

**THE BOMBAY PREVENTION OF THE
FRAGMENTATION AND CONSOLIDATION OF
HOLDINGS ACT, 1947**

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BOMBAY ACT NO. LXII OF 1947

[BOMBAY PREVENTION OF FRAGMENTATION AND
CONSOLIDATION OF HOLDINGS ACT, 1947]

[29th January 1948]

Adapted and modified by the Adaptation of Law Order, 1950.
Amended by Born. 31 of 1951.
Amended by Born 69 of 1953
Amended by Born. 33 of 1956.
Adapted and modified by the Bombay Adaptation of Laws (State and
Concurrent Subjects) Order, 1956.
Amended by Born 8 of 1958
Amended by Born. 61 of 1958.
Amended by Born. 63 of 1959.
Adapted and modified by the Maharashtra Adaptation of Laws (State and
Concurrent Subjects) Order, 1960.
Amended by Mah. 31 of 1964.
Amended by Mah. 19 of 1966.
Amended by Mah. 41 of 1977.

An Act to provide for the prevention of fragmentation of agricultural holdings and for their consolidation

WHEREAS it is expedient to prevent the fragmentation of agricultural holdings and to provide for the consolidation of agricultural holdings for the purpose of the better cultivation thereof; It is hereby enacted as follows :

Chapter I

Preliminary

1. Short title, extent and commencement –

- 1) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.
- 2) It extends to the whole of: an Consolidation of Holdings Act, 1947.
- 3) It shall come into force in such areas and on such date as the state Government may be notification in the Official Gazette direct.

2. Definitions –

In this Act, unless there is anything repugnant in the subject or context,

- 1) agricultural year” means the year commencing on the first day of April;
- 2) “consolidation of holdings” means the amalgamation and where necessary the redistribution of holdings or portions of holdings in any village, mahal or taluka or any part thereof o as to reduce the number of plots in holdings;
- 3) “Consolidation Officer” means an officer appointed as such under section 15 by the State Government and includes any person authorised by the State Government to perform all or any of the functions of the Consolidation Officer under this Act

9-a)“Cooperative Society” means a cooperative society registered or deemed to be registered under the Maharashtra Cooperative Societies Act, 1960.

- 4) “Fragment” means a plot of land of less extent than the appropriate standard area determined under this Act.

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion.

- 5) "land" means agricultural land whether alienated or unalienated;
- 6) local area means any area notified as such in the Official Gazette under section 3;
- 7) –
- 8) "owner" means in the case of unalienated land the occupant or tenure holder and when such land has been mortgaged, owner means the mortgagor; in the case of alienated land owner means the superior holder:
Provided that in the Hyderabad area of the State of Maharashtra, "owner" means a person who has permanent and heritable right of possession of land, and when unalienated land has been mortgaged, owner means the mortgagor;
- 9) "prescribed" means prescribed by rules made under this Act;
 - (9a) "relevant Code" means—
 - a. in the Bombay area of the State of Maharashtra, the Bomb Land Revenue Code, 1879;
 - b. in the Vidarbha region of the State of Maharashtra, the Madhya Pradesh Land Revenue Code, 1954; and
 - c. in the Hyderabad area of the State of Maharashtra, the Hyderabad Land Revenue Act, 1317 Fasli;
 - (9b) "relevant tenancy law" means—
 - a. in the Bombay area of the State of Maharashtra, the Bombay Tenancy and Agricultural Lands Act, 1948;
 - b. in the Hyderabad area of the State of Maharashtra, the Hyderabad Tenancy and Agricultural Lands Act, 1950;
 - c. in the Vidarbha region of the State of Maharashtra, the Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act 958.
 - (9c) "Settlement Commissioner" includes a Commissioner of Survey Settlement;
- 10) "standard area in respect of any class of land means the area which the State Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular focal area, and includes a standard area revised under the said section;
 - (10a) "village committee" means a village committee constituted under Section 34 A;
- 11) words and expressions used in this Act, but not defined have the meaning assigned to them in the relevant Code.

Chapter II

Determination of Local and Standard Areas and Treatment of Fragments

3. **Determination of focal areas.**- The State Government may, after such inquiry as it deems fit, by notification in the Official Gazette, specify a village, mahal or taluka or tahsil or any part thereof as a local area for the purposes of this Act.
4. **Settlement of standard areas.**-

(1) The State Government may, after such inquiry as it deems fit and after consultation with the District Advisory Committee or any other body, appointed by it, provisionally settle for any class of land in any local area the minimum area that can be cultivated profitably as a separate plot.

(2) The State Government shall by notification in the Official Gazette, and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objections thereto.

5. Determination and revision of standard areas.-

(1) The State Government shall, after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (2) of section in the village concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such bear area.

(2) The State Government may, at any time, if it deems fit expedient so to do revise a standard area determined under sub-section (1).

(3) The State Government shall, by notification in the Official Gazette, and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2).

6. Entry in the Record of Rights.-

(1) On notification of a standard area under sub-section (3) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights or where there is no Record of Rights in such village record as the State Government may prescribe.

(2) Notice of every made under sub-section (1) shall be given in the manner prescribed for the giving of notice in the Hyderabad area of the State, under the Hyderabad Record of Rights in Land Regulation, 1358 fasli and elsewhere, under the relevant Code, or an entry in the register of mutations.

7. Transfer and lease of fragments.-

(1) No person shall transfer any fragment in respect of which a notice has been given under sub-section (2) of section 6 except to the owner of a contiguous survey number or recognised sub-division of a survey number.

Provided that the holder of such fragment may mortgage or transfer it to the State Government or a land mortgage bank or any other co-operative society as security for any loan advanced to him by the State Government or such bank or society, as the case may be.

(2) Notwithstanding anything contained in any law for the time being in force or in any instrument or agreement no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

8. Fragmentation prohibited.-

No land in any local area shall be transferred or partitioned so as to create a fragment.

(8AA.) Restriction on partition of land.-

(1) Where, by transfer, decree, succession or otherwise, two or more persons are entitled to shares in an undivided agricultural land in any local area for which

standard areas have been fixed, and the land has to be partitioned among them, such partition shall be effected so as not to create a fragment.

(2) Where such partition is made by the Court or the Collector, the following procedure shall be adopted:—

(a) If, in effecting a partition among several co-sharers, it is found that a co-sharer is entitled to a specific share in the land and cannot be given that share without creating a fragment, he shall be compensated in money for that share. The amount of compensation shall be determined so far as practicable in accordance with the provisions of section 23 of the Land Acquisition Act, 1894.

(b) If, in effecting a partition, it is found that there is not enough land to provide for the shares of all the co-sharers in accordance with the provisions of sub-section (1), the co-sharers may agree among themselves as to the particular co-sharer or co-sharers who should get the share of land and which of them should be compensated in money. In the absence of any such agreement, the co-sharers to whom a share of land can be provided and those to whom money compensation should be given shall be chosen by lot in the manner prescribed.

(c) The compensation shall be payable by each co-sharer in proportion to the excess value of land he gets over the share of land legally due to him, and such co-sharer shall deposit the proportionate amount of compensation in the manner prescribed before taking possession of the share allotted to him. On his failure to do so, his share shall be allotted to any other co-sharer to whom land has not been previously allotted and who is chosen in the manner provided in clause (b) subject to the payment of similar compensation to the co-sharers not getting shares of and.

(d) If none of the co-sharers to whom land has been allotted under clause (c) pays the compensation and takes the share, the share shall be sold in auction to the highest bidder, and the purchase money shall be paid to the co-sharers not getting land in proportion to their respective shares.

(e) Where the parties agree upon any other method of partition which will not result in the creation of a fragment, that method shall be followed in effecting partition.

(3) Where a partition is effected in execution of a decree all questions relating to the partition of the land and appointment of compensation shall be decided by the Court executing the decree or by the Collector effecting the partition, as the case may be, in accordance with the provisions of sub-section (2)

8 A. Sections 7 and 8 not to transfer for public purpose.-

Nothing in sections 7, 8 and 8AA shall apply to a transfer of any land for such public purpose as may be specified in this behalf by the State Government by notification in the Official Gazette.

9. Penalty transfer or partition contrary to provisions of Act.-

(1) The transfer or partition of any land contrary to the provisions of this Act shall be void.

(2) The owner of any land so transferred or partitioned shall be liable to pay such fine not exceeding Rs.250 as the Collector may, subject to the general Orders of the State Government, direct. Such fine shall be recoverable as an arrear of land revenue.

- (3) Any person unauthorisedly occupying, or wrongfully in possession of, any land, the transfer or partition of which either by the Act of parties or by the operation of law, is void under the provisions of this Act, may be summarily evicted by the Collector.
10. **Transfer of fragment to Government.**—
- (1) Any owner of a fragment transfer it to be the State Government on payment by the State Government of such compensation to persons possessing interest therein as the Collector may determine and thereupon the fragment shall vest absolutely in the State Government free from all encumbrances but no such fragment shall be transferred to the State Government unless it is first offered to the owner of a contiguous survey number or recognised sub-division if a survey number on payment of the compensation determined by the Collector as aforesaid and such owner has refused to purchase the fragment on payment of such compensation.
- (2) Any such fragment may be disposed of in accordance with the provisions of section 117 B of the Bombay Land Revenue Code, 1879 or section 158 of the Madhya Pradesh Land Revenue Code, 1954 or as the case may be, may be disposed of as unoccupied land under the provisions of the Hyderabad Land Revenue Act, 1317 Fasli.
11. Partition of estate assessed to payment of revenue to Government or separation of share thereof. Deleted by Born. LXI of 1958, s 3(10)
12. **Determination of compensation for purposes of section 10.** - In determining the compensation for the purposes of section 10 the Collector shall regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894.
13. **Amendment of sections 117 A and 117 B of Born. V of 1879.-**
- (1) In sections 117 A and 117 B of the Bombay Land Revenue Code, 1879 the following shall be inserted at the commencement of the said sections, namely;
- “Subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holding Act, 1947”
- (2) In the Hyderabad Land Revenue Act, 1317 Fasli, in section 76, after the words “Taluqdar may” and in sub-section (2) of section 89 B, after the words assessment of plot number shall” the words and figures “subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947” shall be inserted.
- (3) In the Madhya Pradesh Land, Revenue Code, 1954, the following shall be inserted at the commencement of sub-section (1) of section 67, sub-section (1) of section 140, and section 158, namely “Subject to the provisions of the, Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.”
14. **Fragment not be sold at Court sale or created by such sale.-** Notwithstanding anything contained in any law for the time being in force, no fragmenting in respect of which a notice has been given under sub-section (2) of section 6, shall be sold at any sale held under the order of any Court except to the owner of a contiguous survey number of recognized sub-division of a survey number and no land shall be sold at such sale so as to leave a fragment.

Chapter III

Procedure for Consolidation

15. Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.—

With the object of consolidating holdings in any village, mahal, taluka or tahsil or any part thereof for the purpose of better cultivation of lands therein, the State Government may of its own motion or on an application made in that behalf declare by a notification in the Official Gazette and by publication in the prescribed manner in tht village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication in the village concerned the State Government it may appoint a Consolidation Officer who shall proceed to prepare a scheme for the consolidation of holdings in such village or villages or part thereof, as the case may be in the manner hereinafter provided.

(15A.) Preparation of scheme and principles to be followed in its preparation.-

(1) The Consolidation Officer shall, after giving due notice to the land owners concerned and the village committee, visit each of the concerned villages, and shall, in consultation with the village committee, proceed to prepare a scheme for the consolidation of holdings which shall include such statements, records and maps as may be prescribed.

(2) In preparing the scheme, the Consolidation Officer shall have regard to the procedure which the State Government may from time to time prescribe in regard to the number of blocks in which the village lands are to be grouped, the manner of allotting new plots to each owner, the recommendations of the village committee and such other matters as may be prescribed.

16. Scheme to provide for compensation.-

(1) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

(2) The amount of compensation shall be determined, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894.

17. Amalgamation of public roads etc. within scheme for consolidation of holdings-

(1) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane or path with any holding in the scheme he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said read, street, lane or path shall he extinguished or, as the case may be, transferred to a new road, street, lane or path laid Out in the scheme of consolidation.

(2) The declaration in sub-section (1) shall be published in the village concerned in the prescribed manner along with the draft scheme referred to in section 19.

(3) Any member of the public or any person having any interest or rights, in addition to the right of public highway, in or over the said road, street, lane or path or having any other interest or right which is likely to be adversely affected by the proposal way, within thirty days after the publication of the declaration under sub-section (1) state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right,

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane or path shall be entertained.

(4) The Consolidation Officer, shall, after considering the objections, if any made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Commissioner, together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Commissioner on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall, subject to any modification made by the State Government, be final.

18. Land reserved for public purpose.- Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer, in consultation with the village committee,-

(a) to direct that any land specifically assigned for any public purpose shall cease to be so assigned and to assign any other land in its place;

(b) if in any area under consolidation no land is reserved for any public purpose including extension of the village sites, or if the land so reserved is inadequate, to assign other land for such requirements and for that purpose to effect a proportionate cut in all the holdings of the village.

(2) Where a proportionate cut in all the holdings of a village has been effected under sub-section (1), the State Government shall pay to every person affected thereby compensation in respect of the land covered by such cut at the market value of the land at the date of the publication of the notification under section 15.

(3) Save as provided in sub section (1), the amount of such compensation shall be determined by the Consolidation Officer, so far as practicable in accordance with the provisions of sub-section (1) section 23 of the Land Acquisition Act, 1894.

19. Publication of draft scheme and of a amended draft schemes-

(1) When a scheme of consolidation is ready for publication, the Consolidation Officer shall publish a draft thereof in the prescribed manner in the village or villages concerned. Any person likely to be affected by such scheme, may, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating to the draft scheme.

(2) If any objections are received and after considering them, the Consolidation Officer considers it necessary to amend the draft scheme, he shall amend the draft scheme and publish the amended draft scheme as provided in sub-section (1). Any person likely to be affected by such amended drafted scheme may, within thirty days of the date of such publishing, communicate in writing to the Consolidation Officer any objections relating to the amended draft scheme.

(3) (a) Where no objections are received to the draft scheme published under sub-section (1) or to the amended draft scheme published under sub- Section (2), such draft scheme or amended draft scheme.

(b) Where objections are received to the said draft scheme or amended. draft scheme but the Consolidation Officer does not consider it necessary to amend the said draft scheme or amended draft scheme, such draft scheme or amended draft scheme, together with objections and his remarks thereon.

(c) Where objections are received to the said amended draft scheme and after considering the objections, the Consolidation Officer considers it necessary to amend further the amended draft scheme, such amended draft scheme as further amended

together with the objections and his remarks thereon, shall be forwarded by the Consolidation Officer to the Settlement Commissioner for confirmation.

20. Confirmation of draft scheme or amended draft scheme.-

(1) If on receipt of a draft scheme or an amended draft scheme under subsection (3) of section 19, the Settlement Commissioner, after considering the objections, if any, and the remarks of the Consolidation Officer thereon and after being otherwise satisfied about the correctness of procedure followed by the Consolidation Officer and the allotment of holdings, and compensation or about there being no clerical or arithmetical mistakes or error arising from accidental slip or omission, approves of the draft scheme, or as the case may be, amended draft scheme, he shall confirm it.

(2) If the Settlement Commissioner does not approve of the draft scheme or the amended draft scheme forwarded by the Consolidation Officer and considers it necessary to amend it, he shall further amend it and publish it as amended in the prescribed manner in the village or villages concerned. Any person likely to be affected by the draft scheme as so published may, within thirty days of the date of such publication, communicate his objections in writing to the Settlement commissioner.

(3) If no objections are received within the period specified in sub-section (2), Settlement Commissioner shall confirm the draft scheme as published under that sub-section. If any objections are received within the said period, the Settlement Commissioner shall confirm the draft scheme as published under sub-section (2) without any modifications therein or with such modifications there in as he may consider necessary.

21. Enforcement of scheme.-

(1) Upon the confirmation of any scheme under section 20, a notification stating that the scheme has been confirmed shall be published by the Settlement Commissioner in the Official Gazette, and the scheme as confirmed shall be published in the prescribed manner in the villages concerned.

(2) Within one year from the date of publication of the notification in the Official, under sub-section (1), the owners into whom compensation is recoverable under the scheme shall deposit the amount of compensation in the prescribed manner.

(3) The Consolidation Officer shall, from the commencement of the agricultural year next following the date of publication of the notification in the Official Gazette, under sub-section 1) and in the prescribed manner, put the owners in possession of the holdings to which they are entitled under the scheme and for doing so may, in the prescribed manner, evict any person from any land which he is not entitled to occupy under the scheme.

Provided that, if two-thirds or more of the owners affected by the scheme agree to enter into possession of the holdings to which they are entitled under the scheme, the Consolidation Officer may put them in possession of such holdings from such earlier date as may be decided upon by such owners.

(4) If the Consolidation Officer is satisfied that any standing crops, trees, embankments or similar other improvements which were not taken into consideration at the time of determining the compensation payable by an owner of any holding under the scheme are found on such holding at the time of putting the owner in possession of such holding, or that any such standing crops, trees, embankments or similar other improvements which were taken into consideration at the time of determining the compensation payable by an owner of any holding have ceased to exist or are substantially damaged at the time of putting the owner in possession of such holding, he shall by order determine in the prescribed manner the additional compensation payable by the owner or, as the case may be, the reduction to be made in the compensation payable to the original owner of

such holding. Where additional compensation is to be paid, it shall be deposited in the prescribed manner by the owner from whom it is recoverable, within one year from the date of the order passed by the Consolidation Officer for determining the additional compensation.

(5) If the owner from whom the compensation is recoverable fails to deposit it within the period specified in sub-section (2) or (4) or within such further period not exceeding one year as may be extended by the Consolidation Officer, it shall be recovered from him as an arrear of land revenue.

(6) If an owner refuses to accept possession of the holding to which he is entitled under the scheme, his rights in such holding may be allotted in the prescribed manner by the Consolidation Officer to any person who pays the value of the holding and in such case the value realised after deducting the expense (hereinafter called "the net value") shall be paid to the owner and any other person having an interest in the holding.

(7) If no person is forthcoming to pay the value of the holding, the State Government may recover from the owner the compensation recoverable from him under the scheme as an arrear of land revenue or the State Government may itself purchase the holding after paying the net value of the holding to the owner and any other person having interest in the holding.

22. Coming into force of scheme.-

As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

23. Certain laws no ban on transfer of holdings.- Notwithstanding anything contained in any law for the time being in force, the rights of owners, or other persons having interest, shall for the purpose of giving effect to any scheme of consolidation affecting them be transferable by exchange or otherwise.

24. Certificate of transfer.-

(1) The Consolidation Officer shall grant to every owner to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under subsection (6) of section 21, a certificate in the prescribed form duly registered under the Indian Registration, Act, 1908, to the effect that the holding has been transferred to him in pursuance of the scheme.

The Consolidation Officer may, thereupon, cause to be prepared a new record of rights in respect of the holdings so transferred and the record of rights so prepared shall be deemed to have been prepared in the Hyderabad area of the State, under the Hyderabad Record of Rights in Land Regulation, 1358, Fasli, and elsewhere under the relevant Code.

(2) Notwithstanding anything contained in any law for the time being in force no stamp or registration fee shall be payable in respect of such certificate.

25. Loans to assist consolidation.-

For carrying out any of the purposes of this Act, a loan may be granted to an owner recovered from him as a loan under the Land Improvement Loans Act, 1883, or the Agriculturists Loans Act, 1884.

Effect Of Consolidation Proceedings And Of Consolidation Of Holdings

26. Exercise by Consolidation Officer under certain Acts.-

(1) During the continuance of the consolidation proceedings the Consolidation Officer shall exercise and discharge the functions of a revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, or under Chapter X of the Madhya Pradesh Land Revenue Code, 1954, or as the case may be, under Chapter VIII of the Hyderabad Land Revenue Act, 1317 Fasli, the Mamlatdar's Courts Act, 1906, and the relevant tenancy law; and no revenue officer other than the Consolidation Officer shall take any proceedings under any of the said Acts in respect of any holding or land for which a notice under section 15A has been given.

(2) Where in respect of any holding the Consolidation Officer proceeds to prepare a scheme under section 15,—

(a) all applications and proceedings including execution proceeding pending before any revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, or under Chapter X of the Madhya Pradesh Land Revenue Code, 1954 or as the case may be, under chapter VIII of the Hyderabad Land Revenue Act, 1317 Fasli, the Mamlatdars Courts Act, 1906, and the relevant tenancy law, in respect of any holding or land for which a notice under section 15A has been given shall be transferred to-the Consolidation Officer; and

(b) the Consolidation Officer shall, by proclamation, call upon all persons who claim to be entitled to possession under any of the said Acts, of any holding for which a notice under section 15A has been given to make within the prescribed period an application to be put in possession of such holdings; and any person who fails to do so within the prescribed period shall thereafter be debarred from making it :

Provided that nothing in this clause shall debar any person from making, after coming into force of a scheme of consolidation under section 22, any application in respect of any holding included in the scheme, if such application could lie under the provisions of any law for the time being in force.

(3)The Consolidation Officer shall submit any order passed by him under any of the said Acts to the Collector for confirmation if an application in that behalf is made to him by any party to a proceeding under this section within fifteen days from the date of the order.

27. Stay of certain proceedings; ban on transfer of land during continuance of consolidation proceedings.—

When a Consolidation Officer proceeds to prepare a scheme under section 15, during the continuance of the consolidation proceedings—

(a) no proceedings,—

(i) under section 153 or 155 of the Bombay Land Revenue Code, 1879;

(ia) under section 120 or section 124 of the Hyderabad Land Revenue Act, 1337 Fasli;

(ib) under section 135 of the Madhya Pradesh Land Revenue Code, 1954;

(ii) for execution of any award made or deemed to be made under the Maharashtra Co-operative Societies Act, 1960;

(iii) for execution of any award made under the Bombay Agricultural Debtor's Relief Act, 1947 or under the Hyderabad Agricultural Debtor's Relief Act, 1956;

(iiia) for the recovery of a sum due under an agreement registered under the Central Provinces and Berar Debt Conciliation Act, 1933;

(iv) for execution of any decree passed by a Civil Court;

(v) for partitioning or sub—dividing in any manner,

in respect of any land for which a notice under section 15A has been given shall be commenced, and all such proceedings if commenced shall be stayed;

(b) no person shall transfer any land in respect of which a notice under section 15A has been given, except with the previous permission in writing of the Consolidation Officer. Such permission may be given in such circumstances and subject to such conditions as may be prescribed.

28. Rights in holdings.-

Every owner to whom a holding is allotted in pursuance of a scheme of consolidation shall [save as Otherwise provided in Section 29A, have the same rights in such holding as he had in his original holding:

Provided that nothing in this section shall apply to any person to whom a holding has been allotted under the provisions of sub-section (6) of section 21.

29. Transfer of encumbrances. –

(1) If the holding of an owner included in scheme of consolidation which has come into force under section 22 is burdened with a mortgage, debt or other encumbrance other than a lease such mortgage, debt or other encumbrance shall be transferred therefrom and attach itself to the holding 'allotted to him under the scheme or to such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint; and the mortgagee, creditor or other encumbrancer, as the case may be, shall exercise his rights accordingly.

(2) If the holding to which a mortgage, debt or other encumbrance is transferred under section (1) is of less market value than the original holding from which it is transferred the mortgagee, creditor or other encumbrancer, as the case may be, shall subject to the provisions of section 30 be entitled to the payment of such compensation by the owner of the holding, as the case may require, as the Consolidation Officer may determine.

(3) Notwithstanding anything contained in section 21, the Consolidation Officer shall in the prescribed manner, put any mortgagee or other encumbrancer entitled to possession into possession of the holding to which his mortgage or other encumbrance has been transferred under sub-section (1).

29A. Consolidation Officer to describe whether lease should be transferred or not.-

(1) If the holding of an owner included in a scheme of consolidation which has come into force under section 22 is burdened with a lease, the Consolidation Officer shall, by an order in writing determine whether such lease shall or shall not be transferred therefrom. A copy of the order passed by the Consolidation Officer under this sub-section shall be affixed to a place near the holding and shall also be published in the prescribed manner.

(2) If the Consolidation Officer determines that such lease shall be transferred from the original holding it shall attach itself to the holding allotted to the owner under the scheme or such part of it as [he Consolidation Officer may, subject to any rules under section 37, appoint and the lessee shall exercise his rights accordingly. the provisions (if sub—sections (2) and (3) of section 29 shall apply to such lease as if the lease were a mortgage or other encumbrance.

(3) If the Consolidation Officer determines that such lease shall not be transferred from the original holding it shall remain attached thereto, and the owner to whom such holding is allotted under the scheme shall hold it subject to such lease; and the provisions of the relevant tenancy law, shall so far as may be notwithstanding the change in the ownership, apply to such lease; and the rights and liabilities of such owner and the lessee shall be governed by the provisions of the said law as between the landlord and his tenant,

Provided that such owners shall not be entitled to arrears of rent due under such lease immediately before the allotment of the holding as aforesaid.

(4) An appeal against the decision of the Consolidation Officer under this section shall lie to the Settlement Commissioner within the prescribed time.

30. Apportionment of compensation or net value in case of dispute.—

Where there is a dispute in respect of the apportionment of—

(a) the amount of compensation determined under sub-section (2) of section 16 or sub-section (4) of section 17;

(aa) the amount of compensation determined under section 18;

(b) the amount of additional compensation or reduction in compensation determined under sub-section (4), or the net value realised or payable under sub-section (6) or (7) of section 21;

(c) the total amount of compensation determined under sub-section (2) of section 29, the Consolidation Officer shall refer the dispute to the decision of the District Court and deposit the amount of the compensation or net value as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894 shall, so far as may, apply.

31. Restrictions on alienation and sub-division of consolidated holdings.-

(1) Notwithstanding anything contained in any law for the time being in force, no holding allotted under this Act, nor any part thereof shall save as otherwise provided in this section –

(a) be transferred, whether by way of sale (including sale in execution of a decree of a Civil Court or for recovery of arrears of land revenue or for sums recoverable as arrears of land revenue) or by way of gift, exchange, lease, or otherwise; or

(b) be sub-divided, whether under a decree or order of a Civil Court or any other competent authority, or otherwise, so as to create a fragment, without the previous sanction of the Collector. Such sanction shall be given by the Collector in such circumstances and subject to such conditions as may be prescribed.

(2) Nothing in sub-section (1) shall apply to any land -

(a) which is situated in any area for which -

(i) a municipal corporation is constituted under the Bombay Municipal or the City of Nagpur Corporation Act, 1948; or

(ii) a municipal council is constituted under the Maharashtra Municipalities Act, 1965; or

(iii) a cantonment is constituted under the Cantonments Act, 1924; or

(b) which is situated in a notified area for which a Special Planning Authority is constituted or appointed under section 40 of the Maharashtra Regional and Town Planning Act, 1966; or

(c) Which is situated in an area designated as a site for a new town for which a Development Authority is constituted under section 113 of the Maharashtra Regional and Town Planning Act, 1966; or

(d) which is situated in any area specified by the State Government, by notification in the Official Gazette, as being reserved for non-agricultural or industrial development.

- (3) Nothing in sub-section (1) shall also apply to any land which is to be transferred -
- i. to the tenant of the holding or his heir; or
 - ii. to an owner of the adjoining holding who cultivates his land personally; or
 - iii. to an agriculturist or agricultural labourer, in its entirety; or
 - iv. to a person who is rendered landless by reason of acquisition of his land for a public purpose;
 - v. to a co-operative society; or
 - vi. by way of gift (whether by way of rust or otherwise) bona fide made by the owner in favour of a member of his family; or
 - vii. by way of exchange, where such land is cultivated personally by the holder, for any other land allotted under this Act, which is also likewise cultivated personally by its holder: -

Provided that, no such transfer shall be made so as to create a fragment.

31AA. Validation of certain transfers, partitions and sub-division made before 15th November 1965. –

The transfers or partitions or sub-divisions of any land in contravention of the provisions of this Act made before the 15th day of November 1965, shall, notwithstanding the provisions of section 9 or of section 31, not be deemed void merely on the ground of the contravention of any of the provisions of this Act, if the person in possession of the land at the aforesaid date by virtue of any transfers or partitions or sub-divisions or purported transfers or partitions or sub-divisions, pays to the State Government within the prescribed period a penalty equal to one per cent, of the consideration of the land transferred, partitioned or sub-divided, or Rs.100, whichever is less :

Provided that, if such transfer is made in favour of a tenant in actual possession of the land transferred or of a person in actual possession of a contiguous holding the penalty payable in respect thereof shall be one rupee

31AB. Validation of certain transfers of sub-divisions made on or after 15th November 1965 and before commencement of Mab. XLI of 1977. –

(1) No transfer or sub-division of any land in contravention of section 31 as it stood immediately before the date of commencement of the Bombay Prevention of Fragmentation and Consolidation of Holdings (Amendment) Act, 1977, made on or after the 15th day of November 1965 and before the date of such commencement shall be deemed to be void or ever to have become void merely on the ground that such transfer or sub-division is effected in contravention of the provisions of that section as it stood before such commencement and shall be deemed to be valid if such transfer or sub-division is in accordance with the provisions of section 31 as substituted by the said Act.

(2) For the purposes of this section, a certificate granted by the Collector, after holding such inquiry as he deems fit, that any transfer or sub-division of any land is valid under this section shall be final and conclusive evidence in that behalf. Any holder may apply to the Collector for such certificate.

31A. Correction of clerical and arithmetical mistakes in scheme. –

If after a scheme has come into force it appears to the Settlement Commissioner that the scheme is defective on account of any clerical or arithmetical mistake or error arising therein from any accidental slip or omission, and he is satisfied that the correction of such mistake or error would not vary the scheme in any material particular, he may by

order in writing correct such mistake or error and publish his order in the prescribed manner.

32. Power to vary scheme on ground of error, irregularity, informality. –

(1) If after a scheme has come into force it appears to the Settlement Commissioner that the scheme is defective on account of an error (other than that referred to in section 31A), irregularity or informality the Settlement Commissioner shall publish a draft of such variation in the prescribed manner. The draft variation shall state every amendment proposed to be made in the scheme,

(2) Within one month of the date of publication of the draft variation any person affected thereby may communicate in writing any objection to such variation to the Settlement Commissioner.

(3) After receiving the objections under sub-section (2) the Settlement Commissioner may, after making such enquiry as he may think fit, make the variation with or without modification or may not make any variation.

(3A) If the scheme is varied under sub-section (3), a notification stating that the scheme has been varied shall be published in the Official Gazette and the scheme so varied shall be published in the prescribed manner in the village or villages concerned.

(4) From the date of the notification stating that the scheme has been varied the variation shall take effect as if it were incorporated in the scheme.

33. Power to vary or revoke scheme. –

A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act.

33A. Power of State Government to revoke confirmed scheme.—

(1) The State Government may at any time, by notification in the Official Gazette, revoke a scheme which has been confirmed, if no person has entered into possession of any holding allotted to him under the scheme and thereupon, the amount of compensation paid or received, if any, by any person in respect of such scheme shall be referred within such reasonable period as may be prescribed.

(2) If any person fails to refund the amount in accordance with sub-section (1) it shall be recovered from him as an arrear of land revenue.

CHAPTER IV-A

POWERS AND PROCEDURE OF CONSOLIDATION OFFICERS

33B. Right of entry - For the purpose of preparing or enforcing any scheme or otherwise, for carrying out the objects' of this Act, a Consolidation Officer or any person duly authorised by him may, after giving such notice as may be prescribed, to the owner or occupier or other person interested in any land, enter upon and survey such land or erect survey marks thereon and demarcate the boundaries thereof and do all other acts necessary for such purposes.

33C. Power to summon persons to give evidence and produce documents. –

(1) The Consolidation Officer shall have power 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 documents for the purpose of any inquiry connected with the preparation or enforcement of any scheme under this Act.

(2) All persons so summoned shall be bound,—

(a) to attend, either in person or by an authorised agent, as the Consolidation Officer may direct in the summons;

(b) to state the truth upon any subject respecting which they are examined or make statements; and

(c) to produce such documents and other things as may be required by the Consolidation Officer in connection with the inquiry.

33D. Forms of summons and mode of serving it. —

(1) Every summons shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the Consolidation Officer issuing it, and if he has a seal, shall also bear his seal.

(2) Such summons shall be tendered or delivered a copy of it to the person summoned or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence. If his usual residence is in another district, the summons may be sent by post to the Collector of that district, who shall cause it to be served as aforesaid.

33E. Penalty for not complying with summons. —

The Consolidation Officer shall have power to impose a fine not exceeding twenty-five rupees on any person who, without sufficient cause, fails to comply with the directions given in the summons issued by him,

Provided that, no fine shall be imposed under this section unless such person was summoned to attend or produce any documents within the limits of the village in which such person ordinarily resides or holds or cultivates land.

Such fine shall be recoverable as an arrear of land revenue.

CHAPTER V

GENERAL

34. Vesting of powers of Settlement Commissioner. —

The State Government may, by notification in the Official Gazette, invest the Collector within the limits of his jurisdiction, or an officer above the rank of a Consolidation Officer either generally or in respect of any specified local area, with all or any of the powers of the Settlement Commissioner under this Act.

34A. Constitution of village committees. —

(1) The village committee shall be constituted by the Consolidation Officer in the prescribed manner and it shall discharge and perform, in addition to the duties and functions imposed or assigned by this Act, such other duties and functions as may be prescribed for the purposes of this Act.

(2) Where at any time the Collector is satisfied that the village committee has refused or failed without reasonable cause or excuse to discharge the duties or perform the functions imposed or assigned by or under this Act or circumstances have so arisen that the committee has been rendered unable to discharge the duties or perform the functions aforesaid or it is otherwise expedient or necessary to do so he may by notification in the Official Gazette either reconstitute, for the purposes of this Act, the village committee in accordance with the provisions of sub-section (1), or appoint some other authority to

perform the functions or discharge the duties of the village committee under this Act; and thereupon all references to the village committee under this Act shall be deemed to include references to the village committee so reconstituted or the authority so appointed as the case may be.

35. Power of State Government or Commissioner to call for proceedings. –

The State Government or the Commissioner in respect of such matters as the State Government may by general or special order specify in this behalf may at any time for the purpose of satisfying itself or himself as the case may be, as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it or he, as the case may be, thinks fit:

Provided that no order shall be varied or revised until the parties interested have been given a reasonable opportunity of showing cause against the proposed variation or revision of the order.

36. Appeal and revision. - Except as provided in this Act, no appeal or revision application shall lie from any order passed under Chapter II, III or IV of this Act.

36A. Bar of jurisdiction. –

(1) No Civil Court or Mamlatdars Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the State Government or any officer or authority.

(2) No order of the State Government or any such officer or authority made under this Act shall be questioned in any Civil, Criminal or Mamlatdars Court.

36B. Suits involving issues required to be decided under this Act. –

(1) If any suit instituted in any Civil Court or Mamlatdar's Court involves any issues which are required to be settled, decide or dealt with by any authority competent to settle, decide or deal with

(2) On receipt of such reference from the Civil Court or Mamlatdar's Court, the competent authority shall deal with and decide such issues in accordance with the provisions of this Act and shall communicate its decision to the Civil Court or Mamlatdar's Court and such Court shall thereupon dispose of the suit in accordance with the procedure applicable thereto.

36C. Indemnity. - No suit or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

37. Rules. –

(1) The State Government may by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the State Government may make rules, providing for—

- (a) the manner of publication under sub-section (2) of section 4;
- (b) the manner of giving public notice under sub-section (3) of section 5;
- (c) village records in which fragments shall be entered under sub-section (1) of section 6;
- (cc) the manner of choosing by lot under clause (h) of sub-section (2) of section 8AA;
- (d) the manner in which the intention to make a scheme shall be published under section 15;

- (dd) the statements, records and maps to be included in the scheme of consolidation and the procedure and other matters to be observed in the preparation of the scheme under section 16A;
- (e) the manner of publication under sub-section (2) of section 17 of a declaration made under sub-section (1) of the said section;
- (f) the manner in which a draft scheme or amended draft scheme of consolidation shall be published under section 19 in the village or villages concerned;
- (ff) the manner of publication of further amended scheme under sub-section (2) of section 20;
- (g) the manner of publication of scheme under sub-section (1) of section 21, on its being confirmed;
- (h) the manner in which compensation recoverable from any owner shall be deposited by him under sub-section (2) or (4) of section 21;
 - (i) the manner in which owners may be put in possession of holdings to which they are entitled under sub-section (3) of section 21 and the manner in which persons may be evicted under that sub-section;
 - (ii) the manner of determining the additional compensation payable by an owner in respect of any holding allotted to him under a scheme or reduced compensation payable to the original owner of such holding, under sub-section (4) of section 21;
- (j) the manner in which right of holding may be allotted under sub-section (6) of section 21;
- (k) the form in which a certificate shall be granted under section 24;
 - (l) the period within which an application shall be made under clause (b) of sub-section (2) of section 26;
 - (ll) the Circumstances in which and conditions subject to which permission to transfer land may be given under clause (b) of section 27;
- (m) the guidance of the Consolidation Officer and other officers and persons in respect of the transfer of a mortgage, debt or other encumbrance under subsection (1) of section 29;
- (n) the circumstances in which and the conditions subject to which holdings may be transferred or sub-divided under sub-section (1) of section 31;
 - (nn) the manner of publication of an order under section 31 A;
- (o) the manner of publication of a draft variation under sub-section (1) of section 32 or of a varied scheme under sub-section (3A) thereof;
 - (o- 1) the period within which the amount of compensation shall be refunded under sub-section (1) of section 33-A;
 - (o-2) the notice to be given under section 33-B;
 - (oo) the manner in which village committees shall be Constituted, and the duties and functions to be discharged by them, under section 34A;
- (p) the manner in which the area and assessment (including water rate, if any) of each reconstituted holding or part of such holding shall be determined;
- (q) the manner in which corrections shall be made in the Record of Rights in accordance with a scheme of consolidation;

- (r) generally, for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act;
- (s) any other matter which is to be or may be prescribed.
- (3) All rules made under this section shall be subject to the condition of previous publication.
- (4) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date of publication of a notification in the Official Gazette, of such decision, have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.
38. **Repeals and savings.** - On the commencement of this Act in that part of the State of Bombay to which it is extended by the Bombay Prevention of Fragmentation and Consolidation of Holdings (Extension and Amendment) Act, 1958, the following provisions shall be repealed, namely :

- i. the Hyderabad Prevention of Fragmentation and Consolidation of Holdings Act, 1956;
- ii. Chapter 11 of the Saurashtra Fragmentation and Regulation of Holdings' Act, 1954;
- iii. Chapter XVI of the Madhya Pradesh Land Revenue Code, 1954:

Provided that such 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 incurred in respect of anything done against any law so repealed; and any investigation, proceedings or remedy in respect of any such right, privilege, obligation, liability or penalty as aforesaid may be instituted, continued or enforced, and any such penalty may be imposed as if the Bombay Prevention of Fragmentation and Consolidation of Holdings (Extension and Amendment) Act, 1958, had not been passed.

Provided further that subject to the preceding proviso anything done or any action taken (including any appointment or delegation made, notification, order, or notices issued, rule, regulation or form framed, scheme framed or confirmed, standard areas laid down, fixed or revised, transfer, or lease of fragment, valuation thereof, partition of an undivided estate, or entry in the record of rights made, amount of compensation determined, certificate granted, consolidated holdings duly transferred, alienated or sub—divided) under any such repealed law shall be deemed to have been done or taken under the corresponding provision of this Act, and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.