] may, after such enquiry as he thinks fit, place such claimant in possession of the land or reject his claim.

(3) The order of the 4[Tahsildar] passed under sub-section (2) shall not be subject to appeal or revision but any person whose claim is rejected under subsection (2) may, within one year from the date of the communication of the order of the 5[Tahsildar] file a civil suit to establish his title, and if such suit is filed, the 6[Tahsildar] shall continue to lease out the land as provided in sub-section (1) till the decision of the suit.

(4) If no claimant appears within three years from the date on which the [Tahsildar] took possession of the land or if a claimant whose claim have been rejected under sub-section (2) does not file a suit within one year as provided in sub-section (3) , the [Tahsildar] may sell the deceased bhumi swami 's right in the holding by auction.

(5) Notwithstanding anything contained in any law for the time being in force a claimant who establishes his title in land which has been dealt with in accordance with the provisions of this section, shall be entitled only to the rent payable under sub-section (1) and the sale proceeds realized under sub-section (4) less all sums due on the holding on account of land revenue and the expenses of management and sale.

178. Partition of holding.— (1) If in any holding, which has been assessed for purpose of agriculture under Section 59, there are more than one bhumi swami any such bhumi swami may apply to a Tahsildar for a partition of his share in the holding :

[Provided that if any question of title is raised the Tahsildar shall stay the proceeding before him for a period of three months to facilitate the institution of a civil suit for determination of the question of title.]

10[(1-A) If a civil suit is filed within the period specified in the proviso to sub-section (1) , and stay order is obtained from the Civil Court, the Tahsildar shall stay his proceedings pending the decision of the Civil Court. If no civil suit is filed within the said period, he shall vacate the stay order and proceed to partition the holding in accordance with the entries in the record of rights I

(2) The Tahsildar , may, after hearing the co-tenure holders, divide the holding and apportion the assessment of the holding in accordance with the rules made under this Code.

[(3) x x x]

[(4) x x x]

[(5) x x x]

Explanation I.—For purposes of this section any co-sharer of the holding of a bhumi swami who has obtained a declaration of his title in such holding from a competent Civil Court shall be deemed to be a co-tenure holder of such holding.

Explanation II.— x x x]

[178-A. Partition of land in life time of bhumi swami.— (1) Whenever a bhumiswami wishes to partition his agricultural land amongst the legal heirs during his life time, he may apply for partition to the Tahsildar .

(2) The Tahsildar may, after hearing the legal heirs, divide the holding and apportion the assessment of holding in accordance with the rules made under this Code.]

179. Rights to trees in holding.— (1) Subject to the provisions of Sections 240 and 241 all trees standing in the holding of a bhumi swami shall belong to him.

(2) Nothing in sub-section (1) shall affect any right in trees in the holding of a bhumi swami in favour of any person existing on the date of the coming into force of this Code, but the bhumi swami may apply to the Tahsildar to fix the value of such right and purchase the right through the Tahsildar in such manner as may be prescribed.

180. Restriction on transfer of trees.— (1) The transfer by a bhumi swami of any trees standing in any land comprised in his holding except the produce of such trees shall be void unless the land itself is transferred.

(2) Trees standing in any land comprised in the holding of a bhumi swami shall not be attached or sold in execution of a decree or order of a Civil Court or under an order of a Revenue Officer or under an order made in pursuance of any provisions of any law for the time being in force unless the land itself is attached or sold.

UNIT-IV

GOVERNMENT LESSEES AND SERVICE LAND- CHAPTER XII I

181. Government Lessees.—(1) Every person who holds land from the State Government or to whom a right to occupy land is granted by the State Government or to Collector and who is not entitled to hold land as a bhumi swami shall be called a Government lessee in respect of such land.

(2) Every person who at the coming into force of this Code —

(a) holds any land in the Madhya Bharat region as an ordinary tenant as defined in the Madhya Bharat Land Revenue and Tenancy Act, Samvat 2007 (66 of 1950); or

(b) holds any land in the Vindhya Pradesh region as a special tenant as defined in the Vindhya Pradesh Land Revenue and Tenancy Act, 1953 (III of 1955) , or as a gair haqdar tenant any grove or tank or land

which has been acquired or which is required for Government or public purposes; or

(c) holds any land from the State Government in the Sironj region as a gair haqdar tenant as defined in the Rajasthan Tenancy Act, 1955 (3 of 1955);

Shall be deemed to be a Government lessee in respect of such land.

[(3) x x x]

[181-A. Conversion of lease hold right into free hold right—

Notwithstanding anything contained in Chapter VI and this Chapter of the Code, the State Government or any officer authorised by the State Government may convert various leases granted for residential and commercial purposes in urban areas into free hold in such manner as may be prescribed.

Explanation.—For the purpose of this Section "free hold" means a right in land which is free from encumbrances under the Code except of payment of such land revenue as may be prescribed.]

182. Rights and liabilities of a Government lessee.— (1) A Government lessee shall, subject to any express provisions in this Code, hold his land in

accordance with the terms and conditions of the grant, which shall be deemed to be a grant within the meaning of the Government Grants Act, 1895 (XV of 1895) .

(2) A Government lessee may be ejected from his land by order of a Revenue Officer on one or more of the following grounds, namely : —

(i) that he has failed to pay the rent for a period of three months from the date on which it became due; or

(ii) that he has used such land for purposes other than for which it was granted; or

(iii) that the term of his lease has expired; or

(iv) that he has contravened any of the terms and conditions of the grant

Provided that no order for ejection of a Government lessee under this subsection shall be passed without giving him an opportunity of being heard in his defence.

183. Service land.— (1) Any person holding land on the condition of rendering service as village servant shall cease to be entitled to such land if he diverts such land to non-agricultural purposes.

(2) A transaction by which a village servant attempts to transfer his interest in his service land by sale, gift, mortgage, sub-lease or otherwise except by a sub-lease for a period not exceeding one year, shall be void.

(3) If the holder of such land dies, resigns or is lawfully dismissed the land shall pass to his successor in office.

(4) The right of the holder in such land shall not be attached or sold in execution of a decree nor shall a receiver be appointed to manage such land under Section 51 of the Code of Civil Procedure, 1908 (V of 1908) .

184. Disposal of service land in Sironj Region when services no longer required.— If the Collector declares that the services rendered by a village servant

in any village in the Sironj region are no longer required, such village servant shall become a bhumi swami in respect of his service land and be liable to pay land revenue accordingly.

UNIT-III OCCUPANCY TENANTS- CHAPTER XIV

185. Occupancy tenants.— (1) Every person who at the coming into force of this Code holds —

(i) in the Mah-akoshal region—

(a) any land, which before the coming into force of the Madhya Pradesh Land Revenue Code, 1954 (I I of 1955) , was malikmakbuza and of which such person had been recorded as an absolute occupancy tenant; or

(b) any land as an occupancy tenant as defined in the Madhya Pradesh Land Revenue Code, 1954 (I I of 1955) ; or

(c) any land as an ordinary tenant as defined in the Madhya Pradesh Land Revenue Code, 1954 (I I of 1955) ; or

(ii) in the Madhya Bharat region —

(a) any Inam land as a tenant, or as a sub-tenant or as an ordinary tenant; or

Explanation.—The expression "Inam Land" shall have the same meaning as assigned to it in the Madhya Bharat Muafi and Inam Tenants and Sub-Tenants Protection Act, 1954 (32 of 1954).

(b) any land as ryotwari sub-lessee as defined in the Madhya Bharat Ryotwari Sub-Lessees Protection Act, 1955 (29 of 1955) ; or

(c) any Jagir land as defined in the Madhya Bharat Abolition of Jagirs Act , 1951 (28 of 1951) , as a sub-tenant or as a tenant of a sub-tenant; or

(d) any land of a proprietor as defined in the Madhya Bharat Zamindari Abolition Act, 1951 (13 of 1951) , as a sub-tenant or as a tenant of a sub-tenant;

(iii) in the Vindhya Pradesh Region any land as a sub-tenant of a pachpan paintali s tenant, pattedar tenant, grove holder or holder of a tank as defined in the Vindhya Pradesh Land Revenue and Tenancy Act, 1953 (I II of 1955) ; or

(iv) in the Bhopal region —

(a) any land as a sub-tenant as defined in the Bhopal State Subtenants Protection Act , 1952 (VII of 1953); or

(b) any land as a shikmi from an occupant as defined in the Bhopal State Land Revenue Act, 1932 (IV of 1932) ; or

(v) in the Sironj region --

(a) any land as a sub-tenant of a khatedar tenant or grove holder as

defined in the Rajasthan Tenancy Act, 1955 (3 of 1955); or

(b) any land as a sub-tenant or tenant of Khudkasht as defined in the Rajasthan Tenancy Act, 1955 (3 of 1955);

shall be called an occupancy tenant and shall have all the rights and be subject to all the liabilities conferred or imposed upon an occupancy tenant by or under this Code.

(2) Where any land referred to in item (c) or (d) of clause (ii) of subsection

(1) is at the time of coming into force of this Code, in actual possession of a tenant of a sub-tenant, then such tenant and not the sub-tenant shall be deemed to be the occupancy tenant of such land.

(3) Nothing in sub-section (1) shall apply to a person who at the coming into force of this Code, holds the land from a bhumiswami who belongs to any one or more of the classes mentioned in sub-section (2) of Section 168.

(4) Nothing in this section shall affect the rights of a sub-tenant of tenant of a sub-tenant, belonging to any of the categories specified in items (c) and (d) of clause (ii) of subsection (1) to acquire the rights of a pakka tenant in accordance with the provisions of the Madhya Bharat Abolition of Jagirs Act, 1951 (28 of 1951), or of the Madhya Bharat Zamindari Abolition Act, 1951 (13 of 1951), as the case may be.

[186. Maximum rent]—Notwithstanding any agreement or usage or any decree or order of a Court or any law to the contrary, the maximum rent payable by an occupancy tenant in respect of the land held by him shall not exceed —

(a) in the case of any class of irrigated land— four times the land revenue as assessed on such land;

(b) in case of bandh land in the Vindhya Pradesh region— three times the land revenue assessed on such land; and

(c) in any other case—two times the land revenue as assessed]

[Provided that where such land is exempt from payment of land revenue under Section 58-A, the maximum rent aforesaid shall be reduced by the amount of land revenue so exempted under the said section.]

Explanation. — Where any land has not been assessed to land revenue, the multiples aforesaid shall be calculated on the basis of the land revenue assessable on such land.]

187. Commutation. —1[(1) Where an occupancy tenant pays his rent in kind, in terms of service, labour, crop share or a specified quantity of grain, he may apply to the Sub-Divisional Officer for commuting the same into cash.]

(2) On receipt of an application under sub-section (1), the Sub-Divisional Officer shall after holding an enquiry commute by an order in writing such rent into cash, which shall not exceed the maximum rent laid down in Section 186.

188. Rent.— (1) The rent payable by an occupancy tenant shall, as from the commencement of the agricultural year next following the date of the coming into force of this Code, be the maximum rent laid down in Section 186 or if the rent agreed upon between the tenant and his bhumi swami is less than the maximum rent, then such agreed rent

[Provided that where the agreed rent is payable in kind, the tenant shall be

liable to pay, until such rent commuted into cash under Section 187 the maximum rent laid down in Section 186.]

(2) Every occupancy tenant shall pay the rent to his bhumi swami on or before such date as may be prescribed in that behalf .

189: Resumption by bhumi swaini in certain cases.— (1) - A bhumi swami whose land is held by an occupancy tenant 3[belonging to any of the categories specified in sub-section (1) of Section 185, except in items (a) and (b) of clause (i) thereof] may, if the area of land under his personal cultivation is below twenty-five acres of unirrigated land, within one year of the coming into force of this Code, make an application to the Sub-Divisional Officer for resumption to land held by his occupancy tenant for his personal cultivation.

(2) On receipt of the application, the Sub-Divisional Officer shall, after hearing the parties and making such further enquiry as may be necessary decide the application Provided that the right of resumption shall be limited to the area which together with the area already under the personal cultivation of the bhumi swami shall not exceed twenty-five acres of unirrigated land

Provided further that no resumption shall be allowed so as to reduce the total area of land in possession of the occupancy tenant below

(i) twenty-five acres of unirrigated land if the occupancy tenant has been holding such land from a bhumi swami not belonging to any of the classes mentioned in sub-section (2) of Section 168, for more than five years prior to the coming into force of this Code;

(ii) ten acres in any other case.

(3) Where under an order passed under sub-section (2) the bhumi swami is allowed to resume a part of the land held by the occupancy tenant from such bhumiswami, the Sub-Divisional Officer shall select and demarcate the land allowed to be resumed in accordance with such rules as may be made in that behalf. The resumption shall be allowed only if the bhumi swami agrees to pay the occupancy tenant such compensation as the Sub-Divisional Officer may, after hearing the parties, fix for the improvement effected by the occupancy tenant for the land allowed to be resumed by the bhumiswami. The Sub-Divisional Officer shall also in such a case fix the rent in the prescribed manner in respect of the land left with the occupancy tenant.

(4) Every order allowing resumption shall take effect from the agricultural year next following the date of the order and the tenancy of the occupancy tenant in respect of the land resumed shall stand terminated.

Explanation.—For the purpose of this section —

(1) the land under the personal cultivation of bhumi swami shall include

(a) any land transferred by him by sale or otherwise on or after the 1st January, 1959; and

(b) any land allowed by him to lie fallow.

(2) One acre of irrigated land shall be deemed to be equal to two acres of unirrigated land and vice versa.

190. Conferral of bhumi swami rights on occupancy tenants. —[(1) Where a bhumi swami whose land is held by an occupancy tenant belonging to any of the categories specified in sub-section (1) of Section 185 except in items (a) and (b) of clause (i) thereof fails to make an application under sub-section (1) of Section 189 within the period laid down therein, the rights of a bhumi swami shall accrue to the occupancy tenant in respect of the land held by him from such bhumi swami with effect from the commencement of the agricultural year next following the expiry of the aforesaid period.]

(2) Where an application is made by a bhumiswami in accordance with the provision of sub-section (1) of Section 189, the rights of a bhumi swami shall accrue to the occupancy tenant in respect of the land remaining with him after resumption if any allowed to the bhumiswami with effect from the commencement of the agricultural year next following the date on which the application is finally disposed of.

[(2-A) Where the land of a bhumi swami is held by an occupancy tenant other than an occupancy tenant referred to in sub-section (1), the rights of a bhumi swami shall accrue to the occupancy tenant in respect of such land —

(a) in the case of occupancy tenants of the categories specified in items (a) and (b) of clause (i) of sub-section (1) of Section 185, with effect from the commencement of the agricultural year next following the commencement of the Principal Act;

(b) in any other case, with effect from the commencement of the agricultural year next, following the date on which the rights of an occupancy tenant accrue to such tenant .]

(3) Where the rights of a bhumi swami accrue to an occupancy tenant under sub-section (1), [sub-section (2) or sub-section (2-A)] such occupancy tenant shall be liable to pay to his bhumi swami compensation equal to fifteen times the land revenue payable in respect of the land in five equal annual instalments, each instalment, being payable on the date on which the rent payable under Section 188 for the corresponding year falls due, and if default is made in payment, it shall be recoverable as an arrear of land revenue. Provided that if from any cause the land revenue is suspended or remitted in whole or in part in any area in any year, the annual instalment of compensation payable by an occupancy tenant holding land in such area in respect of that year shall be suspended and shall become payable one year after the last of the remaining instalments.

(4) Any occupancy tenant may at his option pay the entire amount of compensation in a lump sum and where an occupancy tenant exercises this option, he shall be entitled to a rebate at the rate of ten per cent.

(5) The amount of compensation, whether paid in lump sum or in annual instalments, shall be deposited in such manner and form as may be prescribed by the occupancy tenant with the [Tahsildar], for payment to the bhumiswami.

(6) Where the rights of a bhumi swami in any land accrue to an occupancy tenant under this section, he shall be liable to pay the land revenue payable by the bhumiswami in respect of such land with effect from the date of accrual of such rights.

191. Restoration of occupancy tenant. -[(1) If the bhumi swami in whose favour an order of resumption is passed under sub-section (2) of Section 189 fails to cultivate such land personally during the agricultural year next following the date on which the order is passed, the occupancy tenant may, within such time as may be prescribed, make an application to the Sub-Divisional Officer for restoration of such land to him.

Provided that the occupancy tenant shall not be entitled to make the application if he in any way obstructs the bhumi swami in taking possession of or cultivating such land.]

(2) On receipt of the application, the Sub-Divisional Officer may, after giving to the bhumiswami an opportunity of being heard and making such further enquiry as may be deemed necessary, pass an order restoring possession of the land in question to the occupancy tenant, and where such order is passed, the occupancy tenant shall be placed in possession of the land at the commencement of the agricultural year next following the date of the order and the rights of bhumi swami shall then accrue to him and the provisions of Section 190 except sub-section (2) thereof shall apply accordingly.

(3) If there is any dispute regarding the rent payable for the land restored under sub-section (2), it shall be decided by the Sub-Divisional Officer.

(4) Where any land is restored to an occupancy tenant under sub-section (2), the bhumi swami against whom restoration is ordered, shall for ever be debarred from claiming resumption, of any land of such occupancy tenant under Section 189.

192. Devolution of rights of occupancy tenants. —11The interest of an occupancy tenant in his holding shall, on his death, pass by inheritance or survivorship in accordance with his personal law. I

193. Termination of tenancy.— (1) The tenancy of an occupancy tenant in his holding shall be liable to terminate by an order of the Sub-Divisional Officer made on any of the following grounds, namely,—

(a) he has failed to pay on or before the due date in any agricultural year the rent of such land for that year; or

(b) he has done any act which is destructive or permanently injurious to the land; or

(c) he has used such land for a purpose other than agriculture; or

(d) he has transferred his interest in the land in contravention of Section 195.

(2) No order for the termination of his rights in the land on the ground specified in clause (a) of sub-section (1) shall be passed unless the Sub-Divisional Officer has by notice called upon the occupancy tenant to tender the rent due together with cost of proceedings within such period as may be specified by the Sub-Divisional Officer in the notice and the tenant has failed to deposit the required amount within the said period.

(3) No proceedings on the ground specified in clause (b) of sub-section

(1) shall lie unless the bhumi swami of such land has served on the occupancy

tenant a notice in writing specifying the act of destruction or injury complained of and the tenant has failed within a period of six months from the date of service of notice or within such further period as the Sub-Divisional Officer may grant to restore the land to the condition in which it was before such destruction or injury.

194. Provisions applicable to occupancy tenant whose tenancy is terminated.— (1) The following provisions shall be applicable in the case of every occupancy tenant whose tenancy is terminated, namely : —

(a) if the occupancy tenant has, before the date of termination, sown or planted crops in any land comprised in the holding he shall be entitled, at the option of the bhumiswami of such land, either to retain possession of such land and to use it for the purpose of tending and gathering in the crops, or to receive from the bhumiswami of such land, the value of the labour and capital expended by him in preparing such land and sowing, planting and tending such crops, together with reasonable interest thereon;

(b) if the occupancy tenant has, before the date of termination prepared for sowing any land comprised in his holding, but has not sown or planted crops thereon, he shall be entitled to receive from the bhumiswami of such land the value of the labour and capital expended by him in preparing such land together with reasonable interest thereon;

Provided that —

(i) an occupancy tenant shall not be entitled to retain his land or receive any sum in respect thereof under this section if, after the commencement of proceedings by the bhumiswami of such land for termination, he has cultivated or prepared such land contrary to local usage;

(ii) the rent, if any payable to the bhumiswami of such land by the occupancy tenant at the time of termination may be set off against any sum payable to the occupancy tenant under this Section;

(c) if the occupancy tenant has, before the date of termination, effected any improvement of any land comprised in his holding, he shall be entitled to receive from the bhumiswami of such land compensation for it as the Revenue Officer may, after hearing the parties, determine.

(2) The Revenue Officer terminating the tenancy shall determine the amount, if any, payable under sub-section (1).

195. Occupancy tenant's rights of transfer.— (1) No occupancy tenant shall be entitled to transfer by way of sale, gift, mortgage, sub-lease or otherwise his right in the land or any portion thereof, and every such sale, gift, mortgage, sub-lease or other transfer shall be voidable as provided in Section 197

Provided that a sub-lease may be granted by or on behalf of an occupancy tenant if such person belongs to any of the categories mentioned in sub-section (2)

of Section 168.

Explanation.—For the purposes of this section the expression 'sub-lease' shall be construed as having the same meaning as assigned to 'lease' in Section 168.

(2) Nothing in sub-section (1) shall prevent an occupancy tenant from transferring his holding or any part thereof by sale or gift to any cotenant or any person who, if he survived the tenant without nearer heirs, would inherit the holding.

(3) Nothing in this section shall prevent an occupancy tenant from transferring any right in his land to secure payment of, or shall affect the right in his land to secure payment of, or shall affect the right of the State Government to sell such right for the recovery of an advance made to him under the Land Improvement Loans Act, 1883 (XIX of 1883), or the Agriculturists' Loans Act, 1884 (XII of 1884).

(4) Nothing in this section shall prevent an occupancy tenant from transferring any right in his holding to secure payment of an advance made to him by a Co-operative Society or shall affect the right of such society to sell such right for the recovery of such advance.

(5) Except in pursuance of a transfer permitted under any of the foregoing provisions, or in the case of proceedings for recovery of arrears of any annual instalment of compensation, no decree or order shall be passed for the sale of the interest of an occupancy tenant in his holding nor shall such interest be attached or sold in execution of any decree or order nor shall a receiver be appointed to manage such holding under Section 51 of the Code of Civil Procedure, 1908 (V of 1908), nor shall such interest vest in the Court or in a receiver under the Provincial Insolvency Act, 1920 (V of 1920).

196. Right of occupancy tenant to make improvement.—An occupancy tenant of land held for the purpose of agriculture is entitled to make any improvement thereon for the better cultivation of the land or its more convenient use for the purpose aforesaid.

197. Right of certain persons to apply to set aside transfers by occupancy tenants.—(1) If an occupancy tenant transfers his rights in his holding or any portion thereof in contravention of Section 195, any co-tenant or any person who, if he survived the tenant without nearer heirs, would inherit the holding or the bhumiswami of whom such person holds the land, may apply to the Sub-Divisional Officer to be placed in possession and the Sub-Divisional Officer, may in accordance with the rules made under Section 258 place the applicant in possession subject to his acceptance of the liabilities of the occupancy tenant for arrears of rent and for advance for necessary expenses of cultivation.

(2) Where more persons than one apply under sub-section (1), they shall be entitled to be placed in possession in the following order of priority:—

- (i) any person who if he survived the tenant would inherit the holding;
- (ii) co-tenant; and

(iii) bhumiswami of whom the occupancy tenant holds the land.

198. Surrender.— (1) Any occupancy tenant may, by executing in favour of the bhumi swami not less than thirty days before the commencement of the agricultural year a registered document, surrender his rights and thereupon he shall cease to be an occupancy tenant from the agricultural year next following such date. No surrender shall be valid unless effected by a registered instrument.

(2) Notwithstanding anything to the contrary in the Indian Stamps Act, 1899 (II of 1899) , or the Indian Registration Act, 1908 (XVI of 1908) , instruments of surrender executed by occupancy tenants in pursuance of the provisions of this section, shall be exempted from payment of stamp duty and registration fee chargeable thereon.

(3) On a surrender being executed under sub-section (1) , a bhumi swami shall be entitled to take possession of land only to the extent of his right of resumption under Section 189 and the excess land, if any, shall vest in the State Government and the bhumi swami shall be paid compensation for such excess land, which shall be equal to two times the rent payable therefor under Section 188.

(4) Where any land vests in the State Government under sub-section (3), the bhumi swami shall specify such land within the prescribed period and in the prescribed manner and on his failure to do so within such period, such land shall be specified by the Sub-Divisional Officer .

(5) After such land has been specified in accordance with the provisions of sub-section (4) , the Sub-Divisional Officer shall demarcate it in accordance with such rules as may be made in that behalf and also fix the land revenue in respect of land resumed by the bhumi swami.

199. Receipt.— Every bhumiswami shall give a written receipt for the amount of rent at the time when such amount is received by him in respect of any land in such form and in such manner as may be prescribed.

200. Penalty for failure to give receipt or for excess recovery—If any bhumiswami fails to give a receipt as required by Section 199 or receives by way of rent any amount in excess of the rent payable under this Code, he shall, on the application of the occupancy tenant be liable by an order of the Tahsildar to refund the excess amount recovered and to pay as penalty a sum not exceeding [two thousand rupees] , not exceeding twice such amount and the Tahsildar may direct that the whole or part of such sum shall be adjusted towards the amount of compensation payable by the occupancy tenant.

201. Remission and suspension of rent consequent on like treatment of land revenue.— (1) If from any cause the payment of the whole or any part of the land revenue payable in respect of any land is remitted or suspended, the Collector may, by general or special order , remit or suspend, as the case may be, the payment of the rent, of such land, to an amount which would bear the same proportion to the whole of the rent payable in respect of the land as the land revenue of which the payment has been remitted or suspended, bears to the whole of the land revenue payable in respect thereof , and may distribute the amount so remitted or suspended amongst the occupancy tenants holding such land in such manner as may seem to

him to be equitable having regard to the effect on their holdings of the cause which has led to the remission or suspension of the land revenue.

(2) If the payment of rent has been suspended, the period of suspension shall be excluded in the computation of the period of limitation prescribed for the recovery of such rent.

(3) The provisions of sub-sections (1) and (2) shall apply to land of which the land revenue has been wholly or in part released, compounded for or redeemed, in any case in which if the land revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might in the opinion of the Collector, have been remitted or suspended.

202. Reinstatement of wrongfully ejected occupancy tenant.— (1) If any person who immediately before the coming into force of this Code held land in any region in any of the capacities mentioned in Section 185, has been ejected or dispossessed of any land held by him during the three years immediately preceding the coming into force of this Code, otherwise than by process of law, may within two years from the date of coming into force of this Code, apply to the Tahsildar for his reinstatement in such land.

(2) If any person who on the coming into force of this Code, holds land as an occupancy tenant has been ejected from or dispossessed of any land held by him, after the coming into force of this Code in contravention of its provisions may within two years from the date of such ejection or dispossession, apply to the Tahsildar for his reinstatement in such land.

(3) On receipt of an application under sub-section (1) or (2), the Tahsildar shall, after making an enquiry into the respective claims of the parties, decide the application and when he orders the restoration of the possession to the occupancy tenant, put him in possession of the land.

(4) The Tahsildar may, at any stage of enquiry pass under sub-section (3) an interim order for handing over the possession of the land to the applicant, if he finds that he was ejected or dispossessed by the opposite party within six months prior to the submission of the application under sub-section (1) or (2), and the opposite party shall, if necessary, be ejected under his order.

(5) When an interim order has been passed under sub-section (4), the opposite party may be required by the Tahsildar, to execute a bond for such sum as he may deem fit for abstaining from taking possession of land until the final order is passed by him.

(6) If the person executing a bond is found to have entered into or taken possession of the land in contravention of the bond, the Tahsildar may forfeit the bond in whole or in part and may recover such amount as an arrear of land revenue.

(7) If the order passed under sub-section (3) is in favour of the applicant, the Tahsildar shall also award a reasonable compensation to be paid to the applicant by the opposite party

Provided that the amount of compensation shall not exceed ten times the revenue of the land for each year's occupation.

(8) The compensation awarded under this section shall be recoverable as

an ar rear of land revenue.

(9) The Tahsildar shall have the power to review suo motu cases of wrongful ejection, or dispossession, whether by surrender or otherwise of occupancy tenants in any areas to be notified by the State Government in this behalf. Where action is taken under this sub-section, the provisions of the foregoing sub-sections shall, as far as may be, apply.

UNIT-IV

ALLUVION AND DILUVION- CHAPTER XV

203. Alluvion and diluvion.- (1) Alluvial land formed on any bank shall vest in the State Government but the bhumi swami, if any, of the land adjoining such bank shall be entitled to the use of the alluvial land so added to his holding free from the payment of land revenue during the current term of settlement, unless the area added to his holding exceeds one acre.

(2) When the area of the alluvial land added to a holding exceeds one acre and it appears to the Sub-Divisional Officer that such land may, with due regard to the interest of the public convenience and public revenue, be disposed of, he shall offer such land in bhumi swami rights to the bhumi swami of such holding at a premium which shall not exceed twenty times the fair assessment of the land so formed. If the said bhumi swami shall refuse the offer, the Sub-Divisional Officer may dispose of the land in the prescribed manner.]

(3) Where any holding is diminished in area by diluvion to an extent greater than one acre, the land revenue payable on such holding shall be reduced.

204. Power to make assessment and decide disputes.— (1) The Sub-Divisional Officer shall have power, subject to rules made under this Code, to assess all increase and reduction in land revenue which are required or permitted under this Chapter.

(2) The Sub-Divisional Officer shall also have power to decide any dispute which may arise relating to the distribution of alluvial land among the various bhumiswamis claiming such land.

124

CHAPTER XVI

CONSOLIDATION OF HOLDINGS

205. Definitions.— In this Chapter —

(i) "Consolidation of holding" means the redistribution of all or any of the land in a village, so as to allot to the bhumiswami continuous plots of land for the convenience of cultivation;

(ii) "Consolidation Officer" means a Revenue Officer, not below the rank of a Tahsildar, appointed by the State Government for any district or districts to exercise the powers, and to perform the duties of a Consolidation Officer under this Code.

206. Initiation of consolidation proceedings.— (1) Any two or more bhumiswamis in a village holding together not less than the minimum area of land prescribed by rules made under Section 221, may apply in writing stating such

particulars as may be prescribed by rules made under Section 221, to the Consolidation Officer for the consolidation of their holdings.

(2) The Collector may of his own motion direct the Consolidation Officer to make an enquiry into the feasibility of consolidation of holdings in any village.

(3) If two-thirds of the bhumi swamis in a village apply for consolidation of their holdings or if in the course of an enquiry into an application made under sub-section (1) or sub-section (2) two-thirds of the bhumi swamis of the village make an application agreeing to the consolidation of their holdings, such application shall be deemed to be the application on behalf of all the bhumi swamis of the village.

(4) If in a case falling under sub-section (3), any scheme of consolidation of holdings is confirmed, it shall be binding on all the bhumi swamis of the village, and on any person who may subsequently be entitled to hold or occupy the land.

(5) In any other case, if any scheme of consolidation of holdings is confirmed, it shall be binding on the applicants and those who have agreed to the

125 consolidation of their holdings and on any person who may subsequently be entitled to hold or occupy the land affected by the scheme.

207. Rejection of application.—(1) If on receipt of any such application or at any stage of the proceedings thereon, there appears to be good and sufficient reason for disallowing the application or for excluding the case of any applicant from consolidation, the Consolidation Officer may submit the application to the Collector with a recommendation that the application be rejected in whole or in part, or that the proceedings be quashed.

(2) The Collector, on receipt of the recommendation, may accept it and pass orders accordingly or may order further inquiry.

208. Admission of application.—If the Consolidation Officer admits the application, he shall proceed to deal with the same in accordance with the procedure laid down by or under this Code.

209. Preparation of scheme for consolidation of holdings.—(1) If the *bhumi swami*s making the application under Section 206 submit a scheme of consolidation of holdings mutually agreed to, the Consolidation Officer, shall, in the manner laid down by rules made under Section 221 examine it and, if necessary, modify it.

(2) If no scheme is submitted with the application, the Consolidation Officer shall prepare a scheme for the consolidation of holdings in the manner laid down by rules made under Section 221.

(3) If the Consolidation Officer is of the opinion that the redistribution of land in accordance with a scheme of consolidation will have the result of allotting to any bhumi swami a holding or land of a less market or productive value than that of his original holding or land, the scheme may provide for the payment of

126 compensation to such bhumi swami by such person or persons as the Consolidation Officer may direct.

(4) Where the scheme of consolidation is complete, the Consolidation Officer, after considering and as far as possible removing the objections, if any, made to the scheme, shall submit it for confirmation to the Collector.

(5) When the scheme of consolidation is complete, and if all the bhurniswamis affected by such scheme, agreed to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession from a date to be mentioned in the scheme.

210. Confirmation of scheme.—The Collector may either confirm the scheme with or without modification or refuse to confirm it after considering the objection or objections, if any, to the scheme of consolidation and the recommendation of the Consolidation Officer. The decision of the Collector, subject to any order that may be passed in revision by the Settlement Commissioner under Section 50, shall be final.

211. Procedure on confirmation. — (1) Upon confirmation of the scheme of consolidation, the Consolidation Officer shall, if necessary, demarcate the boundaries of the holdings and shall proceed to announce the decisions finally made and cause to be prepared in accordance with the scheme, a new field map, record-of-rights, other records prescribed under Section 114, Nistar Patrak and Wajib-ul-arz.

(2) The new records prepared under sub-section (1) shall be deemed to have been prepared under Chapter IX or XVI I, as the case may be.

212. Right of bhumi swamis to possession of holdings. - The bhumi swami affected by the scheme of consolidation, if they have not entered into possession under sub-section (5) of Section 209, shall be entitled to possession of the holdings allotted to them under the scheme, from the commencement of the agricultural year next following confirmation; and the Consolidation Officer shall, if necessary, put them, by warrant in possession of the holdings to which they are entitled

127

Provided that if all the bhumi swamis agree, they may, after confirmation, be put into possession of their holdings by the Consolidation Officer from any earlier date.

213. Transfer of rights of bhumiswamis in holdings.— (1)

Notwithstanding anything contained in this Code, the rights of bhumi swamis in their holdings shall, for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise and no person shall be entitled to object to or interfere with any transfer made for the said purpose.

(2) The Consolidation Officer may also transfer by exchange or otherwise any land belonging to the State Government where such transfer is necessary for the purpose of giving effect to any scheme of consolidation.

214. No instrument necessary to effect transfer.— Notwithstanding anything contained in any law for the time being in force —

(a) no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of

holdings; and

(b) no such instrument, if executed, shall require registration.

215. Costs of carrying out scheme.— (1) The Consolidation Officer shall, unless the State Government for sufficient reasons directs otherwise, recover from the bhumi swamis whose holdings are affected by the scheme for consolidation of holdings, the cost of carrying out the scheme, which shall be assessed in accordance with rules made under Section 221.

(2) The Consolidation Officer shall apportion the costs among the bhumiswamis liable to pay them according to occupied area of the holdings affected by the scheme.

216. Recovery of compensation and cost.—Any amount payable as compensation under sub-section (3) of Section 209, or as costs under Section 215, may be recovered as an arrear of land revenue.

217. Suspension of partition proceedings during currency of consolidation proceedings.—When an application for the consolidation of holdings has

128
been admitted under Section 208, no proceedings for partition of the holdings which will affect the scheme of consolidation shall be commenced and all such proceedings pending shall remain in abeyance during the continuation of the consolidation proceedings.

218. Transfer of property during proceedings .— When an application for the consolidation of holdings has been admitted, no bhumi swami upon whom the scheme will be binding shall have power, during the continuance of the consolidation proceedings, to transfer or otherwise deal with any part of his original holding or land so as to affect the rights of any other bhumi swami thereto under the scheme of consolidation.

219. Rights of bhumi swamis after consolidation same as before. —A bhumiswami shall have the same rights in the holding or land allotted to him in pursuance of a scheme of consolidation as he had in his original holding.

220. Encumbrances of bhumiswamis.— (1) If the holding of any bhumiswami brought under the scheme of consolidation is validly burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance, shall be transferred and shall attach to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer, subject to any rules that may be made under Section 221, may have appointed in preparing the scheme; and thereupon, the lessee, mortgagee or other encumbrancer, as the case may be, shall cease to have any right in or against the land from which the lease, mortgage or other encumbrance has been transferred.

(2) Notwithstanding anything contained in sub-section (1) or any other enactment for the time being in force the Consolidation Officer shall, if necessary, put any lessee or any mortgagee or other encumbrancer entitled to possession, by warrant, into possession of the holding or part of a holding to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

221. Power to make rules.— (1) The State Government may make rules for

the purpose of carrying into effect the provisions of this Chapter .

(2) In particular and without prejudice to the generality of the foregoing power , the State Government may make rules —

129

(a) prescribing the minimum area of land to be held by the persons making an application under sub-section (1) of Section 206;

(b) providing for the particulars to be contained in any application made under Section 206;

(c) providing for the procedure to be followed by the Consolidation Officer in dealing with applications for the consolidation of holdings and for the appointment and constitution of any Advisory Committee or Panchayat to assist the Consolidation Officer in the examination or preparation of the scheme;

(d) for determining the compensation to be paid in cases falling under sub-section (3) of Section 209;

(e) for regulating the assessment of costs under Section 215;

(f) for determining the market or productive value of the different holdings and lands brought under any scheme of consolidation;

(g) for the guidance of the Consolidation Officer in respect of the transfer of encumbrances and leases under Section 220; and

(h) generally for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this

Chapter .

130

CHAPTER XVI I

VILLAGE OFFICERS

A-Patels

222. Appointment of 'patels'.— (1) Subject to rules made under Section 258, the Collector may appoint for each village or group of villages one or more patels .

(2) When there are two or more patels in a village, the Collector may distribute, subject to rules made under Section 258, duties of the office of patel in such manner as he may think fit.

[(3) Where in the Vindhya Pradesh region, patwari has been performing the duties imposed on a under this Code immediately before the commencement of this Code, he shall continue to perform such duties and shall be deemed to be patel for purposes of this Code, until a Patel is appointed under sub-section (1).]

223. Remuneration of patels.— The remuneration of patels shall be fixed by the Collector in accordance with rules made by the State Government.

224. Duties of patels. — It shall be the duty of every patel—

[(a) to collect and pay into the —

[(i) 'Gram Kash' the collection of land revenue and other related taxes and cesses payable through him after deducting the

collection charges as may be determined by the State Government from time to time.]

(ii) Government Treasury the collection charges under sub-clause

(i) and such other Government dues ordered to be collected by him;]

(b) to furnish reports regarding the state of his village at such places and times as the Collector may fix in thi s behalf;

(c) as far as possible to prevent encroachments on waste land, public paths, and roadways in the villages;

131

(d) to preserve such stations and boundary marks erected in hi s village by surveyors in the service of Government as may be made over to his care and to report any damage caused to such marks;

(e) subject to rules made under Section 258, to keep the village in good sanitary condition;

(f) to prevent unauthor i sed cutting of wood or unauthor ised removal of any minerals or other properties belonging to the State Government;

(g) to control and super intend the kotwar , to repor t hi s death or absence f rom his duty and to take such steps as may be necessary to compel him to perform hi s duties;

(h) to perform such other duties as may be prescr ibed by rules made under Section 258.

225. Duties imposed under any law upon land holders deemed to be

imposed on patels.-11 by .any enactment for the time being in force, any public duties are imposed on or public liabilities are declared to attach to landholders, their managers or agents, such duties shall be deemed ‘ to be imposed upon and such liabilities shall be held to attach to patel s appointed under this Code Provided that nothing herein contained shall discharge the land-holders, their manager s or agent s f rom any duties or liabilities otherwi se imposed upon them by law.

226. Removal of patel s.— Subject to rules made under Section 258, the Collector may remove f rom of f ice any patel.

227. Puni shment of patets.—A Patel who is found negligent in the per formance of any duty as signed to him under Section 224 or 225, shall be liable under the order of the Tahsildar to a fine which may extend to [one thousand rupees].

228. Appointment of substitute patel.— Where a patel i s temporar ily unable to per form his duties the Sub-Divi sional Of f icer may, on hi s application or otherwise appoint a substitute for a per iod of not exceeding, six months and the 25-40

substitute so appointed shall, for all the purposes of this Code, be deemed to be a patel.

229. Entrustment of village management.— Notwithstanding anything

contained in this Code, the State Government may entrust the management of a village or the performance of the duties entrusted to a Panchayat, to a Gram Panchayat or where a Gram Panchayat has not been constituted, to a Gram Sabha constituted in accordance with the provisions of Section 232.

B-Kotwar s

230. Appointment of kotwar s and their duties.— (1) For each village, or group of villages, there shall be appointed, in accordance with rules made under Section 258 one or more kotwar s for the performance of such duties as may be prescribed.

Provided that in the Madhya Bharat region the duties of kotwar s under this section shall be performed by the Police Chowkidar s who shall, on the coming into force of this Code, be deemed to be kotwar s under this section, and be subject in all respects to the control of Revenue Officers.

(2) Every person who at the coming into force of this Code holds the post of village watchman in the Bhopal and Sironj regions or of a chowkidar in the Vindhya Pradesh region shall be deemed to be a kotwar under this section.

231. Remuneration of kotwar s.— The State Government may, by general order subject to such restrictions, terms and conditions as may be mentioned therein, fix the remuneration of Kotwar s either prospectively or retrospectively but such retrospective effect shall not be from a date earlier to the 1st March, 1982

C-Gram Sabha

232. Gram Sabha. —'Gram Sabha' means the body constituted under Section 5-A or Section 129-A, as the case may be, of the Madhya Pradesh Panchayat Raj Avar r Gram Swaraj Adhiniyam, 1993 (No. 1 of 1994) and the 'Gram Kosh' means the fund established under sub-section (1) of Section 7-J of the said Act.]

(2) The Gram Sabha shall consist of one Chairman, one Secretary and not less than three other members who shall be elected in the prescribed manner by the adult residents of the village or group of villages for which the Gram Sabha is established.

(3) The term of the office of members shall be five years .

(4) Every Gram Sabha shall be a body corporate and shall have perpetual succession and common seal and shall, by its name, sue and be sued. Subject to any rules made in this behalf , it shall also have power to acquire, hold or transfer property movable and immovable, to enter into contracts and do all things necessary for the purpose of performing the duties entrusted to it.

(5) Every Gram Sabha shall establish and maintain a fund and into such fund shall be paid —

(i) all sums recovered as grazing fees and such other fees and income arising from the management of the village as the State Government may prescribe; and

(ii) all sums contributed by the State Government or any local body or any private person.

Such funds shall be applicable to the payment of charges and expenses incidental to the several matters under the control and administration of the Gram

Sabha.

(6) The Collector shall exercise supervision over the working of the Gram Sabha and may for sufficient cause dissolve any Gram Sabha and appoint any person to perform its functions until it is reconstituted.

(7) In any village or group of villages for which a Gram Panchayat under the law in force relating to panchayats has been established, such Gram Panchayats shall perform the duties imposed upon and exercise the rights of a Gram Sabha under this Code, and the Gram Sabha shall cease to exist.

(8) The State Government may, by notification, delegate to the Gram Sabha, such of the duties of the Patel or any other function in connection with agricultural or industrial development of a village as it may think fit.

UNIT-V

RIGHTS IN ABADI AND UNOCCUPIED LAND AND ITS PRODUCE- CHAPTER XVIII

233. Record of unoccupied land.— A record of unoccupied land shall, in accordance with rules made in this behalf be prepared and maintained for every village, showing separately—

(a) unoccupied land set apart for exercise of nistar rights under Section 237; [x x x] .

[(b) Omitted.]

234. Preparation of Nistar Patrak.— (1) The Sub-Divisional Officer shall, consistently with the provisions of this Code and the rules made thereunder, prepare a Nistar Patrak embodying a scheme of management of all unoccupied land in a village and all matters incidental thereto and more particularly matters specified in Section 235.

(2) A draft of the Nistar Patrak shall be published in the village and after ascertaining the wishes of the Gram Sabha, it shall be finalised by Sub-Divisional Officer]

(3) A copy of the Nistar Patrak so finalised shall be kept in the office of the Gram Panchayat];

(4) On a resolution passed by the Gram Sabha, by a majority of not less than two-thirds of the members present and voting, the Sub-Divisional Officer with the prior sanction of the Collector and also after making any such inquiry as he deems fit, may, —

(a) inter se change the entries in the Nistar Patrak;

(b) record additional unoccupied land under any entry in the Nistar Patrak for fulfillment of further Nistar rights of villagers.]

235. Matters to be provided for in Nistar Patrak.— The matters which shall be provided for in the Nistar Patrak shall be as follows, namely : —

(a) terms and conditions on which grazing of cattle in the village will be permitted;

(b) the terms and conditions on which and the extent to which any resident may obtain —

- (i) wood, timber, fuel or any other forest produce;
- (ii) mooram, kankar, sand, earth, clay, stones or any other minor mineral;
- (c) instructions regulating generally the grazing of cattle and the removal of the articles mentioned in paragraph (b) ;
- (d) any other matter required to be recorded in the Ni star Patrak by or under this Code.

236. Provi sion in Ni star Patrak for certain matters.— In prepar ing the Nistar Patrak as provided in Section 235, the Collector shall, as far as possible, make provi sion for —

- (a) free grazing of the cattle used for agr iculture;
- (b) removal f ree of charge by the resident s of the village for their bona f ide domestic consumption of —
 - (i) forest produce;
 - (ii) minor mineral s;
- (c) the concessions to be granted to the village craf t smen for the removal of the ar ticles specif ied in clause (b) for the purpose of their craft.

237. Collector to set apart land for exerci se of Ni star rights.— (1)

Subject to the • rules made under this Code, the Collector may set apar t unoccupied land for the following purposes, namely, —

- (a) for timber or fuel reserve;
- (b) for pasture, grass bir or fodder reserve;
- (c) for burial ground and cremation ground;
- (d) for gaothan;
- (e) for encamping ground;
- (f) for threshing f loor;
- (g) for bazar ;
- (h) for skinning ground;
- (i) for manure pit s;
- (j) for public purposes such as school s, play grounds, parks, road, lanes, drains and the like; and
- (k) for any other purposes which may be prescr ibed for the exerci se of r ight of Ni star.

[(2) Omitted.]

[(3) Subject to the rules made under thi s Code, the Collector af ter secur ing the land mentioned in clause (b) of sub-sect ion (1) to minimum two percent of the total agr iculture land of that village, may diver t such unoccupied land as mentioned in sub-section (1) into abadi or for construction of roads, state highways, national highways, canal s, tanks; hospitals , schools, colleges, Goshalas and any other public utility project s as may be determined by the State Government: Provided that the land set apar t for the purposes mentioned in sub-section (1) shall not be diverted and allotted to any person for agr iculture purpose.]

[(4) When it becomes indi spensable to diver t the land set apart for the purposes mentioned in sub-section (1) for such development and infrastructural

projects which are owned or approved by the State Government but not covered under sub-section (3), the Collector, after satisfying himself on alternatives available and also on obtaining land of equivalent area for fulfilling the same nistar rights from the concerned project, may divert the land for such purposes by passing a reasoned order to this effect.]

238. Rights in waste land of another village.— (1) Where the Collector is of the opinion that the waste land of any village is insufficient and it is in public interest to proceed under this section, he may, after such enquiry as he deems fit, order that the residents of the village shall have a right of nistar or a right of grazing cattle, as the case may be, in the neighbouring village to the extent specified in the order.

(2) The residents of a village having a right of grazing cattle in the neighbouring village under sub-section (1) or Government forest may make an application to the Collector for recording their right of passage for the purpose of exercising the rights.

(3) If, on enquiry, into an application made under sub-section (2), the Collector finds that the right of passage is reasonably necessary to enable such residents to exercise a right to graze their cattle in any other village or in the Government forest, he shall pass an order declaring their right to such passage and shall state the conditions upon which it shall be exercised.

(4) The Collector shall further determine the route of passage, and shall restrict such route in such manner as to cause minimum inconvenience to the residents of the village through which it passes.

(5) The Collector may, if he thinks fit, demarcate such route.

(6) Orders passed by the Collector under this section shall be recorded in the Nistar Patrak.

(7) Where the villages mentioned in sub-section (1) lie in different districts the following provisions shall apply, namely

(a) the orders specifying the right of nistar or the right of grazing cattle shall be passed by the Collector in whose district the village over which such right is claimed lies;

(b) any orders regarding route of passage shall be passed by the Collector in whose respective jurisdiction the area over which passage is allowed lies;

(c) the Collector passing an order in accordance with clauses (a) and (b) shall consult in writing the other Collector concerned.

239. [Rights in fruit bearing trees and other trees planted in unoccupied land.— (1) Where, before coming into force of this Code any fruit bearing tree was planted by any person in the unoccupied land of any village, and is so recorded, then notwithstanding that such land vests in the State Government, such person, and his successor-in-interest shall from generation to generation be entitled to possession and usufruct of such trees without payment of any royalty or other charge whatsoever therefor.

[(2) The State Government or any Revenue Officer not below the rank of

Tahsildar as may be authorised by the State Government in this behalf, may permit any person or persons to plant and grow fruit bearing or other species of trees as may be specified in this behalf on unoccupied land of a village that may be earmarked for the purpose and grant tree planting permit and tree patta to such person or persons in accordance with the provisions of this section and the rules made thereunder.

(3) The tree planting permit and the tree patta granted under this section shall be, in such form and subject to such terms and conditions as may be prescribed.

(4) The right conferred under this section shall be transferable but permit or patta holder or his successor-in-interest shall have no right to the land on which such tree stands except the right to grow trees on such land and enjoy the usufructuary rights on such trees including the right in corpus of the tree subject to the terms and conditions of the permit and patta

Provided that no transfer by sale or by lease shall be made except with the previous permission in writing of the officer authorised by the State Government under sub-section (2)

(5) if any of the terms and conditions of tree planting permit or tree patta are breached, the permit or patta shall be liable to be cancelled after affording a reasonable opportunity of being heard to the holder thereof.

(6) the State Government may make rules for carrying out the purposes of this section.]

240. Prohibition of cutting of certain trees.— (1) If the State Government is of the opinion that the cutting of any tree is detrimental to public interest or that it is necessary to prohibit or regulate the cutting of certain trees for preventing erosion of soil, it may, by rules made in this behalf, prohibit or regulate the cutting of such trees whether such trees stand on the land belonging to bhumi swami or on land belonging to State Government.

(2) in framing rules under sub-section (1), the State Government may provide that all or any of the rules shall apply only to such area as the State Government may, by notification, specify.

(3) The State Government may make rules regulating the control, management, felling or removal of the forest growth on the lands belonging to the State Government.

241. Measures to prevent theft of timber from Government forest— (1) If the State Government is satisfied that in order to prevent the theft of timber from any Government forest it is necessary in the public interest to regulate the felling and removal of timber in the villages comprised in any area adjoining such forests, the State Government may, by an order published in the Gazette, declare such area to be notified area for the purposes of this section.

(2) Every order published under sub-section (1) shall be proclaimed in the prescribed manner in all the villages comprised in the notified area.

(3) Notwithstanding anything contained in Section 179 but subject to the provisions of sub-section (5), when an order has been proclaimed in any village

under sub-section (2) , no person shall in pursuance of a transaction of sale or for purposes of trade or business fell any timber tree in any holding in such village or remove the corpus of any such tree from any such holding except in accordance with such rules as may be made in that behalf.

[(4) Any person who contravenes or attempts to contravene or abets the contravention of the provisions of sub-section (3) or of any rule made thereunder, shall, without prejudice to any other action that may be taken against him, be liable on the order in writing of the Sub-Divisional Officer , to pay a penalty not exceeding [fifty thousand rupees] as may be imposed by him and the Sub-Divisional Officer shall further order confiscation of any timber trees felled in contravention of the provisions of this sub-section.]

(5) [Nothing in sub-sections (3) and (4) shall apply to the felling or removal up to two cubic metres of timber from trees by any person from his land during a period of one year for his bona fide agricultural or domestic purposes,] if such felling or removal is otherwise in accordance with the other provisions of this Code.

242. Wajid-ul-arz.- (1) As soon as may be after this code comes into force, the [Sub-Divisional Officer] shall, in the prescribed manner, ascertain and record the customs in each village in regard to-

- (a) the right to irrigation or right of way of other easement;
- (b) the right to fishing;

In any land or water not belonging to or controlled or managed by the State Government or a local authority and such record shall be known as the Wajid-ularz of the village.

(2) The record made in pursuance of sub-section (1) , shall be published by the [Sub-Divisional Officer] in such manner as may be prescribed.

(3) Any person aggrieved by any entry made in such record may, within one year from the date of the publication of such record under sub-section (2), institute a suit in a Civil Court to have such entry cancelled or modified. -

(4) The record made under sub-section (1) shall, subject to the decision of the Civil Court in the suit instituted under sub-section (3), be final and conclusive.

(5) The [Sub-Divisional Officer] may, on the application of any person interested therein or on his own motion, modify an entry or insert any new entry in the Wajid-ul-arz on any of the following grounds : —

- (a) that all persons interested in such entry wish to have it modified; or
- (b) that by a decree in a civil suit it has been declared to be erroneous; or

(c) that being founded on a decree or order of a Civil Court or on the order of a Revenue Officer it is not in accordance with such decree or order; or

(d) that being so founded, such decree or order has subsequently been varied on appeal, revision or review; or

(e) that the Civil Court has by a decree determined any custom existing in the village.

243. Abadi.— (1) Where the area reserved for abadi is in the opinion of the Collector insufficient, he may reserve such further area from the unoccupied land in the village as he may think fit.

(2) Where unoccupied land for purposes of abadi is not available, the State Government may acquire any land for the extension of abadi.

(3) The provisions of the Land Acquisition Act, 1894 (1 of 1894), shall apply to such acquisition and compensation shall be payable for the acquisition of such land in accordance with the provisions of that Act.

244. Disposal of abadi sites.—Subject to rules made in this behalf the Gram Panchayat or where a Gram Panchayat has not been constituted, the Tahsildar shall dispose of sites in the abadi area.

245. Rights to hold house site free of land revenue.— A building site of reasonable dimensions in the abadi shall not be liable to the payment of land revenue if such site is occupied by a kotwar or a person who holds land or works as an agricultural artisan or an agricultural labourer in such village or in a village usually cultivated from such village.

246. Right of persons holding house sites in abadi. —Subject to the provisions of Section 244 every person who at the coming into force of this Code lawfully holds any land as a house site in the abadi or who may hereafter lawfully acquire such land shall be a bhumi swami in respect of such land [Provided that the allotment of house site under Gramin Avas Yojna to a landless person on or after the commencement of the Madhya Pradesh Land Revenue Code (Amendment) Act, 1973 shall be subject to the following conditions : —

(i) that the allottee shall build a house on such land within a period of five years from the date of allotment;

(ii) that the allottee shall not transfer the land allotted to him or his interest therein during a period of ten years from the date of allotment;

(iii) that in case of breach of any of the above conditions the land shall vest in the State Government with effect from the date of breach.

Explanation.— For the purpose of this section "Gramin Avas Vikas Yojna" means the scheme sponsored by the Government of India for the provision for house sites in rural areas whereunder, on 100% grant as assistance from the Government of India, the State Government are to provide house sites free of cost to families of landless workers in rural areas who do not already own a house site or a built-up house or a hut on land of their own.]

247. Government's title to mineral s.— (1) Unless it is otherwise expressly provided by the terms of a grant made by the Government, the right to all mineral s, mines and quarries shall vest in the State Government which shall have all powers necessary for the proper enjoyment of such rights.

(2) The right to all mines and quarries includes the right of access to land for the purpose of mining and quarrying and the right to occupy such other land as

may be necessary for purpose subsidiary thereto, including the erection of offices, workmen's dwellings and machinery, the stacking of minerals and deposit of refuse, the construction of roads, railways or tram-lines, and any other purposes which the State Government may declare to be subsidiary to mining and quarrying.

(3) If the Government has assigned to any person its right over any minerals, mines or quarries, and if for the proper enjoyment of such right, it is necessary that all or any of the powers specified in sub-sections (1) and (2) should be exercised, and the Collector may, by an order in writing, subject to such conditions and reservations as he may specify, delegate such powers to the person to whom the right has been assigned

Provided that no such delegation shall be made until notice has been duly served on all persons having rights in the land affected, and their objections have been heard and considered.

(4) If, in the exercise of the right herein referred to over any land, the rights of any person are infringed by the occupation or disturbance of the surface of such land, the Government or its assignee shall pay to such persons compensation for such infringement and the amount of such compensation shall be calculated by the Sub-Divisional Officer or, if his award is not accepted, by the Civil Court, as nearly as may be, in accordance with the provisions of the Land Acquisition Act, 1894 (I of 1894).

(5) No assignee of the Government shall enter on or occupy the surface of any land without the previous sanction of the Collector, and unless the compensation has been determined and tendered to the persons whose rights are infringed.

(6) If an assignee of the Government fails to pay compensation as provided in sub-section (4), the Collector may recover such compensation from him on behalf of the persons entitled to it, as if it were an arrear of land revenue.

(7) Any person who without lawful authority extracts or removes minerals from any mine or quarry, the right to which vests in, and has not been assigned by, the Government shall, without prejudice to any other action that may be taken against him be liable, on the order in writing of the Collector, to pay penalty not exceeding a sum calculated at [four times] the market value of the minerals so extracted or removed.

[Proviso Omitted.]

(8) Without prejudice to the provisions in sub-section (7) the Collector may seize and confiscate any mineral extracted or removed from any mine or quarry the right to which vests in, and has not been assigned by the Government.

Explanation.— In this section, "minerals" include any sand or clay which the State Government may declare to have a commercial value or to be required for any public purpose.

248. Penalty for unauthorisedly taking possession of land.— (1) Any person who unauthorisedly takes or remains in possession of any unoccupied land, abadi, service land or any other which has been set apart for any special purpose under Section 237 [or upon any land which is the property of Government, or any

author ity, body corporate, or institution constituted or established under any State enactment,] may be summar ily ejected by order of the Tahsildar and any crop which may be standing on the land and any building or other work which he may have constructed thereon, if not removed by him within such time as the Tahsildar may f ix shall be liable to for feiture. Any property so for feited shall be di sposed of as the Tahsildar may direct and the cost of removal of any crop, building or other work and of all works neces sary, to restore the land to it s or iginal condition shall be recoverable as an ar rear of land revenue from him. Such per son shall also be liable at the discretion of the Tahsildar to pay the rent of the land for the period of unauthor ised occupation at twice the rate admi ssible for such land in locality and to a fine which may extend to 5[.twenty per centum of the market value of such encroached land] and to a fur ther f ine which may extend to 6[f ive hundred rupees in non-urban area and two thousand rupees in urban-area] for every day on which such unauthori sed occupation or possession continues af ter the date of first ejectment. The Tahsildar may apply the whole or any par t of the f ine to compensate per sons , who may in his opinion have suf fered los s or injury f rom the encroachment:

Provided that the Tahsildar shall not exerci se the power s conferred by thi s sub-section in regard to encroachment made by buildings or works constructed —

(i) in t he Mahakoshal region—

(a) in areas other than the merged States before the fir st day of September , 1917;

(b) in the merged States, before the third day of Apr il, 1950;

(ii) in the Madhya Bharat region, before the f ifteenth day of August , 1950;

(iii) in the Vindhya Pradesh region, before the f ir st day of April, 1955;

(iv) in the Bhopal region, before the eighth day of November , 1933; and

(v) in the Sironj region, before the f irst day of July, 1958.

Explanat ion. — For the purposes of this sub-section "Merged States" shall have the meaning assigned to it in the Madhya Pradesh Merged States Laws (State) Act, 1950 (XI I of 1950) .

[(1-A) On a resolution duly passed by the Gram Panchayat in respect of any unauthor ised possession, the Tahsildar shall star t and complete the proceedings under this section within thir ty days f rom the date of receipt of the information of such resolution and shall communicate the action taken by him to the Gram Panchayat.]

[(2) Omitted.]

[(2-A) If any per son continues in unauthor i sed occupation or pos ses sion of land for more than seven days after the date of order of ejectment under subsection (1) , then without prejudice to the f ine that may be imposed thereunder the Sub-Divi sional Of ficer shall cause him to be apprehended and shall send him with a war rant to be conf ined in a civil pr ison for a per iod of f ifteen days in case of f irst ejectment and Isix months] in case of second or subsequent ejectment

Provided that no action under thi s sub-section shall be taken—

(i) unless a notice i s i ssued calling upon such person to appear before the

Sub-Divisional Officer on a day to be specified in the notice and to show cause why he should not be committed to the civil prison;

(ii) in respect of encroachments on Government and Nazul lands for the settlement of which the Government have issued orders from time-to-time Provided further that the Sub-Divisional Officer may order the release of such person from detention before the expiry of the period mentioned in the warrant if he is satisfied that the unauthorised possession has been vacated Provided also that no woman shall be arrested or detained under this subsection. (2-B) The State Government may make rules for the purpose of carrying into effect the provisions of sub-section (2-A).]

[(3) x x x]

[(4) x x x]

249. Regulation of fishing, hunting etc.- (1) The State Government may make rules for regulating-

- (a) Fishing in Government tanks;
- (b) catching, hunting or shooting of animals in villages; and
- (c) the removal of any materials from lands belonging to the State Government.

(2) Such rules may provide for the issue of permits, the conditions attaching to such permits and the impositions of fees therefor and other incidental matters.

250. Reinstatement of bhumi swami improperly dispossessed.- (1) For the purpose of this section and section 250-A bhumi swami shall include occupancy tenant and Government lessee.]

[(1-a)] if a bhumi swami is dispossessed of the land otherwise than in due course of law or if any person unauthorisedly continues in possession of any land of the bhumiswami to the use of which such person has ceased to be entitled under any provision of this Code, the bhumi swami or his successor-in-interest may apply to the Tahsildar for restoration of the possession, —

(a) in case of bhumiswami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165 —

(i) before the 1st July, 1978 in cases of unauthorised dispossession prior to the 1st July, 1976; and

(ii) in any other cases within five years from the date of dispossession or from the date on which the possession of such person becomes unauthorised, as the case may be;

(b) in case of a bhumi swami not covered by clause (a), within two years from the date of dispossession or from the date on which possession of such person becomes unauthorised, as the case may be.

[(1-b) The Tahsildar shall on coming to know that a bhumiswami has been dispossessed of his land otherwise than in due course of law, *suo motu* start proceedings under this section.]

(2) The Tahsildar shall, after making an enquiry into the respective claims of the parties, decide the application and when he orders the restoration of the

possession to the bhumiswami, put him in possession of the land.

[2-a) The proceedings started under this section shall after receipt of reply from the other party, continue from day to day unless for reasons to be recorded in writing a longer adjournment is considered necessary and in that case a copy of the order sheet containing the reasons for such adjournment shall be sent to the Collector .]

[(3) The Tahsildar may at any stage of the enquiry pass an interim order for handing over the possession of the land to the bhumi swami, occupancy tenant or Government lessee, as the case may be, if he finds that he was dispossessed by the opposite party within six months prior to the submission of the application or commencement of *suo motu* proceedings under this section. In such case the opposite party shall, if necessary, be ejected under orders of the Tahsildar .]

(4) When an interim order has been passed under sub-section (3) the opposite party may be required by the Tahsildar to execute a bond for such sum as the Tahsildar may deem fit for abstaining from taking possession of land until the final order is passed by the Tahsildar .

(5) If the person executing a bond is found to have entered into or taken possession of the land in contravention of the bond, the Tahsildar may forfeit the bond in whole or in part and may recover such amount as an arrear of land revenue.

[(6) If the order passed under sub-section (2) is in favour of the applicant the Tahsildar shall also award compensation to be paid to the applicant by the opposite party which shall be at the prorata rate of [two thousand rupees] per hectare per year .]

(7) The compensation awarded under this section shall be recoverable as an arrear of land revenue.

[(8) when an order has been passed under sub-section (2) for the restoration of the possession to the bhumi swami the tahsildar may require the opposite. Party to execute a bond for such sum as the Tahsildar may deem fit for abstaining from taking possession of the land and contravention of the order .]

[(9) Where an order has been passed under sub-section (2) for the restoration of the possession of the bhumi swami, the opposite party shall also be liable to fine which may extend to [twenty per centum of the market value of such land] :

[Proviso Omitted]

250-A. Confinement in civil prison on failure to restore possession

under section 250. - (1) If any person continues in unauthorised occupation or possession of land for more than seven days after the date of order for restoration of possession under Section 250, then without prejudice to the compensation payable under sub-section (6) or the fine under sub-section (9) of the said section the Sub-Divisional Officer shall cause him to be apprehended and shall send him with a warrant to be confined in a civil for a period of fifteen days in case of first order for restoration of possession and shall cause him to be apprehended and shall send him with a warrant to be confined in such prison for a period of three months in case of second or subsequent orders for restoration of the possession to such bhumiswami :
Provided that no action under this section shall be taken unless a notice is

issued calling upon such person to appear before the Sub-Divisional Officer on a day to be specified in the notice and to show cause why he should not be committed to the civil prison

Provided further that the Sub-Divisional Officer may order the release of such person from detention before the expiry of the period mentioned in the warrant if he is satisfied that the unauthorized possession has been vacated. Provided also that no woman shall be arrested or detained under this section.

(2) The State Government may make rules for the purpose of carrying into effect the provisions of sub-section (1).

250-B. Failure to vacate land in favour of allottee of land to be an offence.—(1) If a person to whom land has been allotted in bhumiswami rights or

as a Government lessee under a Patta granted to him in accordance with a scheme of distribution or disposal or allotment of land under executive powers of the State Government as may from time to time be adopted or sponsored by the State Government or any such scheme under any enactment for the time being in force and such person has not been able to take actual possession of the land so allotted to him, he may apply to the Tahsildar for putting him in actual possession of the land allotted to him under the Patta granted to him.

(2) On receipt of the application, the Tahsildar shall by an order in writing, issue a direction

(i) to the person in possession of the land to vacate the same forthwith; or

(ii) in the event of any person obstructing the taking over of possession or delivery of possession, to such person to remove such obstruction to enable delivery of possession, and on his vacating the land or removing the obstruction, deliver actual possession thereof to the bhumiswami or the Government lessee, as the case may be, entitled to hold the land under the Patta.

(3) The Tahsildar may, if necessary, use such force including Police force as may be necessary to put the allottee in actual possession of the land.

(4) If the person to whom direction is issued under sub-section (2) fails to comply with the direction, he shall be punishable with imprisonment for a term which may extend to three years and with fine or with both, and such non-compliance of direction is a continuing one, with further fine which may extend to one hundred rupees for every day after the first during which the non-compliance is proved to have been persisted in.

(5) The offence under this section shall be cognizable and non-bailable.]

251. Vesting of tanks in State Government.—[(1) All tanks situated on unoccupied land on or before the date of coming into force of the Act, providing for the abolition of the rights of intermediaries in the area concerned and over which members of the village community were, immediately before such date, exercising rights of irrigation or ni star, shall, if not already vested in the State Government, vest absolutely in the State Government with effect from the 6th April, 1959 :

Provided that nothing in this section shall be deemed to affect any right of a

lessee in the tank under a lease subsisting on the date of vesting of the tank which shall be exercisable to the extent and subject to the terms and conditions specified in the lease :

Provided further that no tank shall vest in the State Government, unless—

(i) after making such enquiry as he deems fit, the Collector is satisfied that the tank fulfils the conditions laid down in this subsection: and

(ii) notice has been served on the parties interested and opportunity given to them for being heard.]

(2) Any person claiming in any such tank any interest other than the right of irrigation or ni star, may, within a period of [four years] from the date of vesting under sub-section (1) , make an application in the prescribed form to the Collector for compensation in respect of his interest .

[(2-a) The provisions of Section 239 shall apply to trees standing on the embankments of tank vested in the State Government under sub-section (1) as they apply to trees planted in an unoccupied land.]

(3) Such compensation shall be fifteen times the land revenue assessable on the land covered by the tank and for purposes of assessment such land shall be treated as irrigated land of the same quality as the adjoining land.

(4) The compensation as determined under sub-section (3) shall be paid by the Collector to the person or persons proved to his satisfaction to be owning interest in the tank concerned.

(5) The payment of compensation under sub-section (4) shall be a full discharge of the State Government from all liability for compensation in respect of the tank concerned, but shall not prejudice any right in respect of such tank to which any other person may be entitled by due process of law to enforce against the person or persons to whom compensation has been paid as aforesaid.

(6) The State Government may make rules providing for the regulation of the use of water from such tanks.

(7) The vesting of any tank under sub-section (1) shall not affect the rights of irrigation and ni star in such tank to which any person is entitled immediately before the date of vesting.

[*Explanation*.—For the purposes of this section, tank includes the trees standing on the embankments of the tank but does not include buildings, temples or other constructions standing on the embankments thereof .]

252. Maintenance of works of public utility.—(1) It shall be the duty of the Gram Sabha to maintain and keep in proper repairs the works of public utility in the village.

(2) Subject to the rules made under this Code, the Gram Sabha may, by order in writing, call upon adult males residing in the village (except those who are old and infirm or subject to any physical disability) to perform such labour as it may specify in the order for keeping in a proper state of repairs such works of public utility in the village as may be notified by the State Government in that behalf,

(3) No order under sub-section (2) shall be passed unless the works are of public utility and are likely to benefit generally the persons against whom the order is being passed.

(4) A person required to perform labour under the provisions of subsection (2), may have it performed by another on his behalf or pay for its performance at such rate as may be determined by the Tahsildar.

(5) Any person who neglects or refuses to perform the labour referred to in sub-section (2) or fails to pay for the performance of labour as provided in subsection (4) shall, on the order of the Tahsildar, be liable to pay an amount equal to the value of the labour at the rates determined by the Tahsildar under sub-section (4), and such amount shall be recoverable as an arrear of land revenue.

253. Punishment for contravention of provisions.— (1) Except as otherwise provided in this Code, any person who acts in contravention of the provisions of this chapter or rules made thereunder or who contravenes or fails to observe any rules or custom entered in the Wajib-ul-arz or commits a breach of any entry entered in the Nistar Patrak shall be liable to such penalty not exceeding [fifty thousand] rupees as the Sub-Divisional Officer may, after giving such person an opportunity to be heard, deem fit and the Sub-Divisional Officer may further order confiscation of any timber, forest produce, or any other produce which such person may have appropriated or removed from lands belonging to the State Government.

(2) Where any contravention, breach or non-observance punishable under sub-section (1) has been committed by the Gram Sabha, every officer of the Gram Sabha shall be liable under that sub-section unless he proves that the contravention, breach or non-observance took place without his knowledge or that he exercised all due diligence to prevent such contravention, breach or non-observance.

(3) Where the Sub-Divisional Officer passes an order imposing a penalty under this section, he may direct that the whole or any part of the penalty may be applied to meet the cost of such measures as may be necessary to prevent loss or injury to the public owing to such contravention, breach or non-observance.

254. Performance of duties of Gram Sabha by Patel.—Any function assigned to a Gram Sabha under this chapter shall be performed by the patel until a Gram Sabha is duly constituted under Section 232.

CHAPTER XIX MISCELLANEOUS

255. Prescription of standards of cultivation and management.— (1) With a view to bring agricultural economy to a higher level of efficiency, the Government may, by rules, regulate standards of efficient cultivation and management.

(2) Such rules may provide for the issue of directions as regards the methods of agriculture to be adopted, the use of improved seeds, conservation and proper utilisation of manure, sale of surplus food grains, and for ensuring proper wages and terms of employment of agricultural workers, and such other directions

as may be necessary or desirable for the efficient utilisation of lands.

(3) Such rules shall apply to agriculturists who cultivate personally land in excess of such limits as may be prescribed.

(4) If any agriculturist to whom such rules apply under sub-section (3) fails to carry out the directions issued under sub-section (2), the State Government may have the directions carried out by any other agency in such manner as it deems fit and recover from him all such cost as may be incurred.

256. Inspection and copies of maps and land records.—Subject to such conditions and to the payment of such fees as may be prescribed by rules made under this Code, all revenue record, maps and land records which have been prepared or are required to be prepared or kept under this Code or any other enactment for the time being in force, shall be open to the inspection of the public at reasonable hours, and certified extracts therefrom, or certified copies thereof, shall be given to all persons applying for the same.

257. Exclusive jurisdiction of revenue authorities.— Except as otherwise provided in this Code, or in any other enactment for the time being in force, no Civil Court shall entertain any suit instituted or application made to obtain a decision or order on any matter which the State Government, the Board, or any Revenue Officer is by this Code, empowered to determine, decide or dispose of, and in particular and without prejudice to the generality of this provision, no Civil Court shall exercise jurisdiction over any of the following matters :—

[(a) any decision regarding any right under sub-section (1) of Section 57 between the State Government and any person;!

[(a-1)] any decision regarding the purpose to which land is appropriated under Section 59;

(b) any question as to the validity or effect of the notification of a revenue survey or any question as to the term of a settlement;

(c) any claim to modify a decision determining abadi made by a Settlement Officer or Collector ;

(d) any claim against the State Government to hold land free of land revenue, or at less than the fair assessment, or to be assigned in whole or in part the land revenue assessed on any land;

(e) the amount of land revenue assessed or reassessed under this Code or any other enactment for the time being in force;

(f) any claim against the State Government to have any entry made in any land records or to have any such entry omitted or amended.

(g) any question regarding the demarcation of boundaries or fixing of boundary marks under Chapter X;

(h) any claim against the State Government connected with or arising out of, the collection of land revenue or the recovery of any sum which is recoverable as land revenue under this Code or any other enactment;

(i) any claim against the State Government or against a Revenue Officer for remission or suspension of land revenue, or for a declaration that crops have failed in any year;

- (j) any decision regarding forfeiture in cases of certain transfers under Section 166;
- (k) ejection of a lesser of a bhumi swami under sub-section (4) of Section 168;
 - [(1) any claim to set aside transfer by a bhumiswarni under sub-section (1) of Section 170 and clauses (a) and (b) of sub-section (2) of Section 170-A;]
 - [(1-1) any matter covered under Section 170-B.]
- (m) ejection of a Government lessee under Section 182;
- (n) resumption by a bhumiswami of land held by an occupancy tenant under Section 189 and the fixation of rent of land left, if any, with the occupancy tenant;
- (o) claims by occupancy tenants for conferal of the rights of bhumiswami under Section 190;
- (p) restoration of possession to an occupancy tenant under Section 191;
- (q) termination of tenancy of an occupancy tenant under Section 193;
- (r) any claim to set aside transfer by an occupancy tenant under Section 197;
- (s) the imposition of penalty on a bhumi swami under Section 200;
- (t) suspension and remission of rent under Section 201;
- (u) any decision regarding reinstatement of wrongfully ejected occupancy tenant under Section 202;
- (v) amount payable as compensation under sub-section (3) of Section 209, confirmation of the scheme for consolidation of holdings under Section 210, transfers of rights-in carrying out the scheme under Section 213 and assessment and apportionment of costs of consolidation of holdings under Section 215;
- (w) any claim to modify any entry in the Nistar Patrak;
 - [(w-i) any decision regarding penalty under Section 248, for unauthorisedly taking possession of land.]
- (x) any decision regarding reinstatement of a bhumi swami improperly dispossessed under Section 250;
 - [(x-i) any decision regarding confinement in civil prison under Section 250-A;
 - (x-ii) any decision regarding delivery of actual possession of land to the bhumiswami or the Government Lessee under Section 250-B.]
- (y) any decision regarding vesting of tanks in State Government under Section 251 and any claim against the State Government arising thereunder ;
- (z) any claim against the State Government to set aside or modify any premium, penalty, cess or rate imposed or assessed under the provisions of this Code or any other enactment for the time being in force;
- (z-1) any claim against the State Government arising under Section 255

regarding prescription of standard cultivation and management;
 (z-2) any claim to compel the performance of any duty imposed by this Code on any Revenue Officer or other officer appointed under this Code.

257-A. Burden of proof and bar of legal practitioners in certain proceedings.—In any proceedings under sub-section (6) of Section 165, or under the proviso to Section 169 or under sub-section (1) of Section 170 or under Section 170-A or under Section 250 in which one of the parties is a bhumi swami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of Section 165, the burden of proving the validity of transfer thereunder shall, notwithstanding anything contained in this Code or in any other law for the time being in force, lie on the person who claims such transfer to be valid.

(2) No legal practitioner shall appear, plead or act on behalf of any party in any proceedings specified in sub-section (1) in which one of the parties is a bhumi swami belonging to a tribe which has been declared to be an aboriginal tribe under sub-section (6) of section 165 except with the written permission of the Revenue Officer /Court before whom the case is pending.]

258. General rule making power.- (1) The State Government may make rules generally for the purpose of carrying into effect the provisions of this Code.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for -

- (i) the terms and conditions of service of the President and members of the Board of Revenue constituted under section 3 ;
- (ii) the prescription of the duties of Superintendents of Land Records and Assistant Superintendents of Land Records;
- (iii) regulation of assessment of land revenue on diversion of land to other purposes and imposition of premium under Section 59;
- (iv) assessment on unassessed land under Section 60;
- (v) Formation of survey numbers and villages under Section 68 and the minimum extent of survey numbers comprising land used for agricultural purposes;
- (vi) division of survey numbers into sub-divisions and apportionment of the assessment of survey number among the sub-divisions of a survey number under Section 70;
- (vii) prescription of records in which area and assessment of survey numbers and sub-division of survey numbers shall be entered under section 71;
- (viii) the manner of dividing a village into two or more village or uniting two or more villages into one or constituting village or altering the limits of a village under Section 73;
- (ix) the necessary inquiry which shall be completed and the form in which and the particulars with which the proposals for assessment rate shall be forwarded under Section 77;
- (x) the manner in which notice of assessment shall be given under

Section 82;

(xi) the manner of inquiry into the profits of agriculture and into the value of land used for agriculture and non-agriculture purposes under Section 87;

(xii) the regulation of the conduct of revenue survey or settlement under Section 91-A;]

(xiii) regulation of division of lands in urban areas into plot numbers, recognition of existing survey numbers as plot numbers, reconstitution of plot numbers or formation of new plot number under Section 93;

(xiv) the manner of dividing plot numbers into sub-divisions and apportioning the assessment of plot number among the subdivisions; and the limits either of area or of land revenue or both in any local area for recognition of sub-divisions under Section 94;

(xv) prescription of records under Section 95;

(xvi) prescription of other special purposes under Section 96;

(xvii) the manner of publishing the standard rates under Section 97;

(xviii) (a) the manner of keeping record of all registered sales and leases of lands under Section 98 (1) , and

(b) determination of the average annual letting value of lands under Section 98 (2) ;

[(xix) prescription of other duties of patwaris under sub-section (2) of Section 104;]

(xx) prescription of other duties of Revenue Inspectors under Section 106;

(xxi) prescription of other particulars under Section 107 (2) ;

(xxii) the prescription of the form of, and the additional particulars to be entered in the papers to be included in the record of rights under Section 108;

(xxiii) form of acknowledgement to be given by patwari under Section 109;

[(xxiv) (a) prescription of register under Section 110 (1) for entering acquisition of rights reported under Section 109;

(b) prescription of other persons and authorities to whom written intimation shall be given under Section 110 (3);

(xxv) (a) prescription of other land records under Section 114 (1) .

(b) prescription of fee on the payment of which Rasid Bahi shall be provided under Section 114 (2) and the prescription of entries which it shall contain;]

(xxvi) the regulation of requisition of assistance under Section 120;

(xxvii) preparation, maintenance and revision of land records under Section 121;

[(xxvii -a) manner in which objection shall be disposed of by Tahsildar under Section 123 (3) ;]

(xxviii) (a) specification of , and manner of construction and maintenance of , boundary marks of villages and survey numbers or plot numbers under Section 124 (3); and

(b) the manner of distribution of the cost of construction of new boundary marks among the holders of lands under Section 124 (4) ;

(xxix) the manner of demarcating boundary marks between a village road, village waste or land reserved for communal purposes and the land adjoining it and the manner in which they shall be kept in repair and renewed;

(xxx) the procedure of demarcating the boundaries of survey numbers, sub-divisions, or plot numbers, the nature of boundary marks and the levy of fees under Section 129;

(xxxi) the dates on which and the instalments in which land revenue shall be payable and the persons to whom and the places where at such instalments shall be paid under Section 140;

(xxxii) the form in which receipt shall be given under Section 142;

(xxxiii) the regulation of remission or suspension of land revenue under Section 144 (1);

(xxxiv) the guidance of Revenue Officers in issuing notices of demand under Section 146 and executing the processes specified in Section 147;

(xxxv) prescription of the form of application [for grant of annuity, the time within which such application shall be made] and the conditions of such grant under Section 160;

(xxxvi) the regulation of reduction of revenue during the currency of settlement under Section 161;

[(xxxvii) x x x]

(xxxviii) prescription of the ceiling limits of land under Section 165;

(xxxix) prescription of the manner in which land for feited under Section 166 shall be selected and demarcated and land revenue fixed on land left with transferee;

(xl) regulation of the procedure in disposing of claims to be placed in possession of a holding under Section 170;

[(xl -a) the form and manner in which information shall be notified to Sub-Divisional Officer under sub-section (1) of Section 170-B;]

(xli) regulation of grant or refusal of permission to a bhumiswami for diversion of his holding or any part thereof under Section 172;

(xlii) regulation of relinquishment of rights by a bhumi swami under Section 173;

(xliii) prescription of the terms and conditions on which a person may be put in possession of an abandoned holding under Section 176 (2) ;

(xliv) (a) regulation of partition of holdings and apportionment of assessment, under Section 178 (2) ; and

[(b) x x x]

(xlv) guidance of Revenue Officers with regard to applications for purchase of right in trees under Section 179 (2);

[(xlv-a) the manner of conversion of various leases granted for residential and commercial purpose in urban areas into free hold under Section 181-A]

(xlvi) x x x

(xlvii) prescription of the manner of selection and demarcation of land allowed to be resumed by a bhumi swami under Section 189 and the fixation of land revenue on it and fixation of rent in respect of land left with the occupancy tenant;

(xlviii) prescription of the manner and the form in which amount of compensation shall be deposited by an occupancy tenant payable to his bhumi swami under Section 190 (5) ;

[(xlviii-A) prescription of time within which an application" under sub- section (1) of Section 191 shall be made;]

(xlix) the regulation of the procedure in disposing of claims to be placed in possession of an occupancy holding which has been transferred under Section 197;

(I) prescription of the manner of selection and demarcation of land vesting in the State Government and the fixation of land revenue on the land reserved by the bhumiswami under Section 198 (4) ;

(i) the form and the manner in which the receipt for rent shall be given under Section 199;

(lii) the regulation of assessment of increase and reduction in land revenue required or permitted under Chapter XV;

(liii) the regulation of appointment of patel s under Section 222 (1), the manner of distribution of duties of the office of patel where there are two or more patel s in a village, fixation of remuneration of a patel, and prescription of additional duties of patel under Section 224 and his removal from office under Section 226 and the appointment of a substitute under Section 228;

(liv) the regulation of the sanitation of villages, the burial of the carcases of animals, the protection and fencing of wells, the upkeep of village roads and like matters of village self - government for villages not included within the area of a municipality or a municipal corporation, or a notified area

committee or a Gram Panchayat;

(1v) (a) the appointment, punishment, suspension and dismissal of Kotwars,

(b) the prescription of the duties and mode of supervision of Kotwars;]

(1vi) (a) the regulation of procedure for the establishment of a Gram Sabha under Section 232,

(b) the manner in which a Gram Sabha shall acquire, hold or transfer property movable and immovable, enter into contracts, etc., under Section 232 (4), and

(c) sums to be recovered as fees and other incomes by a Gram Sabha;

(1vii) prescription of the record to be maintained under Section 233;

(1viii) the manner in which the wishes of the villagers shall be ascertained under Section 234 (2) ;

(lix) (a) regulation of setting apart of unoccupied land for the exercise of nistar rights under Section 237 (1) ; and

(b) other purposes for the exercise of nistar rights under Section 237 (1) (k) ;

[(c) regulation of diversion of unoccupied land under Section 237 (3) .]

[(1x) (i) The categories of persons for whom priority will be given for granting of tree planting and tree pattas;

(ii) the manner of selection of such persons to whom tree planting permit and tree pattas to be granted;

(iii) the extent of land to be earmarked;

(iv) the terms and conditions for granting of tree planting permit and tree pattas;

(v) the form of the tree planting and the tree patta;

(vi) the extent of usufructuary rights under the tree planting permit and the tree patta.]

(1xi) the regulation of the cutting of trees under Section 240 (1), and of control, management, felling or removal of the forest growth under Section 240 (3) ;

(1xii) prescription of the manner of proclaiming an order published under Section 241 and regulation of the felling or removal of trees thereunder;

(1xiii) (a) the manner of ascertaining and recording the customs in regard to matters specified in Section 242 (1); and

(b) the manner of publication of record of customs under Section 242 (2) ;

(1xiv) prescription of the manner of disposal of sites in the abadi area under Section 244;

(lxv) regulation of fishing, catching hunting or shooting of animals in villages and removal of any material from land belonging to the State Government under Section 249;

(1xvi) (a) Prescription of the form of application under Section 251 (2); and

- (b) the regulation of the use of water from tanks under Section 251 (6);
- (1xvii) the regulation of procedure of the Gram Sabha in calling upon persons residing in the village to perform labour under Section 252;
- (1xviii) prescription of standards of cultivation and management under Section 255;
- (1xix) prescription of conditions for inspection and grant of copies of records, maps and land records under Section 256;
- (1xx) generally for the guidance of Revenue Officer and all other persons in proceeding under this code;
- (1xxi) any other matter which has to be or may be prescribed.

(3) All rules made under this section shall be subject to the condition of previous publication.

(4) All rules made under this Code shall be laid on the table of this Legislative Assembly and shall be subject to such modifications as the Legislative Assembly may make.

259. Reference to certain tenures.— Any reference in any enactment to,—

- (a) A bhumi swami or a bhumidhari in the Mahakoshal region;
- (a-i) a pakka tenant, muafidar, inamdar or a concessional holder in the Madhya Bharat region;
- (b) a pachpan paintalis tenant, pattedar, grove holder or a holder of a tank in the Vidhaya Pradesh region;
- (c) a Khatedar tenant or a grove holder in the Sironj region; and
- (d) an occupant in the Bhopal region; Shall be deemed to be reference to a bhumi swami.

260. Reference to laws not in force in any region.— Any reference this Code to a Central Act which is not in any region of the State shall in relation to that region be constructed as... .. reference to the corresponding law in force in that region.

Explanation.— For purposes of this section the expression “Central Act” shall have the same meaning as assigned to it in Section 3 (7) of the General Clauses Act, 1897 (X of 1897).

261. Repeal and saving.— The enactments specified in Schedule II are hereby repealed to the extent mentioned in the 4th column thereof :
Provided that the repeal shall not affect—

- (a) the previous operation of any law so repealed or anything duly done or suffered thereunder ; or

- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed; or
- (c) Any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or
- (d) Any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, constituted or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed :

Provided further that subject to the preceding proviso, anything done or any action taken (including any rules , assessment, appointments and transfers made, notifications and powers conferred, forms and leases granted, record-of-rights, and other records framed or confirmed, rights acquired, liabilities incurred and times and place appointed) , under any such enactment shall be deemed to have been done or taken under the corresponding provision of this code and shall continue to be in force accordingly unless and until superseded by anything done or action taken under this Code

262. Transitory provisions.— (1) Save as otherwise expressly provided in this Code, all cases pending before the State Government or any Revenue Court in any region immediately before the coming into force of this Code, whether in appeal, revision, review or otherwise shall be decided in accordance with the provisions of the appropriate law, which would have been applicable to them had this Code not been passed.

(2) Any case pending in civil court at the coming into force of this Code, which would under this Code be exclusively triable by a Revenue Court, shall be disposed of by such Civil Court according to the law in force prior to the commencement of this Code.

(3) All proceeding under any of the laws described in Scheduled II I pending before the State Government immediately before the commencement of this Code shall, on such commencement, stand transferred to the Board, and shall thereupon be disposed of by the Board as if they were proceeding entertained by the Board under this Code.

Explanation.— For the purpose of this sub-section “State Government “ shall include Government, Council of Ministers or a Minister .

263. Power to remove difficulties.— (1) If any difficulty arises in giving effect in any region to the provisions of this Code, the State Government may, by order notified in the Gazette, make such provisions or give such directions as appear to it to be necessary for the removal of the difficulty.

(2) A copy of the order passed under sub-section (1) shall as soon as may be after it is passed be laid before the Legislative Assembly.

264. Code not to apply in certain cases.— Nothing contained in this Code shall apply to a person who holds land from the Central Government.

SCHEDULE I

(See Section 41)

**RULES OF PROCEDURE OF REVENUE OFFICERS
AND REVENUE COURTS**

ISSUE OF SUMMONS

1. Every summons shall be in writing, in duplicate and shall be signed and sealed by the officer issuing it or by such person as he empowers in his behalf, and it shall specify the time and place at which the person summoned is required to attend, and also whether he is required to give evidence or to produce a document.
2. Every summons to a party shall be accompanied by a concise statement about the subject-matter of the proceedings.
3. A summons to produce documents may be for the production of certain specified documents or for the production of all documents of a certain description in the possession or power of the person summoned.

MODE OF SERVICE OF SUMMONS

4. Every summons shall be served by tendering or delivering a copy of it to the person summoned personally or to his recognised agent.
5. Where the person summoned cannot be found and has no recognised agent, service may be made on any adult male member of the family of the person summoned, who is residing with him.

Explanation.— A servant is not a member of the family within the meaning of this rule.

6. Where the serving officer delivers or tenders a copy of the summons to the person summoned personally or to his recognised agent or other person on his behalf, he shall require the signature of the person, to whom the copy is delivered or tendered to an acknowledgement of service endorsed on the original summons.
7. If service of the summons cannot be effected in the manner provided in Rules 4, 5 and 6 a copy thereof should be affixed at the last known place of residence of the person summoned or at some place of public resort in such village.
8. Where a copy of the summons is affixed as provided in Rule 7, the serving officer shall return the original copy of the summons to the Court from which it was issued with a report endorsed thereon or annexed thereto stating that he has affixed the copy, the circumstances under which he did so and the name and the address of the person in whose presence the copy was affixed and where the copy is affixed at the last known place of residence of the person summoned, the report shall also contain the name and address of the person, if any, by whom the house was identified.
9. If the person summoned resides in another district, the summons may be sent by post to the Collector of such district for service.

MODE OF COMPLIANCE WITH SUMMONS

10. Subject to the provisions of the Code whoever is summoned to appear before a Revenue Officer to give evidence shall attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document, shall either attend to produce it, or cause it to be produced, at such time and place.

MODE OF SERVING NOTICE

11. Every notice shall be served by tendering or delivering a copy of it to

the person concerned personally or to his recognised agent

Provided that, where the recognised agent of the person concerned is a pleader, the notice may be served by leaving a copy thereof at his office or at the place of his ordinary residence, and such service shall be deemed to be as effectual as service on the recognised agent personally.

12. Where the person concerned cannot be found and has no recognised agent, service may be made on any adult male member of the family of the person concerned, who is residing with him.

Explanation.—A servant is not a member of the family within the meaning of this rule.

13. Where the serving officer delivers or tenders a copy of the notice to the person concerned personally or to an agent or other person on his behalf, he shall require the signature of the person, to whom the copy is delivered or tendered to an acknowledgement of service endorsed on the original notice.

14. If service of the notice cannot be effected in the manner provided in Rules 11, 12 and 13 a copy thereof may be affixed at the last known place of residence of the person concerned or at some place of public resort in the village in which the land to which the notice relates is situated or from which the land is cultivated.

15. Where a copy of the notice is affixed as provided in Rule 14, the serving officer shall return the original copy of the notice to the officer who issued it, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, the name and address of the person in whose presence the copy was affixed and where the copy is affixed at the last known place of residence of the person notified, the report shall also contain the name and address of the person by whom the house was identified.

16. If the person to whom a notice is to be served resides in another district, the notice may be sent by post to the Collector of such district for service.

MODE OF ISSUING PROCLAMATIONS

17. Whenever a proclamation is issued under this Code, copies thereof shall be posted on the notice board of the office of the Revenue Officer issuing it, at the headquarters of the tahsil within which the land to which it refers is situated, and at some place of public resort on or adjacent to the land to which it refers, and unless the officer issuing it otherwise directs, the proclamation shall be further published by beat of drum on or near the land to which it refers.

ORDER

18. Every original order passed by a Revenue Officer in any proceedings shall contain a concise statement of the case, the points for decision, the decision thereon and the reasons for such decision.

ATTACHMENT

19. Attachment of movable property other than agricultural produce in possession of defaulter— (1) Where the property to be attached is movable property other than agricultural produce, in the possession of the defaulter, the attachment shall be made by actual seizure, and the attaching officer shall keep the

property in his own custody or in the custody of any of his subordinates and shall be responsible for the due custody thereof :

Provided that, when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once :

Provided further that when the property attached consists of live-stock, agricultural implements or other articles which cannot be conveniently removed, and the attaching officer does not act under the first proviso to this rule, he may at the instance of the defaulter or any person claiming to be interested in such property, leave it in the village or at the place where it has been attached —

(a) in the charge of the defaulter, or of the station pound-keeper, if any; or

(b) in the charge of the person claiming to be interested in such property or of such respectable person as will undertake to keep such property, on his entering into a bond with one or more sureties in an amount not less than the value of the property, that he will take proper care of such property and produce it when called for.

(2) The attaching officer shall make a list of the property attached and shall obtain thereto the acknowledgement of the person in whose custody the property is left, and if possible, of the defaulter and of at least one respectable person in attestation of the correctness of the list. If the property attached includes both livestock and other articles a separate list of the live-stock shall similarly be prepared and attested.

20. (1) Where the property to be attached is agricultural produce, the attachment shall be made by affixing a copy of the warrant of attachment —

(a) where such produce is a growing crop, on the land on which such crop has grown; or

(b) where such produce has been cut or gathered, on the threshing floor or place for treading out grain or the like or fodder-stack on or in which it is deposited;

and another copy on the outer door or on some other conspicuous part of the house in which the defaulter ordinarily resides or if there is no such house, on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain or in which he is known to have last resided or carried on business or personally worked for gain; and the produce shall thereupon be deemed to have passed into the possession of the Court.

(2) The attaching officer shall make such arrangements for the custody of the agricultural produce as he may consider sufficient and also to tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it.

(3) The costs incurred under sub-rule (2) shall be borne by the defaulter.

21. (1) Where the live-stock attached is not left in the charge of the defaulter, the expenses for feeding and watering it shall be charged at such rate as the Collector may, by general or special order, fix.

(2) Where the property attached is movable property other than agricultural

produce or live-stock, and is not left in the charge of the defaulter, the expenditure for its safe custody shall be charged at such rate as the Collector may, by general or special order, fix.

(3) The costs incurred under sub-rules (1) and (2) shall be first charge on the sale-proceeds of the property.

22. The provisions of Order XXI, Rules 46 to 53 of the Code of Civil Procedure, 1908 (V of 1908) regarding the attachment of the several classes of movable property dealt with in those rules shall as far as may be, apply to the attachment made under this Code.

23. (1) Where the property is immovable, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge

(2) The order shall be proclaimed at some place on or adjacent to such property by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and then on the notice board of the office of the Revenue Officer.

(3) The order shall take effect as against purchasers for value in good faith from the date when a copy of the order is affixed on the property and against all other transferees from the defaulter from the date on which such order is made.

24. (1) If any claim is set up by a third person to the property attached or proceeded against under the provisions of this Code, the Revenue Officer shall enquire into the claim and may admit or reject it.

(2) The person against whom an order is made under sub-rule (1) may, within one year from the date of the order, institute a suit to establish the right which he claims to the property attached or proceeded against; but subject to the result of such suit, if any, the order shall be conclusive.

SALE GENERALLY

25. Every sale shall be conducted by an officer or other person appointed by a general or special order in this behalf and shall be made by public auction.

26. (1) The Revenue Officer shall cause a proclamation of the intended sale to be made stating the time and place of sale and specifying as fairly and accurately as possible —

(a) the property to be sold;

(b) the land revenue assessed upon the land where the property to be sold is an interest in land paying revenue to the Government;

(c) the amount for the recovery of which the sale is ordered; and

(d) every other thing which the Revenue Officer considers material for a purchaser to know in order to judge the nature and the value of the property.

(2) A copy of the proclamation issued under sub-rule (1) where it relates to the sale of any holding shall be sent to the Co-operative and the Land Mortgage Bank operating within that area in which the holding is situated.

27. The Revenue Officer may, if he considers this necessary, summon the defaulter and examine him with respect to any matters to be included in the sale

proclamation.

28. Save in the case of property of the kind described in the first proviso to Rule 19, no sale hereunder shall, without the consent in writing of the defaulter take place —

(i) on Sunday or on any authorised Civil Court holidays or on any day declared as a local holiday for the area in which the sale is to be held; and

(ii) until after the expiration of at least thirty days from the date on which the proclamation thereof was made.

29. (1) The Revenue Officer may, in his discretion, adjourn any sale hereunder to a specified day and hour and the officer conducting any such sale may, in his discretion, adjourn the sale recording his reasons for such adjournment. Provided that where the order of the Revenue Officer can be obtained in time, no such adjournment shall be made without such order.

(2) Where a sale is adjourned under sub-rule (1) for a longer period than fifteen days, a fresh proclamation shall be made unless the defaulter consents to waive it.

(3) Every sale shall be stopped if, before the lot is knocked down, the amount due and costs are tendered to the officer conducting the sale, or proof is given to his satisfaction that the amount of such dues and costs have been paid to the Revenue Officer who ordered the sale.

30. Any deficiency of price which may happen on a resale by reason of the purchaser's default shall be recoverable from the defaulting purchaser as if it were an arrears of land revenue.

31. No officer or other person having any duty to perform in connection with any sale shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold.

SALE OF MOVABLE PROPERTY

32. (1) Where the property to be sold is agricultural produce, the sale shall be held—

(a) if such produce is a growing crop, on or near the land on which such crop has grown; or

(b) if such produce has been cut or gathered, at or near the threshing floor or place for treading out grain or the like or fodder stack :

Provided that the Revenue Officer may direct the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage.

(2) Where, on the produce being put up for sale —

(a) a fair price, in the estimation of the person holding the sale, is not offered for it; and

(b) the owner of the produce or a person authorised to act in his behalf applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market day.

The sale shall be postponed accordingly and shall be then completed, whatever price may be offered for the produce.

33. (1) Where the property to be sold is a growing crop and the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of its being made ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing.

(2) Where the crop from its nature does not admit of being stored, or where it appears to the Revenue Officer that the crop can be sold to greater advantage in an unripe state, it may be sold before it is cut and gathered, and the purchaser shall be entitled to enter on the land and to do all that is necessary for the purpose of tending and cutting or gathering it.

34. (1) Where movable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon after as the officer or other person holding the sale directs, and in default of payment the property shall forthwith be resold.

(2) On payment of the purchase money, the officer or other person holding the sale shall grant a receipt for the same, and the sale shall become absolute.

(3) Where the movable property to be sold is a share in goods belonging to the defaulter and a co-owner, and two or more persons, of whom one is such co-owner, respectively bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner.

35. No irregularity in publishing or conducting the sale of movable property shall vitiate the sale; but any person sustaining any injury by reason of such irregularity at the hand of any other person may institute a suit against him for compensation or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

36. (1) Where the property sold is movable property of which actual seizure has been made, it shall be delivered to the purchaser.

(2) In the case of any other movable property, the Revenue Officer may make an order vesting such property in the purchaser or as he may direct; and such property shall vest accordingly.

SALE OF IMMOVABLE PROPERTY

37. On every sale of immovable property the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per cent on the amount of his purchase money to the officer or other person conducting the sale, and in default of such deposit, the property shall forthwith be resold.

38. The full amount of purchase money payable shall be paid by the purchaser within fifteen days from the date of the sale of the property.

39. In default of payment within the period mentioned in Rule 38, the deposit may, if the Revenue Officer thinks fit after defraying the expenses, of the sale, be forfeited to the Government, and the property shall be resold and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

40. (1) Where immovable property has been sold under this Code, any person, either owning such property or holding an interest therein by virtue of a title acquired before such sale may, at any time within thirty days from the date of sale, apply, to the Revenue Officer to have the sale set aside on his depositing—

- (a) for payment to the purchaser, a sum equal to five per cent of the purchase money;
- (b) for payment on account of the arrear, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered less any amount which may have been paid since the date of the sale on this account; and
- (c) the cost of the sale.

(2) If such deposit is made within thirty days from the date of the sale the Revenue Officer shall pass an order setting aside the sale:

Provided that, if a person applies under Rule 41 to have such sale set aside, he shall not be entitled to make an application under this rule.

41. At any time within thirty days from the date of sale, any person whose interests are affected by such sale may apply to the Revenue Officer to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it, and the Revenue Officer may, after giving notice to the persons affected thereby, pass an order setting aside the sale and may order resale; but no sale shall be set aside on such grounds unless the applicant proves to the satisfaction of the Revenue Officer that he has sustained substantial injury by such irregularity or mistake.

42. Except in a case where land has been sold for arrears, which form a charge on the land, the purchaser may, at any time within thirty days from the date of sale, apply to the Revenue Officer to set aside the sale on the ground that the defaulter had no saleable interest in the property sold and the Revenue Officer shall, after due inquiry, pass such order on such application as he deems fit.

43. No resale under Rule 41 shall be made until a fresh proclamation has been published as laid down in Rule 26.

44. On the expiry of thirty days from the date of sale, if no application has been made under Rule 40, 41 or 42 or if such application has been made and rejected, the Revenue Officer shall pass an order confirming the sale

Provided that, if the Collector has reason to think that the sale ought to be set aside —

- (i) notwithstanding that no such application has been made; or
- (ii) on grounds other than those alleged in any application which has been made and rejected; or
- (iii) notwithstanding that a period of thirty days from the date of sale has expired;

he may, after recording his reasons in writing, set aside the sale at any time before making an order confirming the sale.

45. (1) If no application under Rule 41 is made within the time allowed therefore, all claims on the grounds of irregularity or mistake shall be barred.

(2) Nothing in sub-rule (1) shall bar the institution of a suit in the Civil Court to set aside a sale on the ground of fraud or on the ground that the arrears for which the property is sold is not due or on the ground that the defaulter had no saleable interest in the property sold.

46. If the sale of any property is set aside under Rule 40, 41, 42 or 44 the amount of purchase money deposited by the purchaser shall be refunded to him.

CERTIFICATE OF PURCHASE AND DELIVERY OF POSSESSION

47. If the sale of any immovable property has been confirmed, the Revenue Officer shall grant a certificate to the purchaser specifying the date on which the sale is confirmed, the property sold, and the name of the purchaser and shall put the purchaser in possession of such property.

48. (1) Where the purchaser is resisted or obstructed by any person in obtaining possession of the property, he may make an application to the Revenue Officer complaining of such resistance or obstruction.

(2) The Revenue Officer shall fix a date for investigating the matter and shall summon the party against whom the application is made to appear and answer the same.

49. Where the Revenue Officer is satisfied that the resistance or obstruction was occasioned —

(a) by the defaulter or some Other person at his instigation; or

(b) by any person in the case of a purchase of land sold for arrears of land revenue due in respect thereof ;

he shall direct that the purchaser be put into possession of the property.

50. Where in any case to which Rule 49 does not apply, the Revenue Officer is satisfied that the resistance or obstruction was caused by any person claiming in good faith to be in possession of the property on his Own account or on account of some person other than the defaulter , the Revenue Officer shall make an order dismissing the application.

51. (1) Where any person other than the defaulter is dispossessed of immovable property by the purchaser of such property, he may make an application to the Revenue Officer complaining of such dispossession.

(2) The Revenue Officer shall fix a date for investigating the matter and shall summon the purchaser to appear and answer the same.

52. Where the Revenue Officer is satisfied that the applicant was in possession of the property on his own account, or on account of some person other than the defaulter , he shall direct that the applicant be put into possession of the property.

53. Any party not being a defaulter against whom an order is made under Rule 49, 50 or 52 may institute a suit to establish the right which he claims to the present possession of the property but subject to the result of such suit, if any, the order shall be conclusive.

COMMISSIONS TO EXAMINE WITNESSES

54. Any Revenue Officer may in any proceedings issue a commission for the examination on interrogatories or otherwise of any person who is exempted from attending the Court or who is from sickness or infirmity unable to attend it.

55. An order for the issue of a commission for the examination of a witness may be made by the Revenue Officer either of his own motion or on the application, supported by affidavit or otherwise, of any party to the proceedings or of the witness to be examined.

56. Any Revenue Officer may, in any proceedings issue a commission for the examination of —

- (a) any person resident beyond the local limits of his jurisdiction;
- (b) any person who is about to leave such limits before the date on which he is required to be examined in Court;
- (c) any person in the service of the Central or the State Government who cannot, in the opinion of such Revenue Officer, attend without detriment to the public service.

57. (1) A commission for the examination of a person may be issued to any person whom the Court thinks fit to execute it, or to any other Revenue Officer who can conveniently examine such person.

(2) Every Revenue Officer receiving a commission for the examination of any person shall examine him or cause him to be examined pursuant thereto.

(3) The Revenue Officer on issuing any commission under this rule shall direct whether the commission shall be returned to himself or to any Revenue Officer subordinate to him.

58. Where a commission has been duly executed, it shall be returned together with the evidence taken under it, to the Revenue Officer by whom it was issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto and the evidence taken under it shall (subject to the provisions of the next following rule) form part of the record of the proceedings.

59. Evidence taken under a commission shall not be read as evidence in the proceeding without consent of the party against whom the same is offered, unless

- (a) the person who gave the evidence is beyond the jurisdiction of the Court, or dead or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, or is a person in the service of the Central or the State Government who cannot, in the opinion of the Revenue Officer, attend without detriment to the public service.
- (b) the Revenue Officer in his discretion dispenses with the proof of any of the circumstances mentioned in clause (a) and authorises the evidence of any person being read as evidence in the proceedings, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

60. Before issuing any commission under these rules, the Revenue Officer may order such sum (if any) as he thinks reasonable for the expenses of the

commission to be, within a time to be fixed, paid by the party at whose instance or for whose benefit the commission is issued.

61. (1) The provisions of this Code relating to the summoning, attendance and examination of witnesses, and to the remuneration of, and penalties to be imposed upon witnesses, shall apply to persons required to give evidence or to produce documents under these rules and for the purposes of this rule the Commissioner shall be deemed to be a Revenue Court.

(2) A Commissioner may apply to any Revenue Officer within the local limits of whose jurisdiction a witness resides for the issue of any process which he may find it necessary to issue to, or against, such witness, and such Revenue Officer may, in his discretion, issue such process as he considers reasonable and proper.

182

62. (1) Where a commission is sued under these rules, the Revenue Officer shall direct that the parties to the proceedings shall appear before the Commissioner in person or by their agents or pleaders.

(2) Where all or any of the parties do not so appear, the Commissioner may proceed in their absence.

PROCEEDING BY OR AGAINST MINORS AND PERSONS OF UNSOUND MIND

63. Every application by a minor shall be filed in his name by a person acting as the guardian of the minor.

64. Where the non-applicant is a minor the Revenue Officer, on being satisfied of the fact of his minority, shall appoint a proper person to be the guardian of such minor for the purpose of the proceedings.

65. Any person who is of sound mind and has attained majority and whose interest is not adverse to that of the minor may act as guardian for a minor party in the proceedings.

66. In the case where a non-applicant is a minor and the guardian appointed has no funds to meet the necessary expenses, the Revenue Officer may direct the applicant to deposit a sufficient sum for the purpose. The costs so incurred by the applicant shall be adjusted in accordance with the final order passed in respect of the costs.

67. (1) No guardian shall, without the leave of the Revenue Officer, expressly recorded in the proceeding, enter into any agreement or compromise on behalf of a minor with reference to the proceedings in which he acts as his guardian.

(2) Any such agreement or compromise entered into without the leave of the Revenue Officer so recorded, shall be voidable against all parties other than the minor.

68. The provisions contained in Rules 63 to 67, shall apply *mutatis mutandis* to persons of unsound mind.