## Index

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I Introductory</td>
<td></td>
<td>01</td>
</tr>
<tr>
<td>IV Revenue Book Circulars (RBC)</td>
<td></td>
<td>08</td>
</tr>
<tr>
<td>RBC No. 1</td>
<td>Conferral of powers of an Assistant or Deputy Collector or Tahsildar on any person</td>
<td>30</td>
</tr>
<tr>
<td>RBC No. 2</td>
<td>State Title to Land</td>
<td>33</td>
</tr>
<tr>
<td>RBC No. 3</td>
<td>Disposal of Government Lands</td>
<td>38</td>
</tr>
<tr>
<td>RBC No. 4</td>
<td>Trees</td>
<td>84</td>
</tr>
<tr>
<td>RBC No. 5</td>
<td>Principles of Alluvion and Diluvion</td>
<td>97</td>
</tr>
<tr>
<td>RBC No. 6</td>
<td>Inclusion of certain Bhumidharis in Occupant Class I</td>
<td>101</td>
</tr>
<tr>
<td>RBC No. 7</td>
<td>Restoration of occupancy unauthorisedly transferred by occupancts belonging to Scheduled Tribes</td>
<td>105</td>
</tr>
<tr>
<td>RBC No. 8</td>
<td>The right of occupants Class II to transfer their occupancies without permission in certain cases</td>
<td>109</td>
</tr>
<tr>
<td>RBC No. 9</td>
<td>Extraction and Removal of Minor Minerals and Restrictions on Use of Land</td>
<td>110</td>
</tr>
<tr>
<td>RBC No. 10</td>
<td>Construction of water course through land belonging to another person</td>
<td>116</td>
</tr>
<tr>
<td>RBC No. 11</td>
<td>Permission for use of water</td>
<td>121</td>
</tr>
<tr>
<td>RBC No. 12</td>
<td>Inams and Alienations</td>
<td>124</td>
</tr>
<tr>
<td>RBC No. 13</td>
<td>Reduction, Suspension or Remission of Land Revenue</td>
<td>128</td>
</tr>
<tr>
<td>RBC No. 14</td>
<td>Revenue Surveys</td>
<td>137</td>
</tr>
<tr>
<td>RBC No. 15</td>
<td>Partition of Holdings</td>
<td>143</td>
</tr>
</tbody>
</table>

pkachare@gmail.com
<table>
<thead>
<tr>
<th>RBC No.</th>
<th>Subject</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>Assessment and Settlement of Land Revenue of Agricultural Lands</td>
<td>148</td>
</tr>
<tr>
<td>17</td>
<td>Conversion of use of Land and Non-Agricultural Assessment</td>
<td>157</td>
</tr>
<tr>
<td>18</td>
<td>Lands within the Sites of Villages, Towns and Cities</td>
<td>178</td>
</tr>
<tr>
<td>19</td>
<td>Boundary and Boundary Marks</td>
<td>183</td>
</tr>
<tr>
<td>20</td>
<td>Record-of-Rights</td>
<td>192</td>
</tr>
<tr>
<td>21</td>
<td>Preparation, Issue and Maintenance of Khate-Pustika (Booklet)</td>
<td>205</td>
</tr>
<tr>
<td>22</td>
<td>Nistar-Patrak and Wajib-ul-arz</td>
<td>211</td>
</tr>
<tr>
<td>23</td>
<td>Realisation of Land Revenue</td>
<td>217</td>
</tr>
<tr>
<td>24</td>
<td>Procedure of Revenue Officers</td>
<td>249</td>
</tr>
<tr>
<td>25</td>
<td>Appeals, Revision and Review</td>
<td>256</td>
</tr>
<tr>
<td>26</td>
<td>The City of Bombay</td>
<td>264</td>
</tr>
<tr>
<td>27</td>
<td>Inspection, Search and Supply of Copies of Land Records</td>
<td>277</td>
</tr>
<tr>
<td>28</td>
<td>The Maharashtra Revenue Tribunal</td>
<td>285</td>
</tr>
</tbody>
</table>
REPORT ON VOLUME II


CHAPTER - I

INTRODUCTORY

Consequent upon the constitution of the Bilingual State as a result of the reorganization of States with effect from 1st November 1956, and the subsequent bifurcation of the said Bilingual State into the States of Maharashtra and Gujarat with effect from, 1st May 1960, various problems arose for careful consideration of Government, the most important of which was the unification and integration of different laws on the same subject prevailing in the unification and integration of revenue laws, Government appointed a Committee for the unification of revenue laws. On its recommendations a uniform land revenue law was enacted, viz. the Maharashtra Land Revenue Code, 1966. With the enactment of this law and coming into force of the rules made thereunder, it can be said that there was complete uniformity in respect of statutory laws in revenue matters. There was however no uniformity in respect of administrative and executive matters, revenue accounts and procedure. With a view to achieving uniformity in this respect, a Committee consisting of the following officers who are senior Collectors each representing the three different regions of the State was set up by Government under its Resolution No. EST-1068/685-E, dated 9th May 1968:-
2. This Committee was required to examine the question of unification of revenue accounts, procedure in revenue office, etc and prepare Manuals in three Volumes each consisting of the matters noted below:-

VOLUME I:

(i) Statutory Law, i.e. the Maharashtra Land Revenue Code, 1966.
(ii) Rules framed under the Code.
(iii) Statutory notifications and orders issued under the various provisions of the Code.

VOLUME II:

(i) Office Procedure of Taluka and District Offices.
(ii) Administrative Orders, instructions, Government Resolutions and Circulars on Land Revenue matters with which Revenue Officer from Taluka and above are concerned.
(iii) Forms with instructions in respect of Taluka and District Revenue Accounts.
VOLUME III:

(i) Procedure, duties and functions of Circle Inspectors and Talathi’s;

(ii) Forms with instructions in respect of Village Revenue Accounts.

The Committee was required to submit its recommendations to Government within a period of one year.

3. An Officer in the grade of Under Secretary was appointed to assist the Committee as its Secretary with the staff consisting of a Superintendent, an Assistant, a Clerk, a Stenographer, a Typist and a Peon under him. Initially Shri J. T. Chitnis, Under Secretary, Revenue and Forest Department acted as the Secretary of the Committee in addition to his own duties. He held this additional charge till 31st August 1968 then Shri P. S. Joshi, Deputy Collector was appointed as Secretary with effect from 1st September 1968. Shri Joshi retired from Government service from 3rd August 1969. Since the Shri J.T. Chitnis Under Secretary to Government - Revenue and Forest Department was appointed as Secretary of the Committee. Shri Chitnis retired with effect from 1st March 1970. The post was then filled with the appointment of Shri G.G. Pandirkar, Officer on Special Duty as the Secretary of the Committee.

4. Although the Committee was required to submit its report to Government, within a period of one year, it was not possible to complete it within the stipulated period having regard to the magnitude of the work, which involved very close and careful study of different systems of Revenue Administration, Accounts and Procedure prevailing in the three regions of the State and discussions with the concerned Revenue Officers. With a view to ascertain their views, a questionnaire was drawn up on important controversial matters and circulated to selected revenue and survey officers. Moreover, it could not speed up its work as it was linked up with the framing of rules under the new Land Revenue Code. When the Committee started its work, rules only under 16 out of 33 items were
finalised while the rest were either under preparation in the Department, scrutiny of the Law and Judiciary Department or pending with the other concerned Secretariat Departments. Under the circumstances, the Committee was require to approach Government to grant extensions to its tenure from time to time and Government on its part was good enough to appreciate its difficulties and grant the required extensions as and when required. The last extension so granted expired on 31st May 1971. The Committee desires to express its thanks to Government for the same.

5. Under para. 6 of Government Resolution, Revenue and Forests Department, No. EST-1068/685-E, dated the 9th May 1968, the Chairman of the Committee was required to decide the procedure and rules for transaction of business of the Committee with the approval of Government. The rules were accordingly framed and duly approved by Government under its Resolution No. URM-1368-R-(Spl), dated 18th September 1968.

6. One of the items included in the terms of reference relates to unification of system of revenue accounts, procedure and duties of Circle Inspectors and Talathi’s. In respect of this item, the Committee felt it necessary to have the assistance of an experienced officer of the Land Records Department who is conversant with accounts system prevailing in the three different regions of the State so that it may be possible to have a proper assessment of the repercussions of their recommendations in the different parts of the State. Accordingly it co-opted Shri V.H. Anand, Superintendent of Land Records, Nasik Circle, Nasik on the Committee.

7. Under rule 1 of the Rules of Business, the Committee is ordinarily required to meet once a month. Normally, 35 meetings should have been held during the tenure of the Committee. In all, the Committee held 32 regular meetings at various places in the State, the break-up of which is as follows:-

<table>
<thead>
<tr>
<th>Location</th>
<th>Regular Meetings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bombay</td>
<td>14</td>
</tr>
<tr>
<td>Fardapur</td>
<td>2</td>
</tr>
<tr>
<td>Nasik</td>
<td>4</td>
</tr>
<tr>
<td>Poona</td>
<td>2</td>
</tr>
<tr>
<td>Akola</td>
<td>1</td>
</tr>
<tr>
<td>Nagpur</td>
<td>1</td>
</tr>
</tbody>
</table>
Besides, one preliminary meeting was held at Aurangabad on 31\textsuperscript{st} May 1968 between the Chairman and the Secretary in order to determine the line of action to be followed for transacting the business of the Committee. Another informal meeting was held on 27\textsuperscript{th} April 1970 at Bombay for discussing certain points raised by Cap. K. V. Desai in respect of the form of enquiry and order in non-agriculture cases. This was attended, besides Capt. Desai, by Shri. J. T. Chitnis who was specially invited for the purpose and the Secretary of the Committee. On account of the last mid-term Parliamentary Elections, regular meetings of the Committee could not be held as the Collectors and Government Officers were fully occupied with the Election work. In order that the progress of the Committee's work should not be withheld, it was decided at the meeting held at Fardapur in December 1970 that the Secretary should hold mobile discussions with individual members/officers by meeting them at their respective headquarters and put up the proposals before the Chairman at his headquarters. Accordingly, the purpose of the meetings scheduled to be held during this period was served by the action taken by the Secretary in pursuance of this decision of the Committee.

8. As is made clear in para. I of Government Resolution, No. EST-1068/685-E, dated the 9\textsuperscript{th} May 1968, the work now entrusted to the Committee is a follow-up of the main work of unification and integration of revenue laws. This pre-supposes complete uniformity of statutory law on the subject. No doubt a uniform Land Revenue Code is introduced throughout the State with effect from 15\textsuperscript{th} August 1967, the process of framing rules under the various provisions of the said code was not complete in all respects on 9\textsuperscript{th} May 1968- the date on which this Committee was constituted. On a very careful study of the terms of reference, the Committee found that it could not proceed with the work of compilations of the three Volumes, i.e. Volumes I, II and III in the serial order because the rules under all items were not then framed. Particularly it could not cover up considerable
ground in the preparation of Volumes I and II, the compilation of which required the Finalisation of relevant rules. Taking this aspect of the case into consideration, the Committee has endeavored to proceed with the work in such a way that it could finish items in respect of the subject which it was not required to wait till rules are finalised. The Committee was equally anxious to see that it is able to submit its recommendations to Government as soon as possible. The submission of one single report on the three Volumes had necessarily to await till the work at Government level for framing rules is completed. In view of this position the Committee decided to finish up the work relating to the Volume which could be completed without having to wait for the finalisation of the rules and to submit it separately. In accordance with this decision, the compilation of Volume III regarding Village Accounts, Procedure and duties of Circle Inspectors and Talathis was completed. This compilation was first undertaken and submitted under a separate report to Government on 13th November 1969. While submitting this report the Committee has already appraised the Government about the reasons as to why a full report on the three Volumes together could not be presented at a time. The Committee also then impressed upon Government the necessary of expediting the finalisation of rules so as to enable it to proceed with the compilation of the other two Volumes.

9. As a result of the repeated requests made by the Committee, a substantial progress was made in finalising the rules. On 26 out of 32 items rules were finalised by the time the Preliminary Report was submitted. As regards, the remaining items, the rules were drafted and published for criticism. The Committee, therefore, decided it worthwhile to speed up the work of compiling Volume I with the help of all available rules including the drafts published for criticism. Accordingly, Volume I was prepared subject to the reservation that it is liable to be modified in accordance with the finalised draft rules. The Volume so compiled was presented to Government on 2nd December 1970.

10. The Committee now proposes to submit its recommendations in respect of compilation of Volume II of the Manual. This is one of the most important
compilations and its use could be felt in the day to day administration in practically all revenue offices from Taluka upwards. This Volume is divided into three parts. Part I deals with office procedure of Taluka Sub-divisions and District offices. Part II deals with the revenue accounts maintained at Taluka and District levels. Part III contains Revenue Book Circulars in which all Government Orders, Instructions and Resolutions pertaining to land revenue and allied matters with which revenue officers are concerned are summarised. These recommendations are amplified in the succeeding chapters.
CHAPTER - IV

REVENUE BOOK CIRCULARS

Item No.2 of the terms of reference of the Committee requires us to examine the administrative orders, circulars and Government Resolutions issued from time to time pertaining to the matters on revenue administration, to bring them up-to-date and to consolidate them in the form of comprehensive Circulars on each subject. Volume II is to consist of Circulars on land revenue matters with which the Revenue Officers from Taluka and above are concerned. Before the enactment of the Land Revenue Code, a number of orders on different subjects pertaining to land revenue matter were issued by Government and were actually in force in respective regions. Most of these orders were with reference to the laws then in force. With the re-organisation of States with effect front 1st November 1956 most of title orders issued by Government were applicable to entire State including Marathwada and Vidarbha regions. At the same time a few such orders of a particular nature were meant for application to a particular region only. All the orders issued before the enactment of the new Code, being under the repealed land revenue laws applicable to different regions of the State; cannot, it seems, be operative unless they are in accordance with the provisions of the new Land Revenue Code. This was a work of great magnitude. The task of the Committee was, therefore, first to collect all Government orders of a general nature issued before 15th August 1967- the date on which the Maharashtra Land Revenue Code, 1966 came into force. After so collecting them, the next process to be followed was to examine each order and determine whether having regard to the provisions of the new Code it is operative and valid. Thereafter it had to be determined, in case such an order is applicable to a particular region only, whether it can, with advantage be made applicable to the whole State. With a view to make final selection of orders for incorporation in the comprehensive circulars as required by the terms of reference, the Committee directed tile office to prepare compilation of all existing orders and then to separate them into following three sections: -
(1) Orders issued before 1st November 1956;

(2) Order issued after 1st November 1956 but before 15th August 1967 for application to a particular region of the State only; and

(3) Orders issued after 1st November 1956 for application to the Whole State of Maharashtra.

Thereafter only those orders which are saved being in accordance with the provisions of the new Land Revenue Code, were selected for purposes of incorporation in the Circulars. Before making the selection the Committee had also to examine whether any order so selected but operative in a particular region only could be extended to the Whole State.

2. After making the selections of the orders in the manner, the Committee had to determine the form in which they should be incorporated in the Manual. In this respect the Committee was very much impressed with the practice followed in Vidarbha. In that region all Government orders issued from time to time are compiled in a book called the Revenue Book Circular. The book is divided into Circulares on a distinct separate subject. A gist of the statutory law on the subject is given in the beginning and the orders issued by Government from time to time are included, in the Circular in which the subject matter of the order pertains. Such orders are included parawise. In the event of any modification to the existing order entered in the Circular or its cancellation necessary correction slips are issued and furnished to all offices in adequate number. Similarly, if any new order is issued, its incorporation in the relevant Circular was directed by issue of similar correction slips. The Committee strongly recommends to Government that such an arrangement should be made for keeping compilations of Government orders while printing the Manual. At present in the absence of such manuals or book circulars, many avoidable difficulties are experienced in Government offices. The officers have to depend upon the collections of orders in loose papers maintained by the office. Many a time it is not up-to-date and naturally the officer experiences difficulties in dealing with the case before him. The advantage of book circulars as maintained in the Vidarbha region are obvious and they do not require to be mentioned in details. Accordingly the Committee
has decided that the compilation of the executive orders of Government issued under the Land Revenue Code should be in the form of book circulars.

3. Having decided upon the form in which the executive orders should be maintained, the Committee had next to take into consideration what subjects the book circulars should cover. 'I'here are various provisions of the Maharshtra Land Revenue Code under each of which a number of orders have either been issued or are in force having been saved by the provisions of the new Land Revenue Code. For purpose of reference a large number of Circulars, we apprehend, would present difficulties. While the number of Circulars should be limited to essential ones, they should at the same time cover all important and distinct subjects. The question of grouping the provisions of the Land Revenue Code arose at the time of framing rules. In sub-., section (2) of section 328 as many as 63 items are given on which rules are necessarily required to be framed. In the process of framing the rules the question of grouping the various items subject-wise had to be considered. In the final stage we find that Government has grouped all these 63 items under 33 heads subjectwise and rules are accordingly framed. We have decided to adhere to this arrangement for purposes of Circulars also, in so far as this is possible and convenient. In doing so, we have to deviate from this line a bit as orders on certain rules form the subject matter or Volume III and some rules, being of identical subject matter are amalgamated in one Circular. In case of rules covering two separate and distinct subjects, separate subjectwise Circulars are drafted. By this process of subjectwise amalgamation, bifurcation and cancellation of the rules, the total number of book circulars comes to 28 as against 33 subjects on which rules are framed.

4. After having decided to group the executive orders in Circulars subject-wise, we had to decide the general form in which each circular should be prepared. In this respect too we have generally followed the form of book circulars in Vidarbha. In Vidarbha each Circular gives a passing reference to the statutory law on the subject in the beginning and thereafter each order of a general nature is summarised below in a separate paragraph. We feel that the circular on a particular subject should present, as in a mirror, a complete picture so that a person dealing with revenue matter in the office should not as far as
possible have to refer to different books in the disposal of cases. With this object in view we have decided that a Circular on each subject should consist of three sections, viz.-

I-Summary of the provisions in the Maharashtra Land Revenue Code;

II-Summary of the relevant rules, and

III-Executive orders parawise.

By such an arrangement, we feel, a revenue officer would at a glance get in a nutshell complete information required for a disposal of a case on a particular subject without having to refer to the Code or rules or files or standing orders. The summary of the provisions of the Code and relevant rules is given in quite a simple language. The orders. Are reproduced in brief but in very clear terms so that a reference to the original order for further clarification should not ordinarily be necessary. A separate para. is assigned to each order so that three should be no confusion in grasping the relevant point. In this respect we have adhered to the line adopted for book circulars, in Vidarbha.

5. As stated in para. 4 above, the circulars incorporate orders which are saved by the provisions of the Maharashtra Land Revenue Code, 1966 and are in operation. Some of these orders are in force in a particular region only, having been issued before the 1st November 1956 or being issued after that date, applied to a particular region only. An order applicable to a particular region only which is saved by the provisions of the new Land Revenue Code would not automatically apply to the entire State unless it is extended to the other areas by orders of Government. A perusal of Appendix which gives a list of all orders incorporated in the book circular would indicate of which category the orders mentioned above are. On the approval of the book circulars by Government all orders incorporated therein would automatically apply to the Whole State and in that case it would not be necessary to extend any of these orders to areas to which at present it does not apply. We would, however, like to bring to the notice of Government that in the absence of any direction as to which of the existing orders are in force even after the introduction of the new Code, doubts are expressed at various quarters as to whether these orders are in
force or not. In the interest of administration, it is highly, desirable that every revenue officer should have clear idea in respect of the operation of the existing orders. These doubts would be removed completely if after approval of the book circular, clear orders are issued by Government to the effect that the book circular supersede all existing orders. A reservation in this respect would, however, have to be made in respect of cases pending on the 15th August 1967- the date on which the Maharashtra Land Revenue Code, 1966 came into force. To such cases section 336 of the Code applies. Under first proviso to this section all such pending proceedings are to be decided as if the new Land Revenue Code has not been passed. Such cases are, therefore, to be decided according to the provisions of the repealed Land Revenue Laws and the rules and orders passed thereunder and then in force. Clarification on this point too appears necessary.

6. The following is a list of Revenue Book Circulars contained in Part III of this Volume :-

<table>
<thead>
<tr>
<th>Revenue Book</th>
<th>Subject of the Revenue Book Circular Circular No. ;</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
</tr>
</tbody>
</table>

1 Conferral of Powers of an Assistant or Deputy Collector or Tahsildar ~: on any Person.

2 State title to Land.

3 Disposal of Government Lands.

4 Threes.

5 Principles of Alluvion and Diluvion.

6 Inclusion of Certain Bhumidharis in Occupants-Class I.

7 Restoration of Occupancy Unauthorisedly Transferred by Occupants Belonging to Scheduled Tribes.

8 Right of Occupants-Class II to transfer their Occupancies without Permission in Certain Cases.
9 Extraction of Minor Minerals and Restrictions on Use of Land.

10 Construction of Water Course through Land Belonging to Another Person.

11 Permission for Use of Water.

12 Inams and Alienations.

13 Reduction, Suspension or Remission of Land Revenue. 14 Revenue Surveys.

15 Partition of Holdings.

16 Assessment and Settlement of Land Revenue of Agricultural Lands.

17 Conversion of Use of Land and Non-Agricultural Assessment.

18 Lands Within the Sites of Village, Town and City.

19 Boundary and Boundary Marks.

20 Record of Rights.

21 Khate-Pustika.

22 Nistar-Patrak and Wajib-ul-arz.

23 Realisation of Land Revenue.

24 Procedure of Revenue Officers.

25 Appeals, Revision and Review.

26 The City of Bombay.

27 Inspection, Search and Supply of Copies of Land Records.

28 The Maharashtra Revenue Tribunal.

It is now proposed to offer in brief remarks on these Circulars.

7 The following Circulars which involve no controversial point required
Serial No. (1) | No. of Circular (2) | Subject (3) |
---|---|---|
1 | 1 | Conferral of Powers of an Assistant or Deputy Collector or Tahsildar on any person. |
2 | 5 | Principles of Alluvion and Diluvion |
3 | 6 | Inclusion of Certain Bhumidharis in Occupants Class I. |
4 | 7 | Restoration of Occupancy Un-authorisedly Transferred by Occupants Belonging to Scheduled Tribes. |
5 | 8 | Right of Occupants Class II. to transfer their Occupancies without Permission in Certain Cases. |
6 | 9 | Extraction of Minor Minerals and Restrictions on Use of Land. |
7 | 10 | Construction of watercourse Through Land Belonging to Another Person. |
8 | 11 | Permission for Use of Water |
9 | 14 | Revenue Surveys |
10 | 16 | Assessment and Settlement of Land Revenue of Agricultural Lands. |
11 | 18 | Lands within the Sites of Village, Town and City. |
12 | 20 | Record of Rights |
13 | 21 | Khate-Pustika |
14 | 22 | Nistar-Patrak and Wajib-ul-arz. |
15 | 23 | Realisation of Land Revenue. |
16 | 26 | The City of Bombay. |
17 | 27 | Inspection, Search and Supply of Copies of Land Records |
Sr. No.2-State Title to Land:

8. This Circular, besides containing the statutory provisions in respect of State Title to Land contains useful supplementary instructions with regard to the procedure to be followed by the Enquiry Officer while deciding disputes with regard to the ownership of the State. The instructions are based upon Bombay Government Circular, Revenue Department, No. 284/24, dated 1st October 1937. This Circular is issued on section 37 of the Bombay Land Revenue Code which is adopted as section 20 in the Maharashtra Land Revenue Code, 1966. The instructions in this Circular are issued on the basis of the judgment of the Bombay High Court in a case under section 37. It contains guidelines for determining what constitutes possession. The instructions are of general applications and held good even to-day. Since there are now uniform statutory provisions in respect of State Title to Land, the application of this Circular which at present is restricted only to the Bombay area of the State, can be extended even to Vidarbha and Marathwada regions. This would facilitate the work of the officers dealing with enquiries in cases where the title of the State to the land is disputed. A part from the desirability of applying this Circular to the Whole State, we wish to bring to the notice of Government that this is an old Circular of 1937, which would automatically apply to Vidarbha and Marathwada areas with the approval of this Revenue Book Circular by Government.

Sr. No.3-Disposal of Government Lands:

(9) (i) This Circular deals with disposal of Government lands. This is the most important Circular in the compilation, which covers a number of sections of the Maharashtra Land Revenue Code. The relevant sections are summarised in Section I of the Circular and rules in section II. There are a number of existing orders in force in the State on this subject. Most of them, it seems, have been
duly taken into consideration while framing the rules and we find that a substantial portion of these orders now find their place in the rules called the Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971. The preparation of Revenue Book Circular on this subject, therefore, has become comparatively easy. The orders, which are incorporated in the rules, would naturally stand superseded and be in operative by virtue of the preamble to the rules. Our task in this respect is, therefore, confined only to the remaining orders not covered by the rules. All such orders were properly scrutinised and those selected for incorporation in the Manual are summarised in the supplementary instructions in Section III of the Circular. Of this section, paragraphs 68, 69 and 70 are based upon the latest order of Government issued after the introduction of the Maharashtra Land Revenue Code, 1966 for application to the whole State and, therefore, we have no comments to make thereon. Paragraphs 73 to 81, 83 and 84 are the summary of orders issued after the Re-organisation of States, i.e. 1st November 1956 for application to the whole State and are saved by the provisions of the new Land Revenue Code and, therefore, no special comments thereon are necessary. Paragraphs 71 and 72 are the summary of orders issued by the then Bombay Government under Resolution No. 7907/33, dated the 26th August 1947 and at present apply to the Western Maharashtra region only. It provides for contingencies in which permission for transfer by way of sale, lease, mortgage or gift of agricultural land held on new tenure can be granted. We have carefully examined this order and have come to the conclusion that it is necessary to keep it in operation in areas where the new or restricted tenure exists. With the introduction of the Maharashtra Land Revenue Code the new tenure has come into existence in Vidarbha and Marathwada regions also. Hence it is necessary to extend the scope of these orders throughout the State. Accordingly, the necessary incorporation thereof is made in this Revenue Book Circular.

(ii) Under Bombay Government Resolution, Revenue Department, No. LND-3955/38100, dated 10th June 1955 it is directed that the land which was virgin at the time of its initial disposal on lease, should, for the purposes of payment of occupancy price, be treated as virgin when it is subsequently granted to the
original lessee who brought it under the plough. These orders apply to the Western Maharashtra region only and are saved by the provisions of the new Land Revenue Code. This concession in favour of the original lessee must be made available to the lessee in Vidarbha and Marathwada also. Accordingly, it is included in paragraph 82 of this Circular.

(iii) Government has sanctioned a scheme for the settlement of landless labourers under the Model Colonisation Scheme. These orders issued after the Re-organisation of State apply to a few districts in the State and are saved by the provisions of the Land Revenue Code and rule 19 of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971. As these orders apply only to specified districts, they are not included in the Book Circular.

(iv) There are separate orders in respect of grant of lands in Hill Stations. They are issued before the introduction of the Maharashtra Land Revenue Code and apply to specific Hill Stations, viz., Mahabaleshwar, Matheran and Chikhalda. These orders would be superseded by the rules to be framed under section 38 of the Maharashtra Land Revenue Code. They are not, therefore, included in the Circular.

(v) Lands found surplus under the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, are to be disposed of not according to the provisions of the Land Revenue Code but in accordance with the rules framed under the Ceiling Act. This is provided in rule 23 of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971. Similarly, tank bed lands are to be disposed of according to the special orders of Government in the Irrigation and Power Department. The rules and orders for the disposal of both these categories of land are summarised in paragraphs 85, 86 and 87 of this Circular. This is done with a view to facilitate the work of revenue officers and also to make the Circular complete in all respects although they cannot properly be assigned a place in the Revenue Book Circular which contains orders under the Land Revenue Code.
Sr. No. 4—Trees:

10. This Circular deals with trees. It contains provisions regarding restrictions on cutting of trees under section 25, removal of brush-wood, jungle, natural products, etc., under section 26 and removal of fire-wood from trees in waste land outside the reserve forests under section 28 of the Code. It also contains summary of provisions of three sets of rules framed under the aforesaid three sections. Section III of the Circular contains supplementary instructions. The orders summarised in paragraphs 27, 28, 29, 30 and 33 are issued under the provisions of the new Code itself and, therefore, call for no special comments. Similarly orders summarised in paragraphs 24, 25 and 26 though issued before the introduction of the new Code, they are not inconsistent with the provision of that Code. Moreover they are issued after 1st November : 1956 for application to the Whole State. The incorporation of all these orders, therefore, is free from objection. Paragraphs 31 and 32 contain summaries of orders imposing restrictions on cutting of trees. These instructions are in accordance with the provisions of the Felling of Trees Act. A part of paragraph 32 contains the restrictions imposed under the provisions of the Code and rules thereunder. In order that the restrictions on cutting of trees imposed by the enactment’s administered by the Revenue Department may be complete, we recommend that the orders issued under the Felling of Trees Act mentioned above, may form part of this Circular in order that it may be complete in all respects.

Sr. No. 12—Inams and Alienations:

11. This Circular is about Inams and Alienations. The statutory law is summarised at length in section I and II which call for no comments. Paragraph 6 of this Circular contains summary of the Bombay Government Resolution, Revenue Department » No. 4118/33, dated 6th October 1937, which directs that no concession should be given in the occupancy price of land granted purely for religious purposes. Although this Circular is issued much before the introduction of the new Land Revenue Code, it is in accordance with the provisions of new Code and should, therefore, be extended to the entire State by incorporating in the Revenue Book Circular.
Sr. No. 13-Reduction, Suspension or Remission of Land Revenue:

12. This Circular deals with reduction, suspension or remission of land revenue. The statutory law on the subject is brought out in sections I and II. Since suspension or remission is invariably preceded by fixation of annewari, we have a bit deviated from the course adopted for other Circulars wherein the statutory law is summarised in the beginning. In this Circular we have first dealt with the procedure for fixation of annewari and the formula under which it is determined before proceeding to the summary of the statutory law. Our observations at the commencement of this Circular are entirely based on the existing orders with regard to the procedure to be followed for fixing annewari which are of uniform. Application to the entire State. The Code provides only for grant of suspension and remission in the event of failure of crops. It does not provide for the quantum of relief to be granted to cultivators in such contingency… As a matter of fact the fixation of annewari as such is not regulated by any of the provisions of the Code, but it is a sort of executive action whereby the provisions in the Code for granting relief are implemented. For these reasons the subject annewari is dealt with in the opening of the Circular.

Sr. No. 15-Partition of Holdings:

13. This Circular is about partition of holdings. The statutory law is summarised at length in sections I and II it is provided in section 85 of the Code that the partition is to be made subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act. This implies that partition cannot be made so as to create a fragment. The process to be adopted in cases where partition results in a fragment is nowhere provided in the Land Revenue Code or rules thereunder. The relevant provisions in that respect are contained in the Bombay Prevention of Fragmentation and Consolidation of Holdings Act and rules thereunder which provide that in such cases creation of fragment may avoided by compensating the shares not getting the land, in money. We have included a summary of these provisions in the Fragmentation Act under section III supplementary instructions in this Circular.
so that it may be complete in all respect and the officer dealing with partition cases may have some guide-lines in the matter.

**Sr. No. 17-Conversion of Use of Land and Non-Agricultural Assessment:**

14. This Circular deals with the conversion of use of land and non-agricultural assessment. The statutory law is summarised in sections II and I of the Circular. The supplementary instructions in paragraphs 32 to 53 under section III summarise the various executive orders, which in our opinion should be kept in operation by incorporating them in the Circular No. Comments are necessary on paragraphs 32, 33, 40, 48 and 49 in, which are summarised orders issued for the whole State after the introduction of the new Land Revenue Code and on paragraphs 44, 45, 46, 47 and 52 in which are summarised orders issued after 1st November 1956 for application to the whole State and are in accordance with the provisions of the new Land Revenue Code. The orders in the rest of the paragraphs are old orders issued before 1st November 1956. These orders though at present applicable to the Western Maharashtra region, only, are in accordance with the provisions of the new Land Revenue Code. The orders in the rest of the paragraphs are old orders issued before 1st November 1956. These orders, though at present applicable to the Western Maharashtra region only, are in accordance with the provisions of the new Land revenue Code and it is necessary to extend them to Vidarbha and Marathwada region also for reasons hereinafter stated.

Paragraphs contain 34, 35 and 36 contain the summary of the orders issued under Bombay Government Circular Memorandum, Revenue Department, No. 256/39, dated 17th May 1946 and 16th September 1947, which direct that no permission should be granted for conversion of agricultural land for construction of churches, temples, mosques without the permission of Government. All these orders require to be extended to the whole State.

Under the Bombay Government Resolution, Revenue Department No. 529149, dated 4th August 1949, permission for the use of a building site assessed to agricultural for construction of a building is necessary. It is
necessary to apply these orders to the whole State and consequently they are summarised in paragraph 37 of the Circular of the Circular.

Under Bombay Government Resolution, Revenue Department, No. 2047/1, dated the 18th December 1951, directions are given as to when the Prevention of Ribbon Development Rules should be relaxed while permitting non-agricultural use of lands along roads. There are summarised in paragraph 38 and 39 of the Circular. These orders are in accordance with the provisions of the new Land Revenue Code and should, therefore, be made applicable to the whole State.

Bombay Government Resolution, Revenue Department, No. 5834/51, dated 20th February 1953, directs that portions of Municipal Street lands used for advertisements, etc., are liable to the payment of non-agricultural assessment. This is summarised in paragraph 41 of the Circular for application to the Whole State.

Bombay Government Resolution, Revenue Department, No. 1253, dated 2nd April 1954, lays down the principles on which non-agricultural assessment should be levied on land granted to the State Transport Corporation. These orders are summarised in paragraph 42 for application to the whole State.

Paragraph 43 of the Circular contains the summary of, Bombay Government Resolution, Revenue Department, No. BBR-I045, dated 12th November 1954, which provides that the area covered by gallaries should not be considered as built over areas. It is necessary to apply these orders to the whole State.

Paragraph 50 of the Circular summarises the orders contained in Bombay Government Resolution, Revenue Department, No. 10329/45, dated 29th January 1951, which directs that in the order granting non-agricultural permission, a penalty clause should invariably be inserted. It is necessary to apply these orders to the whole State.

Under Bombay Government Resolution, Revenue Department, No. LNA-1056-H, dated 1st August 1956, it is directed that while fixing the quantum of composition fees, only the value of the portion of the structure which is...
considered to be offending should be taken into account. It is necessary to apply these orders to the whole State.

Under Bombay Government Resolution, Revenue Department, No. 6488/51, dated 27th February 1953, it is directed that sanad should be executed within a reasonable period. These orders are summarised in Para. 53 of the Circular for application to the whole State.

There are orders in force in the Western Maharashtra region to the effect that the area of the internal chowk left open to the sky within a four sided building should be included in the built-up area. These orders are summarised in Para. 54 of the Circular for application to the whole State.

**Sr. No. 19- Boundary and Boundary Marks :**

15. This Circular relates to boundary and boundary marks. The provisions in the Code and the rules made thereunder are summarised in sections I and II of the Circulars. At present there are no orders of such general application to the whole of the State as could be included in section III about supplementary instructions. This section is, therefore, left blank. Government is requested to issue necessary instructions to include in section III important orders on this subject, in case they are issued hereafter.

The Committee wishes to invite the attention of Government to para. 24 of this Circular which contains the summary of the rules in respect of quinquennial programme for repairs to boundary marks. In our proposals to Government in the preliminary report with which the draft of Volume III of boundary repairs would present practical difficulties. Experience is that no such programme is actually undertaken in spite of the executive administrative orders on the subject in force in the Western Maharashtra region. As a practical solution to this problem of getting the boundary marks repaired regularly at the appropriate time we have proposed to Government to dispense with such periodical programme and get the boundary marks repaired annually for which entry is to be made in the "other rights" column of the Record of Rights by the Talathi at the time of crop inspection. We reiterate
our proposal and request Government to amend the boundary marks rules accordingly.

**Sr. No. 24- Procedure of Revenue Officers:**

16. This Circular relates to the procedure of revenue officers. The Statutory Law is summarised in sections I and II of the Circular which require no special comments. Supplementary instructions under section III are given in paras. 24, 25, 26 and 27 of the Circular. The orders dealt with in paras. 25 to 27 are recent orders issued under the new Land Revenue Code itself. Para. 24 contains the summary of Bombay Government Resolution, Revenue Department, No. 1204/24, dated 4th March 1941, which directs that the formal and summary enquiries should, as far as possible, be held at or near the village to which they are in conformity with its provisions and, therefore, should be made applicable throughout the State.

17. While drawing up a list of book circulars subject-wise it was noticed that in respect of certain circulars there are no general orders of importance which could properly be included under supplementary instructions. The primary object of book circulars is to have in concise form summary of standing orders issued from time to time under the provisions of the Code or rules made thereunder. A question, therefore, arose whether we should have book circulars on subjects in respect of which there is at present no material for supplementary instructions. Our view in this respect is that the book circulars should be so framed that they should serve the purpose of permanent use at all times. It may happen that although there may be no material at present fit for inclusion under supplementary instructions, such material may be available in future. In order that there should be no difficulty then to trace appropriate circular for incorporation of such orders, we feel it necessary to prepare circulars on all subjects selected by grouping of different sections of the Code. Where there is no material for supplementary instructions, section III is left blank, the Circular containing only the statutory provisions. The following is the list of such Circulars:-
We recommend that standing orders, as and when issued, should be incorporated in section III of the respective Circulars.

18. In our opinion this Part of the Volume would prove to be very useful in all revenue offices from Taluka upwards including the Revenue Department in Sachivalaya. With the help of this single Volume, the revenue officers and their subordinates would find it very convenient to deal with their compilations. Utmost care has been taken to collect the necessary material for incorporation in the Volume. The material so collected has been very carefully scrutinised and care has been taken to ensure that no standing orders or any important order of general application which is still in force even after the enactment of the new Land Revenue Code, is left out of the compilation. Even so we wish to state that our efforts in this respect were concentrated mainly on the material collected. It cannot be said that every important order was included in the material before us. It may happen that some orders might have escaped our scrutiny for one reason or the other. It may take some more time before this Volume is sent for print. It is, therefore, suggested that our work in this respect
may be followed up further in the Secretariat and in case some more orders are traced or are issued, necessary action for their compilation in the appropriate book circular may be taken in the Sachivalaya before the Volume is sent for printing.

<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Revenue Book Circular No.</th>
<th>No. and date of order</th>
<th>Subject of the order</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>Government Notification, Revenue and Forests Department, No. UNF-1667-(a)-R, dated 25&lt;sup&gt;th&lt;/sup&gt; May 1970.</td>
<td><strong>Powers</strong> - Delegation of to the Commissioners of Divisions.</td>
</tr>
<tr>
<td>2</td>
<td>2</td>
<td>Government Circular, Revenue Department, No. 284/24, dated the 1&lt;sup&gt;st&lt;/sup&gt; October 1937.</td>
<td>Alleged or Suspected Encroachment : Enquiries into</td>
</tr>
<tr>
<td>3</td>
<td>3</td>
<td>G.R., R. &amp; F.D., No. LND-1070/19283-(a)-A, dated 9&lt;sup&gt;th&lt;/sup&gt; September 1970.</td>
<td>Government Waste-Grant of to, Person who have alienated their lands</td>
</tr>
<tr>
<td>5</td>
<td>3</td>
<td>G.R.R.D. No. 7907/33/III, dated 26&lt;sup&gt;th&lt;/sup&gt; August 1947.</td>
<td>Government Lands-Transfer of by way of sale, lease, mortgage, etc.</td>
</tr>
<tr>
<td>-----</td>
<td>------</td>
<td>----------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>6-A</td>
<td>3</td>
<td>LND/1059/23080-AI, dated 29th April 1959.</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>3</td>
<td>2158/20801-AI, dated 7th September 1960</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>3</td>
<td>LGL-59/606084/(Squad)-B, dated 12th October 1959.</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>4</td>
<td>TRS/1058/182278-B dated 17th February 1959.</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>4</td>
<td>UNF-1567-12329(b)-R,</td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>Date</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>4</td>
<td>Right to trees standing in holdings.</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>4</td>
<td>Maharashtra Land Revenue Code, 1966</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>4</td>
<td>Right to trees in occupied lands and restrictions.</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>4</td>
<td>Trees- Disposal of by Adivasis.</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>4</td>
<td>Maharashtra Land Revenue Code, 1966</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>5</td>
<td>Trees- Restriction on cutting of under section 25(1) of the Maharashtra Land Revenue Code, 1966</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>5</td>
<td>Interpretation of section 27 of Alluvial Land-</td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>5</td>
<td>Treatment as forest of formed on the edge of forest Survey Nos. question relating to-</td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>5</td>
<td>Lands : Alluvial Formations-</td>
<td></td>
</tr>
<tr>
<td>24-A</td>
<td>5</td>
<td>Question whether sections the Land Revenue Code-apply to,</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lands : Panchmahals-</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Petition against</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lands : Jalgaon-</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Disposal of certain alluvial of-</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lands-</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Petition against entry regarding land washed away by river in Taluka Kalol in</td>
<td></td>
</tr>
<tr>
<td>Page</td>
<td>No.</td>
<td>Document Reference</td>
<td>Topic</td>
</tr>
<tr>
<td>------</td>
<td>-----</td>
<td>-------------------</td>
<td>-------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Lands-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Dereliction of - nalla or river Rights of holders of alienated village or holding over-</td>
</tr>
<tr>
<td>26</td>
<td>5</td>
<td>G.C.R.R.D., No. 3319/51, dated 3&lt;sup&gt;rd&lt;/sup&gt; September 1952.</td>
<td>Alluvial Lands-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Method of detection of-</td>
</tr>
<tr>
<td>27</td>
<td>5</td>
<td>G.R.R.D. No. 7533/28, dated 19&lt;sup&gt;th&lt;/sup&gt; September 1931.</td>
<td>Lands : Kaira-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Alluvial formations disposal of</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Transfer of occupancy belonging to Scheduled Tribes.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Permission for under section 36 (2) of</td>
</tr>
<tr>
<td>29</td>
<td>9</td>
<td>G.C.,R.D. No. LND-3957-173650-(a)-B. dated 17&lt;sup&gt;th&lt;/sup&gt; January 1958.</td>
<td>Minor Mineral-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Extraction of-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Grant of permission for-</td>
</tr>
<tr>
<td>30</td>
<td>9</td>
<td>G.C.,R.D. No. QRY-1056/208658-B, dated 11&lt;sup&gt;th&lt;/sup&gt; April 1959.</td>
<td>Minor Mineral-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Un-authorised quarrying of-</td>
</tr>
<tr>
<td>31</td>
<td>11</td>
<td>G.L., R.D. No. 6449/24, dated 6&lt;sup&gt;th&lt;/sup&gt; May 1930 and G.R.R.D. No. 4321/24-II, dated 21&lt;sup&gt;st&lt;/sup&gt; February 1940.</td>
<td>Water-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Supply of to Railway companies.</td>
</tr>
<tr>
<td>32</td>
<td>11</td>
<td>G.R., R.D. No. 4321/24-II, dated 28&lt;sup&gt;th&lt;/sup&gt; June 1941 read with G.R.R.D., No. 4321/24-II, dated 28&lt;sup&gt;th&lt;/sup&gt; September 1942.</td>
<td>Water-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Supply of to Railway Companies out of the tanks constructed by Government.</td>
</tr>
<tr>
<td>33</td>
<td>11</td>
<td>G.R.R.D. No. 2373/45, dated 15&lt;sup&gt;th&lt;/sup&gt; August 1946.</td>
<td>Water-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Un-authorised use of-</td>
</tr>
<tr>
<td>34</td>
<td>12</td>
<td>G.R.,R.D. No. 4118/33, dated 6&lt;sup&gt;th&lt;/sup&gt; October 1937.</td>
<td>Lands used for religious purposes-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Withdrawal of concessions in occupancy price-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>
Delegation of powers in respect of-

Manjri Stud Farm for Breeding of Pedigree horses levy of assessment.

| 38 | 17 | G.C., A. & C.D., No. PDS-1065/11686-L, dated 9th November 1966. | Poltry Farming-
Permission for-

| 39 | 17 | G.C. Memo., R.D., No. 256/39, dated 17th May 1946. | Land Revenue Code-
Permission to build temples, Churches, mosques and tombs of saints under section 65 of-


REVENUE BOOK CIRCULAR No. 1

Subject - Conferral of powers of an Assistant or Deputy Collector or Tahsildar on any person.

I. - Provisions of the Code

Section 15 of the Maharashtra Land Revenue Code, 1966, provides that the State Government may confer on any person, possessing the prescribed qualifications, the power of the Assistant or Deputy Collector or Tahsildar. This is a new provision so far as the Western Maharashtra and the Marathwada regions are concerned. This provision in considered to be necessary as it is very useful for investing any person other than a revenue officer with powers under the Land Revenue Code. Sometimes, officers of the Co-operation Department are required to recover loans from Societies as an arrear of land revenue. If such officers of the Co-operation Departments are invested with Tahsildar's power regarding recoveries, they can recover the dues pertaining to their department as an arrear of land revenue. Certain liquidators could also be similarly empowered. The qualification of persons on whom such powers can be conferred, are prescribed under rules, the provisions of which are specified in paras. 2 to 4 below.

II. - Provisions of the Rules, called the Maharashtra Land Revenue (Qualifications for Conferral of powers of Assistant or Deputy Collector or Tahsildar) Rules, 1968.

2. The powers conferred by the Code on an Assistant or Deputy Collector may be conferred on a person who-

(i) has held the office of an Assistant or Deputy Collector in the State; or

(ii) is a graduate of any recognised university and is holding an office under any department of Government or local authority; or
(iii) has passed the secondary School Certificate examination or an examination recognised by the State Government as equivalent to that examination and is holding an office continuously for a period not less than three years under any department of Government, or local authority which in the opinion of the State Government is not lower in rank than that of an Assistant or Deputy Collector.

3. A person who may be invested with powers of a Tahsildar under the Code shall be a person who-

(i) has held the office of the Naib-Tahsildar or Tahsildar in the State; or

(ii) has held the office of a revenue officer not below the rank of an Aval Karkun continuously for a period of not less than three years and has passed the Revenue Qualifying Examination; or

(iii) is a graduate of a recognised university and is holding an office under any department of Government or local authority which in the opinion of the State Government is not lower in rank than that of a Tahsildar; or

(iv) has passed the Secondary School Certificate examination or an examination recognised by the State Government as equivalent to that examination and is holding an office continuously for not less than three years under any department of Government or local authority which; in the opinion of the State Government, is not lower in rank than that of a Tahsildar; or

(v) is holding the office of a liquidator appointed under section 42 of the Co-operative Societies Act, 1912 or section 103 of the Maharashtra Co-operative Societies Act, 1960.

4. For purposes of the provisions in paras. 2 and 3 above, "Local authority" means a Municipal Corporation, Municipal Council, Zilla Parishad or any other authority duly constituted under any law for the time being in force and approved by the State Government. Similarly, "recognised university" means a university, which has been recognised by the State Government.
III. - Supplementary Instructions

5. The powers of the State Government under section 15 have been delegated to the Commissioners of Divisions by virtue of the provisions contained in section 330-A, of the Code vide Government Notification No. UNF-1667 (A)-R, dated the 25th May 1970.
REVENUE BOOK CIRCULAR No. 2

Subject.- State Title to Land.

I. - Provisions of the Code

Sub-section (1) of section 20 of the Maharashtra Land Revenue Code, declares that all public roads, lanes and parks, bridges, ditches, dikes and fences, on or beside, the same, bed of the sea and all harbours and creeks below high water mark, and of rivers, streams, nallas, lakes and tanks and all canals and water courses, and of standing and flowing water, and all lands wherever situated which are not the property of others, shall be the property of the State Government. This sub-section further empowers the Collector subject to the orders cribed. Sub-section (2) of section 20 provides that if there is a dispute in respect of title to any property, the Collector or Survey Officer has to decide it after holding a formal enquiry in the matter. An order passed by the Collector or the Survey Officer shall be to one appeal and revision in accordance with the provisions in Chapter's or Survey Officer's order can also file a suit in a Civil Court within a period of one year from the date of the order or if such person has gone in an appeal then within one year from the date of the order passed by the appellate authority.

2. With regard to the enquiry into a dispute in respect of title to the lands sub-section (2) of section 20 empowers both the Collector and the Survey Officer to make enquiry and decide the dispute. The scheme of the section is that while conducting survey of land, if a survey Officer comes across a dispute to the title to the land, he has to make enquiry under sub-section (2) and decide the matter. At any other time, the Collector or Survey Officer can decide such dispute by holding formal enquiry.

II- (a) Provisions of rules, called the Maharashtra Land Revenue (Enquiry into Title of Lands) Rules, 1967.

3. These rules prescribe a form of notice of enquiry to be issued to the interested parties before holding an enquiry under sub-section (2) of section 20 of the Code. The notice, which specifies the subject-matter of the enquiry,
requires the persons to attend before the Enquiry Officer either in person or by a duly authorised agent on the date, time and place specified therein. If the person fails to remain present on the aforesaid date and time, the enquiry is held and the matter is decided in his absence,. The notice is required to be served on all persons who are known or believed to have any claim to, or to be interested in the subject-matter of the enquiry not less than ten days before the date of the enquiry. This notice shall be served in the manner provided in section 228 of the Code for the service of summons, that is to say-

(i) The notice shall be in writing in duplicate and shall state the purpose for which it is issued and shall be signed by the officer issuing it and if he has a seal, shall also bear his seal.

(ii) The notice shall be served by tendering or delivering a copy of it to the interested person or if he cannot be found by affixing a copy to a conspicuous part of his usual residence.

(iii) If his usual residence is in another district, the notice may be sent by post to the Collector of that District, who shall cause it to be served according to (ii) above.

The notice shall also be affixed at the Chavdi or some other public place in the village in which property to which the enquiry relates is situated, and also in a conspicuous position upon such property.

4. The aforesaid rules also prescribe a form of notice of order to be passed by the Collector or the Survey Officer after holding enquiry to decide the dispute. This notice of order is also required to be served to all persons interested to whom the notice of enquiry has been served. The notice of order passed by the Enquiry Officer is also required to be served in the manner specified in paragraph 3 above.

5. When survey is directed under section 126 of the Code and in the course of the enquiry a survey officer comes across any dispute in respect of the State title to the land, he shall decide such dispute in accordance with the procedure prescribed in paras 3 and 4 above and shall also follow the procedure
prescribed in the Maharashtra Land Revenue (Village, Town and City Survey) Rules, 1969, vide Revenue Book Circular No. 18.

III.- Supplementary Instructions

6. In enquiries under section 20 (2) of the Maharashtra Land Revenue Code, 1966, into alleged or suspected encroachments, it is important to bear in mind the words “which are not the property of persons legally capable of holding property” occurring in sub-section (1) of section 20, in order to prove that the land in question is his property a claimant may-

produce satisfactory evidence as to the actual acquisition of title,

claim adverse possession, or

claim title based on possession (not proved to have continued for 30 years).

In the case of a claim as at (2) or (3), the nature of the alleged possession has to be looked into. The following are some of the acts which, in the circumstances of the cases in which they took place have been held by the Bombay High Court to be evidence of mere user not amounting to legal possession:

tethering cattle,

using the land for throwing refuse,

keeping fodder, grain and earth,

errection of temporary otas (Platform) or sheds for cows, goats and fowl.

In the case of a claim based on more possession, the principle of law which is applicable is that possession is prima facie evidence of title, and gives a person title against the whole world except the person having a better title. This principle has been embodied in section 110 of the Indian Evidence Act which runs thus: "When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner."
7. When a claim to a piece of land is based on this section, an officer proceeding under section 20 (2) of the Maharashtra Land Revenue Code, should first see whether the alleged possession is such as to give rise to the presumption under this section of the Indian Evidence Act. As pointed out above, not every kind of user constitutes possession. A man may keep fodder or tether his cattle on a piece of land for reasons of convenience, without intending to exclude other from the use of the land and without objection from his neighbours or interference from the State, the revenue officers being satisfied that he does not intend to take possession of the land and is not asserting any kind of title. It is plain that such acts of user cannot constitute possession. If a temporary structure is erected on a piece of land, it may again not amount to possession, though if a structure stands for many years on a piece of land it would normally lead to a presumption of possession. No strict criteria, however, can be laid down as what acts necessarily connote possession and what do not. Criteria would mary with the circumstances of each case. The local pressure on land, the vigilance of neighbours or revenue officers, the period for which the acts of user have continued, the existence of a general custom allowing such acts without objection these would be circumstances to be taken into consideration in appropriate cases in deciding the nature of the alleged possession. Where, however, an intention to exclude the possession, user or control of others is proved or can be presumed, however slight the actual acts of use, there should be no hesitation in deciding possession to be proved. Acts like erecting a permanent structure or putting up a substantial hedge, especially when such structure or hedge has stood for some time, would generally indicate possession.

8. If possession is found proved, the next question that would arise is, for how long has it existed? If there is evidence that Government was the owner of the land within 30 years, then such evidence can be used to rebut the prima facie title of the claimant arising under section 110 of the Indian Evidence Act, though the burden of proving that he is not the owner will be on Government. Government may discharge that burden sufficiently by showing their ownership within the past 30 years, and thus put the claimant to substantiate the prima facie title. If he does not succeed in this, land cannot be held to be
his property within the meaning of section 20 (1) of the Maharashtra Land Revenue Code.

9. If, however, there be no evidence that Government was the owner of the land at any time within the past 30 years, then if the claimant's subsisting possession is held proved, it must be held that Government cannot prove a better title than his, though his title arises merely under section 110 of the Indian Evidence Act, i.e. is merely prima facie title to begin with. In such a case the land must be held to be the claimant's property, subject to any rights that third parties may be able to prove against him. In such a case his possession must necessarily be, or be presumed to be, or long standing, and would generally consist in overt acts clearly indicating exclusive control for a continuous period.
REVENUE BOOK CIRCULAR No. 3

Subject.- Disposal of Government Lands.


Section 20 of the Code declares that all lands, public roads, paths etc. which are not the property of any person shall be the property of the State Government. The Collector, with the order of the Commissioner, can dispose of such property in accordance with the rules made by the State Government in that behalf.

2. Section 31 of the Code empowers the Collector to sell unalienated land by auction and to annex such conditions to the grant as may be prescribed by rules. The Collector can also charge the cost of the land which shall include the price of trees standing on the land.

3. A sub-division relinquished under section 35 of the Code can be disposed of by the Collector in the following manner :-

   (i) offer such sub-division to the occupant of the other sub-divisions the same survey number at a price not exceeding 24 times the assess men thereof, provided that the total holding of the grantee does not exceed the ceiling fixed in that behalf;

   (ii) if the offer made under (i) above is refused by all the occupants, the sub-division is to be disposed of in accordance with the rules made by the State Government on the subject [section 35 (1) and (2)].

4. A sub-division forfeited for default in payment of land revenue has to be leased out by the Collector to the former occupant (defaulter) or to the occupant to the other sub-division of the same survey number or to any other person for a period of one year at a time. Care should, however be taken see that the total holding of the lessee does not exceed the ceiling fixed in that behalf. If within three years from the date of, forfeiture, i.e., taking possession...
of the sub-division, the former occupant i.e., the defaulter applies for the restoration of his sub-division, the Collector may restore it on payment of the arrears of land revenue and a penalty equal to three times the assessment. If the defaulter fails to get his sub-division restored to him within the aforesaid period, the Collector has to dispose it of in accordance with the rules made in that behalf [section 35 (3) and (4)].

5. Section 38 of the Code authorises the Collector to lease under grant or contract any Government land to any person for such period, for such purpose and on such conditions as may be prescribed by rules.

6. Section 40 of the Code Saves the right of the State Government to dispose of any Government land on such terms and conditions as it deems fit.

7. In respect of encroachment on Government land, if the encroacher so desires, the Collector may grant the land encroached upon to the encroacher on payment of a sum not exceeding five times the value of the land and an assessment not exceeding five times the ordinary land revenue. The Collector can impose such terms and conditions, to the grant as may be prescribed under the rules. Before granting land to the encroacher, the Collector has to give a public notice of his intention to do so and has to consider any objection and suggestions received by him to the proposed grant. The expenses Incurred on account of public notice are to be paid by or recovered from the encroacher (section 51).

8. Any occupancy or alienated holding, forfeited for non-payment of land revenue has to be disposed of by the Collector in the manner specified in para. 4 above.

9. When any unoccupied unalienated land is granted to any person, it is the duty of the Tahsildar to call, upon such person to enter upon the, occupation of such land according to the terms of the grant (section 30).


pkachare@gmail.com
10. The definitions of some of the important terms all expressions fused in these rules are given below:

(i) "backward class" means a Scheduled caste, Scheduled Tribe, Neo Buddhists, Vimukta Jatis specified in Appendix I, Nomadic Tribes specified in Appendix II and the other Backward Classes specified in Appendix III I appended to the rules;

(ii) "to cultivate personally" means to cultivate on one's own account by one's own labour or by the labour of any member of one's family or by the occasional assistance of hired labour or servant;

(iii) "economic holding" means-

1. 6.47 hectares (i.e. 16 acres) of dry crop or jirayat land; or

2. 3.24 hectares (i.e. 8 acres) of seasonally irrigated land or paddy, or rice land; or

3. 1.62 hectares (i.e. 4 acres) of garden or perennially irrigated land. If the holding consists of two or more classes of lands, the economic holding has to be determined on the basis of one hectare of garden land equal to two hectares of paddy land or four hectares of dry crop land;

(iv) "ex-serviceman" means former member, of armed forces of the Union other than a person who has been dismissed or discharged after a court martial or on account of bad character;

(v) "family" other than a joint Hindu, family, in relation to an individual for purposes of grant of land, includes husband, wife, minor sons, unmarried daughters and dependent brother, sister, father and mother, whether, or not they are separate in estate, but does not include brothers who are major and separate in estate and the father or mother who is not dependent on such individual;

(vi) "freedom-fighter" means a person (other than the one who is in receipt of a pension for life or any loan except the loan under Land
Improvement Loans Act, 1883 or the Agriculturists' Loans Act, 1884) who has suffered imprisonment or detention of not less than one month or who was fined Rs. 100 or more, or who died or was killed in action or in detention, or was awarded capital punishment or became permanently incapacitated due to firing or lathi-charge, or lost his property or means of livelihood, on account of his participation in the National Movement for the emancipation of India.

(vii) "serving member of the armed forces" means a member of the armed forces of the Union and includes a person who was such member at the time of the Chinese action in 1962 or the Indo-Pak conflict in 1965 and was killed in such action or reported missing;

(viii) "virgin land" means land which is not under cultivation for a continuous period of three years immediately prior to its grant.

11. While disposing of land, only the right of occupation and use should be granted and not the proprietary right of Government in the soil.

12. Land situated within the limits of any port should not be granted without the written concurrence of the Chief Ports Officer.

GRANT OF LAND FOR THE PROMOTION OF EDUCATION CHARITABLE OR PUBLIC PURPOSE.

13. Except as specified in paras. 14 to 16 below, no land should be granted free of occupancy price or free of land revenue or both without the sanction of the State Government.

14. The Collector may grant land free of occupancy price and free of land revenue to the extent and for the purposes specified in the table below. Such grants shall not, however, be made for the purposes specified in para 15.
<table>
<thead>
<tr>
<th>Purpose</th>
<th>Extent of estimated revenue free value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>By the Collector</td>
</tr>
<tr>
<td></td>
<td>with the sanction of the Commissioner</td>
</tr>
<tr>
<td>(1)</td>
<td>(2)</td>
</tr>
<tr>
<td>(1)</td>
<td>(3)</td>
</tr>
<tr>
<td>For sites for the construction of-</td>
<td></td>
</tr>
<tr>
<td>(i) Schools or Colleges,</td>
<td></td>
</tr>
<tr>
<td>(ii) Hospitals,</td>
<td></td>
</tr>
<tr>
<td>(iii) Dispensaries, and</td>
<td></td>
</tr>
<tr>
<td>(iv) Other public works-</td>
<td></td>
</tr>
<tr>
<td>(a) at the cost of the fund of any Municipal Corporation, Municipal</td>
<td></td>
</tr>
<tr>
<td>Council, Zilla Parishad or Village Panchayat duly constituted under any</td>
<td></td>
</tr>
<tr>
<td>law for the time being in force;</td>
<td></td>
</tr>
<tr>
<td>25,000</td>
<td>10,000</td>
</tr>
<tr>
<td>(b) at the cost of a fund other than the funds specified in clause (a)</td>
<td></td>
</tr>
<tr>
<td>above;</td>
<td></td>
</tr>
<tr>
<td>5,000</td>
<td>2,000</td>
</tr>
<tr>
<td>(c) when used in connection with any scheme under the Community</td>
<td></td>
</tr>
<tr>
<td>Development and National Extension Service Local Development Works</td>
<td></td>
</tr>
<tr>
<td>Programme or any, other similar development works.</td>
<td></td>
</tr>
<tr>
<td>10,000</td>
<td>5,000</td>
</tr>
</tbody>
</table>

A sanad in the prescribed form should be issued to the grantee.

15. The Collector may grant land on lease for a period not exceeding 15 years, at a nominal rent of rupee one per year for the purposes, and to the extent specified in the table below;

<table>
<thead>
<tr>
<th>Purpose</th>
<th>Extent of estimated revenue free value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>By the Collector</td>
</tr>
<tr>
<td></td>
<td>with the sanction of the Commissioner</td>
</tr>
<tr>
<td>(1)</td>
<td>(2)</td>
</tr>
<tr>
<td>(1)</td>
<td>(3)</td>
</tr>
<tr>
<td>Play grounds or other recreational purposes to educational institution</td>
<td>Exceeding Rs. 2,500 but not exceeding</td>
</tr>
<tr>
<td>or local authorities or for gaymansia recognized by Government.</td>
<td>Rs. 10,000</td>
</tr>
<tr>
<td></td>
<td>Not exceeding Rs. 2,500</td>
</tr>
</tbody>
</table>

A lease in the prescribed form should be executed by the Collector with the lessee.
16. Revenue free grants made under para. 14 above shall be on the following among other conditions:

   (i) that the land or any part thereof or any interest therein shall not be transferred except with the previous sanction of the State Government;

   (ii) that the land with the structure thereon shall be liable to be resumed for breach of condition (i) above or if not used for the purpose for which it is granted, or if required by the State Government for its own purpose or any public purpose;

   (iii) if the land is resumed under condition (ii) above, the amount of compensation payable shall not exceed the amount paid to the State Government plus the cost or value of building or other unauthorised construction at the time of resumption, whichever is less. The dispute, if any, about the adequacy of the amount of compensation shall be referred to the State Government.

17. The sanad issued in respect of revenue Government or by the Collector under para. 14 register of alienated lands prescribed and maintained under section 75 of the Code.

18. The expression "Revenue Free Value" is a compendious term used for the value of two elements namely,

   (i) the price which the land would fetch, if sold subject to the liability to pay land revenue; and

   (ii) the capitalised value of revenue which it might bear.


19. Allotable land i.e., Unoccupied land (other than the land required for any Government or public purpose or reserved for disposal to the project affected agriculturists) including the land already given temporarily for cultivation on
eksali lease may be granted for agricultural purposes to any person strictly in accordance with the following order of priority:

(i) an eksali lessee lawfully holding land on lease from Government on the ~ 31st day of March 1969;

(ii) an agriculturist whose land which is assessed or held for purpose of agriculture, has been acquired by Government for any public purpose and who agrees to cultivate the land personally;

(iii) a serving member of the armed forces, freedom fighter, an ex-serviceman, a person belonging to Scheduled Tribes, Scheduled Caste, Vimukta Jatis, Nomadic Tribes and a Neo-Budhist, who agrees to cultivate the land personally;

(iv) a member belonging to a backward class other than the backward classes referred to in clause (iii) who agrees to cultivate the land personally;

(v) any other person who agrees to cultivate the land personally.

20. Where the Collector has to select one or more grantees from persons having the same priority, he has to make the selection by drawing of lots. 1 (Please see para. 70).

Eligibility for grant of land

21. No allotable land should be granted to any person:

1. who on the 15th day of August 1968, having three or less than three children has exceeded three after that date, or having more than three children has exceeded three after that date,

   However, exception could be made with the previous permission of the State Government;

2. whose gross annual income from all sources, exceeds Rs. 3,690 (This condition does not, however, apply to the eksali lessee lawfully holding land; from Government on 31st March 1969);
3. who (except an eksali lessee, ap agriculturist whose land has been acquired by Government for any public purpose or a person belonging to any, Nomadic Tribe) does not reside within a radius of eight kilometers of the allotable land; or

4. who (except an eksali lessee and an agriculturist whose agricultural land has been acquired by Government for any, public purpose) already holds land equal to or more than one hectare, of dry, crop or Jirayat land or 0.50 hectare of seasonally irrigated or paddy or rice land, or 0.25 hectare of garden or perennially irrigated land.

**Extent of land to be granted**

22. Except in the case of eksali, lessee and an agriculturists whose land has been acquired for public purpose, no grant shall normally exceed-

1. 2 hectares of dry crop or jirayat land; or

2. 1 hectare of seasonally irrigated or paddy or rice land; or

3. 0.50. hectare of garden perennially irrigated land. "An eksali lessee cultivating Government land on lease for the period ending 31st March 1969, is eligible for grant of land to the extent of one economic holding.

23. An agriculturist whose agricultural land has been acquired by Government for any public purpose, may be granted land to such extent as the State Government, may from time to time direct.

24. While granting, land to the extent specified in the above paragraphs, or for considering the eligibility of the persons for grant of any land, the land already held by an individual or any member of his family, is to be taken into account. Similarly, the extent, of any land alienated by any individual during the period of three years immediately preceding the date of the grant, should also be taken into account.

**Payment of occupancy price**
25. The occupancy price to be charged for granting land for agricultural purposes shall be as follows:

1. the land to be granted is acquired, equal to the amount of compensation paid or the Current market value, whichever is more;

2. if the land is virgin land,-
   
   (i) nil, if the grant is made to an individual belonging to the backward class;
   
   (ii) equal to the current market value, if the grant is made to an agriculturist referred to in paragraph 19 (ii) or to a person, whose land has been acquired for a public purpose on payment of compensation; or

   (iii) equal to twelve times the assessment in all other cases;

3. in the case of any other land,-

   (i) six times the assessment of the land, if the grant is made to an individual belonging to the backward class;

   (ii) equal to the current market value, if the grant is made to an agriculturist referred to in paragraph 19 (ii) or to a person whose land has been acquired for a public purpose on payment of compensation; or

   (iii) equal to twenty-four times the assessment of the land, in all other cases.

26. In addition to the occupancy price mentioned above, the grantee shall also pay the value of trees, if any, standing on the land as determined, by the Collector in consultation with the forest officer.

27. Any piece of land being waste because of its small size or awkward shape or situation or being lesser in extent than the standard area as prescribed under the Prevention of Fragmentation and co-ordination of Holdings Act, shall be
granted, to the holder of land adjoining such piece of land. Where, however, there are two or more such holders the selection for granting the piece shall be made in the order of priority specified in paragraph 19' above. Where there are two or more holders falling in the same category, one, whose holding is the smallest shall be given preference and in Case the area of holding is equal, the allotment should be made by drawing lots. If such small piece of land is granted to a person whose holding is equal to or more than, one. Economic holding, such person should be charged occupancy price equal to the current market value of the land.

28. Agricultural lands granted under the provisions specified in the foregoing paras shall be subject to the provisions of the Maharashtra Land Revenue Code and the rules made thereunder. An agreement in the form prescribed under the rules should be taken from each grantee. The conditions under which the grant is made are specified in the prescribed form. Some of the important conditions are as follows:-

1. the grantee shall not mortgage, sell, assign or otherwise transfer the land or any portion thereof, except with the prior sanction of the Collector;

2. the grantee shall bring the land under cultivation before the expiry of two years from the date of the grant;

3. the grantee shall be liable to pay full assessment of the land.

   (In case of virgin land no assessment is to be charged for the first three years from the date of the grant)

4. The occupancy price should be paid by the grantee in such annual installments not exceeding

   (i) twelve, in case of backward class persons, and

   (ii) six, in other cases,

   as the Collector may fix.
5. The Collector may resume and take possession of the land granted to a person and also evict him from that land if he commits a breach of any of the aforesaid conditions. After such eviction, the amount of occupancy price paid by the grantee or recovered from him, shall be refunded to him.

29. Any land resumed under the condition (e) in the preceding para, may be disposed of in accordance with the provisions of the rules made in respect of disposal of land for agricultural purposes.

Procedure for disposal of allotable land

30. The procedure to be followed in regard to the disposal of allotable land for agricultural purposes shall be as under:

   (i) The Collector or the Tahsildar who has been authorised in that behalf shall select sufficient number of centrally situated villages for the aforesaid purpose and shall draw a detailed programme fixing the dates for receipt of applications for the grant of land, the date on which they will be considered and so on. The programme will be given wide publicity in the concerned villages by beat of drums requiring the villagers to send their applications to the Tahsildar within the specified time which shall not be less than one month from the date of the publication of the programme. A copy of the programme shall be displayed in the village chavdi, Village Panchayat Office if any and Tahsildar's Office. The persons who have already applied for the grant of land under disposal the Secretary, District Sailors, Soldiers and Airmen's Board, if any, and also the officer of the Social Welfare Department in the district of such rank as may be determined by the Commissioner shall also be given necessary intimation of the said programme.

   Every application for grant of land to be made to the Tahsildar shall contain the following particulars:

1. name of the applicant;
2. size of the family (i) as on the 15th August 1968; (ii) on the date of application;

3. whether the applicant is serving member of the armed forces, freedom fighter, ex-serviceman or a member of backward class or is a Neo-Buddhist;

4. whether the applicant holds any land on eksali lease and if so, the date from which he is holding such land and the extent of the land so held;

5. extent of land already held by the applicant in addition to land held on eksali lease;

6. The gross annual income of the applicant from all sources.

31. serving member of the armed or an ex-serviceman can make an application for grant of land to the Collector through the Chairman, District Sailors, Soldiers, and Airmen's Board. Such an application can also be made by his wife, major son, father, mother or brother in an undivided family, if he (serving member or ex-serviceman) is dead or is unable to write the application being away on duty or for any other reason.

32. On the date fixed in the programme, the Collector or the Tahsildar after making necessary enquiries dispose of land in consultation with the concerned Village Panchayat representatives and the Officer of the Social Welfare Department.

33. When an application is made on behalf of a serving member of the armed forces or an ex-serviceman, as provided in para. 31 above, the grant shall be made in the name of such serving member or as the case may be the ex-serviceman unless he is dead.

34. If a relinquished sub-division 'cannot be disposed of to the occupant of other sub-division of, the same survey number [as per section 35 (2) of the Code] it should be disposed of in accordance with the aforesaid provisions.

35. The State Government has the power to relax any of the aforesaid provisions for application to any ~special scheme 'sponsored by it or undertaken at the Instance (f or on' behalf-of the Central Government for resettlement of
landless agricultural labourers or any special cases or class of cases in any area or tract where such relaxation is considered necessary.

**Grant of Land to Persons Whose Lands are Acquired for Public Purposes**

36. The Collector has to reserve unoccupied cultivable land for disposal to agriculturists whose lands have been acquired for public purpose including irrigation and power projects with the result that no land or land less than an economic holding is left with them. Such, an agriculturist can make an application to the Collector for grant of land. The Collector after making necessary enquiries grant land out of the reserved quota to the applicant. While granting such land the Collector shall take into account the provisions about the extent of land to be granted, the payment of occupancy price and the terms and conditions of the grant.

Till the reserved lands are so disposed of, the Collector should lease them to landless cultivators on eksali basis in accordance with the priorities specified in para 19 above.

**Disposal of Lands in River Beds and Salt Marsh Lands**

37. River bed land which is not included in a survey number should not be disposed of in occupancy right without the sanction of the State Government. Such a land is ordinarily to be leased out annually by auction. The auction bid i.e., the lease money is to be deemed as land revenue.

38. Salt land or land occasionally overflowed by salt water and is not required for salt manufacture or for Government, public or other special purpose may be leased for purpose of reclamation 'on the prescribed conditions which are also enumerated in the for lease appended to the Rules.

39. The provisions ,of these rules do not, apply to khar lands and tank bed lands and to the surplus lands vesting in Government under section 21 of the Maharashtra Agricultural Lands (Ceiling'on'Holdings) 'Act, 1961.
40. Allotable land in a Gramdan village constituted under the Maharashtra Gramdan Act, 1964 may be granted to:

1. the Gram Mandl of such Gramdan village;
   
or

2. any Gram Swaraj Sahakari Sanstha existing before the coming into force of the Gramdan Act and fulfilling the following conditions:
   
   (i) that the extent of land which has been donated in the village in Gramdan is not less than 60 per cent of the total extent of the land owned by the persons residing in the village;
   
   (ii) that the persons who have donated their land are not less than 75 per cent of the total number of persons owning land and residing in the village; and
   
   (iii) that 75 per cent. of the persons (excluding minors) residing in the village have joined the "Gramdan movement.

41. The Collector with the approval of the Commissioner has to prepare a list of building plots which are valuable because of their situation near Rly Station, market etc, or which are set apart for any development scheme or which may be required for Government special purpose. Such a list is to be called the list of Reserved 'Building Plots. The plots in this list should be disposed of only with the previous sanction of the State Government.

42. In respect of other unoccupied non-agricultural plots, the Collector has to prepare a layout in suitable plots in consultation with the Town Planning and, Valuation Department and the local authority concerned. The plots the layout may be disposed of by the Collector after consultation with the aforesaid authorities. The disposal of any plot in any area for which no layout is prepared shall be made by the Collector with the previous approval of the Commissioner and after consultation with the aforesaid authorities.
Grant of Land for Residential use

43. Building site are generally to be disposed of on occupancy rights by auction. If however, there are good reasons for granting any building site without auction, the Collector can do so after recording in writing reasons therefore. The Collector is empowered to dispose of building sites without auction with the sanction of the commissioner, if the occupancy price there of does not exceed Rs. 10,000 and with the sanction of the State Government in other cases.

44. The following factors should be taken into account while determining the occupancy price of building sites:

   (i) the sale price of similar land in the locality;
   (ii) the situation of the building site;
   (iii) the availability of and demand for, similar land; and
   (iv) the factors which are taken into account in determining the value of land under the Land Acquisition Act.

Grant of Land for Housing Schemes

45. The building sites may be granted by the State Government for various housing schemes undertaken, by the Housing Board, local authority or Co-operative Housing Societies on inalienable and impartible tenure and on such confessinals occupancy price as the State Government may fix from time to time. The Collector is also empowered to grant land to the Co-Operative housing Societies, where the market value of such land does not exceed Rs, 25,000. If the market 'value exceeds Rs. 25,000 but does not exceed Rs. 50,000 the Collector can grant the land' to the Co-operative Housing Society with the sanction of the Commissioner. The aforesaid delegation to the Collector, does not, however, apply to the land situated in the Bombay Suburban District ,the Divisional ,headquarters i.e., Aurangabad, Nagpur and, Poona and all towns; in which population is one lakh or more.

Grant of Land without auction
46. The building sites of suitable sizes may be granted, without auction, by the Collector with the 'sanction of State' Government to freedom fighters, serving members of the armed forces, ex-servicemen, goldsmiths affected by Gold Control Order, and Government servants of the State Government, provided that all these persons, except State Government servants, are resident in the State for not less than fifteen years. The grant should be made on inalienable tenure and on payment of occupancy price after making necessary enquiry and satisfying that these persons do not own any building plot, or a building either in their own name and in the name of any member of their family any Where in any urban area of the State. In the case of serving member or an ex-serviceman (or if he is dead or is' unable to write for any reason, then his wife, major son, father, mother or brother) can make an application to the Collector through the Chairman, District Sailors, Soldiers and Airmen's Board.

Except with the previous permission of the State Government, no land shall be granted to any person who, on the 15th day of August 1968,

1. having three 'or less than three children, has exceeded three after that date; or

2. having more than three children, has exceeded that number after that date.

**Grant of Land to Backward Class person and Landless Agricultural Labourers.**

47. On an application made to the Collector by person belonging to nomadic tribes, Vimukta Jatis, backward classes and landless agricultural labourers, building sites of such size as may be fixed by the State Government in that behalf be granted to them on inalienable and impartible tenure, free of occupancy price, if the occupancy price does not exceed Rs. 200. if the occupancy price exceeds Rs. 200, the Collector may grant such land free of occupancy price with the sanction of the Commissioner.

**Grant of plots in new village sites**
48. Where any village site is abandoned for any reason, the Collector has to select in consultation with the Village Panchayat a suitable Government land for locating the new village site. If Government land is not available, the Collector may acquire private land for the purpose. The proposed new site has to be laid out in suitable plots with due provisions for roads, wells, schools etc. the plots so laid out are to be granted to the occupants of the abandoned village site, on the following conditions:

(i) that the plot in the old site is surrendered to Government;

(ii) that the plot to be allotted shall be equal to, in size of the plot which is surrendered,

(iii) that if, the plot surrendered is less than the minimum standard area; the occupant shall be allotted a plot of minimum standard area;

(iv) that no occupancy price shall be charged when the plot, is equal to the size of the plot surrendered,

(v) that if the area of the plot exceeds the area of the surrendered plot occupancy price for the additional area should be charged;

(vi) that the new plot shall be held on the same terms and with the same rights as Were applicable to the surrendered plot.

An agreement in the prescribed form may be executed with the occupants of the new plots;

**Grant of Land for Industrial and Commercial purpose**

49. The building sites should be granted for industrial and commercial purpose by the State Government on the following conditions:

(i) that the grant shall be on alienable and alienated and impartible tenure;
(ii) that the land shall neither be sub-divided nor any sub-division be disposed of without the previous sanction of the State Government;

(iii) the land shall not be disposed of ,except along with the construction thereon and the factory plant and other installations, If any, and the land so disposed of shall not, without the approval of the State Government be used for any purpose, except the purpose for which it was originally granted;

(iv) when the land is disposed of under condition (iii) above, the State Government shall be entitled to half the unearned income; and where the land is sold without any construction thereon, the State Government shall be entitled to the unearned income not exceeding 90% as may be determined by the State Government;

(The expression "unearned increment" means an amount equal to the difference between the price realized by way of sale and the occupancy price paid to Government or the price at which the land was purchased before such sale).

(v) If it is found that any misrepresentation or concealment is made in reagrad to the sale price, the State Government has a discretion to declare the sale as void.

**Concessional grants to Co-operative Instructions**

50. On the recommendations of the Deputy Registrar of Co-operative Societies, the State Government an grant land to the Co-operative Societies (other than Co-operative Housing' Societies, and Co-operative, Central, Banks) for construction: of office buildings, god owns, starting of factories for processing of agricultural produce on inalienable and impartible tenure on payment of occupancy price equal to 50 per cent of the market value.

**Grant of Land for Salt Manufacture**
51. Unalienated unoccupied land may be granted on leasehold rights by the Collector, with the sanction of the State Government, for manufacture of salt on payment of rent equal to 5% of the full market value or Rs. 65 per hectare, whichever is more to a bonafide manufacturer of salt. Preference should, however, be given to a Co-operative Society as against individual. The terms and conditions under which the lands should be granted are prescribed under the Rules.

**Grant of Land in Leasehold Rights for any Non-Agricultural Purpose**

52. Except in respect of land situated in hill-stations, unoccupied lands may be granted on leasehold rights by the Collector for any non-agricultural purpose by public auction, for a period not exceeding five years.

The Collector, with the sanction of the State Government, can also grant, land on long term lease for non-agricultural purpose for a period not exceeding 99 years on payment of such rent and on such terms and conditions including the condition of renewal as may be annexed to the lease. The leases granted, call be renewed by the Collector with the sanction of the Commissioner where the market value of the leased land does not exceed Rs. 25,000, and with the sanction of the State Government in respect of lands in the Bombay Suburban District and elsewhere the market value of the leased land exceeds Rs. 25,000.

**Grant of Land in Hill-Stations**

53. In Hill-Stations and such other localities as the State Government may specify, land should be granted by the Collector in leasehold rights with the sanction of the State Government on such conditions regarding the style of building, the period of construction, observance of municipal or sanitary regulations as may be determined by State Government from time to time.

**Disposal of small strips of Land, Aerial Projection, Water Mains etc.**
54. In case any small strip of land belonging to Government and adjacent to an occupied unalienated building site, cannot be reasonably disposed of, the Collector may grant it to the holder of the adjacent building site on the same tenure on which he holds that site provided that he agrees to pay assessment or rent at the same rate at which he pays assessment or rent for his site, and also that he agrees to pay such price or premium as the Collector may fix.

55. The collector may permit construction of steps, chabutras, takhtas, bridges across drains for access, a balcony or any other aerial projection over Government land on payment of annual rent not exceeding 5 per cent of the value of the land used for such construction or below the balcony, subject to a minimum of Rs. 1. The annual payment in this respect, may be revised at an interval of not less than fifteen years. The licence in the prescribed form has to be given in such cases.

56. The Collector can similarly permit the laying of water mains; pipes and underground cables and construction of cess-pools, through, on, over or underneath any Government land on payment of an annual sum not exceeding 5 percent of the market value of land occupied for the purpose. The conditions to be imposed in such cases should be determined by the Collector in consultation with the Executive engineer concerned. The Collector can also permit erection of poles, towers, stay rods or, stay rails for overhead cable on Government land on payment of annual rent of 25 paise per pole and 50 paise per tower, stay rod or stay rail.

The annual payment in the aforesaid cases may be revised at an interval of 15 years.

**Grant of Land for Religious Purposes**

57. Except with the previous sanction of the State Government, no unoccupied land should be granted for construction of any temple, church, mosque or any other religious purpose nor non agricultural permission shall be granted for conversion of the use of land for any of the aforesaid purposes.

**Conditions of grant of Land for Non-agricultural purposes**
58. Land granted for any non-agricultural purpose shall be subject to such terms and conditions as the Collector may annex to the grant and to the payment of non-agricultural assessment fixed under the provisions of the Code and Rules made thereunder.

59. The following additional conditions should be annexed where the grant is for a building site:

(1) The grantee shall level and clear the land sufficiently to render it suitable for the particular non-agricultural purpose for which the land is granted.

(2) The grantee shall not use the land and the building erected or to be erected thereon for any purpose other than the purpose for which it is granted without obtaining the permission of the Collector under the provisions of the code and the rules made thereunder;

(3) The grantee shall within, three years (or such further period as the Collector may allow) from the date of the grant, erect a building of a substantial and permanent description on the land failing which the land shall be liable to resumption on payment of compensation not exceeding the occupancy price paid by the grantee.

(4) The grantee shall construct the structure in accordance with the plan approved and conditions prescribed by the local authority competent to approve the plan and prescribe such conditions.

(5) Two-thirds of the area of the plot shall ordinarily be left open to the sky and only one-half the if the land is in the Collector opinion of a very high value or buildings are likely to be inhabited by poor class of persons and areas such as, bazars and central parts of the towns which are already densely built over. The decision of the Collector on the question whether any land is of high value, any building is inhabited by poor class of persons, or whether person belong to poor class or whether any, area is already densely built over shall be final.
(The expression "poor. class of Persons" means persons whose annual income docs not exceed such amount as may, from time to time, be fixed by the State Government.)

(6) The grant shall be subject to the provisions of the Code and Rules made thereunder;

(7) The grantee shall construct the structure after leaving such distance from the roads in non-urban areas as the Collector may from time to time prescribe, regard being had to the locality and situation of the land in such non-urban areas;

(8) Such other conditions as the Collector may, under the orders of the State Government, impose,

The forms of agreement to be executed are prescribed under the Rules.

Grant of land both for agricultural and non-agricultural purposes

Encroachments.

60. Subject to 'the provisions of the Code and general or special orders, issued by Government, and if the persons making encroachment so desires, the Collector can grant the encroached land either in occupancy rights or in leasehold rights on the following conditions:-

(a) Conditions for grant of land in occupancy rights.

(i) that the encroacher shall pay assessment for the entire period of encroachment and fine as required by sub-section(2) of section 50;

(ii) that the encroacher shall pay such penal occupancy price not exceeding five times the value of the land, as the Collector may in his discretion fix, subject to the minimum of two and half times the ordinary occupancy price, if the encroacher does not belong to a backward class; and equal to the ordinary occupancy price if he belongs to the backward class;
(iii) that the encroacher shall pay such penal assessment not exceeding five times the ordinary annual an revenue leviable with reference, to the use of land, as the Collector may in his discretion fix, subject to the minimum of two and half times such assessment if the, encroacher does not belong to a backward class; and equal to such assessment. If he belongs to the backward class;

(iv) that the assessment fixed under condition (iii) shall be guaranteed for a period of 15 years if the land is used for non-agricultural purpose; and for the period of settlement if used for agricultural purpose; and thereafter, it shall be liable to revision. When the revision of assessment is made, the encroacher shall be liable to pay the revised assessment ,or the penal assessment fixed under condition (iii) , whichever is more;

(v) that the land shall not be used for any purpose other than that for which it is granted without the permission of the Collector;

(vi) that the encroacher shall execute an agreement in the prescribed form

(b) Conditions for grant of encroached land in lease-hold rights.

(i) that the lease will be for a period of thirty years with retrospective effect from the date of the encroachment;

(ii) that the lessee shall agree in writing to pay rent at not less than 15 per cent and not more than 25 per cent of the occupancy price of the encroached land;

(iii) that the lessee shall agree to pay such fine for the unauthorised occupation of the encroached land, as the Collector, may determine under sub-section (2) of section 50;
(iv) that the lessee shall agree to vacate the encroached land without compensation if the unauthorised structures are, in the opinion of the Collector substantially altered during the currency of the lease;

(v) that the land shall not be used for any purpose other than that for which it is granted without the permission of the Collector;

(vi) that the lessee shall execute an agreement in the prescribed form.

61. If the market value of the land to be granted to the encroacher, exceeds Rs. 5,000 but does not exceed Rs. 10,000, the Collector has to obtain the sanction of the Commissioner; and of the State Government if the market value exceeds Rs. 10,000.

62. Encroachment on Government land made for the purposes specified in paragraphs 54 and 55 above, may be permitted to be continued by the Collector on the encroacher executing a no claim agreement in the prescribed form and on payment of a licence fee equal to double the annual letting value of the land.

63. Unauthorised occupation of Government land in non-Urban areas by backward class persons for purposes of housing, may be regularised by the Collector by granting such land free of Cost and assessment after laying out in plots of suitable size. The Collector, should, however, see that each encroacher and his family is not given more than one plot. An agreement in the prescribed form should be taken from the grantee.

64. For regularisation of encroachment in the City of Bombay, see paragraph of the Revenue Book Circular No. 26.

DISPOSAL OF FORFEITED LAND.

65. Any sub-division of a survey number or alienated holding which is forfeited and is not restored to the original holder under sections 35 (4), or 72 (3) of the Code, and is not required or likely to be required for public purposes under section 22 of the Code, can be disposed of by public auction to the highest bidder.
GENERAL

66. While disposing of land by public auction, the provisions of Chapter XI of the Code relating to holding and conducting sales should be followed.

67. When land is granted either in occupancy rights or lease-hold rights, the Tahsildar has to issue a certificate of grant of such land in the form prescribed under the rules.

68. Notwithstanding any provisions made in these Rules, no land included in the "Regions" established under sub-section (I) of section 3 of the Maharashtra Regional and town Planning Act, 1966, shall be disposed of by the Collector for agricultural or non-agricultural purposes without the sanction of the State Government.

III. Supplementary Instructions.

69. While disposing of allotable land for agricultural purpose in accordance with the priorities specified in paragraph 19, the Collector / Tahsildar should scrutinize the applications received and consider only those applicants who are eligible for grant. The Collector Tahsildar should also ensure that applications from persons enjoying lower priority should not be considered unless the applications from persons enjoying higher priority are exhausted. With a view to achieve this, the Collector should arrange the applications from the eligible persons strictly according to the priority in paragraph 19 and then undertake the disposal of land.

70. In paragraph 20 above, it is mentioned that when the Collector has to select one or more grantees from persons having the same priority he has to do so by drawing lots. The following procedure should be followed while drawing such lots:

1. the Collector/Tahsildar should prepare as many identical slips of paper as there are eligible applicants for the land;
2. name of each such applicant should be written on a separate slip on one side and all such slips should be folded in identical manner, so as to completely enclose the name written thereon;

3. all the slips, so prepared should be placed in an empty box of suitable size and thoroughly mixed up by shaking the box;

4. one of the applicants or any other person who may be present at the time of land distribution, should be asked to draw from the box by hand without looking at the box, such number of folded slips as the number of plots available for disposal require;

5. the applicants whose names appear on the slips so drawn, should be held eligible for grant of land;

6. the lots should be drawn in the presence of the applicants or the other villagers who may be present at the land distribution programme.

71. Paragraph 30 above specifies the particulars which are required to be furnished by the applicant desiring to apply for grant of allotable land. No form of application has been prescribed. It would, however, be enough if the application containing the said particulars made. If the application is wanting in any material particulars the Collector / Tahsildar should not reject it but get the deficiency supplied. Necessary help should be given to the applicant for this purpose.

72. It is necessary for the Collector /Tahsildar to maintain Land Distribution Register, containing the proceedings about the distribution of lands. The register should contain a copy of the notice published, the date on which it was published by beat of drum in the villages concerned, the names of persons who have applied for land, how selection of the allottees has been made, the names of the persons to whom the land is allotted together with their priority group area allotted, survey number, village, etc.

The distribution of land should always be made in the presence of the applicants, and the villagers present.
73. Under Rule 28 of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971, freedom fighters, serving members of the armed forces, and ex-servicemen are eligible for grant of Government land for residential purpose without auction subject to the sanction of Government. Persons from the above category also get higher priority under Rule 11 of the said Rule in regard to the grant land for cultivation. Thus these persons get more than one concession viz, grant of land for cultivation on priority basis and also grant of land for residential purpose without auction, on account of their being freedom fighters, members of armed forces and ex-servicemen. Government has carefully Considered the question whether the persons belonging to the above category should get both the concessions or only one and is pleased to direct that they should get only one of the above concessions i.e., they can get either. Government land for cultivation or Government land without auction for residential purpose.

74. Agricultural graduates who are landless or holding land less than an economic holding should be allotted Government land for cultivation, without holding land Kacheries. The Collectors should consider their requests for grant of available land if any applicant satisfies the condition regarding residence within radius of eight kilometers (5 miles) of the available land and also that the annual Income of such applicant from all sources does not exceed Rs. 3,600. The Collector should recommend his case for allotment of land to the extent of one economic holding including any land already held by him or any member of his family as owner, tenant or lessee to Government, for according sanction under section 40 of the Land Revenue Code, 1966.

75. In the order of priority for grant of Government land given in rule 11 of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971, Co-operative farming societies have not been included. Normally, therefore, lands are not to be granted to co-operative farming societies. The Collector should, therefore, reject the applications for grant of Government land of the co-operative farming societies without submitting them to Government except in the Cases in which the Collector feels that a particular co-operative farming society deserves special consideration. While rejecting the request of the Society for grant of land, the Collector should inform the Chairman of the
Society that the members of the Society may be advised to apply for grant of Government lands to the Tahsildars concerned as and when applications will be invited under rule 17 of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971.

The Cases in which Collector feels that any Co-operative farming society deserves special consideration, he may submit his proposals to Government through the Commissioner indicating the special features and circumstances of the case and full justification for relaxation of the provisions of rule 11. Before submitting such special cases to Government, the Collector should check up and report to Government whether each member of the Society individually satisfies the conditions laid down in sub-rules (4) and (5) of rule 11 and sub-rules 2 (i) and (ii) of rule 12 of the aforesaid rules.

76. Co-operative housing societies of persons occupying Government lands unauthorisedly should not be granted Government lands so occupied by the. The Commissioners of Divisions and the Collectors of all districts (including Bombay and Bombay Suburban Districts) should not, therefore, consider the requests of encroacher co-operative housing societies for Government lands encroached upon by them and such applicant societies should be given replies that their request for grant of land cannot be granted.

77. The following procedure should be followed for disposal of reclaimed Khar lands for, Cultivation:

(a) The land shall be disposed of to the residents of the villages in which the lands are situate, provided;

(i) that they do not hold other land either equal to or more than one hectare of dry crops land; or 0.50 hectare of seasonally irrigated land or paddy or rice land; or 0.25 hectare of garden or perennially irrigated land;

(ii) that their gross annual income does not exceed Rs. 3,600 ; and
(iii) that they agree to pay the occupancy price of the land and to incur expenditure required for maintenance of the bund in an improved and reclaimed State;

(b) The land shall be disposed of in the following order of priorities;

(i) a serving member of armed forces, a freedom fighter, an ex-serviceman, a person belonging to the Schedule Caste, Scheduled Tribe, Vlmuuka Jatis, Nomadic Tribes and a Neo-Buddhist, who agrees to cultivate the land personally;

(ii) Any other members belonging to the Backward Class who agrees to cultivate the land personally;

(iii) Any other person who agrees to cultivate the land personally;

If the number of eligible applicants having he same priority is more than the number of plots of land available for disposal, the selection should be made by drawing lots.

(c) The extent of land which may be granted should not exceed one hectare of the reclaimed khar land;

(d) The Tahsildar shall draw out in advance a detailed programme of land fixing the dates, on which the applications will be received for the grant of land and the date on which the applications will be considered and the like. Such programme will be "given publicity by beat of drum in the villages concerned, requiring the villagers to send their applications within the prescribed time. A copy of such programme shall also be displayed In the village chavdi; in the office of the Village Panchayat and in the office of the Tahsildar. On the day, fixed in the programme published, the Tahsildar may after making such enquiry as he deems fit, dispose of land III consultation with the representative of the Village Panchayat concerned

(e) The grantee shall hold the land as Occupant Class II and shall not mortgage, sell, assign or otherwise transfer the land or any portion thereof except with the prior permission of the Collector.
(f) The occupancy price should be charged as follows:

(g) The occupancy price of the land at Rs. 10 per acre minimum, and it should vary from Rs. 11 to Rs. 50 per acre according to the situation of the land (viz., the nearness to the Industrial area); and 50 per cent of the reclamation cost.

(h) The occupancy price should be recovered in not more than 5 installments; recovery of the first installment starting two years after the disposal of the land;

(i) The land shall be revenue-free for the first three years and the full assessment shall be charged with effect from the 4th year;

(j) The grantee shall be liable to pay khar bandisti Akar and Sinking Fund in respect to the land from the completion of the bund till the disposal of the land to him.

(k) The grantee shall carry out the inner developments such as removal of shrubs, levelling, demarcation, putting sweet oil manure etc., within one year; make the land fit for cultivation within two years; and shall maintain it in an improved and reclaimed State.

(l) The grantee shall be liable to be cancelled for breach of any of the above conditions and the land resumed to Government, without payment of any compensation.

78. Agricultural land held as Occupant Class II i.e., on restricted tenure may be permitted to be transferred by way of either sale or mortgage or gift in accordance with the following orders:

(A) Sale of Land

Application for permission to sell land should be entertained by the Collectors for recommendation to Government very sparingly and after examining the merits of each case. Normally, such application will be considered by
Government in the following types of cases provided that the purchasers are in all cases agriculturists only, except in the case of sub-paragraph (iv) below:

(i) If the occupant has held the land for more than ten years and has improved it but cannot or does not wish to cultivate it e.g., he leaves the village containing the land and resides away from it or ceases to be a cultivator, etc;

(ii) If the land was forfeited from a person occupying it as occupant Class I for non-payment of assessment as a result of genuine inability to pay and then regranted to him as Occupant Class II free or on payment of nominal occupancy price, thus ensuring that the land will not fall into the hands of sahukars, etc.

(iii) If the occupant desires to sell his land to a public utility concern;

(iv) If the occupant desires to sell his land under special circumstances e.g, he is too ill or too old or too young or too weak to cultivate it or if the occupant is a lady who cannot cultivate personally either because of her social habits or because she has to reside with her husband away from the land, etc. and does not want to get it cultivated by hired labour or with the assistance of relatives etc.

Cases not falling in the aforesaid types should be submitted to Government for orders through the Commissioner, with self-contained report stating the facts and circumstances of each case including the area of the land, its assessment present market value, occupancy price paid by the original holder, nature and present value of improvement made by the holder, area of the purchaser's holding etc. The proposals should also indicate whether occupant should should not be asked to sell to the occupant of the adjoining survey number, or whether purchaser should or should not be allowed to hold the land as Occupant Class II or whether Government should share the sale price with the alienor etc. 'I'he Commissioners should scrutinise the Collector s proposals and forward them with their remarks to Government only if they consider that the permission applied for should be
granted. Cases in which the Collectors and the Commissioners are of the opinion that permission asked for cannot or should not be granted having regard to the circumstances thereof, and the known policy of the Government, need not be forwarded to Government but the applicants should be informed that their requests cannot be complied with for reasons to be specified.

Permission to be granted to the occupants to sell the agricultural lands held as occupant class II should be invariably on the condition, inter alia, that the holder (alienor) shall pay to Government, an amount equal to 50 per cent of the net unearned income i.e., 50 per cent of the difference between the sale price and the original price paid to Government plus the present value of the improvements made in the land by the holder.

(B) Gift of Land

The occupants applying for permission to gift away their lands to individuals or institution for being used for public and charitable purposes other than purely religious purpose may be permitted to do so on the condition that the alienee, agrees in writing in the proper legal form use the land for the purpose for which it is gifted and to let Government forfeit the land without payment of any compensation after giving three months notice of forfeiture, if it is unauthorisedly used for other purposes.

The Collectors/Sub-Divisional Officers are authorised to grant permission to the occupants class II to gift away their lands to their near relatives promise to cultivate the lands personally, provided that there are no legal heirs claiming the properties or the legal heirs have no objection to the lands being away.

Gift of lands held as occupant class II in favour of Bhoodan Samiti.- The gift of agricultural lands held as occupant class II should be allowed in favour of Bhoodan Samitis recognised by Acharya Vinoba Bhave or Sarva Seva Sangh and a re-transfer by the Bhoodan Samitis of such lands in favour of the landless persons or persons having insufficient lands, should be permitted. The lands will continue to retain their restricted character.
The Tahsildars are authorised to dispose of (i) applications from occupants class II to gift their lands to Bhoodan Samitis or (ii) applications from Bhoodan. Samitis to re-transfer such lands to landless persons or persons having insufficient lands.

**(C) Mortgage of Land**

No occupant should be allowed to mortgage land held as Occupant Class II to individuals or institutions except to the Registered Co-operative Societies the Nationalised Banks, the Maharashtra State Financial Corporation etc., as provided, in sub-section (4) of section 36 of the Maharashtra Land Revenue Code, without the previous approval of Government which should be obtained by the Collectors by submitting self-contained reports through the Commissioner and by supplying all relevant information to Government for the purpose.

**(D) Transfer of Lands by the Members of Scheduled Tribes.**

Complaints have frequently been made to Government that there are large scale transfers of lands belonging to the members of the Scheduled Tribes in favour of other persons under section 36 (2) of the Maharashtra Land Revenue Code, 1966 the Collector is empowered to grant permission in all cases of transfers of land is belonging to the members of Scheduled Tribes in the notified areas With a view to safeguard the interests of the members of Scheduled Tribes, it would be necessary that permission to transfer of land is granted sparingly and in only genuine cases. In no case permission should, therefore, be granted for transfers of lands under section 36 (2) of the Maharashtra Land Revenue Code without the prior approval of Government. The mutations in respect of transfers made in contravention of the provisions of sub-section (2) of section, 36 should not be certified and the name of transferees should not be entered in the record of rights.

**Conversion of Tenure**

79. Applications for converting the tenure of land held as Occupant Class II into Occupant Class I should be granted only if the conversion is intended for
constructing a substantial building for residential or industrial purposes. (The purpose underlying these instructions is that the conversion of tenure is sought by occupants for construction of building for their own bonafide residential, or industrial purposes and not for subsequent disposal of the land to others.)

Such applications should be disposed of finally by the Commissioners but care should be taken to see that only in genuine cases, the applications are sanctioned subject to the terms and conditions stated below:

(i) If the purpose for which the application was made is not fulfilled within a reasonable time the land will be liable to be forfeited to Government without compensation and after giving three months notice of forfeiture.

(ii) The applicant should pay as conversion value a sum equal to the present market price of similar land minus three times the assessment or the occupancy price originally paid by him or by his predecessor-in-title and minus the present value of the improvements made upto the date of conversion.

So far as Vidarbha area is concerned, the rules regarding permission to the persons holding land in Bhumidhari rights who are classed as occupants class II and desire to be included in occupants class I are contained in the Maharashtra Land Revenue (Inclusion of Certain Bhumidharis in occupants class I) Permission Rules, 1968. (See Revenue Book Circular No.6).

80. Breach of conditions.-In cases where occupants have violated any of the vital conditions attached to the grant of land as occupant class II, the Collectors should invariably forfeit the land in accordance with the condition of the grant agreement sanad certificate and dispose of it in accordance with the rules regarding disposal of land for agricultural purposes. Provided that in the case of an occupant belonging to the backward classes, the land should after forfeiture, be regranted to him on payment of a nominal occupancy price of rupee one per holding provided
that the violation of the conditions was the occupant's first mistake unless the Collector considers that an outright grant to the occupant is inadvisable and that it would be preferable to lease the land to him on eksali basis on payment of rent equal to one assessment for two or three years and thereafter to grant the land as occupant class II, if the lessee's conduct proves satisfactory.

In cases where occupants belonging to non-backward classes have violated any of the vital conditions attached to the grant of land as occupant class II, the Collector should forfeit the land but regrant it as occupant class II on payment of an occupancy price to be fixed by the Collector having regard to the circumstances of the grantee and the facts of the case, provided that the land is needed by the occupant for the maintenance of his family and also provided that the violation of the condition was the occupant's first default unless the Collector considers that an outright grant to the occupant is inadvisable and that it would be preferable to lease the land to him on eksali basis on payment of rent to be fixed by the Collector having regard to the circumstances of the lessee, for two or three years and thereafter to grant the land as occupant class II if the lessee's conduct proves satisfactory.

81. With regard to the regularisation of unauthorised sale of land held as Occupant Class II by the occupants belonging to non-backward classes 62½ per cent to 75 per cent of the net unearned income should be recovered. Before submitting such cases to Government the Collectors should see that notices are issued to the original occupants of the lands and their statements obtained in regard to the proposed regularisation. It should also be made clear as to which person whether the original occupant or the present holder is prepared to pay the percentage of the net unearned income. The Collector should also propose the percentage of the net unearned income (i.e., the difference between the sale price and the original price paid to Government plus the estimated cost of improvement made in the land by the original occupant i.e., (alineor) to be recovered, having regard to the circumstances of the case.
A breach of any condition attached to the grant of land as Occupant Class II which occurs in a year and continues for consecutive years undetected is to be counted as the first breach unless and until the occupant who is from Backward Class and is illiterate is kept informed of it in specific terms.

Whether the breach is first or second should be decided with reference to the person i.e., the occupant committing it and not with reference to the land in respect of which it is committed.

**Exchange of lands held as occupant class I and occupant class II.**

82. Applications from occupants of land held as Occupant Class II for exchange of their lands with other lands held either as Occupant Class I or as Occupant Class II should be entertained and disposed of by the Sub-Divisional Officers. In order to enable the Khatedars to have as far as possible compact block of land for cultivation, the exchanged lands may be allowed to be held on the same tenure on which the land given in exchange was held, e.g., where land held as Occupant Class I is being exchanged with the land held as occupant Class II, the holder of Class I occupancy should, after exchange hold the land taken in exchange as Occupant Class I.

**Breach of condition to grow food crops.**

83. In cases where lands have been granted for cultivation on the condition that only food crops should be grown on the entire area, cases of breach of this condition should be dealt with leniently and the condition should be deemed to have been satisfied if food crops were grown in not less than two-third area of land.

**Building plots granted as Occupants Class-II.**

84. With a view to encourage building activities, the Collector should freely grant permission for sale of non-agricultural plot held as Occupant Class II on payment to Government of "premium" equal to 50 per cent of the difference between the sale price to be approved by the Collector, and the original price paid to Government plus the present value of improvements made in the plot by the grantee. Other conditions not affecting alienability
subject to which the plot was originally granted shall remain intact after such sale.

85. The Collector should give permission for conversion of the tenure of non-agricultural plot from occupant Class II into occupant Class I on payment to Government of "premium" equal to 60 per cent of the difference between the present market value and the occupancy price originally paid, plus the present value of improvements made in the plot by the grantee, except in the case of property held by the commercial or industrial concerns from whom normally a share upto 65 per cent to 75 per cent of the difference may be charged. The conditions other than the restricted tenure conditions, subject to which the plot was originally granted shall remain intact.

86. The Collector should sanction regularisation of the unauthorised sale of non-agricultural plots helds as occupant Class II, by charging 65 per cent to 75 per cent of the difference between the sale proceeds and the original price paid by the grantee plus the value of the improvements made in the plot by the grantee. The Collector should fix the percentage difference between 65 per cent to 75 per cent having regard to the circumstances and facts fo individual cases. The conditions subject to which the plot was originally granted shall remain intact on regularisation of such unauthorised sales.

87. In view of the difficulty of procuring iron, steel etc, the Collector should extend the time limit for the construction of a building on non-agricultural plot and condone breach of building conditions with reference to following principles :-

(a) Where the building could not be completed, within the stipulated period for reasons beyond the control of the grantee such as natural calamities etc. the building period may be extended by not more than two years on imposing a penalty equal to twice the non-agricultural assessment payable in respect of the plot at the time of its grant.

(b) Where it is established that the default is not for reasons beyond the control of the grantee and where difficulties are financial and the
grantee is unable to establish that he can solve the difficulties within a year or two the plot should be resumed and regranted to him on payment of difference or the present market value and the occupancy price originally paid or 10 times the non-agricultural assessment to be determined with reference to the market value prevalent at the time of regranted whichever is greater.

(c) Where the difficulties are soluble within the period mentioned in (b) above, the building period may be extended by not more than two years subject to the grantee agreeing to pay a penalty equal to 8 times the non-agricultural assessment payable in respect of the plot at the time of its grant or offering an acceptable surety for payment within a period of two years. In addition to personal surety the grantee should hypothicate the property with the Government.

(d) In other cases (i) where it appears from the circumstances of the case that the grantee has put in substantial efforts to develop the plot, the period should be extended by not by not more that two years but restricted to the period actually required subject to the grantee paying a penalty equal to 10 times the non-agricultural assessment payable in respect of the plot at the time of the grant, (ii) where the grantee has put in no efforts at all or the progress is not substantial, the plot should be resumed and regranted on payment of 10 times the non-agricultural assessment (to be calculated on the basis of the occupancy price of the plot at the time of its grant plus half the incremental value) or premium enqual to 20 times the non-agricultural assessment payable in respect of the plot at the time of the regrant, whichever is greater.

It can be assumed that in every case the grantee will try to obtain from the Collector the most favourable treatment. The burdon of proof must in all cases lie heavily on the grantee and the statements of the grantees should be accepted only on clear and strong evidence whether documentary or circumstantial.
88. The orders contained in paras. 84, 85, 86 and 87 above do not apply to the cases in which lands are granted either free of occupancy price or at a concessional occupancy price. The cases of permission to sell or conversion of tenures into old tenure of such plots and also of breaches of new tenure condition should, however, be submitted to Government for orders through the Commissioner concerned.

89. Cases not covered by the orders contained in paras. 75 to 85. should be submitted by the Collectors to Government for orders through Commissioner concerned, if the consider that deviation from the standing orders is necessary having regard to the peculiar circumstances of individual cases.

90. Lands Were granted for housing sites to poor displaced persons for their rehabilitation, on lease for 30 years subject to the specified conditions and on restricted tenure. Such lessees should be permitted to convert their lease-hold house sites into permanent grants by the Collectors, on payment of full occupancy price and non-agricultural assessment at the rates current in the locality and subject to such other conditions as may be laid down by the Collector according to general or special orders of Government. Such permissions in respect of the lands comprised in the Housing Programme should be granted by the Collectors in consultation with the Housing Commissioner.

91. With a view to ensure that all available lands are judiciously used for genuine and bona fide requirement and no land in excess of the actual requirement is granted Government has directed that whenever demands are received for grant of Government lands, the Collectors should scrutinize such demands very carefully and satisfy themselves that the area of land demanded or proposed to be granted in each case is reasonable, considering the genuine and bonafide requirements of the industrial or other concerns, their immediate and future development plans, financial capacity and other relevant aspects. In future the requests for grant of lands made by those industrial) or other concerns, which have already
been granted lands in the past, should be scrutinised with special care keeping in view the scope for conservation of the area already granted to or acquired for or by them. The; proposals for grant of Government land in Bombay Suburban District, Thana and Kolaba Districts and in respect of any area within two miles on either side of Bombay-Poona Road should be referred invariably to Government in Revenue Department which will invariably consult the Industries and Labour Department in taking a decision.

Lands included in industrial areas of town planning schemes should not be proposed for other purposes.

92. Concession in occupancy price in the disposal of land for agricultural purposes is restricted to virgin lands only. The land which was virgin at the time of its initial disposal on lease should be treated as virgin for the purpose of fixation of occupancy price when it is subsequently granted permanently to the original lessee who brought it under the plough. However, in case the permanent grant of such land is made to a person other than the original lessee who brought it under plough, it should not be treated as virgin land for the purpose of fixation of occupancy price.

93. Where it has been decided to dispose of any land which has been acquired for any purpose under the provisions of the Land Acquisition Act, 1894, but which for any reason has not been used for such purpose and has become available for disposal by the State Government, it need not necessarily be restored to the person or persons from whom it was originally acquired, or such of them as may have been chiefly interested therein, or to their representatives in interest unless the person concerned is a landless person or is in receipt of income not exceeding Rs. 1,800 per annum from the other sources in which case it may be granted to such landless person or persons with low income, for an Occupancy price equal to the amount of compensation paid for acquiring the land or the present market value of the land, whichever is more. Such lands, if they are not granted to original
occupants, should be disposed of in accordance with Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971.

94. In the cases in which Government lands have been leased for a fixed period, Government has directed that the concerned Revenue Officers should issue notices to the lessees well in advance of the expiry of the lease period and submit the case to the sanctioning authorities. Cases in which Government sanction is necessary should be submitted to Government by the Collectors / Commissioners with their recommendations.

95. Under section 22 of the Land Revenue Code, the Collectors can assign Government lands for public purposes including Government purpose subject to the general orders of the State Government. It is accordingly directed that the Collectors of the Districts should assign adequate areas of available Government lands for the purposes of the different Departments of the State Government on the applications either from the Regional Heads of the different Departments or such other representative duly authorised by the concerned Departments to make applications on behalf of the Regional Heads, and should transfer such assigned lands in the names of the Departments concerned. It should, however, be made clear in the assignment orders-

(i) that the lands are to remain in the possession of the Departments so long as they are required for the purpose for which these were assigned and that they are not to be transferred or sold or leased to private persons or any other Department of the Government without the prior approval of the Collectors; and

(ii) that whenever such lands are not required by the Departments, such lands should be relinquished to the Revenue Department, for disposal in accordance with the provisions of the Maharashtra Land Revenue Code, 1966 and the relevant rules made thereunder.

Disposal of surplus lands taken over under the Ceiling Act
96. Under section 21 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 the Collector may declare, by issue of a notification, surplus area of land in respect of individual holding. The land so declared vests in the State Government. While granting such surplus land, the Collector or the Officer authorised in that behalf has to offer the same to the persons in the following order of priority:

(i) Where the surplus land belonged to a person who at any time before the appointed day (i.e., 26th January 1962) by resuming land from his tenant for personal cultivation under any Tenancy Law has rendered that tenant.

(ii) Where the surplus land is situated within the area benefited by any irrigation project such area being notified in the official gazette by the State Government) the surplus land shall next be offered to the person who is rendered landless or whose land is reduced to less than one-sixth of the ceiling area by reason of acquisition of any of his land for that project.

(iii) Where as a result of the acquisition of his land for a public purpose, any person has been rendered landless or his land is reduced to less than one-sixth of ceiling area, the surplus land shall then be offered to him.

(iv) Thereafter all surplus land including surplus land which has not been granted under priorities i, ii and iii above shall be offered in the following order of priority:

   (i) a person from whom any land has been resumed by his landlord for personal cultivation under any tenancy law and who is in consequence thereof has been rendered landless, provided that such person is the resident of the village in which the surplus land for distribution is situate, or within 8 kilo metres thereof;

   (ii) a joint farming society, the members of which answer to the one or more of the following descriptions, namely-

      Agricultural labourer or landless person or small holder;
(iii) a farming society, the members of which answer to the one or more of the following descriptions, namely—

Agricultural labourer or landless person or small holder;

(iv) ex-servicemen who have no land of their own, but are capable of cultivating land personally;

(v) agricultural labourers;

(vi) landless persons;

(vii) small holders.

In case it is necessary to select one or more grantee from persons having the same order of priority the selection has to be made by drawal of lots.

It should be ensured that as far as possible the total land held by the person after granting the surplus land, does not exceed one-sixth of the ceiling area.

The grazing land forfeited or vested in Government under the provision of the Ceiling Act is to be disposed of by the State Government in such manner as it thinks fit.

The occupancy price payable by the grantee should be equal to the amount of compensation calculated under section 23 of the Act for that land irrespective of the actual amount of compensation awarded therefore and can be paid by such grantee in not exceeding fifteen annual installments. The first installment of the occupancy price can be paid within two years from the date of taking possession of the land and the remaining before the due date. Simple interest of 3 per cent annum should be charged on the unpaid amount of occupancy price which will be paid by instalments.

97. The following procedure is prescribed under the rules while granting surplus lands:
(i) After the land is declared to be surplus the Collector or the authorised officer has to issue a public notice giving details of the surplus land and calling upon the person and bodies in the priorities mentioned in the preceding form for grant of such land. This public notice has to be published in the village in which the surplus land is situate and also in the village within the notice should be affixed on the notice board in the office of the Collector or the authorised officer the Tahsildar the Village Panchayat and in the Village Chavdi.

(ii) After the expiry of the notice period the Collector or the authorised officer has to scrutinize the application received by him and draw up a provisional statement in the prescribed form indicating each land and the applicants therefore who are aloe eligible for the grant of that land. This statement along with a notice should again be published calling upon all persons concerned to submit within one month their objections or applications for grant of land in respect of which no applications were received. Apply of the provisional statement should also be sent to the District Deputy Registrar of Co-operative-Societies) who after making necessary inquiries forward within one month, his suggestions or recommendations regarding suitability or otherwise of the Joint Farming or Farming Societies which have applied for the land;

(iii) After the expiry of the period of one month the Collector or the authorised officer has to consider objections, new applications and the suggestions or recommendations from the District Deputy Registrar of Co-operative Societies and after holding necessary enquiry has to draw up a final statement in the prescribed form indicating therein each land and the applicants therefore.

(iv) The Collector or the authorised officer has then to publish the final statement along with a public notice in the prescribed form Informing all persons included in that statement and also other interested persons the time, place and date (which shall be 15 days of after the publication of the aforesaid notice) on which the land shall be granted and resuming them tobe present on that occasion.
(v) On the date fixed the Collector or the authorised officer has to select in the presence of all persons present, persons for grant of land in the following manner:

(a) if there is only one applicant who has applied for any particular land, the land shall be granted to him;

(b) if there are more than one applicant in respect of the same land, the land shall be granted to the person having the highest order of priority;

(c) if there are more than one applicant having the same order of priority in respect of the same land, the land shall be granted after drawing lots;

(d) the land for which no application has been received shall be offered to persons who are present and eligible for the grant which shall be made to a person having the highest order of priority and who is willing to accept the land.

(vi) If the person refuses to pay the occupancy price for the land granted to him, then it shall be offered to any other person who had applied for previously for the grant and is prepared to pay the occupancy price. If, however, there are more than one offers for the aforesaid land, the person having highest order of priority shall be granted the same subject to the clause (c) above.

(vii) While selecting a person for grant of land by lots, the Collector or the authorised officer should in the presence of the applicants concerned and all other interested persons present:

(a) prepare as many identical slips of papers as there are applicants for the land;

(b) write the name of each applicant on a separate slip on one side and fold all such slips in identical manner so as to completely enclose the name written thereon;
(c) place all the slips in an empty box of a suitable size, and thoroughly mix them by shaking the box;

(d) ask one of the applicants or any other person who may be present to draw from the box with hand but without looking at the box, one of the folded slips in the box.

The applicant whose name appears on the slip so drawn is eligible for the grant of land.

(viii) The grantee should be granted certificate in the prescribed form in respect of lands situated in the Vidarbha region. In other regions an agreement should be got executed from the grantee in the prescribed form.
REVENUE BOOK CIRCULAR No. 4

Subject - Trees

I. General Principles and provisions of the Code

1. With the introduction of the Maharashtra Land Revenue Code with effect from 15th August 1967, the right to all trees of whatever species standing or growing in Malki lands vests in the holder thereof; while the right to the trees in Government lands vests in the State Government.

2. Sections 25 to 28 of the Maharashtra Land Revenue Code, 1966 contain provisions relating to trees. Section 25 of the Code deals with the trees in occupied lands. Under sub-section (1) of the said section, the right to all trees standing or growing on any occupied land, vests in the holder thereof. The State Government can, however make rules for prohibiting or regulating cutting of certain trees for preventing erosion of soil.

3. In Vidarbha there were cases wherein the ownership of trees in a holding vested in a person other than the holder. Under the Ex-M.P. Land Revenue Code, a provision was made to the effect that a tenure holder can purchase the other persons right to trees standing in his holding. This right of the tenure holder has been saved under sub-section (2) of section 25 which provides that the occupant may apply to the Collector to fix value of the right of trees standing in his holding and purchase the said right through the Collector.

4. When the Maharashtra Land Revenue Code Bill was published the provisions contained in section 25(1) about conceding the right of Government over the trees standing in the holding were made known to the public. It was brought to the notice of Government that in anticipation of vesting of such rights many occupants particularly Adivasis and ignorant occupants, entered into an agreement to sell their rights on the trees standing in their holding to some timber merchants or contractors at a very nominal price. The Adivasis were thus being exploited by these merchants or contractors not paying the adequate price of the trees the right to which was being conceded to them by Government. With a view to ensure that these Adivasis and other ignorant
occupants may not be deprived of the rights granted to them a provision is made under sub-section (3) of section 25 to the effect that any sale or agreement for sale of trees made by any person before the commencement of the code in anticipation of vesting of trees in them shall be void.

5. Section 26 of the Maharashtra Land Revenue Code, deals with trees brushwood jungle or other natural products standing or growing in Government lands or lands set apart for forests reserves under section 22. It says that the right to such trees brushwood jungle or other natural products shall vest in the State Government and such trees etc. shall be preserved or disposed of in accordance with the rules made in that behalf.

6. Section 27 of the Maharashtra Land Revenue Code, deals with penalty for unauthorised removal of trees etc. Vesting in Government. The penalty prescribed is the value of the trees so appropriated in addition to any penalty to which the person may be liable under the provisions of the Code for occupation of the land or otherwise. Criminal proceedings may also be instituted against the person for appropriation of Government property.

7. Section 28 of the Maharashtra Land Revenue Code provides for regulation of cutting and supply of wood etc. It applies to the waste lands outside reserved forests. The villagers in general can take firewood and agriculturists can take such wood as may be required for agricultural implements without payment of any tax. Sub-section (2) of section 28 provides for regulating the exercise of the existing privileges of villagers to cut firewood or timber for domestic or other purposes.

II. (a) The provisions of rules called the Maharashtra Land Revenue (Regulation of Rights to Trees etc.) Rules, 1967, made under section 25 of the Code.

8. No tree within 30 metres of the extreme edge of the bank of any water course, spring or a tank shall be cut without the previous permission of the Collector.

9. No trees in any holding containing unculturable land or land in which economic cultivation of field crop is not possible shall be cut without the
previous permission of the Collector if the tree growth in holding is less in proportion than twenty trees per acre.

10. Any person committing breach of the provisions mentioned in the preceding two paragraphs shall in addition to any other consequences that would ensue from such breach be punishable with such fine not exceeding Rs. 1,000 as the Collector may after giving such person an opportunity to be heard deemed fit to impose.

11. The water course referred to in para 8 above includes all streams, rivers rivulets and nallas in which water is collected during the monsoon or otherwise and which usually retains water up to the end of December, but does not include small temporary channels formed by the run off of water during the monsoon.

12. If any question arises whether any tree is within 30 metres of the extreme edge of the bank or any water course etc., or whether any holding contains any unculturable lands or land in which economic cultivation of field crop is not possible such question shall be referred to the Collector for his decision.

13. On an application made for permission to cut trees, the Collector may permit cutting of the trees of the following nature :-

   (i) the trees or parts thereof which are likely to cause any harm or damage to life or property or that there is likelihood or pollution of drinking water; or

   (ii) the dead or dying trees; or

   (iii) if the removal of trees is in the best interest of the holder for the production of food crops which may be getting a set back by the shade of such trees on culturable land under regular food crops.

14. An occupant desiring to purchase the right in trees in his holding and to fix value of such right under sub-section (2) of section 25, has to make an application to that effect to the Collector specifying the number and species of trees, and the name of person in whom right in the trees vests. The application...
is to be accompanied by a copy of field book pertaining to the holding or a copy of an extract of any other document which purports to show the existing rights in the trees.

15. On receipt of such application the Collector has to give notice to all persons in whom the right in the trees vests and issue a proclamation calling upon the person interested to lodge their objections if any. On the day fixed for the hearing the Collector has to examine the parties and hear any evidence that may be produced and record an order specifying therein:-

(i) the number and description of trees;

(ii) the value of the rights; and

(iii) the period, which shall not be less than 30 days, within which the value so fixed shall be paid and the persons whom it is paid by the occupant.

If the occupant fails to pay the amount as ordered by the Collector, the Collector has to assess the cost incurred for issue of notice and proclamation and for conducting the enquiry and shall recover the same from the occupant.

16. If the occupant pays the amount as ordered by the Collector and produces a receipt of such payment the Collector has to send a copy of the order regarding purchase of right of trees by the occupant to the Talathi for making necessary entries in the land records.

II. (b) Provisions of rules called the Maharashtra Land Revenue (Disposal of Government Trees, Produce of Trees, Grazing and other Natural Products) Rules, 1969 made under section 26 of the Code.

17. Where any trees belonging to the State Government are to be sold under section 26, the sale shall be by public auction or otherwise as the Collector in consultation with the Conservator of Forests directs. Brush-wood, jungle or other natural product such as lac, honey, gum resin, catacha and the like growing on land belonging to Government may be sold by the Collector by public auction either for a period of one year or for any term not exceeding five years.
18. The grazing of unoccupied land other than that assigned under section 22 or included in the Nistar-Patrak prepared under section 161 may be disposed of by public auction by way of lease or otherwise year to year or for any term not exceeding five years to any person as the Collector deems fit either field by field or in tract on the following conditions, that-

(i) the land shall not be brought under cultivation;

(ii) such person shall be entitled to charge such grazing fees as he may with the previous sanction of the Collector fix;

(iii) every resident or cultivator of the village shall be permitted to graze cattle on payment of aforesaid fees.

(iv) Such person shall have no right in trees and forest products standing on such land;

19. The right of grazing conferred under the preceding paragraph may be cancelled if such person commits any breach of the aforesaid conditions or fails to pay the lease money on the due date or if a majority of the persons grazing cattle on the land desire it. The cancellation order should take effect from 1st of June next following the date of such order.

20. If no one offers to take the land for the purpose of grazing or if a majority of the people in the village concerned declare that the land is not required for grazing the Tahsildar shall direct the land to be recorded as land available for cultivation.

21. The Collector may delegate his powers under these rules to Sub-Divisional Officer and Tahsildar in the district.

II.- (c) Provisions of rules called the Maharashtra Land Revenue (Regulations of Cutting and Supply of Wood etc.,) Rule, 1970 made under section 28 of the Code.

22. The inhabitants of village in general may take wood for fuel and agriculturists may take such wood as may be required for agricultural implements, without payment of any tax from trees standing in any waste land
outside any reserved forest. But for this purpose the following trees shall not be cut or lopped except with the permission of the Sub-Divisional Officer:

(i) trees required for shade or any public purpose;
(ii) road side trees, tree in groves and trees around places of encampment ground declared as such any the Collector;
(iii) teak, black-wood, sandal wood tiwas khair hirda and mango.
(iv) Trees within 30 metres of the extreme edgw of the bak of any water course spring or tank;
(v) Trees, the cutting of which is prohibited under any law for the time being in force;
(vi) Such other trees as may from time to time be notified by the Collector in consultation with the Conservator of Forests concerned.

Any person committing a breach of the aforesaid conditions shall be liable to a fine not exceeding two times the value of the wood cut or lopped.

23. In respect of trees standing in lands assigned under section 22 for forests reserves the Collector after making necessary enquiry shall ascertain and record the existing privileges of the villagers or certain class of persons to cut fire wood or timber for domestic or other purposes. The Collector may issue instructions to the village officers with regard to the time and mode in which the privileges so recorded be exercised by the villagers. Such instructions should be given due publicity in the village.

24. No cultivable waste land should be permitted to be used exclusively for plantation of trees. Exclusive plantation of trees should be allowed only on inferior waste land not fit for cultivation. The number of trees to be reared should be decided by the Collector of the District concerned in consolation with the District Agricultural Officer of District Forest Officer, having regard to the natural factors for raising trees.
25. With a view to encouraging private persons to plant trees at their own expense in land set apart for the common use of the village in Government unassessed waste land and in reserved forest in charge of the Revenue Department permission may be granted to the persons applying for it subject to certain conditions. The following instructions in that respect should be followed:

(1) Before planting is undertaken, the permission of the Tahsildar shall be obtained.

(2) On receipt of applications for permission the Tahsildar shall ascertain by local enquiry whether there is any objection to permission being granted. In case of doubt especially when the land is reserved forest in charge of the Revenue Department or already contains trees of any value which are the property of Government the cases shall be submitted for the orders of the Sub-Divisional Officer/Collector.

(3) In case of permission being granted a permit shall be given to the applicant stating precisely the extent situation and boundaries of the land in which he is permitted to plant trees setting forth the conditions specified below:

(i) No right title or interest over the land permitted to be used for planting shall be granted to the permit holder;

(ii) The permit holder shall be allowed to erect a fence which may be necessary for the purposes of protecting the trees planted by him;

(iii) The usufruct and the timber of the trees i.e. the leaves twigs, flowers, fruits and branches of the trees and trees themselves when fallen or felled shall be given entirely free to the permit holder;

(iv) Power to remove the trees when necessary without claim to compensation shall be reserved to Government trees so removed being given free to the permit holder under clause (iii) above;
(v) The permit shall be subject to cancellation if the trees are not planted in accordance with the permit within a reasonable time to be fixed in the permit and thereafter if they are not in the opinion of the Tahsildar properly tended and kept. When a permit is cancelled any trees that may be on the land shall be given to the permit holder under clause (iii) above or shall be forfeited to Government as the Tahsildar shall direct.

(4) The records of such permissions should be carefully maintained in each village and corrections should be made in it where necessary.

(5) The trees to be planted should be from the list of the trees approved by the Agriculture Department.

(6) The permit or sanad for plantation of trees on open spaces and waste lands vesting in Village Panchayats will have to be issued by the Village Panchayats and not by the Tahsildar/Sub-Divisional Officer.

26. All uncultivable lands including stony and murum lands and hills and hill slopes belonging to Government (excluding those vesting in the Forest Department, Village Panchayats and Zilla Parishads) which are not required for industrial building housing or any public purpose should be given for planting trees on 30 years lease and on payment of nominal rent to the Gram Panchayats, Co-operative Societies, Educational institutions and other public and social bodies. The strips of lands lying between the public roads (vesting in the Buildings and Communications Department) and fields should be given for planting trees to the owners of adjoining lands and only if they refuse the lands should be granted to others. The lands to be so leased should be clearly demarcated and a sketch thereof should be attached to the lease agreement.

It should be specifically mentioned in the lease that lands mentioned above are given solely for the purpose of planting trees and they would be liable to be resumed without payment of compensation if they are not used for that purpose or if the lessee fails to plant sufficient number of trees within a period of 3 years. The trees and their produce should belong to the lessees but they should be prohibited from cutting the trees except with the prior
permission of Collector and the lands should be liable to be resumed if such permission is not obtained. The lease should contain such additional terms and conditions, as the Collector may deem fit.

27. Under sub-section (1) of section 25 of the Maharashtra Land Revenue Code, 1966 the right to all trees standing or growing thereon vests in the holder thereof. The holder here is the person who has the largest interest in the land i.e. the occupant.

    Under section 32 of the Bombay Tenancy and Agricultural Lands Act, the tenant is deemed to have purchased and land on 1st April 1957. This provision is subject to other provisions contained in the succeeding sections and in the event of the tenant purchaser failing to pay the purchase price the purchase becomes ineffective and the land remains at the disposal of the Agricultural Lands Tribunal under section 32-P of the said Act. However for all practical purposes the tenant has the largest interest in the land and the right of the landlord is confined to getting the purchase price. Tenant purchaser should, therefore be deemed to be the occupant for purposes of section 25 of the Maharashtra Land Revenue Code.

    So far as Government lessees are concerned they are governed by the terms and conditions of the lease. Their interest in the land restricts only to the use of land for which it is leased to them and is therefore limited. They are therefore not entitled to the trees standing in the land leased out to them.

28. Sub-section (2) of section 25 provides that when the trees standing in and holding belong to a person other than the occupant the occupant can apply to the Collector to fix the value of the right to such trees and purchase the said rights. Rules 4 to 7 of the Maharashtra Land Revenue (Regulation of Right to trees etc.) Rules, 1967 prescribed the procedure according to which an occupant can purchase the trees in his holding right to which vests in another person. The provisions in rules 4 to 7 of the aforesaid rules apply only to the trees right to which vests in person other than the occupant and not to trees belonging to Government the rights to which have been conceded to the occupant under section 25 of the Code. No fees should be charged for cutting of such trees.
29. Although under section 25 of the Maharashtra Land Revenue Code the right to trees standing or growing on any occupied land has been conceded to the holders thereof the entries in 'other rights' column of the record of rights have not been corrected and these entries still indicate that the right to trees vests in Government. These entries are required to be corrected in accordance with the provisions contained in section 25 of the new Code. The Collectors should therefore get the necessary mutations under section 150 of the Maharashtra Land Revenue Code effected from the Talathis and ensure that the entries in the record-of-rights are corrected in accordance with the rules regarding record-of-rights.

30. In order to safeguard the interest of the ignorant Adivasis and to ensure that as far as possible these people do not sell their valuable rights to trees at a very low price Revenue Officers of the Social Welfare Department should persuade the Adivasis not to enter into sale transaction in respect of trees in their holdings for inadequate consideration and advise the Adivasis to take the help and guidance of local Forest Officers in the matter of fixing the price of trees. Local Forest Officers should give necessary help in the matter whenever they are approached for the purpose.

31. Restrictions on felling of trees or cutting of trees are of two kinds viz:-

(a) Those according to the rules viz., Maharashtra Land Revenue (Regulation of Right to Trees etc.) Rules, 1967 made under section 25 of the Maharashtra Land Revenue Code; and

(b) Those under the Maharashtra Felling of Trees Regulation Act, 1964.

As regards (a) the restrictions apply to all species of trees but only under circumstances mentioned in the Rules. If the circumstances mentioned in the Rules do not prevail no permission for cutting of felling of trees is required. If the permission is required but the cutting is done without obtaining prior permission penalty can be imposed. The said rules prohibit felling of any tree standing within 30 metres of the extreme edge of the bank of any water course. No tree in any holding containing uncultivable land or and in which economic cultivation of field crop is not possible shall be cut without the
previous permission of the Collector, if the tree growth in that holding or part of the holding is less than 20 trees per acre. Action to levy penalty should be taken if a breach of the said rules is noticed. A person committing breach of the conditions mentioned in the rules is punishable with such fine not exceeding one thousand rupees as the Collector may decide. In order to avoid any confusion and inconvenience to the persons desiring to fell a tree and to have proper co-ordination among the Revenue and Forests Department Staff the Revenue Officers should forward copies of the orders about grant of permission to fell trees to the concerned Forests Officers.

As regards (b) the Maharashtra Felling of trees (Regulation) Act, 1964 extends to the whole of the State but excluding the urban area and the local area. The urban area has been defined in section 2 (g) of the said Act. The local area has been specified under the Government Notification Revenue and Forests Department, No. TRS-1060-44404-B, dated 11th May 1966. The Felling of Trees Act applies only to 'Hirda' and 'teak' Trees. These trees cannot be cut without the permission of the Revenue Officers (Under Government Notification, Revenue and Forests Department, No. TRS-1068-105263-B dated 23rd July 1968, Sub-Divisional Officers are empowered to grant or refuse permission to fell trees under the Felling of Trees Act). The trees cut without permission can be forfeited to Government. Action to be taken will depend upon the kind of trees cut and when they were cut and whether with or without permission. In this connection it should be noted that according to the existing provisions of the Felling of Trees Act, if the Revenue Officers fails to inform the applicant of his decision within forty days from the date of acknowledgement of the application or from the date of receipt of the application if the application is not acknowledged the permission applied for shall be deemed to have been granted. It should also be noted that according to the proviso to sub-section (1B) of section 2 of the Felling of Trees Act, permission to fell a tree is not to be refused if the tree is dead diseased or wind fallen or if it has silviculturally matured or if it constitutes an obstruction to efficient cultivation. According to sub-rule (2) of rule 4 of the Maharashtra Felling of Trees (Regulation) Rule, 1967, the Revenue Officers may for ascertaining whether any tree is dead or diseased or windfallen or is
silviculturally mature consult any Forest Officer not below the rank of a Range Forest Officer. The Revenue Officer, should therefor consult the Forest Officers in order to prevent indiscriminate felling of trees. In order to avoid any confusion and inconvenience to the persons desiring to fell a tree and to have proper co-ordination among the Local Revenue and Forest Department Staff the Revenue Officers should forward copies of the orders about grant of permission to fell trees to the concerned Forest Officers. The Revenue Officers should also forward copies of the orders about refusal permission to fell trees to the concerned Forest Officers.

32. With a view to see that unnecessary hardships are not caused to the agriculturists seeking permission of the Collector for cutting of trees under the Rules made under section 25 (1) of the Maharashtra Land Revenue Code, 1966, viz., the Maharashtra Land Revenue (Regulation of Right to Trees, etc.) Rules, 1967 as amended up-to-date the following instructions should be followed :-

(i) Applications received for cutting of trees under the Rules made under section 25 (1) of the Maharashtra Land Revenue Code, 1966 referred to above should be acknowledged immediately by the Revenue Officers;

(ii) Collectors should dispose of these applications expeditiously and inform the applicant of his decision within a period not later than ninety days from the date of acknowledgement of the application or from the date of receipt of the application if the application is not acknowledged;

(iii) Applications should not be rejected without considering the merits because the period of ninety days as prescribed above is about to lapse. It should be noted that the period of ninety days is the maximum period and these applications should be disposed of finally well in advance of the time limit. Government will take a serious note of any delays or defaults or rejection of applications without considering the merits on the part of the Revenue Officers.

33. Section 27 of the Code, provides for penalty to a person who shall unauthorisedly fell and appropriate any tree or any portion thereof which is the property of the State Government. The penalty prescribed is the value of
the tree unauthorisedly felled and appropriated in addition to any penalty to which the person may be liable under the provision of the Code for the occupation of the land or otherwise. In this respect the following points were raised:

(i) It appears from section 27 that mere felling or mere appropriation of any tree which is the property of Government would not amount to breach of the provision and that it is only when such tree is felled and appropriated that the provisions of the section would be attracted.

(ii) That section 27 does not prescribed specific penalty for unauthorisedly felling and appropriating tree as mere felling or removing a tree would not amount ot occupation of land.

These points have been clarified by Government as under :

As regards (i).- Section 27 of the Maharashtra Land Revenue Code, 1966 is based on section 43 of the Bombay Land Revenue Code, 1879. In section 27 of the new Code, the same phraseology viz., "shall unauthorisedly fell and appropriate" is used. To come within the purview of the provisions, both felling and appropriation are not necessary. Such a requirement would lead to absurd result which are not intended by the Legislature.

As regards (ii).- The cutting of trees would involve occupation of land and empower levy of assessment and fine but much would depend on the facts of each case.
REVENUE BOOK CIRCULAR No. 5

Subject.- Principles of Alluvion and Diluvion.

II. - General Principles and provisions of the Code

(A) Alluvion

Alluvion means accretion of land from the bed of river or sea by gradual, slow and imperceptible means through the silting of ooze, soil, sand or other matters. Under the Roman Law, such accretion was deemed to fall to the proprietor of the land to which it became attached. The same principle was incorporated in the English Law and the land so formed is held to accures, even as against the Crown as Lord of the Foreshore, to the owner of the adjacent soil. This principle of alluvion is adopted in the Maharashtra Land Revenue Code, 1966 in a slightly modified form. According to the provisions of the Code, alluvion vests in the State Government subject to the right of the riparian owner. This principle, however, does not apply when the accretion is sudden due to the change of the course of river or by violent avulsion. In such a case, except the bed of the river, the land belongs to the original owner.

2. Sections 32, 33 and 65 of the Maharashtra Land Revenue Code, 1966 contain provisions relating to alluvial lands. Sections 33 provides that the riparian or the adjacent owner shall be entitled to the temporary use of the alluvial land until the area thereof exceeds one acre, (i.e. 0.405 hectare). If the area exceeds this limit, the alluvial land is to be disposed of to the riparian owner (if he so desires) at a price not exceeding three times the annual assessment thereof under section 32.

3. Section 65 applies to the alienated holdings. Under this section, in alienated villages, the alluvial land not exceeding one acre and one-tenth of the area of the original holding vests in the holder of the alienated land. If the area of the alluvial land exceeds the above limit, the holder is liable to the payment of land revenue thereof to the same extent as is applicable to the original holding.
(B) Diluvion.

4. Where a part or whole of the land of a holder is washed away or submerged under water, it is a case of diluvion. The diluvion need not be gradual. It may even be sudden.

5. Section 66 of the Code provides that when the extent of the land lost by diluvion exceeds half an acre, the holder is entitled to the proportionate decrease of assessment. The holder is also liable for payment of land revenue on reappearance of the land so lost by diluvion not less than half an acre in extent.


6. The Talathi has to record and report to the Tahsildar, the increases due to alluvion and losses due to diluvion in every holding. He has also to report to the Tahsildar whether the area so increased or lost exceeds the limits prescribed under sections 33, 65 and 66 of the Code and has to act according to the orders passed by the Tahsildar in relation thereto.

7. The alluvial land exceeding one acre is to be offered to the adjacent holder by the Collector. If, however, the adjacent holder does not accept the offer, the Collector has to dispose it of by public auction to the higher bidder after ascertaining that the said land is not required for any public or Government purpose.

8. Where the area lost due to diluvion exceeds half an acre, the holder thereof shall be entitled to the proportionate decrease in assessment and for that purpose, the Collector, has to determine the amount of assessment to be decreased having regard to the total area of the survey number, its assessment and the area lost by diluvion. The Collector has to similarly determine the amount of assessment to be levied in case of reappearance of the land lost by diluvion, if the area on reappearance exceeds half an acre.
III - Supplementary Instructions

9. Alluvial land is to be offered to the occupant, if any, of the bank or shore on which such land has formed. Where there is no such occupant and the alluvion adjoins Government waste or forest land, the Collector shall dispose of the land in accordance with the rules regarding disposal of Government lands. Where a forest survey number is bounded by a stream or river, all land formed on the edge of that survey number by alluvion shall be deemed to be forest of the same kind as the survey number on the edge of which it is formed. A notification under the Indian Forest Act may have to be issued, if it is intended to constitute such land into a reserved forest or a forest of the appropriate class.

10. The principle of alluvion applies to gradual and imperceptible accretion whether caused by natural means or artificial means lawfully employed. This is because the rule applies to the result and not to the manner of production.

11. Alluvion land of which temporary or free use is allowed to the occupant of the adjacent unalienated land, is neither a holding nor an occupancy. The occupant is not liable to pay land revenue can be levied. Such land should be treated as Pot-Kharab.

12. If the riparian land is used for non-agricultural purpose, there should be no objection to using the alluvial land for the same non-agricultural purpose.

13. Reappeared land after diluvion belongs to the original owner unless he loses his right by adverse possession. The original owner should, therefore, claim such land within a period of 12 years from the date of reappearance.

14. Treatment of alluvial land in Inam or alienated villages is as follows :

(a) In an Inam village through which a nalla or river flows, the alluvial land would vest in the Inamdar provided the grant includes the bed also.

(b) In cases where a nalla or river passes between an Inam village and unalienated (Khalsa) village, the alluvial land would vest half and half...
in the Inamdar and Government provided half the bed is included in
the grant to the Inamdar.

(c) In an unalienated village, the alluvial land would ordinarily vest in
Government but where the riparian owners are owners not merely of
the land on the bank but also of half the river bed by virtue of a grant
or otherwise, the above rule of mid-channel would apply.

15. With a view to detecting formation of alluvial land and its unauthorised
cultivation, the following instructions should be observed :-

(a) The Tahsildars should keep a list of villages adjoining river beds,
nallas etc.

(b) The Village Officer of such villages should keep a list of survey
numbers lying on the banks of rivers, nallas etc.

(c) The Village Officers should visit these survey numbers at the time of
crop inspections and boundary mark inspection and see whether any
new alluvial formation has taken place.

(d) The responsibility of checking the list of survey numbers inspected by
the Village Officers should be fixed on Circle Inspectors and Circle
Officers. The Tahsildar and the Sub-Divisional Officer should check
such percentage of the work done by the Village Officers, Circle
Inspectors and Circle Officers at the time of village inspection and
crop inspection as may be determined by the Collector.

(e) The work done by the Circle Inspectors, Circle Officer, Tahsildars and
Sub-Divisional Officers should be shown in their monthly diaries.

16. While disposing of alluvial land to the adjacent owner, no sum in addition
to three times the annual assessment should be charged on account of trees, if
any, standing thereon. The annual assessment should not be fixed arbitrarily
but in accordance with the rules on the subject.
REVENUE BOOK CIRCULAR No. 6

Subject.- Inclusion of certain Bhumidharis in Occupant Class I.

IV. - Provisions of the Code

Prior to the coming into force of the Maharashtra Land Revenue Code, 1966 with effect from 15th August 1967, the Madhya Pradesh Land Revenue Code, 1954 was in force in the Vidarbha Region of the State. Under the M.P. Land Revenue Code, there were two classes of tenure holders, namely :-

(i) Bhumiswamis, and

(ii) Bhumidharis.

The Bhumiswamis had full right of transfer of their lands, while the Bhumidharis had restrictions on transfer of their lands to the extent that they could not mortgage any interest in their lands. Under section 150 of the M. P. Land Revenue Code, the Bhumidhari had a right to acquire the status of a Bhumiswami on making an application to the Collector to that effect and on payment of a premium equal to three times of the land revenue assessed on his land.

2. Under section 29 of the Maharashtra Land Revenue Code, 1966, persons holding land from Government are classified into the following three categories:

(i) Occupants Class I;

(ii) Occupants Class II; and

(iii) Government lessees.

Occupant's Class I are those holding lands in perpetuity without any restrictions on transfer; while occupants Class II hold lands in perpetuity but subject to certain restrictions on the right to transfer their lands. Government lessees are the persons who hold land from Government on lease for a
particular period, for such purpose and subject to such conditions as may be specified in the terms for such purpose and subject to such conditions as may be specified in the terms of the lease. Every occupant either Class I or Class II has to pay as land revenue the assessment fixed under the provisions of the Code and rules made thereunder; while every Government lessee is required to pay as land revenue the lease money i.e., the rent) fixed under the terms of the lease.

3. The Bhumiswamis in the Vidarbha area of the State have now become occupants Class I and the Bhumidharis have become occupants Class II. The right of Bhumidharis under section 150 of M.P. Land Revenue Code to become Bhumiswamis (i.e., now occupant Class I) has, however, been protected under clause (c) of sub-section (2) of section 29 of the M. L.R Code. This clause empowers the State Government to frame rules prescribing the procedure in accordance with which Bhumidharis in Vidarbha can be permitted to be included in occupants Class I. The provisions of the rules framed in the matter are mentioned in paragraphs 5 to 10 below.

4. There is one more category of Bhumidharis in Vidarbha i.e., those who are granted land under the Waste Land Disposal Rules. Under these rules lands are granted for cultivation on concessional basis and the grantees were termed as Bhumidharis. Since there is an element of concession in such grants, a specific condition is imposed to the effect that the land shall not be transferred without the permission of the Collector. Since there is a restriction on the right transfer lands granted under the Waste Land Disposal Rules, the grantees remain as Bhumidharis only i.e., occupants Class II. The right to become Bhumiswamis or occupants Class I are not conferred on such Bhumidharis. Such a right was also not conferred under the provisions of the Rules made under the M.P.L.R. Code. The rules framed under clause (c) of sub-section (2) of section 29 of the new Code, therefore, are not made applicable to the Bhumidharis who have been granted land under the Waste Land Disposal Rules. This is also made clear in the rules on the subject.
II - Provisions of rules called the Maharashtra Land Revenue (Inclusion of certain Bhumidharis in Occupant Class I) Permission Rules, 1968 framed under clause (c) of sub-section (2) of section 29 of the Code.

5. A person holding land in Bhumidhari rights in Vidarbha area who is now classed as Occupant Class II and who desire to be included in Occupants Class I has to make an application shall contain the following particulars :-

(a) the name, description and place of residence of the applicant;

(b) the village in which the land is situated;

(c) the number of fields in the land as entered in the latest jamabandi or record of right in which it is held.

The application shall also be accompanied by a copy of entries pertaining to the land in the latest jamabandi or record-of-rights of the village in which the land is situated.

A Bhumidhari to whom land has been allotted in accordance with rules 3 to 9 of the rules published in the formed M.P. Government in the Land Reforms Department Notification No. 1118/1832-55 XVII, dated 22nd May 1956 i.e., the Waste Land Disposal Rules, is not entitled to make such application.

6. On receipt of the application, the Collector has to issue a proclamation in the prescribed form calling all persons interested in the land to send their objections, if any, in writing against the permission applied for. A copy of the proclamation is also required to be posted at prominent places in the taluka head quarters and also in the village in which the land is situated.

7. On the date of hearing, the Collector has to examine the applicant and other interested parties and hear the evidence adduced and record his findings. If the Collector comes to the conclusion that the applicant is entitled to be declared as Occupants Class I, he has to record a preliminary order specifying therein the arrears of land revenue in respect of the land and order the applicant to deposit the arrears of land revenue and an amount equal to three times the land revenue for the time being assessed on the land. If the land
adjoins a Government forest, the Collector has also to order the applicant to get the land demarcated under the provisions of the Code. This order is to be communicated to the applicant.

8. If the applicant complies with the aforesaid order within a period of one month from the date of its communication by depositing in the Treasury the amount equal to three times the land revenue and the arrears of land revenue, if any, and produces a Treasury Chalan in support thereof and also takes necessary steps to get the land demarcated if it adjoins a Government forest, the Collector has to draw up a final order in the prescribed form permitting the applicant to be included in Occupants Class I in respect of the said land. If the applicant fails to comply with the Collector's preliminary order, his application should be rejected and he should be informed accordingly.

9. A copy of the final order passed by the Collector is to be forwarded to the concerned Tahsildar and the Talathi. The latter has to make necessary changes in the record-of-rights in accordance with the provisions of the Code to conform with the order and report to the former.

10. The Collector can delegate his powers under these rules to a Sub-Divisional Officer.
REVENUE BOOK CIRCULAR No. 7

Subject.- Restoration of occupancy unauthorisedly transferred by occupants belonging to Scheduled Tribes.

V. - Provisions of the Code

Sub-section (1) of section 36 of the Maharashtra Land Revenue Code, 1966 provides that occupancy shall, subject to certain restrictions, or conditions lawfully annexed to the tenure, be deemed to be heritable and transferable property. Sub-section (2) of section 36 provides that occupancies of persons belonging to such Scheduled Tribes which the State Government may notify in the official gazette, shall not be transferred except with the previous sanction of the Collector. The Schedule Tribes and the areas for purposes of this section, have been declared by Government under Government Notification, Revenue and Forests Department, No. UNF-1567-R, dated 5th June 1968. The lands belonging to the Scheduled Tribes and situated in the areas declared in the aforesaid notification, cannot, therefore be transferred without the permission of the Collector. A provision has also been made under section 59 of the Code to the effect that an person unauthorisedly occupying or wrongfully in possession of any land which is not transferable without the permission of the Collector under sub-section (2) of section 36, may be summarily ejected by the Collector. In cases where an occupancy has been transferred in contravention of the provision in sub-section (3) of the said section to a person who is adversely affected by such transfer to get the occupancy restored on making an application to that effect to the Collector within a period of two years from the date of such transfer. The procedure in accordance with which such applications are to be disposed of and the liabilities for arrears of land revenue on the land irregularly transferred are to be determined by the Collector, is prescribed under the Rules framed under section 36(3) of the Code.

The application under section 36(3) to be made to the Collector for restoration of occupancy, is required to be accompanied by an extract of the relevant entry from the record of rights and the register of mutation in relation to the occupancy and a copy of the deed or document under which possession of the occupancy is alleged to have been transferred.

4. On receipt of the application, the Collector has to verify from his records whether his sanction to the transfer was taken or not. If the Collector thinks that there is reasonable ground for believing that his sanction was not taken, he has cause notices to be served on the transferor (if he is not an applicant) and the transferee, calling upon them to show-cause why the transfer should not be set aside. The date of hearing is required to be specified in the notice.

5. On the date of hearing, the Collector has to examine the parties and record the statements of witnesses, if any. After making necessary enquiries, the Collector has to record his findings. If the finding is that the transfer was made with the previous sanction of the Collector, the application is to be rejected.

6. If the finding is that the necessary sanction to the transfer was not obtained, the Collector has to adjourn the proceedings for not less than six weeks and cause to be served notices :-

   (a) on all persons who seem to him prime-facie to have a right in the occupancy equal or prior to that of the applicant; and

   (b) on all persons to whom the transferor may appear to be indebted for any dues which form a charge on the occupancy.

   The Collector has also to issue a proclamation and publish it in the village in which the occupancy is situated, calling upon (i) all person who may claim to be heirs of the transferor; (ii) all creditors to whom the transferor may be indebted for advances made; and (iii) all persons who may desire to be heard; to appear and put forth their claims on the due date.
7. The Collector has also to ascertain from the Tahsildar the details of Government's claim regarding arrears of land revenue, tagai and other dues forming charge on the occupancy.

8. On the date fixed for hearing, the Collector has to consider the objections to the applicant's claim for being placed in possession of the occupancy and record his findings. If his finding is that the applicant or any other person is entitled to be placed in possession of the occupancy, the Collector has to prepare a statement in the prescribed form containing arrears of land revenue or any other dues constituting charge on the occupancy and hand it over to such applicant or the person who has to make a statement as to his acceptance of the liability for the same.

9. If the applicant or the person to be placed in possession of the occupancy agrees to pay the arrears of dues mentioned in the aforesaid statement, the Collector has to issue an order for giving possession of the occupancy to him. If the applicant or such person does not agree, the case should be filed.

10. A copy of the final order passed by the Collector should be sent to the Tahsildar concerned who in turn has to direct the Talathi of the village concerned to take necessary action for correcting entries in the record-of-rights.

III - Supplementary Instructions

11. Although sub-section (2) of section 36 provides that occupancies of persons belonging to Scheduled Tribes cannot be transferred without the permission of the Collector, it has been brought to the notice of Government that due to their poverty and ignorance, the Scheduled Tribes people transfer their lands to non-tribals. With a view to safeguard the interests of the Tribals and also to ensure that they are not rendered landless, Government has directed that the following instructions should be strictly observed by the Collector while deciding applications from Tribals for grant of permission to transfer their occupancies under section 36 (2) of the Code:

I - Transfer of occupancy from a tribal to a non-tribal.
(i) Transfer of occupancy to a non-tribal shall not ordinarily be permitted.

(ii) Only in exceptional cases and for valid reasons such transfers be permitted. While granting such permission, the Collector shall consider and satisfy himself that-

(a) genuine and adequate reasons are given by the tribal for the transfer;

(b) the transferor has no other alternative but to transfer his occupancy to the non-tribal;

(c) adequate price for the occupancy proposed to be transferred is offered by the transferee;

(d) no other tribal person is forthcoming to accept the transfer for adequate price;

(e) the transferee is an agriculturist and the area of his total holding including the land proposed to be purchased, does not exceed the ceiling area; and

(f) there is no other alternative but to grant the permission.

II - Transfer of occupancy from a tribal to another tribal

Transfers shall generally be permitted in such cases provided the Collector, after making necessary enquiries, is satisfied that-

(a) the reasons given for the transfer are genuine;

(b) the transferor has no other alternative but to go in for the transfer;

(c) adequate price is offered by the transferee; and

(d) the transferee is an agriculturist and the area of his total holding including the land proposed to be purchased does not exceed the ceiling area.
REVENUE BOOK CIRCULAR No. 8

Subject.- The right of occupants Class II to transfer their occupancies without permission in certain cases.

VI. - Provisions of the Code

Sub-section (1) of section 36 of the Maharashtra Land Revenue Code, 1966 provides that an occupancy shall, subject to certain restrictions or conditions lawfully annexed to the tenure, be deemed to be heritable and transferable property.

2. Sub-section (4) of this section, however, provides that an occupant Class II may mortgage his occupancy in favour of the State Government or a Co-operative Society in consideration of loan advanced to him. In the event of failure on the part of the occupant to pay the dues, the State Government or as the case may be, the Co-operative Society can attach and sell the occupancy. For this purpose the Society can apply for reclassification of the occupant as occupant Class I, so that it may be possible for it to realise its dues by sale. The Society is, however, required to pay the prescribed premium for such reclassification. The amount of premium is prescribed under the rules.


3. The premium to be paid under sub-section (4) of section 36 for reclassifying the occupant as occupant Class I is 50 per cent of the difference between the current market value of the occupancy and the occupancy price originally paid plus the value of improvements, if any, made by the occupant.
REVENUE BOOK CIRCULAR No. 9

Subject.- Extraction and Removal of Minor Minerals and Restrictions on Use of Land.

A - Extraction and Removal of Minor Minerals.

VII. - Provisions of the Maharashtra Land Revenue Code

Section 48 of the Maharashtra Land Revenue Code declares that unless it is otherwise expressly provided by the terms of the grant, the right to all minerals found at whatsoever place vests in the State Government. The section also provides that the right to minerals includes right of access to land for the purpose of mining and the right of occupying such other lands as may be necessary for the purposes subsidiary to the mining or quarrying including the erection of offices, workmen's dwellings, stacking of minerals etc. The State Government can also assign its rights over minerals to any person and the assignee can be authorised to enter or occupy surface of land with the sanction of the Collector. Such delegation shall be made only after issue of notice to all persons having rights in the land and after considering their objections. If, on account of mining operations or extractions of minerals, the rights of the holders are infringed by the occupation or disturbance of the surface of such land, the State Government or its assignee has to pay to the persons concerned the amount of compensations which is to be determined by the Collector. In accordance, with the provisions of the Land Acquisitions Act. If the award of the Collector is not accepted, the question of amount of compensation is to be referred to the Civil Court. If, the assignee fails to pay may be, the Civil Court, the Collector has to recover such amount on behalf of the persons entitled to it, as an arrear of land revenue.

2. Any person unauthorisedly extracting or removing any mineral (both major or minor) shall be liable on the orders of the Collector to pay penalty up to
three times the market value of the mineral also extracted. If the amount of penalty is less than Rs. 1,000. The Collector may impose a penalty of a larger sum not exceeding Rs. 1,000. The Collector has also powers to seize and confiscate any minerals unauthorisedly removed or extracted.

3. The State Government has to make rules to regulate the extraction and removal of minor minerals required by inhabitants of Village, Town or City, for their domestic, agricultural or professional use on payment or fees or free of charge. The expression "minor minerals" means the minor minerals in respect of which the State Government is empowered to make rules under section 15 of the Mines and Minerals (Regulation and Development) Act, 1957.


4. With the previous permission of the Talathi and without payment of any fees, any inhabitant of a village, town or city can, for his domestic or agricultural purpose, remove any earth, stone, kankar, gravel, ground, murum or nay other minor mineral upto the value of Rs. from the bed of the sea, or from unassessed waste land not assigned for public purpose under purpose under section 22 of the Code or from any Government tank situated within the limits of such village, town or city. If the Talathi fails to give his previous permission within a period of seven days from the date of receipt of the application, the permission applied for is to be deemed to have been granted. While removing minor minerals from Government Tank, stones, which may have fallen in the Tank from its bank, are not allowed to be removed. Excavation within 4.5 metres of the foot of the embankment of any such tank is also not allowed.

5. If any inhabitant wants to remove minor minerals for purposes of building a well or for his domestic or agricultural purpose, the value of which exceeds Rs. 50 but does not exceed Rs. 500, he can do so without payment of any fees but with the previous permission of the Tahsildar or Naib-Tahsildar.

6. Any potter or maker of bricks or tiles may, with the previous permission of the Tahsildar or Naib-Tahsildar but without payment of any fees, remove any
minor mineral for the purposes of his profession. If, however the Tahsildar or as the case may be, Naib-Tahsildar is of the opinion that the aforesaid occupation is sufficiently extensive or lucrative such potter or maker of bricks or tiles should not be allowed to remove such material, but the case should be referred for disposal under the rules made under the Mines and Minerals (Regulation and Development) Act, 1957. For this purpose an occupation carried out by any potter or maker of bricks or tiles can be deemed to be sufficiently extensive or lucrative if the value of the turn-over of goods manufactured through such occupation is not less than Rs. 20,000 per annum.

7. Removal of minor minerals from land within port limits, or on the banks or shore of any port should be permitted only with the concurrence of the Salt Commissioner and on such conditions as he may impose.

8. The Collector can prohibit a Talathi, a Naib-Tahsildar or a Tahsildar from giving permission for removal of minor minerals in certain cases or localities as he thinks fit, without his previous sanction. All such applications for permission should be referred to the Collector.

9. If on receipt of an information or on making inquiry, the Tahsildar finds that excavation of soil already permitted is likely to damage or destroy any building or land (other than the land permitted to be excavated) or any boundary mark, he has to inform the permit-holder accordingly and require him to carry out excavation in such a way as not to cause any such damage.

10. Any person making breach of any of the rules is liable to the following penalties :-

(a) If minor mineral of the value of not more than Rs. 50 is extracted without the permission of the Talathi, a fine equal to the amount of royalty chargeable on the material so extracted, under the rules made under the Mines and Minerals (Regulation and Development) Act, 1957.

(b) In any other case, such fine not exceeding Rs. 1,000 as the Collector may deem fit to impose after giving the person an opportunity to be heard.
B - Restriction on Use of Land.

11. Section 43 of the Code empowers the State Government to make rules requiring the Collector or a Survey Officer to regulate or prohibit the use of land liable to the payment of land revenue for certain purposes. Some of the uses which are prohibited are as follows:

(a) cultivation of unarable land in a survey number assigned for public purposes;

(b) manufacture of salt from agricultural land;

(c) removal of earth, stone kankar, murum or any other material from the land assessed for agricultural purpose, which may destroy or materially injure the land for cultivation;

(d) excavation of land within gaothan etc. The Collector or Survey Officer can summarily evict any holder who uses or attempts to use land for any prohibited purpose.

II - Provisions of Rules called the Maharashtra Land Revenue (Restrictions on Use of Land) Rules, 1968

12. Section 43 of the Code prohibits cultivation of unarable land in a survey number assigned for public purpose. Land included as unarable (Pot Kharab0 in a survey number is of the following two kinds:

(i) that which is classed as unfit for agriculture at the time of survey including the farm buildings or threshing floors of the holder; and

(ii) that which is not assessed because it is reserved or assigned for public purpose or occupied by road, foot-path, tank, burial ground, etc.

Land of the first category may be brought under cultivation at any time and no additional assessment is to be charged therefor. The cultivation of land falling under category (ii) above is prohibited.
13. Unalienated land shall not be used for manufacture of salt without the previous permission of the Collector. The Collector may, in consultation with the Salt Commissioner, grant permission for the use of such land for purposes of manufacture or collection or extraction of salt on payment of non-agricultural assessment and on such conditions as the Collector may impose subject to general or special orders of the State Government.

14. Occupant of agricultural land is prohibited from excavating or removing earth, stone, kankar, murum or any other material or make any other use of the land:

(a) so as to destroy or materially injure the land for cultivation; or

(b) for purposes of trade or profit or any other purpose, except his own domestic or agricultural purposes.

15. The holder of land assessed or held as a building site is prohibited from excavating or removing for any purpose earth, stone, kankar, murum or any other material without previous permission of the Collector.

16. Unalienated land in gaothan is not to be excavated without the previous permission of the Collector for any purpose except for laying of foundations of buildings, for sinking of wells and making of grain-pits.

17. Any person committing breach of any of the provision of these rules is punishable with such fine not exceeding Rs. 1,000 as the Collector may deem fit to impose, after giving such person an opportunity to be heard. This punishment is in addition to any other consequences that would ensue from such breach.

III - Supplementary Instructions

18. Permission for removal of earth, kankar etc. from Government lands assigned under section 22 of M.L.R. Code should be granted without delay and in any case within a period of one month. Cases of unauthorised removal of sand etc. from such lands on account of delay on the part of the Revenue Officers to dispose of applications for the permission within a month should,
unless there are any serious objection, be regularised on payment of nominal fine of Rs 1 under section 50 of the Code. The cases of excavation likely to cause damage to some public property or render the neighbouring land less fit for cultivation or difficult for access or cause damage to property of the neighbouring cultivator etc. should, however, be considered on merits. The time limit of disposing of application within one month does not apply in such case, they should, however be disposed of as early as possible.

19. In all cases of unauthorised quarrying in certain lands, a panchanama showing the land from which the material was quarried, the names of the persons who quarried the material, the dimensions of the lands used, as noted in the miscellaneous Land Revenue Form (i.e. V.F.IV) and also sketches showing the location of the site etc. should be made by the Revenue Officials.
REVENUE BOOK CIRCULAR No. 10

Subject.- Construction of water course through land belonging to another person.

VIII. - Provisions of the Code

Section 49 of the Maharashtra Land Revenue Code, 1966, provides for construction of watercourse through the lands belonging to other persons. It happens that an agriculturist is required to make use of land belonging to another person for taking water for irrigating his land. If the owner of such land objects to so taking water, the agriculturist has to face great difficulties. The provisions of section 49 remove such difficulties. This section applies only when no agreement is arrived at between the person through whose land the water to be taken. The person desiring to construct a watercourse is called the 'applicant', while the person through whose land such watercourse is to be constructed is called the 'neighbouring holder'. If the applicant desires to construct a water course to take water to irrigate his land from a source of water to which he is entitled i.e., well, tank, river bed or from any source of water belonging to Government from which he is allowed to take water and if the neighbouring holder does not permit him to construct such water course, the applicant has to apply to the Tahsildar for grant of such permission.

2. On receipt of the application, the Tahsildar has to give notice to the neighbouring holder as well as other persons interested in the land through which watercourse is to be constructed, he has to hear objections, if any, from the parties and make necessary enquiries in the matter. If the Tahsildar is satisfied that for ensuring the full and efficient use for agriculture of the land belonging to the applicant, it is necessary to construct the water course, he has to issue an order in writing directing the neighbouring holder to permit the application to construct the water course on the following conditions.

(i) The water course shall be constructed through such land in such direction and manner as is agreed upon by the parties, or failing
agreement, as directed by the Tahsildar, so as to cause as little
damage to the land through which it is constructed as may be possible.

(ii) Where the water course consists of pipes laid under or over the
surface it shall, as far as possible, be along the shortest distance
through such land regard being had to all the circumstances of the
land of the neighbouring holder. Where the water course consists
of underground pipes, the pipes shall be laid at a depth not less
than 0.5 metre from the surface of the land.

(iii) Where the water course consists of a water channel, the width of
the channel shall not be more than is absolutely necessary for the
carriage of water, and in any case shall not exceed 1.5 metres.

(iv) The applicant shall pay to the neighbouring holder-

(a) such compensation for any damage caused to such land by
reason of the construction of the water course injuriously
affecting such land; and

(b) such annual rent as the Tahsildar may decide to be reasonable
in cases where the water course consists of a water channel
and pipes laid over the surface; and where it consists of
underground pipes, say, at a rate of 25 paise for every ten
metres or a fraction thereof for the total length of land under
which the underground pipe is laid.

(c) For purposes of trade or profit or any other purpose, except his
own domestic or agricultural purposes.

(v) The applicant shall maintain the water course in a proper state of
repair.

(vi) Where the water course consists of underground pipes, the
applicant shall -
(a) cause the underground pipe to be laid with the least practicable delay; and

(b) dig up no more land than is reasonably necessary for the purpose of laying the underground pipe and any land so dug up shall be filled in reinstated and made good by the applicant at his own cost for use by the neighbouring holder.

(vii) Where the application desires to lay, repair or renew the pipe, he shall do so after reasonable notice to the neighbouring holders of his intention so to do and in so doing shall cause as little damage as possible to the land or any crops standing thereon.

(viii) Such other conditions as the Tahsildar may think fit to impose.

3. The order permitting construction of water course shall also mention as to how the amount of compensation shall be apportioned among the neighbouring holder and interested persons. The order made by the Tahsildar is considered as authority to the applicant or his agent etc. for the construction of water course and for renewing or repairing the same.

If the applicant fails to pay the amount of compensation or the amount of rent it can be recovered from him as arrear land revenue.

If the applicant fails to maintain the water course in a proper state of repairs he is liable to pay such compensation to neighbouring holder(s) as may be determined by the Tahsildar for any damage caused on account of such failure.

If the applicant intends to remove or discontinue the water course already constructed he can do so after giving notice to the Tahsildar and the neighbouring holder. While so removing or discontinuing the water course the applicant has to fill in and reinstate the land at his own cost with the least practicable delay and if he fails to do so the neighbouring holder can apply to the Tahsildar who has to require the applicant to fill in and restore the land to its original position.
The neighbouring holder has a right to use surplus water, if any from the water course on payment of rate as agreed upon by the parties if not as determined by the Tahsildar. In case of dispute as to whether there is surplus water in the water course or not the Tahsildar has to decide it and his decide it and his decision is final.

4. No appeal shall lie against any order passed by the Tahsildar under section 49. However the Collector has the reversionary powers. The order passed by the Tahsildar or Collector cannot be challenged in any Court.

5. A person who has wilfully injured or damaged any water course duly constructed is liable after a summary enquiry before a Collector or Survey Officer or a Tahsildar or Naib-Tahsildar to a fine not exceeding one hundred rupees every time for the injury or the damage so caused.


These rules prescribed a form of application to be made to the Tahsildar for permission to construct water course through the land of neighbouring holder. The application form is as under:-

**FORM**

Application to the Tahsildar for construction of water course sub-section (1) of section 49 of the Maharashtra Land Revenue Code, 1966

To

The Tahsildar of .....

Name of the applicant .....

Age ..... Profession ..........., place of residence...............

Name of the neighbouring holder ........age . ........

Profession . ........, place of residence ........

I am the holder of the following land :-

<table>
<thead>
<tr>
<th>Name of Survey</th>
<th>Pot</th>
<th>Hissa</th>
<th>Area</th>
<th>Assessme</th>
<th>Name of</th>
<th>of</th>
</tr>
</thead>
</table>

pkachare@gmail.com
I am entitled to take water for irrigating my land mentioned above from the following source of water:

**Here give the particulars of the source of water.**

For taking this water it is necessary to construct a water course through the following land which is in the possession of ..... or belongs to ..... who is a neighbouring holder.

<table>
<thead>
<tr>
<th>Name of village</th>
<th>Survey No</th>
<th>Pot Hissa No</th>
<th>Area</th>
<th>Assessment</th>
<th>Name of landlord</th>
</tr>
</thead>
</table>

The construction of the water course is necessary for the full and efficient use of my land for agriculture.

The extracts of the Record-of-Rights concerning the lands are enclosed.

I, therefore, request that the neighbouring holder may be directed to permit me to construct the water course through the said land.

Date: 

Yours faithfully,

Signature of the applicant.

Note.- The extracts of Record-of-Rights need not be enclosed in cases of lands which form part of a river bed.
REVENUE BOOK CIRCULAR No. 11

Subject.- Permission for use of water

IX. - Provisions of the Code

Section 70 of the Maharashtra Land Revenue Code provides that the State Government may authorise the Collector or the Officer in charge of a survey or such other officer as it deems fit such rates as Government may from time to time deem fit to sanction for the use of water the right to which vests in Government. This section does not apply to the sources of water in respect of which rates under law relating to irrigation have been fixed. The rates fixed are liable to revision at such periods as the State Government may determine from time to time. The water rates fixed under section 70 are recoverable as revenue demand. The section further provides that rate for use of water for agricultural purposes shall be one rupee only per year per holder.


2. These rules are divided into two parts. Part 'A' deals with use of water for irrigation purposes while part 'B' relates to use of water for non-agricultural purposes.

3. Use of water for irrigation purposes.

Except in respect of the following cases no person shall make use of any water, the right to which vests in Government for irrigation purposes without the previous permission in writing of a Revenue Officer not below the rank of a Naib-Tahsildar. For this purpose the person desiring to make use of water has to apply for necessary permission :-

(i) if the land is assessed for the advantages accruing to it from such water under the provisions of the Code, or

(ii) if the land is subject to an existing 'nala chad' @on account of irrigation by means of a budki or pumping plant or any other contrivance, or
(iii) if a water rate is levied for the supply of water to the land under any law relating to irrigation in force in the State.

4. On receipt of application for permission for use of water, the Revenue Officer has first to acknowledge it. He has further to make necessary enquiry and after taking into consideration the interests of all persons already permitted to use such water either grant the permission applied for or refuse it after recording reasons therefor. The Revenue Officer has to complete his enquiry and inform the applicant of his decision within a period of 15 days from the date of receipt of application failing which the required permission is deemed to have been granted. No permission shall be refused unless the applicant is given an opportunity to be heard. When permission is granted or deemed to have been granted the water rate to be charged shall be Re. 1 per year per holder as provided in the proviso to section 70 of the Code.

5. Use of Water for non-agricultural purposes.

Application for use of water for any non-agricultural purpose is required to be made to the Collector. The application shall contain the following particulars:

(i) The particular non-agricultural purpose for which the water is to be used;

(ii) The quantity of water required;

(iii) The period for which the water is required;

(iv) Government source of water from which water is to be taken; and

(v) Such other particulars as may be required by the Collector for consideration of the application.

6. On receipt of the aforesaid application the Collector has to make necessary enquiry and after taking into consideration the interests of all persons already authorised to use water for such non-agricultural purpose, either grant the permission or, after recording his reasons refuse it. The permission granted for use of water shall be subject to the payment of water rate at a rate sanctioned
by the State Government from time to time. No permission shall be refused unless the applicant is given an opportunity to be heard.

7. Breach of any of the provisions of the aforesaid rules by any person is punishable with such fine not exceeding rupees 200 if the water is used for the agricultural purpose and not exceeding rupees 1,000 if it is used for any other purpose as the Collector may deem fit to impose after giving such person an opportunity to be heard. This penalty shall be in addition to any other consequences that would ensue from such breach.

II - Supplementary Instructions

8. Where Rly. Companies take water from a river or canal or from a storage work not constructed or maintained by Government the charge for water drawn should be levied at the rate of Rs. 4 per 283 cubic metres.

9. A water rate to Rly. Companies should not be less than Rs. 6 per 283 cubic metres when water is taken from a tank constructed or maintained by Government or from a river or canal getting its supply from a storage reservoir so constructed and maintained.

In the case of other bodies the charge for water drawn from any source vesting in Government should be levied at the rate of Rs. 6 per 283 cubic metres of water.

10. For unauthorised use of water which is property of Government, for non-agricultural purposes such as a mill, the person so using will be liable, in addition to the prescribed from time to time. The persons refusing to pay the penal rate will be liable to be prosecuted under the Indian Penal Code for theft of water which is the property of Government.
REVENUE BOOK CIRCULAR No. 12

Subject.- Inams and Alienations.

X. - Provisions of the Code

Under section 64 of the Maharashtra Land Revenue Code, 1966, the State Government has the right to assess all lands. When this right is gifted and continued in full or in part, an alienation is created. In common parlance this is know as an Inam or Watan. Clause (2) of section 2 of the Code defines the word "alienated". It denotes that the right of the State Government to recover rent or land revenue wholly or partly is transferred to another person as owner. Such a person is called the superior holder i.e. the person in actual possession of the land. The superior holder may be exempted from payment of land revenue or has to pay portion of it to the State Government according to the nature and terms of the alienation.

2. With the enactments of the various Tenure Abolition Acts, most of the inams and alienation's have been abolished. The only alienations now remain in the State are :-

(i) Devasthan Inams;

(ii) Revenue Free Grants made from time to time.

3. Section 75 of the Code requires the Collector to keep in the prescribed form a register of all lands, the alienation of which has been established or recognised under the provisions of any law for the time being in force. It also provides that if a sanad in respect of an alienated land has been permanently lost or destroyed, the holder after satisfying the Collector to that effect and on payment of prescribed fees, obtain certified copy of the relevant extract from the register of alienated lands. Such certified copy has to be endorsed by the Collector to the effect that it has been issued in lieu of the sanad said to have been lost or destroyed and then it is deemed to be as valid a proof of title as the said sanad. Section 75 is an important one as it not only ensures
maintenance of an up-to-date account of the alienated lands in the districts but also furnishes evidence as good as sanads in regard to the titles of holder of inam lands.

4. The following provisions of the Code ensure due respect being paid to the alienated lands and villages and holders thereof while applying the general provisions contained in the matter of assessment of lands, their survey and settlement, relinquishment of occupancy rights etc.

(i) Section 64 provides that land as may be wholly exempted from payment of land revenue under the provisions of any special contract with the State Government, or any law for the time being in force or by special grant of the State Government shall not be liable to land revenue.

(ii) The first proviso to sub-section (1) of section 68 ensures that while fixing and levying assessment on land partially exempted from the payment of land revenue respect shall be given to the rights legally subsisting i.e. the right of partial exemption enjoyed by the holder in respect of such land.

(iii) Section 56 read with section 55 permits a holder of an alienated land to relinquish his alienated land i.e., resign it in favour of the State Government subject to any rights, tenures, encumbrances or equities lawfully subsisting in favour of any person other than the State Government.

(iv) Under section 65, accretions of alluvial lands, newly formed island or abandoned river beds adjoining an alienated land and vesting in its holder are in respect of their liability to land revenue mad subject to the same principles conditions or restrictions as are applicable to the original holding in virtue of which the land island or river beds vest in the holder.

(v) Section 103 requires that if during the course of proceedings held in connection with revenue survey and settlement of agricultural
lands any person claims to hold and land wholly or partly free of
land revenue as against the State Government and proves his
claim to the satisfaction of the Settlement Officer, his case has to
be referred to the State Government for orders.

(vi) Section 109 provides that the non-agricultural assessment of land
to be determined under Chapter VII of the Code shall be subject to
the exemptions and limitations contained in the first proviso to
section 68.

(vii) Clause (a) of section 123 provides that no land revenue shall be
levied on land situated within the site of a village town or city and
not used for purpose of agricultural if the said land was exempted
from payment of assessment immediately before the
commencement of the Code under the provisions of any law, in
force before such commencement or by virtue of any custom
usage grant sanad order or agreement.

(viii) Under section 331 the provisions of section 68 and Chapters V, VI,
VII, VIII and IX relating to revenue survey assessment and
settlement of agricultural and non-agricultural lands city surveys
and boundaries and boundary marks are made applicable to the
alienated lands and villages subject to certain modifications. These
modifications relate to the payment of cost of survey salaries of
village officers and the costs of levy of Zilla Parishad cess. These
costs are payable by the holder or holders, in proportion to their
share in the rent or revenue of the alienated village or share. If
however there is an agreement entered into by the State
Government providing that the holder shall not be liable for the
costs of survey it is binding on the Government.

(ix) Section 332 lays down that when survey and settlement is
introduced under section 331 or any law for the time being in
force the holders of alienated lands shall have the same rights and
be affected by the same responsibilities as holders of lands in
unalienated villages have or are affected by under the provisions
of the Code. The contractual rights between the superior holder and the inferior holder of the alienated land, however not affected.

(x) Section 333 makes it clear that the provisions of the Code which apply in terms to unalienated land only or to the holders of unalienated land only would not apply to alienated land or to the holder of alienated land.

II (a) - Provisions of rules called the Maharashtra Land Revenue (Register of Alienated Land) Rules, 1967.

5. These rules only prescribe the form of register of alienated lands. This form is applicable to all alienated lands other than those in the City of Bombay.

III - Supplementary Instructions - Withdrawal of concessions of occupancy price and land revenue in respect of lands used for religious purposes.

6. Government has decided that although concessions of occupancy price and/or land revenue should continue to be given to religious as well as other bodies for purely philanthropic purposes, no such concessions should be given in future in respect of land used for purely religious purposes. In this respect all religions and denominations should be treated alike.
REVENUE BOOK CIRCULAR No. 13

Subject.- Reduction, Suspension or Remission of Land Revenue

XI. - Procedure for fixation of annewari

The question of suspension or remission of land revenue is linked up with the annewari of the crops. The determination and fixation of annewari is a pre-requisite for granting suspension or remission of land revenue. Therefore before the provisions about suspension and remission of land revenue are explained the procedure for daxation of annewari is summarised in the paras below.

2. Whenever there is a general or local calamity or there is a doubt as to whether the season is below 6 annas or if there are suspended arrears there is doubt as to whether the season is below 8 or 11 annas annewari a Committee is required to be formed for every village consisting of the following persons: -

(i) The Circle Inspector: Chairman.

(ii) The Talathi, and

(iii) Two representatives of agriculturists.'

The representatives of the agriculturists may be elected by the Village Panchayat and where there is no Village Panchayat the villagers may elect a panel of ten persons from amongst whom the Circle Inspector will select two to serve on the Committee.

3. The Committee has to visit the village in which anna valuation is to be determined before the harvesting of crops and record its opinion about anna valuation for each of the crops. The Circle Inspector has to forward this Committee's opinion to the Tahsildar. The Tahsildar has to form his provisional valuation and publish the same and cause it to be communicated in the village and to the two representatives of the agriculturists. The provisional decision is also required to be published in the Chavdi and in two or three prominent
places in the village and also by beat of drum calling for objections within a period of 15 days. The objections if any received on the provisional to amend his decision in the light of the said objections the decision becomes final. If the Tahsildar amends the provisional decision the amended decision has to be published in the manner specified above. If the Collector revises the Tahsildar’s decision the further decision has also to be similarly published.

4. Where there is no agreement amongst members of the Annewari Committee or if the Tahsildar is unable to accept the decision of the Annewari Committee he should issue orders for ascertaining actual tests by crop cutting experiments of not less than 6 tests in a village by random system in accordance with classification of lands. The tests will be carried out by the Circle Inspector in the presence of the Committee and the Tahsildar should check the list of the tests carried out by each Circle Inspector (by himself carrying out similar tests) in the same village. all officers concerned should tour briskly during the period so that the tests may be completed before the bulk of the crop is harvested.

5. The revised formula for purposes of arriving at annewari is as follows:

\[
\text{Annewari} = \frac{12 \times \text{Observed yield per acre}}{\text{Standard yield}} \times \frac{12}{12 + \text{Soil annas of the field}}
\]

The Collector has to adopt this revised formula for calculating annewari. For the four Central Province districts (Nagpur, Wardha, Bhandara and Chanda) a notional maximum rate is fixed by the Land Records Department to enable the application of annewari formula to them.

6. The standard yield is to be taken as the mean of the three best yields in a period of 10 years. Where the data for the full 10 years period is not available the standard yield will be taken as the mean of the three yields, if the data available is for 8 or 9 years and as the mean of the best two yields where the data is available for 5, 6 or 7 years. In the former case the Standard yield is to be revised as soon as the 10 years data becomes available. In the latter case
the Standard yield is to be provisionally revised as soon as the data of 8 years become available by taking the mean of the best three years and then again revised when the data for 10 years become available.

Standard yield so calculated is to be rounded off according to the following rule, namely:

Yield from 0 to 200 lbs to the nearest multiple of 10 lbs and from 200 to 500 lbs to the nearest multiple of 25 lbs from 500 to 1,000 lbs to the nearest multiple of 50 and above 1,000 to the nearest multiple of 10 years. The Standard yields fixed in respect of each district in the State in 1964-65 and to be in force for ten years or until they are revised are given in the table below:

**STANDARD YIELDS**

<table>
<thead>
<tr>
<th>Figures in lbs.</th>
<th>District</th>
<th>Rice (lbs)</th>
<th>Wheat</th>
<th>Kharif Jowar</th>
<th>Rabi Jowar</th>
<th>Gram</th>
<th>Bajri</th>
<th>Groundnut</th>
<th>Cotton Lint</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td></td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
<td>(7)</td>
<td>(8)</td>
<td>(9)</td>
</tr>
<tr>
<td>Thana</td>
<td>1,500</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
</tr>
<tr>
<td>Kolaba</td>
<td>1,400</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
</tr>
<tr>
<td>Ratnagiri</td>
<td>1,000</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
<td>..</td>
</tr>
<tr>
<td>Nasik</td>
<td>900</td>
<td>350</td>
<td>375</td>
<td>325</td>
<td>325</td>
<td>300</td>
<td>700</td>
<td>110</td>
<td></td>
</tr>
<tr>
<td>Dhulia</td>
<td>450</td>
<td>550</td>
<td>500</td>
<td>600</td>
<td>375</td>
<td>475</td>
<td>700</td>
<td>120</td>
<td></td>
</tr>
<tr>
<td>Jalgaon</td>
<td>550</td>
<td>550</td>
<td>1,100</td>
<td>650</td>
<td>425</td>
<td>300</td>
<td>750</td>
<td>120</td>
<td></td>
</tr>
<tr>
<td>Ahmednagar</td>
<td>900</td>
<td>325</td>
<td>..</td>
<td>375</td>
<td>325</td>
<td>225</td>
<td>600</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Poona</td>
<td>1,100</td>
<td>275</td>
<td>..</td>
<td>325</td>
<td>275</td>
<td>300</td>
<td>800</td>
<td>..</td>
<td></td>
</tr>
<tr>
<td>Satara</td>
<td>850</td>
<td>..</td>
<td>600</td>
<td>550</td>
<td>350</td>
<td>325</td>
<td>1,100</td>
<td>..</td>
<td></td>
</tr>
<tr>
<td>Sangli</td>
<td>1,100</td>
<td>400</td>
<td>1,000</td>
<td>300</td>
<td>425</td>
<td>200</td>
<td>750</td>
<td>..</td>
<td></td>
</tr>
<tr>
<td>Sholapur</td>
<td>..</td>
<td>325</td>
<td>..</td>
<td>400</td>
<td>350</td>
<td>100</td>
<td>700</td>
<td>90</td>
<td></td>
</tr>
<tr>
<td>Kolhapur</td>
<td>1,200</td>
<td>..</td>
<td>1,100</td>
<td>..</td>
<td>425</td>
<td>275</td>
<td>900</td>
<td>..</td>
<td></td>
</tr>
<tr>
<td>Aurangabad</td>
<td>..</td>
<td>350</td>
<td>700</td>
<td>550</td>
<td>225</td>
<td>225</td>
<td>400</td>
<td>90</td>
<td></td>
</tr>
<tr>
<td>Parbhini</td>
<td>700</td>
<td>500</td>
<td>750</td>
<td>700</td>
<td>325</td>
<td>..</td>
<td>600</td>
<td>80</td>
<td></td>
</tr>
<tr>
<td>Bhir</td>
<td>..</td>
<td>350</td>
<td>650</td>
<td>700</td>
<td>300</td>
<td>225</td>
<td>700</td>
<td>110</td>
<td></td>
</tr>
<tr>
<td>Nanded</td>
<td>600</td>
<td>450</td>
<td>750</td>
<td>600</td>
<td>350</td>
<td>..</td>
<td>700</td>
<td>190</td>
<td></td>
</tr>
<tr>
<td>District</td>
<td>1st</td>
<td>2nd</td>
<td>3rd</td>
<td>4th</td>
<td>5th</td>
<td>6th</td>
<td>7th</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td>-----</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Osmanabad</td>
<td>550</td>
<td>425</td>
<td>700</td>
<td>700</td>
<td>325</td>
<td>275</td>
<td>700</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Buldhana</td>
<td>..</td>
<td>425</td>
<td>750</td>
<td>..</td>
<td>350</td>
<td>275</td>
<td>500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Akola</td>
<td>..</td>
<td>450</td>
<td>700</td>
<td>..</td>
<td>325</td>
<td>..</td>
<td>500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amaravati</td>
<td>..</td>
<td>500</td>
<td>700</td>
<td>..</td>
<td>325</td>
<td>375</td>
<td>600</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yeotmal</td>
<td>..</td>
<td>425</td>
<td>750</td>
<td>..</td>
<td>350</td>
<td>700</td>
<td>650</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wardha</td>
<td>..</td>
<td>375</td>
<td>650</td>
<td>..</td>
<td>275</td>
<td>..</td>
<td>70</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nagpur</td>
<td>..</td>
<td>450</td>
<td>600</td>
<td>425</td>
<td>425</td>
<td>..</td>
<td>750</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bhandara</td>
<td>900</td>
<td>400</td>
<td>..</td>
<td>600</td>
<td>325</td>
<td>..</td>
<td>..</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chanda</td>
<td>750</td>
<td>400</td>
<td>..</td>
<td>475</td>
<td>275</td>
<td>..</td>
<td>..</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

7. The mean driage factor is to be calculated for the 10 years period by the Agriculture Department and supplied to the Revenue Department. These driage factors will be used in converting the yield per acre of wet grain into the yield per acre for finding out the annewari of the crops by the formula:

   Observed yield per acre = yield acre of wet grain multiplied by driage factor.

8. Minimum number of experiments to be conducted for estimation of average yield per acre in a village for the purpose of annewari should be five. These five plots are to be selected on a representative basis from the yields having good, medium and bad crops roughly in proportion to their respective areas in the village. Wherever possible a large number of experiments up to ten are to be made.

9. Determination of the standard soil annas is required for the application of the revised annewari formula also. These standard soil annas are to continue to be determined by the Collector.

10. When making crop forecasts instead of estimating the annewari the Collector has to estimate the expected yield per acre and report the same in the forecast return. From the yield so estimated the annewari would be calculated on the basis of the given standard yield for each District.
11. After the annewari of the each of the principal crops of the village is determined in accordance with the procedure indicated above, annewari of the villages as a whole is calculated in the following manner :-

For working of the annewari of a village for all the crops it is necessary to know the area under each crop and the anna valuation of its yield. The method of calculation of the average annewari of the village on this basis is given below :

Suppose out of 1,000 acres occupied and assessed in the village the average unsown (rotation fallow etc) in ordinary years is 100 acres.

The crops for the current year for example are :-

<table>
<thead>
<tr>
<th></th>
<th>Acres</th>
<th>Anna value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unsown, rain being very short</td>
<td>250</td>
<td>Nil</td>
</tr>
<tr>
<td>Jawar</td>
<td>120</td>
<td>5</td>
</tr>
<tr>
<td>Bajri</td>
<td>86</td>
<td>7</td>
</tr>
<tr>
<td>Rice</td>
<td>64</td>
<td>1</td>
</tr>
<tr>
<td>Cotton</td>
<td>280</td>
<td>14</td>
</tr>
<tr>
<td>Gram</td>
<td>40</td>
<td>10</td>
</tr>
<tr>
<td>Wheat</td>
<td>160</td>
<td>10</td>
</tr>
</tbody>
</table>

The average will then be the sum of 250 X 0 + 120 X 5 + 86 X 7 + 64 X 1 + 280 X 14 + 200 X 10 divided by 900, (the normal cropped area) : 7, 186 divided by 900. Total Anna Valuation of the village 7-98 or 8 annas.

II - Provisions of the Maharashtra Land Revenue Code, 1966

Section 78 of the Maharashtra Land Revenue Code, 1966 provides that the State Government may in accordance with the rules or special orders made in that behalf grant reduction suspension or remission in whole or in part of land revenue in any area in any year due to failure of crops floods or in other natural calamity or for any reason whatsoever. Under this section only the
State Government can grant reduction suspension or remission of land revenue. In order that the suspension or remission can also be granted by the Collectors, orders delegating the powers of the State Government under section 78 of the Code to the Subordinate Officers have been issued under section 330-A off the Code. According to these orders reduction in land revenue can also be granted by the Settlement Commissioner or as the case may be by the Collector in accordance with the rules framed on the subject.


2. Reduction of land revenue can be granted during the currency of any settlement only in cases where there is a physical deterioration of the soil in the holding. In such cases the holder has to apply to a Survey Officer not below the rank of a District Inspector of Land Records. Such Survey Officer has to submit his proposals to the Settlement Commissioner and Director of Land Records through his immediate superior. The Settlement Commissioner after satisfying himself that the case is fit one for grant of reduction of land revenue so reduced is not more than Rs. 20, are to be submitted to Government for orders. The State Government has to make such enquiries requires the Settlement Commissioner and Director of Land Records to inform the applicant accordingly. The reduction so sanctioned is to take effect from a revenue year next following the date of the orders sanctioning such reduction and has to remain in force until the commencement of the term of the fresh settlement.

3. The expressions "general calamity" and "Local calamity" are defined under the Rules. The term general calamity means wide-spread or general failure of crops caused by drought floods failure of rains or excessive or untimely rains or any other natural calamity. It also includes total failure of crops due to land in any tract being left unsown for the following rasons :-

   (i) any recent calamity ; or

   (ii) a prohibitory order made under any law by a competent authority.
The expression "local calamity" means loss of or damage to crops or other properties in any locality occasioned by hail-storm fire or by locusts or by theft or mischief by unknown person. It also 'general calamity'.

4. If the Collector on hearing any report considers that there has been a failure of crops in any tract due to a general calamity and that it would be necessary to grant some relief in the said tract, he has to order enquiry to be made into the conditions of such tracts the degree of crop failure in each village and make anna valuation of the estimated outturn of crops according to the instructions issued by the State Government in the matter from time to time.

5. After ascertaining the degree of crop failure in terms of anna valuation of crops, the Collector has to grant suspension of land revenue in the following scale:-

<table>
<thead>
<tr>
<th>Sr. Number</th>
<th>Anna Valuation of Crops</th>
<th>Suspension of land revenue to be granted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Four annas or less</td>
<td>Whole</td>
</tr>
<tr>
<td>2</td>
<td>More than four annas but less than six annas</td>
<td>Half</td>
</tr>
</tbody>
</table>

The suspension of land revenue granted is always conditional upon the payment of the amount of land revenue, which is not suspended.

6. The suspended arrears of land revenue which are either in excess of two years land revenue or are more than three years old are to be remitted by the Collector.

7. The suspended land revenue is to be recovered only after the harvest of crops in the subsequent years is reaped. If the suspended land revenue is not remitted as provided in para. 6 above and if the harvest of the crops in the subsequent year is of anna valuation mentioned in column 1 of the table below then the amount of current land revenue and the suspended land revenue should be recovered as indicated in columns 2 and 3 of the table respectively.
Table

<table>
<thead>
<tr>
<th>Anna Valuation of Crops</th>
<th>Proportion of Recoverable Land Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Current (2)</td>
</tr>
<tr>
<td>11 annas and over</td>
<td>Full</td>
</tr>
<tr>
<td>8 annas and less than 11 annas</td>
<td>Full</td>
</tr>
<tr>
<td>6 annas and less than 8 annas</td>
<td>Full</td>
</tr>
<tr>
<td>Over 4 annas and less than 6 annas</td>
<td>Half</td>
</tr>
<tr>
<td>4 annas and less</td>
<td>Nil</td>
</tr>
</tbody>
</table>

8. In case crops could not be grown in any year in any area on account of prohibitory orders made to that effect by a competent authority under any law for the time being in force, the Collector may grant remission of land revenue:

(i) in whole if more than half of the area allowed to remain fallow was cultivated during the previous year;

(ii) in part, if less than half the area allowed to remain fallow was cultivated during the previous year.

9. When the Collector is satisfied that in any year in a particular tract there has been a local calamity he has to grant suspension or remission of land revenue in the following manner after taking into consideration the resources of the owner of the crops affected by such local calamity:

(i) if there is a total loss of crops or extensive damage to property grant remission in whole or in part as the Collector deems proper after taking into consideration the circumstances of each case;

(ii) in cases not falling under (I) above the Collector may grant suspension in whole or in part after taking into account the extent of loss occasioned by such local calamity.
The amount of remission which Collector can grant in any year in his district under (I) above shall not be more than Rs. 1,000. The Collector can however grant remission exceeding the above limit with the previous sanction of the State Government.

10. The Collector has to furnish to Government information about suspension or remission of land revenue granted by him every year in a form prescribed under the rules.
Chapter V (Sections 79 to 89) of the Maharashtra Land Revenue Code, 1966 deal with Revenue Surveys. Section 69 of the Code provides that the settlement of the assessment of land shall be made directly with the cultivator or the person who is primarily responsible to the State Government for the same. For the purposes of settlement it is necessary to have the land surveyed measured and classified with a view to assess it to land revenue. Revenue Survey is the first stage in these operations. According to section 79 of the Code, the State Government can direct the survey of any land with a view to:

(i) to assessment or settlement of land revenue; and

(ii) to the record and preservation of rights connected therewith; or

(iii) for any other similar purpose.

This survey which may extend to any village, town or city is called a revenue survey.

2. The work of revenue survey is carried out by survey officers appointed under section 8 of the Code. The survey operations consist of (I) measurement of village land (ii) preparation of survey records, (iii) preparation of village maps and (iv) demarcation of boundaries etc.

3. While conducting survey directed by the State Government under section 79 or a survey for dividing survey numbers into new survey numbers under section 86 or dividing survey numbers into sub-divisions under section 87, the Survey Officer is empowered to secure attendance of the holders of land and of all persons interested therein or their legally constituted agents. The survey Officers can also call for the taluka and village officers who are bound to perform service by virtue of their respective offices and take their assistance in
conducting survey operations (section 80). The Survey Officer is further empowered to secure assistance of the holders of land in measurement or classification of land to which the survey extends by furnishing flag holders as revenue demand (section 81).

4. The expression "Survey number" is defined under clause (37) of section 2 of the Code to mean a portion of land of which the area and assessment are separately entered under an indicative number in the land records. In the Central Provinces Districts survey number is known as "Khasra" number. Section 82 of the Code provides that no survey number agricultural land shall be made of less extent than the minimum fixed by the Director of Land Records. However existing survey numbers of less than minimum area so fixed are to be continued.

5. Section 83 of the Code provides that the State Government shall direct at any time a fresh survey or any operation subsidiary thereto. It further provides that where a general classification of soil has been made a second time, or where any original classification of soil has been made and approved by Government no such classification shall be again made with a view to revise the assessment. Reclassification of soil should be undertaken only when the State Government considers that owing to deterioration or change of condition of the soil of the land or any errors in classification such reclassification is necessary.

6. A survey number can be divided and formed into new survey numbers at any time with the sanction of the Collector in the following cases:-

   (i) when a portion of cultivable land is permitted to be used for any non-agricultural purpose,

   (ii) when any portion of land is specially assigned for any public purpose under section 22.

   (iii) When assessment of any portion of land is altered under sub-sections (2) and (3) of section 67.
The term "Sub-Division of a survey number" is defined under clause (35) of section 2 of the Code to mean a portion of a survey number of which the area and assessment are separately entered in the land records under an portion. A survey number can at any time be divided into as many sub-divisions as may be required in view of the acquisition or rights in land or for any other reason. Acquisitions of rights may be due to partition heirship alienation of undivided interest by a co-partner. Similarly if a holder desires to relinquish some portion of his land for philanthropic or other public purpose the said portion can be formed into a sub-division of survey number can be relinquished. While dividing survey numbers into sub-divisions care should be taken to see that the area of the sub-division should not be less than the standard area laid down under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. After dividing the survey numbers into sub-divisions assessment on each sub-division is required to be fixed in accordance with there rules made in that behalf. The total amount of assessment of sub-division of a survey number should not, however exceed the amount of original assessment of the said survey number (section 87).

8. The area and assessment of survey numbers and sub-divisions are to be entered in such records as may be prescribed under the rules (section 84).

9. Section 89 of the Code saves the surveys made and introduced prior to the coming into force of the Maharashtra Land Revenue Code.

10. Section 85 of the code provides for the partition of holdings. The provisions thereof have been explained in Revenue Book Circular No. 15.


11. While conducting revenue surveys, the Survey Officer has to separately measure classify an assess every holding and define the same by boundary marks. The holding which is not less than the minimum area fixed under section 82 of the Code is required to be entered in the land records as a survey in the land records as a sub-division of that survey number in which it is directed to be included.
12. The Survey Officer in charge of the survey operations has to test the original measurements made by his subordinates. All measurements are required to be recorded in a book or embodied in a plane table map to be preserved permanently.

13. The Survey Officer has also to prepare in accordance with orders of the Director of Land Record a village map showing each survey number and its boundary marks and such other details as may be ordered by the Director.

14. Before classifying lands into a different classes the land holders are required to be given notice to enable them to represent defects and point out their own improvements. The lands are then to be classified for purposes of assessment with reference to their productive qualities. The number of classes and their relative value is to be reckoned in annas in the areas where rupee scale prevails and in the C.P. Districts and Melghat Taluka of the Amravati District where factor scale is in vogue the relative value should be reckoned in terms of soil units. The original classification made by the subordinate Survey Officer is to be tested by the survey officer in charge of the survey operation. The particulars of classification of each survey number and sub-division with reasons for placing it in a particular class are required to be recorded by the casser in a filed-book kept by him. In the areas where factor scale prevails these particulars are to be recorded in 'Fard-Zamin" or in such other form as the Director of Land Records may direct.

15. On an application made by the holder and with the sanction of the holder any survey number or a sub-division can be amalgamated with any other co-terminus survey number provided that the following conditions are satisfied:

(i) that the total area on amalgamation does not exceed 12.1406 hectares (30 acres) or if one of the survey number or sub-division is less than 2-0234 hectares (5 acres) 16-1874 hectares (40 acres); (These limits can however be exceeded with the approval of the Director of Land Records.);

(ii) that all the parcels of lands are held by the same holder on the same tenure; and
(iii) that the common boundary is such that the amalgamation will materially facilitate cultivation.

16. A sub-division may be amalgamated without prior sanction of the Superintendent of Land Records with any co-terminus sub-division of the same survey number held by the same holder on same tenure.

17. On amalgamation, the original boundary marks are to be removed and the village maps corrected accordingly. Necessary entry in the land records is also to be taken.

18. The procedure laid down in paras. 11 to 17 above is to be followed while conducting survey of agricultural lands. The procedure prescribed in paras 11 to 13 and 15 to 17 also apply to non-agricultural lands.

19. Before dividing survey numbers into sub-division a general notice is required to be issued by the Tahsildar. The notice is to be pasted in the village chavdi and proclaimed by beat of drum. Individual notices containing detailed information about the measurement operations are also required to be served upon the holders by the Talathi, requiring them to be present on the notified date.

20. Alluvial land occupied by a person other than the adjoining land holder is to be formed into a sub-division and included in the adjoining survey number.

21. After the sub-divisions are formed boundaries are to be laid down. When there is a dispute the boundary has to be measured and mapped in accordance with the claims of both the disputants and the dispute is to be entered in the register of disputed cases and settled as per provision of the Code and rules mad thereunder. On settlement of the dispute the map has there is no dispute the boundary of each sub-division is to be laid down according to the statement made by the holders.

22. The Superintendent of Land Records shall assess the fees to be recovered for making sub-divisions. Unless the State Government directs otherwise, the fees will be such as will cover the entire cost of measuring assessing and mapping the sub-division.
23. The assessment of the sub-division is to be calculated accordance to the area and relative soil classification of the various sub-divisions regard being had to the provisions contained in the proviso to section 87(1) (b) of the Code. The amount of the assessment is to be rounded off to fraction of ten paise.

24. When villages are amalgamated the survey numbers of the largest inhabited village are to be retained and the survey numbers of other villages are to be given new numbers starting from the number next to that of the largest shown in bracket below the new number along with village.

25. Where a village is divided into two or more villages, the survey numbers of each newly formed village are to be renumbered starting from 1. The old cancelled number should however be shown in bracket below the new numbers.

26. The rules also prescribe the forms in which area and assessment of lands surveyed and settled are to be recorded and maintained. Different forms are prescribed for agricultural lands and non-agricultural lands. For sub-division of survey numbers the form in respect of land situated in the districts of Thana, Kolaba and Ratnagiri is different from the one prescribed for other districts.

III - Supplementary Instructions

Detailed instructions for carrying out settlement are contained in the following publications :-


(ii) Hand Book of Pot Hissa Survey.

REVENUE BOOK CIRCULAR No. 15

Subject.- Partition of Holdings..

The provisions regarding partition of holdings are contained in section 85 of the Code. Partition of holdings can be effected by the Collector on receipt of-

(i) a decree of a Civil Court; or

(ii) an application from a co-holder(s).

as regards (i) above, according to the provisions of section 54 of the Civil Procedure Code, 1908, the decree for partition of holding ordered by a Civil Court is to be executed by the Collector deputed by him in this behalf in accordance with the law (if any) relating to the partition for the time being in force. The effect of the above provisions is that for the partition of lands paying revenue the decree in the executing proceedings has to be sent to the Collector for effecting the partition and delivery of possession of those lands. Thus the Collector is responsible for the execution of Civil Court decrees for the partition of holdings. In executing these decrees he is required to abide by the terms of the decree so far as the parties are concerned but in carrying out actual partition he is bound by the provisions of section 85 of the Maharashtra Land Revenue Code.

As regards (ii) it is not necessary that all co-holders should make an application for partition. According to sub-section (2) of section 85 if in any holding there are more than one co-holders any such co-holder can make application to the Collector for a partition of his share in the holding. However where any question arises as to the applicant's title to the holding no such partition can be made until such question or dispute has been decided by the Civil Court.

3. While effecting partition either in execution of a Civil Court decree or on an application to that effect the Collector has to ensure that the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 are not infringed. In other words while dividing a holding the Collector has to ensure that no share to be allotted to any co-holder becomes a fragment under the said Act.
4. In making partition the Collector is required to divide the holding and apportion the assessment of the holding in accordance with the rules made in that behalf the provisions of which are explained in paras 6 to 12.

5. Expenditure properly incurred in making such partition is recoverable as a revenue demand from the co-holders at whose request the partition is made or from the persons interested in the partition in such proportion as may be determined by the Collector.


6. A co-holder who applies to the Collector for partition of his share in a holding under sub-section (1) of section 85 of the Code has to furnish in his application the following particulars :-

   (a) the area of each field constituting the holding and its survey number or hissa number recorded in the record of rights;

   (b) the tenure of the holding whether alienated or unalienated and in case of unalienated holding whether held as occupant class I, class II or Government lessee;

   (c) the land revenue of the holding;

   (d) the names and addresses of the co-holders and the extent of their shares.

Such application is required to be accompanied by a copy of entries in the record-of-rights.

7. On receipt of the application the Collector has to give hearing to the application in person on any day of which due notice is given to him. After hearing the applicant the Collector has to first decide whether the holding if partitioned would or would not result in creating a holding less in extent than the standard area determined by Government under the provisions of the Prevention of Fragmentation and Consolidation of Holdings Act. If his decision is that the partition would not result information of a fragment the Collector
has to serve notice in the prescribed form to all other co-holder requiring them to appear before him and state their objections if any on any day to be specified in the notice. The period within which the other co-holders are to be called by the Collector to appear before him shall be not less than 30 days or not more than 60 days from the date of the receipt of the notice by each such co-holder. Such notice shall be served on all the co-holder in the manner provided in section 230 of the Code, namely by either tendering or delivering a copy of the notice or by sending it by post to the co-holder or their authorised agents. If service in this manner cannot be made then by affixing a copy of the notice at their last known place of residence or at some place of public resort in the village in which the holding in question is situated.

8. The Collector has also to cause a proclamation in the prescribed form and get it published. He is required to post a copy of such proclamation at the head quarters of the Taluka and in the village in which the holding is situated and if necessary to the Co-operative Bank or the Land Development Bank or both operating within the area in which the holding is situated.

9. If after hearing the applicant and co-holders or other interested persons the Collector thinks that the applicant has no interest in the holding or that the applicant's title is disputed he (Collector) has to reject the application where the applicant's title to the holding is disputed the Collector has to direct him to get it decided by a Civil Court.

10. If the application is not rejected the Collector has to proceed to effect the partition either personally or through such agency as he may appoint. In effecting the partition the Collector is required to keep in view the following considerations :-

(i) As far as practicable whole survey number (if there are several survey numbers in a holding) or sub-division of survey numbers should be allotted;

(ii) Further sub-division should be resorted to only in rare cases;

(iii) As far as possible compact areas of land should be allotted to each party; and
(iv) Case should be taken to ensure that the productivity of the area allotted to each party is in proportion to his share in the holding.

11. The assessment of the holding so partitioned should be distributed in proportion to the shares held in the holding by the co-holders. If the total assessment of all the sub-divisions of any survey number in such holdings falls short of or exceeds the whole assessment of that survey number the difference should be equitably distributed over the sub-divisions by addition or deduction in the assessment so as to make the total equal to the assessment of the original survey number.

12. After the partition is completed the Collector has to hear any objections made by the parties and may either amend or confirm the partition. The partition will be effective from the commencement of the next agricultural year following the date of such amendment or confirmation of the partition.

13. The cost of partition is recoverable by the Collector from the parties in the manner provided in sub-section (5) of section 85 (vide para 5 under provisions of the Code).

14. The procedure mentioned in para 10 to 13 above is also applicable when any holding is ordered to be partitioned under any decree or order of a Civil Court.

15. A holding cannot be partitioned under the provisions of these rules if such partition results in creating a holding less in extent than the standard area fixed under the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.

III.- Supplementary Instructions

16. For dealing with appeals against the order of partitions please see para 21 of the Revenue Book Circular on Appeals Revision and Review i.e. Circular No. 25.

17. While partitioning shares in undivided agricultural lands in any local area for which standard area has been fixed under the provisions of the Bombay
Prevention of Fragmentation and Consolidation of Holdings Act, 1947, the officer should partition the holdings so as not to create a fragment. If while effecting partition among the co-sharers it is found that the co-sharer is entitled to specific share in the land but cannot be given such land without creating fragment he shall be compensated in money for that share. The amount of compensation is to be determined in accordance with the provisions contained in the Land Acquisition Act. If it is found that there is no enough land to provide for the shares of all the co-sharers the co-sharers may agree among themselves as to the particular co-sharer or co-sharers who should get the share of land and who should get the money compensation in lieu of the land. In the absence of such agreement among the co-sharers the officer has to choose the co-sharers by lots as to who should get the land and who should be compensated in mony. The manner in which the co-sharers are choose by lots is prescribed under rule 6 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Rules, 1959. The amount of compensation to be paid to the co-sharer who is to be compensated in money is to be recovered from each co-sharer in proportion to the value of land he gets over the share of land legally due to him. The co-sharer has to deposit the amount of compensation before taking possession of the land allotted to him. On his failure to do the share is to be allotted to other co-sharers who is willing to deposit the amount of compensation. If none of the co-sharers pays the amount of compensation the share is to be sold in auction to the highest bidder and the purchase money is to be paid to the co-sharers not getting the land in proportion to their respective shares.

Where the partition is effected in execution of a decree all questions relating to the partition of the land and apportionment of compensation is to be decided by the Court executing the decree or by the Collector effecting the partition as the case may be.
REVENUE BOOK CIRCULAR No. 16

Subject.- Assessment and Settlement of Land Revenue of Agricultural Lands.


Chapter VI of the Maharashtra Land Revenue Code, 1966 (sections 90 to 107) deals with assessment and settlement of land revenue of agricultural lands. Before directing settlement either original or revisional of any land the State Government has to cause and obtain a forecast of the probable results of the settlement. A notice with proposals based on the said forecast for the determination or revision of land revenue and specifying the term of settlement is proposed settlement. The forecast with the proposals are also required to be dispatched to the members of both the Houses of the State Legislature at least twenty-one days before the commencement of the Session.

It is open to any member of the legislature to suggest any modification to the proposals and to give a notice of motion for discussion in the House. the State Government has to accept any resolution passed by the Legislature on the forecast and proposals and take into consideration the objections received from the public (vide section 91).

2. After it is decided to introduce settlement the State Government has to direct undertaking of such settlement under section 92 of the Code. A detailed enquiry is then made by the Settlement officers. The area to be settled is first divided into zones comprising a taluka or a group of talukas or portions thereof of one or more districts, which are contiguous and homogeneous in respect of (i) physical configuration, (ii) climate and rainfall, (iii) principal crops grown in the area and (iv) soil characteristics [vide clause(h) of section 90]. The zones are further to be divided into groups. While forming such groups the following factors are necessarily required to be taken into consideration:

(i) physical configuration;

(ii) climate and rainfall;
(iii) prices' and
(iv) yield of principal crops.

[Section 94(2)]

The other factors such as markets, communications standard of husbandry population supply of labour agricultural resources wages etc., mentioned in clause (b) of sub-section (2) of section 94 are to be taken into consideration where necessary. Thereafter the Settlement Officer has to make detailed enquiries as prescribed in the rules and collect information necessary to arrive at the average yield of crops. While ascertaining the average yield of crops the Settlement Officer shall see that in increase in the average yield of crops of land due to the improvements made in the land by or at the expense of the holder is not taken into account as improvements are perpetually exempted from taxation (vide section 95).

3. The standard rate of assessment with reference to any particular class of land is not to exceed one-twenty-fifth of the average yield of crops per acre of that class of lands of sixteen annas classification value. In the districts of Nagpur, Chanda, Wardha and Bhandara and Melghat Taluka of Amaravati district, where the classification value is expressed in terms of soil units on the basis of the factor scale the "land of sixteen annas classification" means the land possessing the number of soil units in the factor scale corresponding to the sixteen annas classification as prescribed in the rules vide clause (f) of section 90. After arriving at the average yield of crops, the Settlement Officer has to fix the standard rate of assessment for each class of land in each group after taking into consideration the factors mentioned in sub-section (2) of section 94. He has then to prepare a report called "the settlement report" containing his proposals for the settlement and submit it to the Collector. (section 96).

4. On receipt of the settlement report, the Collector has to publish it. He has also to publish in each village a notice in Marathi stating for each class of land in the village existing standard rate and the extent of any increase or decrease proposed in the settlement report and call for objections in writing within
three months from the date of such notice (section 97). After the period of the notice the Collector has to consider the objections received by him and forward the report to the State Government with his remarks thereon through the Settlement Commissioner and the Divisional Commissioner (section 98).

5. The aggrieved party has also a right to approach the Maharashtra Revenue Tribunal through the State Government within two months from the date of notice issued by the Collector. Such party has to first deposit in the Government Treasury such amount of cost as may be prescribed in the rules. The Revenue Tribunal after making necessary enquiries has to submit its opinion to the State Government on the objections raised and on such other matters as may be referred to it by Government. The amount deposited is to be refunded in full or in part in accordance with the rules made in that behalf (section 99).

6. The State Government has to consider the settlement report the objections received thereon and the opinion of the Maharashtra Revenue Tribunal and pass such orders on the settlement report as it deems fit. Care should however be taken to see that no increase in the standard rate proposed in the settlement report is ordered unless fresh notice as mentioned in paragraph 4 above is published and objections received thereon are considered. The settlement report the objections received thereon the opinion of the M. R. T. and the order passed by the State Government are required to be laid on the table of each House of the State Legislature. The order passed by the State Government on the settlement report is final and cannot be called in question in any Court (section 100).

7. The settlement remains in force for a period of thirty years after which it continues to remain in force until the commencement of the term of a fresh settlement (section 93).

8. At the time of passing order on the settlement report the State Government can exempt any land from assessment for any advantage accruing to it from water. The State Government has also the power to withdraw such exemption at any time during the term of settlement after publishing a notice in Marathi.
to that effect in the village concerned and after the expiry of a period of six months from such notice (section 101).

9. The State Government while passing order on the settlement report can also direct that any land in respect of which settlement is made shall be liable to be assessed to additional land revenue during the term of the settlement for additional advantages accruing to it from water received on account of irrigation works or improvements on existing irrigation works undertaken at Government cost and completed after the settlement was directed under section 92 provided that no rate in respect of such additional advantages is levied under the Irrigation Act and that a six months notice in Marathi is published in the village concerned (section 105).

10. After the order on the settlement report is passed by the State Government and a notice of the same is published in the prescribed manner the settlement is deemed to have been introduced. The land revenue according to such settlement can be levied from such date as the State Government may direct. In the year in which a settlement is introduced the difference between the old and the new assessment of all lands on which the latter is more than the former shall be remitted and the revised assessment is levied from the next following year. Any occupant who is dissatisfied with the increase in the assessment as a result of the introduction of the settlement on any of his survey numbers or sub-division of survey numbers can in the manner provided in section 55, relinquish i.e. resign in favour of the State Government such survey number or sub-division in the year next following that in which the settlement is introduced. Such occupant is entitled to receive remission of the increase so imposed (section 102).

11. A person desiring to claim to hold land either wholly or partly free of land revenue is required to prove his title to the satisfaction of the Settlement Officer. On so proving his title the case has to be referred to the State Government for orders (Section 103).

12. In respect of the lands which are wholly exempt from payment of land revenue the Settlement Officer has to determine and register the proper full assessment and levy the same as soon as the exemption is withdrawn. Such
assessment when levied is deemed to have been fixed under the provisions of Chapter VI (Section 104).

13. During the term of settlement the Collector can after giving due notice to the holder correct any error in the area or assessment of a holding due to mistake of survey or arithmetical mis-calculation. No arrears of land revenue should however be recovered by reason of such mistake but the excess payment if any has to be adjusted against the future payments of land revenue.

14. Section 107 of the Code saves the settlements of land revenue made and in operation at the time of coming into force of the Code.


15. Rules 3 and 4 of these rules prescribe the procedure for dividing areas to be settled into zones and zones into groups. For dividing the area into zones the factors mentioned in clause (h) of section 70 of the Code are to be taken into account and while forming groups the matters enumerated in sub-section (2) of section 94 are required to be taken into consideration. The Settlement Commissioner is empowered to divide the area into zones while the Settlement Officer can divide these zones into groups.

16. Rule 5 prescribes the detailed procedure to be followed by the Settlement Officer while conducting enquiries into various matters for arriving at averaged yield of crops and also for purposes of preparation of his Settlement Report. After the detailed enquiries as mentioned in rule 5 are conducted the Settlement Officer has to determine the average yield of crops and fix the standard rate of assessment. In accordance with the instructions issued by the Settlement Commissioner with the approval of the State Government and on the basis of the information collected the Settlement Officer has to determine the average yield of crops per hectare in each group. For this purpose he has to work out the average classification value separately for each class of land form the survey records. The average yield so determined is to be considered to be the yield of land of the classification value equal to the average classification so
worked out. The Settlement Officer has then to estimate the yield for land of sixteen annas classification of each class of land by rule of three and then calculate the average yield per hectare for each class of land. After the average yield is so determined land in each group in accordance with the provisions of clause 9h) of section 90 having regard to the forecast approved by Government under section 91. In the districts of Nagpur, Chanda, Wardha and Bhandara and Melghat Taluka of Amaravati District, the soil units in the factor scale corresponding the sixteen annas classification value are as follow :-

<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Areas</th>
<th>No. of soil units corresponding to sixteen annas classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Nagpur District</td>
<td>50</td>
</tr>
<tr>
<td>2</td>
<td>Chanda District</td>
<td>36</td>
</tr>
<tr>
<td>3</td>
<td>Wardha District</td>
<td>40</td>
</tr>
<tr>
<td>4</td>
<td>Bhandara District</td>
<td>40</td>
</tr>
<tr>
<td>5</td>
<td>Melghat Taluka in Amaravati District</td>
<td>32</td>
</tr>
</tbody>
</table>

To 48 as may be determined by the Settlement Officer with the sanction of the Settlement Commissioner regard being had to the last classification in force.

17. The Settlement Officer has then to prepare the Settlement Report on the basis of the information collected by him after detailed enquiries made under rule 5. The Report shall contain the reasons for his proposals and statement showing the effects of his proposals as compared to that of the existing settlement. He has to submit his Report to the Collector and send three copies thereof to the Settlement Commissioner and Director of Land Records. The Settlement Commissioner has to arrange for the translation of the Settlement Report in Marathi and have it printed.

18. The Collector has to publish the Settlement Report in each village in Marathi by posting it along with the notice published by him under sub-section
(2) of section 97 for inviting objections from the public within three months. The Settlement Report as well as the aforesaid notice is to be posted in the Village Chavdi or other prominent public places in the village and also on the notice board of the taluka office. After the period of three months the Collector has to consider the objections received by him and forward the Report along with his remarks to the Settlement Commissioner who has to send it with his own remarks to the Commissioner of the Division. The Divisional Commissioner has to offer his own recommendations on the Settlement Report and submit it to Government.

19. An aggrieved person can approach the Maharashtra Revenue Tribunal through the State Government within two months from the date of publication of the report. Such a person is however required to deposit in the Government Treasury an amount of Rs. 200 towards the cost. If the finding of the Maharashtra Revenue Tribunal is entirely in favour of the aggrieved party the whole amount of deposit is to be refunded to him. If the objections are partly accepted by the M. R. T., such portion of the amount is to be refunded to him as is recommended by the M. R. T., If all the objections are rejected by the M. R. T., mended by the M. R. T. the party is not entitled to the refund of the amount deposited by him. The M. R. T. has to submit its opinion to the State Government within two months from the date of reference made to it.

20. After the standard rate has been sanctioned by the State Government the assessment to be imposed on individual survey number is to be determined in accordance with the relative classification value of the land and according to the table of calculations prepared by the Settlement Commissioner. The assessment to be imposed after a revision settlement shall be worked out by increasing or decreasing the old assessment in the same proportion as there is an increase or decrease in the new standard rate over the existing maximum or standard rates in respect of the lands.

21. Rule 14 prescribes the procedure for fixing assessment under section 68 of the Code in respect of lands which are not wholly exempt from payment of land revenue and on which an assessment is fixed under the provisions of
chapter VI of the Code. In this respect the lands are divided into the following categories:

(i) Unassessed lands in the villages which are settled under Chapter VI;

(ii) Lands in unsettled villages;

(iii) Lands in respect of which survey and classification has not been made under Chapter V of the Code.

22. In case of (i) in Paragraph 21 above the Collector has to fix the standard rate of assessment per hectare at a rate equal to the standard rate applicable to the land in the settled village.

23. With regard to (ii) in Paragraph 21 above the Collector has to arrange to form groups of villages homogeneous as far as possible in respect of :-

(a) physical configuration:

(b) climate and rainfall;

(c) prices; and

(d) yield of principal crops.

He has then to classify the lands into dry crop, rice garden and warkas and then fix the standard rate of assessment per hectare for each class of land in each group having regard to the standard rate in force in the settled village in the neighbourhood which resembles most with the unsettled village.

24. In respect of lands referred to at (iii) in Paragraph 21 above the Collector has to first classify them into dry crop, rice garden and warkas and then further sub-divide them into good medium and inferior after taking into consideration the yield of the principal crops. The Collector has then to apply the standard rate applicable to the similar group and class of land of the neighbouring settled villages to the good lands. Two-thirds of the said standard rate is to be applied to the medium lands and one thirds to the inferior lands.
25. The assessment fixed under rule 14 is to remain in force for the current revenue year and thereafter will continue in force till it is revised under Chapter VI of the Code.

**III - Supplementary Instructions**

Section 106 of the Code empowers the Collector to correct any error in the area or assessment of a holding due to mistake of survey or arithmetical miscalculation. The Collectors have been directed to delegate this power to the Survey Officer not below the rank of a Superintendent of Land Records. The Collectors have accordingly issued notification in exercise of the powers conferred upon them under section 330-A of the Code. According to the said notification the powers of the Collector under section 106 of the Code can be exercisable also by Survey Officers not below the rank of a Superintendent of Land Records having jurisdiction over the district.

Detailed instructions for carrying out revenue surveys are contained in the Revenue and Settlement Manual.
REVENUE BOOK CIRCULAR No. 17

Subject - Conversion of use of Land and Non-Agricultural Assessment.


The expression "Non-Agricultural Assessment" is defined under clause (21) of section 2 of the Maharashtra Land Revenue Code, 1966 to mean the assessment fixed on any land under the provision of the Code or rules thereunder with reference to the use of land for non-agricultural assessment can be divided into the following two topics:

A. Procedure for conversion of use of land from one purpose to another and penalty for unauthorised non-agricultural use.

B. Assessment and settlement of land revenue of land used for non-agricultural purpose.

The provisions on these two topics are discussed below.

A- Procedure for Conversion of use of land from one purpose to another

2. Section 42 of the Code provides that no land used for agricultural purpose shall be used for non-agricultural purpose and no land used for one non-agricultural purpose shall be used for another non-agricultural purpose but in relaxation of the conditions imposed at the time of the grant of permission except with the permission of the Collector. A person desiring to convert use of his land from one purpose to another has to apply to the Collector for such permission in a from prescribed in rule 3 of the M. L. R. (conversions of use of land and non-agricultural assessment) Rule, 1969. The application for grant of non-agricultural permission can be made by an occupant or a superior holder or a tenant with the consent of each other. On receipt of such an application, the Collector has first to acknowledge it. He has then to make due enquiry and either grant the permission or refuse it within 90 days from the date of acknowledgment or from the date of receipt of the application if the
application is not acknowledged. If the application is for conversion of land for temporary non-agricultural purpose, such application is to be decided by the Collector within 15 days from the date of its receipts. If the application is not in accordance with the form prescribed or if the consent of superior holder or a tenant as the case may be is not obtained the Collector has to return the application to the applicant. In such cases the period of 90 days or 15 days as the case may be is to be counted from the date on which the application is again presented to the Collector. The Collector can refuse the permission applied for if it is necessary to do so, to secure the public health safety and convenience or if such use is contrary to any scheme for the planned development of a village, town or city and in the case of land to be used for residential purposes, in order to secure in addition that the dimensions arrangement and accessibility of the sites are adequate for the health and convenience of the occupiers or are suitable to the locality.

If no reply is received from the Collector within 90 days or as the case may be within 15 days the permission applied for is deemed to have been granted subject to the conditions prescribed in the rules on the subject.

When the permission is granted, a person has to inform the Tahsildar in writing through the Village Officer, the date on which change of user of land commenced within 30 days from such date. If he fails to do so he is liable to the payment of such fine as the Collector may impose up to Rs. 500 (section 44).

3. A person using his land without obtaining the permission of the Collector under section 44, is liable to one or more of the following penalties:-

   (i) to pay non-agricultural assessment with reference to the altered use;

   (ii) in addition to the non-agricultural assessment to pay such fine as the Collector may impose subject to the rule made in that behalf;

   (iii) to restore the land to its original use or to observe the conditions on which the permission is granted within such reasonable period.
as the Collector may direct. If he fails to do so within the said period he has to pay penalty not exceeding Rs. 300 and a further penalty of Rs. 30 for each day during which he contravenes the Collector’s direction. (Section 45).

4. If a tenant of any holder uses the land without obtaining prior permission and thereby renders the holder to the aforesaid penalties the tenant shall be responsible to the holder in damages (Section 46).

5. Section 47 of the Code provides that the State Government can exempt any land from the operation of the provisions of section 42, 44, 45, or 46. The section further authorises the Collector to regularise the unauthorised non-agricultural use of any land on such conditions as may be prescribed in the rules.

B- Assessment and Settlement of Land Revenue of Land used for Non-Agricultural Purposes.

6. The non-agricultural assessment is determined having regard to the urban and non-urban areas in which the land is situated and to its use. Different procedure is adopted for fixing non-agricultural assessment in urban and non-urban areas.

Non-Agricultural Assessment in Non-Urban Areas

7. Villages in the Non-Urban areas are first to be divided by the Collector into two classes viz., Class I and Class II on the basis of the market value of land, situation, non-agricultural purpose and advantages and disadvantages attached to the land. In class I villages the Collector has to fix the non-agricultural assessment at a rate not exceeding two paise per sq. meter per year and in respect of villages falling in class II fix the rate not exceeding one paisa per meter having regard to the market value of land and non-agricultural purpose to which the land is put. The assessment so fixed should however not be less than the agricultural assessment (section 110). Under clause (b) of section 123 of the Code the residential building site situated within gaothan in non-urban areas are exempted from payment of land revenue. Hence no land
revenue can be levied on lands in the non-urban areas in village sites i.e. gaothan used for residential purposes. In these areas therefore the non-agricultural assessment will have to be livied only on lands which are used for industrial, commercial or other non-agricultural purposes other than residential.

Non-Agricultural Assessment in Urban Areas

8. The non-agricultural assessment in urban areas is to be based on the value of the lands and the purpose for which the land is put to use. For this purpose the Collector has to divide the urban area into blocks on the basis of the market value situation use advantages and dis-advantages attached to the land. Thereafter the Collector with the approval of the State Government has to fix the rate of non-agricultural assessment which is called "the standard rate of non-agricultural assessment" at such percentage of the full market value of the land as may be prescribed by rules. The full market value of the land is to be estimated on the basis of the sales, leases and awards under the Land Acquisition Act, of the land during the period of past 15 years. Before the standard rates are brought into force they are required to be published in the Official Gazette. The standard rate of non-agricultural assessment remains in force for a period of ten years and thereafter until they are revised (section 113).

9. The non-agricultural purposes with reference to which assessment is to be determined under the provisions of the Code, are as follows :-

(i) residential purpose;
(ii) industrial purpose;
(iii) commercial purpose; and
(iv) any other non-agricultural purpose.

The rate of non-agricultural assessment in respect of the land in urban areas used for the different purposes mentioned above are as follows:-

(i) for lands used for residential purpose, the standard rate of non-agricultural assessment;
(ii) for lands used for industrial purpose, one and one half times of the standard rate;

(iii) for lands used for commercial purpose, twice the standard rate; and

(iv) for lands used for any other non-agricultural purpose, not less than the standard rate and not exceeding the rate applicable to the land used for industrial purpose regard being had to the situation and special advantages or dis-advantages attached to such lands.

While fixing non-agricultural assessment, the Collector is authorised to direct an increase or decrease in the rate so fixed for a particular use by 25 per cent having regard to the situation and special advantages or disadvantages attached to the lands *(Section 114)*.

10. While fixing the standard rate as well as the non-agricultural assessment on individual plots, the following limits are required to be observed:-

(i) under no circumstances the assessment on any plot shall exceed 3 per cent of the full market value; and

(ii) in revision, if the land is used for residential purpose, the revised assessment should not exceed two times the previous assessment and if used for non-agricultural purpose, other than residential the revised assessment should not exceed six times the original assessment.

11. Except in respect of the Co-operative Societies and Housing Boards established under any law for the time being in force, the non-agricultural assessment is to be levied with effect from the date on which any land is actually used for a non-agricultural purpose *(section 115)*.

12. The non-agricultural assessment shall remain in force for a period of 15 years from the date on which the land is actually used for the non-agricultural purpose. On expiry of this period, the assessment is liable to be revised but till it is so revised the assessment fixed shall continue to remain in force. Where non-agricultural assessment in respect of which not guarantee period is co-terminus with the period of settlement of agricultural lands, the non-agricultural assessment in such cases may be revised after a period of 30 years.
from the date on which such non-agricultural assessment was initially fixed (Section 116).

13. Where land is used for any non-agricultural purpose for a period of six months or less, the non-agricultural assessment to be charged should be half of that fixed for lands used for that non-agricultural purpose.

14. The lands used for the following purposes are exempted from payment of non-agricultural assessment:-

(i) Lands used by an agriculturist for an occupation subsidiary or ancillary to agriculture such as erection of shade for handloom poultry farming gardening or other occupation, which the State Government may specify by rules.

(ii) Lands used for purposes connected with the disposal of the dead.

(iii) Lands solely occupied and used for public worship and which were exempted from payment of land revenue before coming into force of the Code.

(iv) Lands used for educational or charitable purpose, the benefit of which is open to all citizens without distinction of religion, race, caste etc.

(v) Lands used for other public purposes which the State Government may specify under the rules.

(vi) Lands in non-urban area situated out side the gaothan and used for residential purpose if so notified by the State Government.

It may be noted here that in respect of cases coming under items (i) to (v) above and those notified by Government under item (iv) above the exemption from payment of non-agricultural assessment is automatic. It is therefore not necessary for the holders of lands in the aforesaid cases to apply for exemption from payment of non-agricultural assessment.

15. The State Government has got power to revoke the exemption granted under the preceding paragraph if lands so exempted are not used for the purpose for which exemption is provided. After revocation the land is liable to
the payment of assessment in addition to such fine as the Collector may impose (Section 118).

16. In respect of lands which are wholly exempt from payment of assessment, the Collector can determine and register proper non-agricultural assessment thereof (Section 119).

17. Section 120 of the Code saves the non-agricultural assessment fixed on lands and in force in any part of the State before the commencement of the Code.


18. The form in which an application for conversion of use of land is required to be made to the Collector is prescribed in these Rules. When an application is received in the said form the Collector has to grant the permission applied for after consulting the Planning Authority and such other authorities as the State Government may direct. The permission is to be granted subject to the condition mentioned in rule 4. Some of the important conditions are as follows :-

(i) The grant of permission is subject to the provisions of the Code and rules made thereunder.

(ii) The land shall not be used for a purpose other than that for which permission is granted.

(iii) The applicant shall commence the non-agricultural use within one year from the date of order failing which unless the period is extended the permission shall be deemed to have lapsed.

(iv) The applicant shall be liable to pay altered assessment as may be determined under section 110 or section 114.

(v) If the land falls within the jurisdiction of the Planning Authority, the construction shall be in accordance with the plan approved by the Planning Authority; and in other areas in accordance with the provisions of schedules II and III appended to the Rules.
19. The Collector is empowered to impose other reasonable conditions, as he may deem fit having regard to the sanctioned use of the land. The conditions are required to be incorporated in the sanad to be granted to the applicant.

In respect of hill stations and such other localities as the State Government may specify where there is no Regional Plan, Development Plan or Town Planning Scheme, the permission for conversion may be granted on such conditions as are considered expedient regarding the style of the building the period of construction and the observance of municipal or sanitary regulations in addition to the conditions mentioned in the preceding para, applicable to the area.

20. In cases where the permission is deemed to have been granted for not communicating the decision to the applicant within a period of 90 days or as the case may be 15 days from the date of application such permission shall be subject to the aforesaid conditions.

21. Under the provisions of the Code a person who has been granted permission to convert his land is required to inform the Tahsildar the date of commencement of the non-agricultural use of the land within 30 days from the date of such commencement. If he fails to do so he is liable to a penalty of not exceeding Rs. 500. The rules provide for the limits of the minimum penalty to be imposed in such case. If the failure is in respect of lands used for residential purpose the penalty should be not less than an amount equal to two times the non-agricultural assessment of the land for the period of amount of penalty shall be not less than three times the non-agricultural assessment for the period of default.

22. If any land is unauthorisedly used for any non-agricultural purpose in contravention of the provisions of section 444 of the Code, the Collector has first to satisfy himself that had the holder applied for necessary permission under section 44, his application would not have ordinarily been rejected on any of the grounds specified in clause (c) of sub-section (2) of section 44. If the Collector is so satisfied and if the holder so desires the Collector in consultation with the Planning Authority, if the area falls under its jurisdiction, can
regularise the unauthorised non-agricultural use on the conditions that the holder shall :-

(i) pay non-agricultural assessment with reference to the altered use since its commencement.

(ii) Pay such fine not exceeding forty times the non-agricultural assessment as the Collector may fix.

(iii) Abide by the conditions mentioned in para. 18 above and such other conditions as the Collector may impose. (Rule 9).

23. If the unauthorised non-agricultural use cannot be regularised as per preceding para., but the Collector is satisfied that demolition of the offending unauthorised construction is likely to cause heavy damage and serious inconvenience and hardship to the holder so desires, the Collector may with the sanction of the State Government allow such construction to stand on the conditions mentioned in para. 22 above and on the following additional conditions :

(i) that the holder shall pay a composition fee not less than 50 per cent of the cost of the offending construction or 40 times the non-agricultural assessment whichever is more;

(ii) that the holder shall agree in writing to demolish the offending structure without claiming compensation if after a reasonable period he is asked to do so, failing which the Collector shall do so at the holder's risk and cost.

24. If the Collector considers that action as per para. 22 or 23 cannot be taken in respect of any unauthorised non-agricultural use he shall require the holder:-

(i) to stop the unauthorised use;

(ii) to pay non-agricultural assessment for the entire period of unauthorised use; and
25. The standard rate of non-agricultural assessment is to be equal to 1.25 per cent of the full market value of land. The "full market value" is defined to mean the amount of market value plus the amount representing the Capitalised assessment for the time being in force. The "Capitalised assessment" means an amount equal to 16 times and assessment on the land for the time being in force (Rule 13). The full market value is to be estimated on the basis of sales, leases and awards under the Land Acquisition Act of land during the preceding 15 years. With a view to get the aforesaid statistics the Collector is required to maintain a record of all registered sales leases and awards in the forms prescribed under these rules (Rule 14). The detailed procedure to estimate full market value of lands in urban areas is prescribed in Rule 15. In accordance with the principles laid down in rule 15, the Collector shall first estimate the full market value of non-agricultural land in each block separately for each of the 15 years immediately preceding the year in which the standard rate of non-agricultural assessment is to be fixed. On the basis of the full market value determined for the preceding 15 years the Collector shall estimate the full market value of land per square metre in each block at a rate of 1.25 per cent of the said full market value and submit the same for the approval of the State Government through the Commissioner of the Division. The State Government can modify the Collector's proposal to such extent as it deems fit. When the standard rates are approved by Government, they are to be published in the Gazette and also pasted on the notice board of the Taluka Office. The standard rates will come into force after the expiry of three months from the date of their publication in the Gazette (Rule 16).

26. In fixing actual non-agricultural assessment on individual plots in each block the amount of assessment is required to be rounded off to the nearest multiple of ten, less than 5 paise being disregarded and 5 paise and more regarded as 10 paise (rule 18).

27. Non-agricultural assessment in respect of lands used for residential purpose is to be levied on the area of the land within a compound which is
built over and also on the area that is required to be kept open according to any law for the time being in force (Rule 19).

28. Where a land is assessed or of which the assessment is altered for any non-agricultural use is used for agricultural purpose the Collector, on an application made to him by the holder thereof may subject to the provision of the relevant Tenancy Laws withdraw the non-agricultural assessment and impose old agricultural assessment on the said land with effect from the 1st day of the agricultural year (i.e. 1st April) next following (Rule 20).

29. Clause (1) of section 117 of the Code provides that lands used by an agriculturist for an occupation subsidiary or ancillary to agriculture are exempt from payment of non-agricultural assessment. In this respect lands used by an agriculturist for extracting or canning fruit juice, gurmaking oil pressing cotton ginning, paddy husking or other similar purposes from the produce of his own field are to be considered as occupations subsidiary or ancillary to agriculture.

Lands used for any of the following purposes shall also be exempt from the non-agricultural assessment :-

(i) hospitals;
(ii) hostels;
(iii) play-grounds;
(iv) parks and gardens;
(v) office premises of local authorities;
(vi) gymnasiums; or
(vii) roads, paths and lanes set apart in layouts, meant for the benefit of all citizens without distinction of religion, race, caste, sex, place of birth or any of them, and yielding no profit to private individuals or to any person [Rule 22 (1) and (2)].

No non-agricultural assessment should be levied on building sites held by Co-operative Housing Societies or Housing Boards, which are not built upon for a period of three years subsequent to the date on which possession was taken or till the date on which non-agricultural use of the land begins, whichever is later [Rule 22 (3)].
30. Rule 23 of these rules requires the Collector to maintain and keep up-to-date in his office a map of his district showing clearly and by district colours the urban and non-urban area, Class I and Class II villages in non-urban areas and blocks for different non-agricultural uses in urban areas. The Tahsildar is also required to maintain and keep up-to-date similar map in respect of his Taluka. These maps shall be open to public inspection free of charge during office hours.

31. The provisions about prevention of Ribbon Development, the manner in which layouts are to be prepared building regulations etc., are also incorporated in Schedules II and III appended to these rules.

III. Supplementary Instructions

32. The question as to whether the use of the lands for breeding of pedigree horses, etc. should be treated as agricultural or non-agricultural has been examined by Government and the position is as under-

The expression "agriculture" has not been defined in the Land Revenue Code. The term has both a narrow and a wider connotation. In its narrow and primary sense, it means cultivation of the ground. In its general meaning, it is the cultivation of the soil for purposes of procuring vegetables and fruits including horticulture and the raising and feeding of cattle and other stock (Anderson's Dictionary of Law). In Jowitt's Dictionary of English Law, the expression "Agriculture" is interpreted to include horticulture, fruit growing seed-growing dairy framing and live-stock breeding and keeping the use of land as grazing land, meadow land osior land, market gardens and nursery grounds and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes. "Agriculture" thus in its normal and general meaning includes activities such as dairy farming and live stock breeding and keeping , bee-keeping, poultry-keeping which strictly have nothing to do with village of the soil. The use of land for stock-breeding should be considered to be an agricultural use in rural areas. Lands used for the purpose of horse breeding stabling horses and their exercise and ancillary matters should accordingly be treated as used for agriculture and assessed accordingly. In urban areas the principle laid down for the purpose of assessing
lands is that where animals consume to material extent of products of the holding on a part of which they are penned the whole use both that of the land on which stables or pens are constructed and that of the land over which the animals graze or pens are constructed and that of the land over which the animals graze or run is agricultural. Where the animal are merely stalled in urban area and all but a negligible part of their feeding stuffs are imported the use is non-agriculture. In intermediate cases between these extremes it is considered that even if there be a genuine doubt the use of the lands should be treated as agricultural. This would appear to be a proper position to take both legally and from a policy point of view. The use to which the stock raised on the lands is subsequently put is not relevant for the purpose of deciding whether the land on which such stock is raised is itself used for agricultural purpose.

33. Poultry farming is an agricultural activity. Hence the question of obtaining permission of the Collector for using land for poultry-keeping does not arise.

34. Collectors should not grant permission under section 44 of the Maharashtra Land Revenue Code for conversion of agricultural land into non-agricultural for construction (not repairs) of Temples, Churches and Mosques of grant Government land for the construction of such building without the previous approval of Government. In view of time limit of 90 days prescribed in section 44 of the Code, Collectors should forward applications in these cases to Government without delay.

35. All cases of permission to construct tombs for saints of all communities should be submitted to Government for prior approval and that the Collectors should insist that as far as possible these tombs should be constructed in the burial or burning grounds, etc allotted to the communities.

36. While issuing general permission to build on plots included in Town Planning Schemes, Collector should clearly state that such general permission does not include temples, churches, mosques and tombs for saints of all communities.
37. Under section 67 of the M.L.R. Code, 1966 land is to be assessed with reference to the use thereof, viz:-

   (a) for the purpose of agriculture,
   (b) for the purpose of residence,
   (c) for the purpose of industry,
   (d) for the purpose of commerce,
   (e) for any other purpose.

   So long as building site is assessed to agriculture, it shall be deemed to be used only for agriculture. Consequently under section 44 of the M.L.R. Code the use of the building site for the purpose of construction of building for the purpose of residence, industry, etc. would require permission of the Collector if the building site is assessed to agriculture. Vacant plots in gaothans which are subjected to agricultural assessment could not, therefor, be built upon without the permission of the Collector under section 44 of M.L.R. Code.

38. While permitting non-agricultural uses of lands along roads, Collectors should always bear in mind the need to avoid the undesirable consequences and they should relax the orders regarding prevention of ribbon development only in exceptional cases of the following types:-

   (i) Government land along the road was sold for building and it is not considered desirable to refund the occupancy price and to bear the loss of non-agricultural assessment involved in the cancellation of sale because there is no suggestion at present that the land will be required for road widening in the near future;

   (ii) Heavy damage will be caused to the owner if constructions within the open margin areas are demolished provided that these constructions were made innocently within the open area and not deliberately and also provided that the person in whom they vest agrees in a legally binding manner to demolish the construction without claiming compensation whenever he is asked to do so by
the Collector, failing which the Collector will do so at the person’s risk and cost;

(iii) Structures in the open margin areas are used for public, municipal purposes or as public amenities (e.g., a municipal market, a petrol pump, a bus stand-shed) provided that these constructions were made innocently and not deliberately and also provided that the person in whom they vest agrees in a legally binding manner to demolish the constructions without claiming compensation whenever he is asked to do so by the Collector failing which the Collector will do so at the person’s risk and cost;

(iv) The plot is situated along an old road with old buildings built without reference to Ribbon Development Prevention Rules because they did not then exist;

(a) If the size of the plot is such that it will not possible for the owner to build and to make full economic use of the land if he is compelled to leave open margins as required under the Ribbon development Prevention Orders;

(b) If the Collector is satisfied that constructions in line with existing structures will not materially and injuriously affect the view of fast moving traffic, sanitation, etc;

Provided that the person agrees in a legally binding form to remove the constructions without claiming compensation whenever called upon by the Collector to do so failing which the Collector will do it at the person’s risk and cost;

(v) The land is used for a factory but only the subsidiary buildings (e.g., residential quarters, latrines, etc.) are constructed between the building line and the control line;

(vi) The road is sufficiently wide having regard to existing conditions and there is no likelihood of its being widened in the near future provided that Collector is satisfied that constructions in line with
existing structures will not materially and injuriously affect the view of fast moving traffic sanitation's etc. and also provided that the person concerned agrees in a legally binding form to remove the constructions without claiming compensation whenever called upon by the Collector to do so failing which the Collector will do it at the person's risk and cost;

(vii) Only temporary structures or structures of comparatively minor importance are involved and refusal to permit them is likely to cause serious inconvenience to the owner of the land e.g., a tin cattle-shed, a small cabin to cover electric installation or a water-pump, a temporary mandap etc.

(viii) A boundary wall permitted as a boundary mark under the relevant rules and orders to demarcate plots along roads;

(ix) Land along the particular road is included in a finally sanctioned Town Planning Scheme and the Ribbon Development Prevention Orders are inconsistent with the provisions of the Scheme unless steps have been taken to vary the provisions of the Scheme with a view to removing the inconsistency;

(x) Structures have covered only a very small portion of the open margin area as a result of crude methods of measurements followed by buildings particularly in the rural areas; and

(xi) Other cases where the Collector the Executive Engineer, the Planning Authority and the District Superintendent of Police agree that relaxation is merited with or without conditions.

39. Cases of types other than those mentioned in the foregoing paragraph should be submitted to Government for orders if the Collectors propose to relax the Ribbon Development Prevention Orders having regard to the circumstances of the case. Full reports and explanatory sketches showing all relevant surroundings and information should be submitted with such reports.
40. With regard to the point as to when after grant of non-agricultural permission an agricultural land should be considered to have been converted to the non-agricultural purpose and as such liable to the payment of non-agricultural assessment within the meaning of section 115 of the Code. It is clarified as follows :-

Section 44 of the Code requires the holder to in the prescribed form for conversion of the agricultural lands for non-agricultural purpose. The Collector then decides the application either by granting the permission or refusing it. The permission is granted on the conditions specified in rule 4 of the Maharashtra Land Revenue (Conversion of Use of Lands and Non-agricultural Assessment) Rules, 1969. Clause (e) of this rule , requires that the applicant shall construct the structure in accordance with the plans approved by planning authority if it is to be constructed within its jurisdiction and elsewhere in accordance with plans approved by the Village Panchayat and subject to such other conditions as the Collector may impose in respect of building regulations. It is clear that the condition of the land does not change merely because the non-agricultural permission is granted by the Collector. While granting the permission conditions are imposed to lay-out the land in suitable plots of standard sizes with necessary access etc. even if the lay-out is approved the character of land would not change because the lay-out is only on the paper and condition of the lands remains the same. If the land is to be disposed of in this fashion i.e. after obtaining the non-agricultural permission approval of the lay-out the provisions of the relevant Tenancy Act and Bombay Prevention of Fragmentation and Consolidation of Holdings Act will have to be followed. This is so because merely by grant of non-agricultural. For that purpose the non-agricultural land does not land permitted to be converted should actually commence or start. What constitutes commencement of non-agricultural use is not provided in the Code. It is a question of fact and interpretation. According to the usual conditions, the applicant has to level and clear the land sufficiently to render it suitable for particular non-agricultural purpose for which permission is granted. Adequate land is to be left for roads etc. if some positive action is taken by the applicant after obtaining non-agricultural permission such as leveling it, developing it or reclaiming it and
laying it out into plots and constructing road, drainage etc., as provided in the lay-out and thereby changing the character of the land so as to render it unfit for cultivation it can reasonably be presumed that non-agricultural use has started. In such cases the land may be subjected to payment of non-agricultural assessment. When all these steps are taken then it can be treated as non-agricultural land although no buildings are actually constructed or no construction of structures started thereon. In such cases land being non-agricultural it would not be subject to provisions of the Tenancy Act or Bombay Prevention of Fragmentation and Consolidation of Holdings Act. The landlord will be free to dispose it of as non-agricultural land. The purchasers in such case would get the advantage of the non-agricultural permission already granted to the landlord and therefore he may not be required again to apply for non-agricultural permission to the Collector. It may however be stated that if the land is situated within the Town Planning Scheme undertaken under the provision of the Maharashtra Regional and Town Planning Act, 1966, the provisions of the Tenancy Act would not apply vide section 164 of the Town Planning Act.

41. Portions of Municipal street lands are sometimes sold or leased for purposes of advertisement etc. in such cases the use is considered as profitable and N.A. Assessment is leviable on the entire area covered by the pillars and hanging boards.

42. Non-agricultural Assessment should be levied only on such portions of the area as is actually used for non-agricultural purposes by the State Road Transport Corporation. The following principles should be observed while considering the levy of non-agricultural assessment on the lands held by the State Transport :-

(1) Non-agricultural Assessment at the current rates should be charged on such portions of lands as are properly demarcated by means of fencing or compound and used for non-agricultural purposes connected with the various activities of State Transport such as Bus Stands; Garages; Depots, etc.
(2) The remaining areas which might be lying vacant should be charged agricultural assessment till such areas are put to non-agricultural uses with the prior permission of Revenue authorities, provided that such areas are also properly demarcated by means of fencing or compound.

43. While deciding the total built up areas in a building plot the area covered by galleries should not be considered as built over area provided they cover only open marginal space of the plot and so long as no portion thereof is used as a small ante-room or bath-room.

44. Lands covered by public roads and streets vesting in Village Panchayats are exempt from payment of non-agricultural assessment so long as they are used for those purposes. However, whenever any portions of such lands are encroached upon by private parties or leased out or sold to private parties by Village Panchayats they are liable to be assessed under the Land Revenue Code.

45. It will be permissible for the Panchayats to use the sites recognized as forming parts of roads, etc. for laying of drainage or water pipes or for erection of telegraphic or wires or for public and non-profitable Village Panchayat purpose free of assessment. Should however the Panchayats use the sites for profitable purposes the exemption from payment of assessment will cease and steps should be taken by Collectors to levy appropriate assessment in such cases.

46. Non-agricultural Assessment should be levied and recovered in accordance with the provisions of the Maharashtra Land Revenue Code and the rules thereunder and the standing orders of Government in respect of all tenements allotted to the displaced persons under the provisions of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 and the rules there under.

47. As regards tenements allotted to the displaced persons in the multistoreyed buildings built by Government, the Collectors should submit to Government individual cases for necessary orders.
48. The penalties for unauthorized non-agricultural use of any land are enumerated in clauses (i), (ii) and (iii) of sub-section (1) of section 45 of the Maharashtra Land Revenue Code, 1966. Clause (i) specifically provides that a person making unauthorized non-agricultural use has to pay Non-agricultural Assessment on the land leviable with reference to the altered use. Clause 9(ii) of this sub-section provides for fine in addition to the Non-agricultural Assessment which may be leviable by or under the provisions of the Code. The provisions for fixing and levying Non-agricultural Assessment are contained in Chapter VII of the Code. Section 115 of this Chapter provides that non-agricultural assessment shall be levied with effect from the date on which the land is actually used for a non-agricultural purpose. Having regard to these provisions when any land is put to non-agricultural use in contravention of any of the provisions of the Code, the Collector has power to levy non-agricultural assessment for the entire period of such unauthorized use.

49. Section 115 of the Code provides that the non-agricultural assessment should be levied with effect from the date on which the land is actually used for the on-agricultural purpose. If the actual non-agricultural use is started in the middle of the year the case should be dealt with in accordance with the provisions of sub-section (2) of section 114 which provides that where land is used for any non-agricultural purpose for a period of six months or less the non-agricultural assessment shall be half of that fixed for land used for that non-agricultural purpose.

50. In the absence of a penal clause in the order granting non-agricultural permission no fine can be levied for breach of the prescribed conditions. An adequate penalty clause is therefore invariably required to be embodied in the orders granting non-agricultural permission under section 44 of the Maharashtra Land Revenue Code, 1966.

51. While fixing the quantum of composition fee to be charged under rule 10 of the Maharashtra Land Revenue (Conversion of Use of Land and Non-Agricultural Assessment) Rules, 1969, the value of that portion of the structure which is considered to be the offending unauthorised construction
should only be taken into account and not the value of the entire structure which may include authorized construction also.

52. No concessions of occupancy price and/or land revenue should be given in respect of land used for purely religious purposes. These orders apply only to properties converted to purely religious used after 6th October 1937 and cover lands on which religious buildings or structures were erected before 6th October 1937; held on Inam tenure which has now been extinguished provided that under the orders then in force the land if unalienated would have been entitled to exemption from payment of land revenue.

53. If occupants of agricultural lands who have been granted non-agricultural permission fail to appear before the authority concerned for execution of sanad even after a reasonable time notices should be issued to them to the effect that failure to execute the sanads etc. would entail cancellation of non-agricultural permission already granted. Also in order to make it clear that sanads, etc., will have to be executed by them within a reasonable time a specific condition should be inserted in the non-agricultural permission order itself requiring the occupant to execute sanad within a reasonable time.

If in any particular case a party refuses to or does not sign a sanad etc. and it is doubtful whether cancellation of non-agricultural permission already granted will be legally in order the Collector should submit to Government for orders the individual case together with the District Government Pleader's opinion as well as his opinion thereon.

54. The area of internal chowk left open to the sky within a four-sided building should be included in the built-up area.
REVENUE BOOK CIRCULAR No. 18

Subject.- Lands within the Sites of Villages, Towns and Cities

Chapter VIII (Sections 121 to 131) of the Maharashtra Land Revenue Code, 1966 deals with lands within the sites of villages, town and cities. Section 122 of the Code empowers the Collector or a Survey Officer to ascertain, determine and vary the limits of the site of any village, town or city, regard being had to all subsisting rights of the land holders. (Section 122).

2. No land revenue is to be levied on the following lands situated within the sites of a village, town or city and not used for agricultural purposes: -

(a) lands which are already exempted from payment of land revenue before the commencement of the Code (i.e., before 15th August 1967) or which are exempted by virtue of any custom usage, grant, sanad, order or agreement; and

(b) Residential and building sites within the site of a village, town or city, which is a non-urban area. (Section 123).

The claims of aforesaid exemptions are to be determined by the Collector after holding summary enquiry. The Collector's decision is final, i.e., no appeal will lie against the said decision to his superior officer under Chapter XIII of the Code but the aggrieved party can institute a civil suit within two years from the date of the Collector's order. (Section 124).

3. Pardi land is a cultivable land appertaining to houses within the village site. Such Pardi land which is less than one-fourth of an acre and used for agricultural purpose or a purpose subsidiary or ancillary to agriculture, is exempt from payment of land revenue. If, however such land is used for any purpose other than agriculture, the holder thereof is liable to the payment of non-agricultural assessment and fine, if any under sections 44, 45 and 67 of the Code. (Section 125).

4. Wada land is an open land in village site used for tethering cattle or storage of fodder, manure or other similar things. Such land is also exempt from payment of land revenue as long as its common use continues. (Section 125).
5. The State Government can, at any time when it deems fit expedient, direct a survey or a fresh survey of non-agricultural lands within the site of any village, town or city. For purposes of such survey, villages are divided into two classes-

(i) those with population of more than 2,000 inhabitants, and

(ii) those with population of 2,000 or less.

The holders of the lands in such villages have to render services or supply flag-holders during the survey operations as per provisions contained in section 81 of the Code. The holders of lands in the villages of the first category are, however, required to pay survey fee assessed on the area and rateable value of the building site. The amount of survey fee is regulated by the Collector in accordance with the rules made in that behalf. The survey fee is to be paid within six months from the date of public notice issued by the Collector in that behalf after the completion of the survey operations. (Sections 126 and 127). If a Village Panchayat wants that a map of a village site showing the plots occupied by the holders should be prepared and that it is willing to contribute towards the prescribed percentage of the cost of preparation of such maps by passing a resolution to that effect, the State Government may direct preparation of such maps. [Section 128 (2)].

6. The results of the City Survey Operations are to be recorded in such maps and registers and in such manner as are prescribed under rules. [Section 128 (1)].

7. Every holder of a building site is entitled to a sanad in the form of Schedule 'C' appended to the Code. The sanad is to be granted free of charge to the holders who are required to pay survey fee. If, however the holder who is required to pay survey fee does not apply for sanad at the time of payment of the survey fee or thereafter within one year from the date of public notice (fore payment of the survey fee) issued by the Collector under section 127 of the Code, the Collector may require such holder to pay an additional fee of not exceeding one rupee for each sanad. (Section 129).

8. Where there is alteration of a holding by increase, decrease, sub-division alteration of tenure or otherwise the holder thereof, on payment of correction
fee, is entitled to a fresh sanad or to have the original sanad amended as per alteration by the Collector. (Section 130).

9. In the event of the original sanad being lost or destroyed by accident, etc., a duplicate copy of the sanad can be granted on payment of rupee one for each sanad. (Section 131).


10. When a survey of land in a village, town or city is directed by Government under section 126 of the Code, the Collector has to issue a general notice in the prescribed form informing all the inhabitants about the dates on which the survey operations will take place and also call upon the house-owners, mortgagees, absentee owners or other persons having interest in the land to be present at the time of survey and give all information to the survey officers so as to record their rights correctly.

11. A survey Officer not below the rank of a District Inspector of Land Records shall be in charge of the City Survey operations. The overall control of these survey operations will be that of the Superintendent of Land Records. The District Inspector of Land Records will be assisted by such staff of the Land Records Department as may be appointed by the Superintendent of Land Records. The preliminary survey operations carried out by this staff is to be recorded in maps and registers in accordance with the instructions issued by the Director of Land Records. The maps and the registers so prepared are to be forwarded for further scrutiny to the Enquiry Officer appointed by the State Government in that behalf.

12. An Enquiry Officer who is Survey Officer not below the rank of a District Inspector of Land Records or a Tahsildar has to determine for each parcel of land situated within the limits of the area under survey, who is entitled to be confirmed in possession of each such parcel of land, what possessions constitute encroachments, easements or licences and what lands vest in a local authority of Government and in case of land adjudged to be in the legitimate
possession of a private individual or body its tenure and liability to pay land revenue.

13. For purposes of determining the right, title and interest of individuals and bodies in respect of lands under survey the Enquiry Officer shall held an enquiry shall held an enquiry under section 20 of the Code, or as the case may be section 91-E of the Bombay Municipal Corporation Act, section 69 of the City of Nagpur Municipal Corporation Act, 1948, section 80 of the Bombay Provincial Municipal Corporation Act, 1949, section 59 of the Bombay Village Panchayats Act, 1958 or section 89 of the Maharashtra Municipalities Act, 1965.

14. The Enquiry Officer shall send a list of unoccupied vacant plots of waste land which are not claimed by any person to the Collector. The Collector on receipt of such list, has to cause a public notice to be affixed on each such plot requiring any person desiring to claim any interest in the plots to appear before the Enquiry Officer within the period specified in notice with documentary evidence of title to the plot.

15. If any claim is made in relation to such plot, the Enquiry Officer shall proceed to determine it in accordance with paragraph 13 above. If no claim is made within the period aforesaid, the plot shall be entered as land vesting in the State Government.

16. The final results of the enquiry made by the Enquiry Officer are to be recorded for each parcel of land separately in a card in the form prescribed under the rules, which is called "Property Card Register".

17. The survey fee to be charged to the holders in the villages having population of more than two thousand inhabitants, is to be fixed by the Collector in such a way that the total sum payable in respect of the site under survey shall cover the cost of the survey and preparation of the Property Card Register.

18. The contribution to be paid by the Village Panchayat under sub-section (2) of section 128 towards the cost of preparation of map required by it, shall be
not less than 60 per cent of the total cost of preparation of such map. If however the map required by the Village Panchayat has already been prepared at the time of conducting surveys under section 126, a copy of such prescribed under the Maharashtra Land Revenue (Inspection, Search and Supply of Copies of Land Records) Rules, 1970.

19. If any holder applies for a duplicate copy of a Sanad under section 131, a copy thereof which is to be marked "Duplicate" in red ink, may be given to him on payment of a fee of rupee one.

III - SUPPLEMENTARY INSTRUCTIONS

20. Under section 126 of the Maharashtra Land Revenue Code, the State Government can direct the survey of village lands. Under sub-section (1) of section 128, the results of such a survey are to be recorded in maps and registers and sub-section (2) of the same section provides for preparation of a map of a village site showing the plots occupied by the holders at a request of a Village Panchayat. Preparation of maps can be undertaken by the State Government on a request from the Village Panchayat independently of the provisions of section 126 also. It is not, however obligatory on the part of the State Government to do so and it is open to it to consider and decide such requests of the Village Panchayat as an when received on merits. The Commissioners of Divisions, the Settlement Commissioner and Director of Land Records and the Collectors of districts should submit to Government all requests received by them from Village Panchayats for preparation of maps under sub-section (2) of section 128 of the Maharashtra Land Revenue Code for orders with full facts of the case, the purpose for which the map is required, whether the village is surveyed or not and if surveyed whether maps and registers are prepared.

21. Detailed instructions for carrying out city survey operations are contained in the City Survey Manual.
Chapter IX (Sections 132 to 146) of the Maharashtra Land Revenue Code, 1966 deals with fixation and demarcation of boundary and boundary marks between the villages and between adjoining survey numbers or sub-divisions of survey number. According to the provisions contained in this Chapter, the Survey Officers are empowered to determine and fix the boundaries during the periods the survey operations are going on. After the completion of Survey, the charge of boundary marks devolves on the Collectors who are invested with the powers of survey officers for the purposes.

2. Boundaries of all villages and of all survey numbers in the villages are to be fixed and demarcated by boundary marks. In the districts of Nagpur, Chanda, Wardha and Bhandara and Melghat Taluka of the Amaravati district boundaries are not fixed and demarcated by boundary marks. In these areas there are only survey marks. It is provided that boundaries of survey numbers in these areas should be fixed and demarcated by boundary marks with effect from the date as may be specified by the State Government by issue of a notification. (Section 132).

3. The boundaries of villages are to be fixed and demarcated and disputes, if any, relating to such boundaries are to be decided by survey officers or other officer appointed by the State Government for the purpose after holding formal enquiry at which the village officers and all interested persons have to be given an opportunity of hearing. (Section 133). This procedure applies in respect of disputes regarding boundaries of villages from the Maharashtra State only. The procedure does not apply to the dispute of boundaries between two villages, one from Maharashtra State and other from the adjoining State.
4. During survey operations, either original or revision, undisputed boundaries of fields as affirmed by the village officers and by holders are to be laid down. If however there is a dispute or the person in occupation is not present the survey officer has to fix the boundary according to the land records and other evidence before him. (Section 134).

5. If any dispute arises concerning the boundaries of a village, a survey number or sub-division of a survey number which is not surveyed or such dispute arises after the completion of survey operations the Collector has to decide it after holding formal enquiry at which the village officers and all persons interested are to be heard. (Section 135).

6. It is open to any land-holder to request the Collector by an application to demarcate the boundaries of survey number or its sub-division and construct boundary marks thereon. For such demarcation and construction of boundary marks, fees prescribed under the rules are required to be paid by the land-holder. (Section 136).

7. Any person desiring to regularise or straighten out the irregular or crooked boundaries of his field or holding may apply to that effect to the survey officer (District Inspector of Land Records) with sketch showing the existing boundaries and the names of adjoining holders. If the survey officer is satisfied that in the interest of better cultivation and easier maintenance of boundary marks it would be expedient to regularise or straighten out the boundaries he has to prepare a plan to revise the boundaries and for payment of compensation to the persons who would suffer loss of land. The plan is required to be published in the village in the manner prescribed by rules. If the parties agree to the plan, the survey officer has to record their agreement and revise the boundaries and fix them accordingly. The amount of compensation payable to the person suffering loss of land is recoverable as arrear of land revenue. If the parties do not agree, the question of the amount of compensation to be paid or recovered has to be referred to a Village Committee to be elected by the parties concerned in the manner prescribed under rules. If no such Committee could be elected, then the said question has to be referred to a Committee consisting of three persons nominated by the
Survey Officer not below the rank of a District Inspector of Land Records with the approval of the Superintendent of Land Records. The decision of the Village Committee or the Committee of nominated members would be final and binding on all the parties and the boundaries are then to be settled in accordance with the plan.

8. The boundary settled under Chapter IX of the Code, establishes the following things :-

(i) the proper position of the boundary line or boundary marks; and

(ii) the rights of the land-holders on either side of the boundary fixed in respect of land or buildings.

The Collector can summarily eject any land-holder who is wrongfully in possession of any land which has been adjudged in the settlement of boundary not to appertain to his holding. The aggrieved person i.e., the person so ejected, may prefer an appeal against the order of the Collector to higher Revenue Officers or institute a civil suit within one year from the date of such order. When the suit is filed the remedy of appeal to the higher Revenue Officers is barred. (Section 138).

9. During the course of survey, the Survey Officer has to specify or cause to be constructed laid out maintained or repaired boundary marks or Survey marks of the village or survey numbers or sub-divisions of a survey number whether cultivated or uncultivated and to assess all charges incurred thereby on the land-holders. The Survey Officer has to give notice in writing to the land-holders requiring them to construct, lay out maintain or repair boundary marks or survey marks of their respective lands within a specified period. If the land-holders fail to do so, Survey Officer has to construct, lay out and repair the boundary marks at the cost of the holders. The dimensions and the materials to be used for construction of boundary marks and the manner in which they are to be repaired are provided in the rules made on the subject.

10. The responsibility for the maintenance and good repairs of the boundary marks is cast upon the land-holders. They are also responsible for the charges
reasonably incurred on account of alterations, removal or dis-repair of the boundary marks or survey marks. It is a duty of the Village Officers and servants to prevent destruction or unauthorised alterations of village boundary marks or survey marks.

11. Where a boundary has not been fixed under any of the provisions of Chapter IX of the Code, the holder of the land adjoining a village road has to demarcate the boundary between his land and the village road adjoining it by boundary marks and to repair and renew such boundary marks from time to time, at his own cost. If the holders fail to demarcate the boundary or to repair or renew boundary marks as aforesaid the Collector, after giving such holder a notice shall cause the boundary to be demarcated or the boundary marks to be repaired or renewed at the cost of the holder. The cost is to be recovered as arrears of land revenue. If there is any dispute regarding demarcation of boundary or maintenance of boundary marks or their repairs, the Collector has to decide it and his decision is to be final. (Section 142).

12. The Tahsildar can enquire and decide the claims of persons holding lands in a survey number to a right of way over the boundary of other survey numbers. While deciding such claims the Tahsildar has to take into account the needs of the cultivators for reasonable access to their fields. The aggrieved person has a right to institute a suit in the Civil Court against the order of the Tahsildar within one year from the date of order or prefer an appeal to the higher Revenue Officers. If, however, a civil suit is filed, the remedy of appeal is barred. (Section 143).

13. As a result of the final Town Planning Schedule or Improvement Scheme or Consolidation Scheme, the original plots are reconstituted. The Collector in such cases is required to erect the boundary marks of the reconstituted plots according to the aforesaid schemes and recover the charges for erection and construction and laying out boundary marks from each plot holder. (Section 144).

14. Any person who after summary enquiry before the Collector or a Survey Officer or a Tahsildar or a Naib-Tahsildar is found to have wilfully erased,
removed or injured any boundary mark or survey mark is liable to a fine not exceeding Rs. 100 for each mark so erased removed or injured.


15. The authorise boundary marks and survey marks are as follow :-

(A) Continuous Boundary Marks-

(i) Boundary Strip,

(ii) Dhuras, Sarbandhas or hedges and other permanent continuous structures such as walls.

(B) Discontinuous Boundary Marks-

(i) Roughly dressed long stones,

(ii) Pillars of cut stone, or masonry pillars of cement mortar or burnt brick in cement or mortar embedded in the ground with the foundations stepped down.

(iii) Prismatic, rectangular or conical earthen mounds or cairns (buruz) of loose stones,

(iv) Any other marks found suitable for special localities which may be sanctioned by the Director of Land Records such as, teak posts in the marine marshes on the Konkan coasts.

(C) Survey Marks-

(i) Roughly dressed traverse stones of such size as may from time to time be prescribed by the Director of Land Records, with a cross cut on the head.

(ii) Any other survey mark that may be prescribed by the Director to suit the requirements of any area specified by him in this behalf.
16. The continuous boundary marks should not be ploughed up or otherwise injured by cultivation. They should also be kept free from tree-growth and any young plant found at the time of inspections should be destroyed. The minimum width and height of boundary stripes and of Dhuras or Sarbandhas are as follow:

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Boundary Marks</th>
<th>Width</th>
<th>Height</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Boundary Strip.</td>
<td>0.46 Meters (1 1/2 feet).</td>
<td>0.61 Meters (2 feet)</td>
<td>For dry crop lands.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>0.23 Meters (9 inches).</td>
<td>0.61 Meters (2 feet)</td>
<td>For rice and garden lands.</td>
</tr>
<tr>
<td>2</td>
<td>Dhuras and Sarbandhas</td>
<td>1.22 Meters (4 feet).</td>
<td>0.61 Meters (2 feet).</td>
<td></td>
</tr>
</tbody>
</table>

17. Where the length of the boundary between the corners of survey number is less than 252.46 metres (825 feet), no discontinuous boundary marks are to be raised in the interval but if there are bends, a stone should be fixed at each bend. If the length as aforesaid is more than 252.46 (825 feet) but less than 504.92 metres (1,650 feet), one discontinuous boundary mark should be raised at every 201.17 metres (660 feet) interval. Where a cart-track or foot-path or a road for laden animal passes through a survey number stones are to be fixed on the common boundary at points where such foot-path or road enters and leaves a survey number. The stones to be fixed should be of such size as may be prescribed by the Director of Land Records.

18. Boundary between the lands held by a person and the village road adjoining it is to be demarcated by fixing stones or planting trees within the area of the private land adjoining such road. The stone to be fixed has to be 0.15 metres square (6 square and 0.76 metre (2 feet) in length of which 0.61 (2 feet) metre has to be sunk in the ground.

19. If more than half the number of holders in a village desire, the system of single boundary marks may be introduced in such village. The description of single boundary marks is as follows :-
(1) Stone not less than 0.91 metre (3 feet) long and 0.18 metre square (7" square) embedded in rubble and mortar with not more than 0.30 metre (one foot) above the ground level.

(2) Masonry pillars of cement mortar or burnt brick in cement mortar 0.30 metre square and 0.91 metre high of which 0.61 metre should be embedded in the ground with the foundations stepped down.

(3) Of such other description as may be approved from time to time by the State Government.

The boundary mark of the above description is to be fixed at each corner of a survey number and at each bend and in the middle of each boundary where the boundary exceeds 252.46 metres (825 feet). To cover the cost of any staff employed for determining the position of single boundary marks, fees at the following scale should be recovered from the holder of each survey number:

- Survey number assessed at less than Rs. 10: Rs. 2.
- Survey number assessed at Rs. 10 or more: Rs. 4.

If a survey number is divided into sub-divisions, the fees are to be recovered in proportion to the assessment of each sub-division.

20. The responsibility for the maintenance of the boundary marks on a common boundary lies on the holder of the survey number which is numerically lowest. Where any survey number is unoccupied or assigned for public or Government purposes, the responsibility for repair of the marks on its periphery lies on the land-holder on the other side of the boundary. If there are no land-holders on either sides of the boundary, the marks are to be repaired at Government cost. For such marks, kotwals are responsible for their maintenance. A boundary mark which is on the common boundary of two or more villages is to be repaired by the holders of the land in the village which is under restoration when the mark is found out of repair.

21. The detailed instructions as to what boundary marks and survey marks are to be considered out of repairs and the manner in which they are required to
be repaired are provided in Rules 11 and 12 of rules regarding Boundaries and Boundary Marks.

22. A holder of a survey number or a sub-division desiring to have the said survey number or a sub-division demarcated and boundary marks constructed therefor can apply in writing to the Collector to that effect. Such application is required to be accompanied by the fees according to the scale prescribed by the Director of Land Records. On receipt of the application the Collector has to get the survey number or sub-division measured by the District Inspector of Land Records and also get the boundary marks fixed thereon according to the provisions of the rules on the subject. The cost of material and labour incurred on this account has to be paid by the holder.

23. The plan prepared by the District Inspector of Land Records for straightening or regularising the crooked or irregular boundaries, has to be published in Marathi in the village at the chavdi or other prominent place in each village and also in the office of the District Inspector of Land Records. A proclamation has also to be made by beat of drums calling for objections to the said plan. An individual notice is also required to be served on all interested person after ascertaining the same from the record-of-rights. The Village Committee to be appointed under sub-clause (i) of clause (a) of subsection (4) loss of land including the applicant-

(i) does not exceed ten, three members;
(ii) exceeds ten but does not exceed twenty-five members;
(iii) in any other case, seven members.

The members to be elected shall ordinarily be the residents of the village where the boundary marks are to be revised and straightened. A detailed procedure for carrying out the election of the members is prescribed under rule 15 of the rules.

24. For purposes of repairs to boundary marks and survey marks, the Collector has to fix sufficiently in advance a quinquennial programme. The villages to be selected for the programme should be Circle-wise so that each Circle Inspector
will have 8 to 10 villages every year. Copies of the programme are to be sent to the Director of Land Records. In accordance with this programme, in villages where boundary marks are due for repairs, the Tahsildar has to issue a general notice before 1\textsuperscript{st} November. The notice is to be pasted in the Chavdi and also published by beat of drums. The notice should state that the boundary marks are due for repairs. It should also intimate what the authorised boundary marks are and require the holders to take necessary steps to complete the repairs before 30\textsuperscript{th} November. In the month of December, the Circle Inspector and the Talathi with as many holders as possible should carry out joint inspection of every boundary and survey mark in each survey number and prepare a list of defective or missing marks. The Talathi has then to issue individual notices in the prescribed form to the concerned holders asking them to carry out the repairs within one month failing which the repairs would be carried by Government at the cost of he holders. In the beginning of the month of January the Talathi has again to take a round and check whether necessary repairs to the marks are carried out by the holders. He has accordingly to amend the list of defective or missing marks by striking off the marks which are repaired or reconstructed and submit the amended list of marks which are still to be repaired to the Circle Inspectors before 1\textsuperscript{st} February. The Talathi has also to issue simultaneously notice to the concerned holders asking them to select a Contractor to repair or reconstruct the marks within ten days of the notice. If the Contractor is so selected the Talathi has to get the work completed before the 31\textsuperscript{st} March next following.

25. If, however the Contractor is not selected by the holders the Talathi has to report the matter to the Tahsildar through the Circle Inspector before 15\textsuperscript{th} February. The Tahsildar after making necessary enquiries has to order the Talathi to have the marks repaired or constructed either through hired labour or through a Contractor to be appointed by the Tahsildar so as to complete the work before 31\textsuperscript{st} March. The cost of the repairs to or construction of marks is to be recovered from the respective holders.

Chapter X of the Maharashtra Land Revenue Code, 1966 (Sections 147 to 159) contains provisions relating to the record-of-rights. The State Government can by issue of a notification direct that these provisions shall not be in force in any specified local area or any class of villages or lands (section 147). (A notification to this effect has accordingly been issued by the State Government vide please see para. 34).

2. The record-of-rights containing the following particulars is to be maintained in every village:

(i) names of holders, occupants, owners or mortgagees of land or assignees of the rent or revenue thereof;

(ii) names of Government lessees or tenants including tenants under the relevant Tenancy Law;

(iii) the nature and extent of the interests of aforesaid persons in the land and the conditions or liabilities, if any, attached thereto;

(iv) the amount of rent or land revenue payable by or to any of the aforesaid persons;

(v) such other particulars as the State Government may prescribe by rules. (Section 148).

3. Any person acquiring any right of whatever nature in respect of any land has to report to the Talathi either orally or in writing his acquisition of such right within three months from the date of acquisition of such right. On receipt of such intimation, Talathi has to at-once give a written acknowledgement. If the person acquiring the right is a minor, his guardian or other person in-charge of his property can report to the Talathi. A person acquiring right with the permission of the Collector or by virtue of a registered document is however exempted from reporting his right to the Talathi. If a person acquires a right
with the permission of the Collector as required under the provisions of the Code or any other law such person has to produce such evidence if required to do so the Talathi.

4. When any document purporting to create assign or extinguish any title to or charge on land in respect of which a record-of-rights is prepared is registered under the Indian Registration Act, the registering officer has to send intimation about it to the Talathi and also to the Tahsildar concerned. (Section 154).

5. Every report about acquisition of right made to the Talathi and an intimation received by him from the registering officer or from the Collector, has to be entered by the Talathi in the register of mutations. (The Talathi has no power to make any mutation entry suo-motu.) The copy of the entry made in the mutation register is to be posted in the Chavdi and written intimation thereof is to be given by the Talathi to all persons interested or believed to be interested in the mutation. Any objection to such mutation received by the Talathi either orally or in writing has to be acknowledged and entered by him in the register of disputed cases. Disputes entered in the disputed register are as far as possible required to be disposed of within one year by a revenue or survey officer not below the rank of an Aval Karkun. The order passed on such disputes are to be recorded in the register of mutations. The entries in the mutation register are required to be tested and if found correct or after correction are to be certified by revenue or survey officer not below the rank of an Aval Karkun in the prescribed manner. The Circle Inspector can also test and certify the entries in respect of which there is no dispute. No entry shall, however be certified unless a notice of the same is served on the interested parties concerned. The entry in the register of mutations cannot be transferred to the record-of-rights unless it is duly certified.

The Talathi has also to maintain a register of tenancies in such form and in such manner as prescribed by rules. (Section 150).

6. Any person whose rights interests or liabilities have been entered or are required to be entered is liable on requisition to furnish or produce the required information or documents needed for the correct compilation of the record-of-rights or registers. Such production shall be made within a month.
from the date of requisition. On receipt the required information or document the Officer or Talathi concerned has to give a written acknowledgment (Section 151).

7. Any person neglecting to report his acquisition of right as per para. 2 above or furnish information or document as per para. 6 above within the specified period is liable to a fine up to Rs. 5 at the discretion of the Collector. (Section 152).

8. The provisions relating to the preparation, issue and maintenance of Khate-Pustika (Booklet) are explained in the Revenue Book Circular No. 21.

9. Sections 80 and 81 of the Code empowers the Survey Officer to issue summons and require the persons interested in land to give assistance or employ hired labour for purposes of measurement or classification of land. The Survey Officer can also assess the cost of the hired labour. These powers of the Survey Officer except the power of assessing the cost of hired labour can be exercised by any revenue officer or a Talathi for purposes of preparing or revising any map or plan in connection with any record or register. The power of assessing the cost of hired labour the cost of hired labour can be exercised by a revenue officer not below the rank of an Assistant or Deputy Collector or of a Survey Officer. (Section 153).

10. The Collector can correct any clerical errors and any error in the record-of-rights which are admitted by the parties concerned. Errors noticed by any Revenue Officer while inspection should however be treated like disputed entries and be corrected only after notice to the parties and after deciding their objections. (Section 155).

11. An entry in the record-of-rights and a certified entry in the register of mutations is presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor. (Section 157).

12. A Civil Suit cannot be filed against Government or any officer of the State Government for deciding a claim to have any entry made in the record-of-rights or register or to have any such entry omitted or amended. The Civil
Courts can however entertain such suit to which the State Government or any of its officers is not a party. An appeal or revision against the order of any Revenue Officer passed under Chapter X (Record-of- Rights) of the Code can be made to such officer's immediate superior in accordance with the provisions of Chapter XIII of the Code.


A- Record-of-Rights in areas other than those surveyed under section 126 of the Maharashtra Land Revenue Code

13. The record-of-rights is to be prepared and maintained in a prescribed form of separate card for each survey number or a sub-division of a survey number.

(a) Preparation of fresh record-of-rights

14. The following procedure is to be followed where no record-of-rights exists and the same is to be prepared for the first time :-

(i) The talathi has to issue a public notice calling upon the villagers to furnish him either orally or in writing within thirty days the information regarding particulars of the land i.e. survey number sub-division nature of interest the tenure on which the land is held encumbrance or charge on the land etc. The Public notice is to be published by beat of drums and by affixing copies thereof in the Panchayat office and in chavdi.

(ii) On the basis of the information received or collected by him through local enquiries the Talathi has to prepare rough copy of the record-of-rights in the prescribed form. If he finds that there are conflicting claims in respect of any entry the talathi has to keep such entry blank and record the particulars of the conflicting claims in the registers of disputed cases.
(iii) The rough copy of the record-of-rights so prepared is to be checked by the Circle Inspector or a survey officer not below the rank of a Circle Inspector and then publish by issue of notice for inviting objections.

(iv) The objections if any received are to be entered in the registers of disputed cases and individual notices are to be issued on all persons interested in the disputes calling upon them to be present on the date at the time and place fixed for hearing for deciding the objection. Such a notice is also to be issued in respect of disputes referred to in (ii) above.

(v) On the date and at the place and time fixed for having any revenue or survey officer not below the rank of an Aval Karkun shall read out all entries to the villagers present and inform them of the lands in respect of which objections and disputes are raised. He shall then decide the disputes entered in the disputed cases and announce his decisions to the villagers assembled;

(vi) The talathi has then to correct the entries or fill in the blank entries in the rough copy in red ink in the light of the said decision and prepare a fair copy of the record-of-rights. The fair copy so prepared is again to be published and public notice to be issued for inviting objections;

(vii) The objections if any received on the fair copy are to be acknowledged by the talathi who has to serve notice on persons affected by or interested in the objections requiring tem to be present at the place and time for hearing the objections;

(viii) At the time of hearing any revenue officer or survey officer not below the rank of a Deputy Collector has to decide the objections after hearing the parties. In the light of his decision he has to get the record-of-rights corrected in red ink and authenticate such corrections. If any clerical error is found, he has to correct it in the same manner.

(ix) After the fair copy of the record-of-rights is so corrected, the said officer shall cause such portion thereof as may be required by the
persons present to be read out. He may carry out any correction as he may deem necessary and put his signature and date and also certify that it has been duly approved and promulgated.

(b) Preparation of new record-of-rights in place of existing record-of-rights

15. New record-of-rights in place of the existing one is to be prepared only if the existing record-of-rights is prepared prior to the coming into force of the Maharashtra Land Revenue Record-Of-Rights and Registers (Preparation and Maintenance) Rules, 1971 and also that such record is not in accordance with Form I prescribed in the said Rules. Such record-of-rights is to be replaced by a new record-of-rights in the aforesaid form. For that purpose the Talathi has to transfer the entries in the existing record-of-rights to the new record-of-rights in respect of each survey number and a sub-division of a survey number and the Circle Inspector has to check the same.

16. The Talathi has then to issue a public notice informing all persons interested in the lands in the village that the existing as well as the new record-of-rights are kept open for inspection on the dates and time specified in the notice and that the new record-of-rights would be promulgated on the specified time and place at which they should remain present. On the said day the officer concerned has to check the entries and correct them wherever necessary and proclaim to the villagers present that with effect from the said date the new record-of-rights shall be the record-of-rights of the said village.

17. The record-of-rights prepared in the form prescribed in these rules, by the Consolidation Officer under section 24 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act is deemed to be the new record-of-rights.

(c) Re-writing of record-of-rights.

18. The record-of-rights is ordinarily to be re-written after a period of ten years. The Sub-Divisional Officer, is however empowered to direct rewriting of a record-of-rights at the end of a shorter period if he considers that in view of the number of entries made it would be difficult to make any further entries.
While re-writing the Talathi has to transfer the entries in the record-of-rights as they stand upto-date to fresh copy of record-of-rights whereupon they should be checked by the Circle Inspector. Thereafter the procedure prescribed in paras. 15 and 16 above are to be followed.

**(d) Maintenance of Record-of-Rights and Register of Mutations.**

19. The Talathi is responsible for the up-to-date maintenance of record-of-rights and register of mutations in the villages under his jurisdiction.

20. When intimation about registration of documents is received from the registering authority the Talathi has to make separate entries in the register of mutations in respect of each document.

21. In respect of transfer which requires previous permission of the Collector the Talathi has to require the person reporting such transfer to produce such permission or order and make a mention about it in column 2 of the mutations register. If the said permission is not obtained or obtained but not produced the Talathi has also to record accordingly.

22. When an entry has been made in the register of mutations the Talathi has to indicate in pencil the number of that mutation entry in the record-of-rights with the remarks that the mutation entry has not been certified.

23. For purposes of certifying entries of mutations and deciding disputes, the certifying officer has first to intimate the dates of his camp in the village to the Talathi and direct him to issue notices to the parties requiring them to be present on the said dates. The Talathi has to issue notices accordingly. On the appointed day the certifying officer has to read out the mutation entries which are undisputed. If their correctness is admitted he has to record accordingly in the mutation register an make an endorsement under his signature that the entries have been duly certified. If there is any error in any entry and the said error is admitted the certifying officer has to correct the entry and certify the corrected entry. He has then to decide each dispute entered in the register of disputed cases by holding a summary enquiry on the basis of possession i.e. the person who actually holds possession under a claim of title he shall be
recorded as Occupant Class I, Occupant Class II or as the case may be Government lessee. If there is any doubt as to the actual possession the person with the strongest title is to be so recorded. The certifying officer has then to record his order in the register of mutations and make an endorsement that the mutation entry as modified by his order is certified. The order shall contain the names of parties and witnesses and a brief summary of evidence produced by either sides together with his findings. Immediately after the mutation entry is certified the Talathi has to record it in ink in the record-of-rights.

24. It is the duty of the Circle Inspector to check whether Talathi has prepared and maintained the mutation register properly it not, the Circle Inspector has to cause it to be so prepared and maintained.

(e) Register of Crops

25. A register of crops showing the corps grown and the area in which they are grown is to be maintained in each survey number or sub-division of a survey number. This register is prescribed under the rules and is to be incorporated below the form of record-of-rights.

Every year when the crops are grown and standing in the fields, the Talathi has to visit the village for the purpose of crops inspection and making entries in the register of crops. For this purpose the Talathi has to fix a date at least seven days in advance and arrange to inform the villagers about the date of his visit by beat of drum or other suitable method requiring the villagers to be present in their fields and witness the entries being made in the register of crops. The Talathi has also to give intimation about his visit to the Sarpanch of the Village Panchayat, if any and through him request the members of the Village Panchayat to accompany him (Talathi). On the date so fixed the Talathi has to visit every field in the presence of the villagers the Sarpanch and the members of the Village Panchayat who may be present there and make entries in the said register. The Talathi has to allow the person interested to see the entries so made.

After the entries are made by the Talathi the Circle Inspector or any officer superior to him has to visit the village for the purpose of verification of
the entries. Such Officer has to give prior intimation about his visit and after making due enquiry has to correct entries found to be incorrect.

(f) Register of persons other than the persons deemed to be in possession according to the Record-of-Rights.

26. During the course of inspection of crops mentioned in the preceding paragraph the Talathi has to verify whether the person in actual possession of the land is the one whose name is recorded in the record-of-rights. If the Talathi finds that the person in actual possession is other than the one who is entitled to occupy such land according to the entries in the record-of-rights, he has to enter his name in the register of person in possession other-than the persons deemed to be in possession of the land according to the record-of-rights. This register is prescribed in the rules. As soon as entries are made in this register, the Talathi has to the Tahsildar for necessary action.

On the receipt of the aforesaid register the Tahsildar has to visit the village after giving advance intimation thereof to the villagers atleast seven days through the Talathi and the Sarpanch of the Village Panchayat. The Talathi has also to arrange to inform all the interested persons asking them to remain present on the appointed date and time. On the appointed date the Tahsildar has to make due enquiries about the possession of the land by the person mention in the register hear the person interested and after holding further enquiry as he deems necessary decide the matter.

27. The register of tenancies as prescribed in the in the rules is to be maintained by the Talathi for each agricultural year. The entries in this register are to be tested by the Circle Inspector when he examines the crops. Errors if any discovered by him are to be corrected and initialled after the person affected thereby is given an opportunity to be heard.

B - Record-of-Rights in areas surveyed under section 126 of the Code.

28. In the areas surveyed under section 126 of the Code the record-of-rights and register of mutations is to be prepared and maintained in the Property Card prescribed under the Maharashtra Land Revenue (Village, Town and City
Survey) Rules, 1969. The Survey Officer not below the rank of a District Inspector of Land Records is responsible for the up-to-date maintenance of the Property Card.

29. The report and intimation of acquisition of rights or transfer received by the Talathi is to be entered in the Property Card. After it is so entered the Talathi has to post up a copy of the entry in the village Chavdi or if there is no Chavdi in a conspicuous place in the village town or city. He has then to give notice to all interested persons requiring them to send their objections either orally or in writing within 15 days. The objections received are to be acknowledged and entered in the register of disputed cases. These disputes are to be decided and certified by a revenue or survey officer not below the rank of an Aval Karkun in the same manner in which disputes are decided and certified in the areas other than those surveyed under section 126.

30. It is the duty of the Circle Inspector or a survey officer not below the rank of a Circle Inspector to check whether the Talathi has prepared and maintained the mutation register properly and if not to cause him (Talathi) to do so.

C - Miscellaneous provisions applicable to all Areas.

31. The registering officer registering any document under the Indian Registration Act has to give intimation to the Talathi and the Tahsildar in the prescribed form in duplicate separately in respect of the land included in a village in the first week of every month in respect of the documents registered in the preceding month. The Talathi has to enter in column 13 of the said intimation the mutation entries effected by him and send the duplicate copy to the Tahsildar.

32. When a final Town Planning Scheme comes into force, the Talathi has to prepare a fresh record-of-rights so as to accord with the said scheme. Such a record is to be considered as a fair copy of the record-of-rights as per para. 14 (vi) above and the procedure specified in paras 14 (vi) to (ix) is to be followed for promulgation of such record-of-rights.
33. Consequent upon the passing of an order by an appellate or revisional authority any entry in the record-of-rights or register of mutation is required to be corrected the Talathi has to do so and indicate the number and date of the said order and the designation of the authority. Such correction should be made without giving notice to the affected persons.

III.- Supplementary Instructions

34. The provisions of the record-of-rights contained in sections 148 to 159 (both inclusive) of the Code are not in force in the following areas:

(i) Gaothans or village sites determined under section 122 of the Code and not surveyed under said Code;
(ii) Unasurveyed villages;
(iii) Villages in the reserved forest areas.

35. The Revenue Officers should in all cases take care to see that the rights of the tenants appearing in the record-of-rights are property safe-guarded, until they are lawfully extinguished and that the landlords do not succeed in evicting such tenants or otherwise reducing their rights simply because through some mistake or fraud the latter's names do not appear in the Tenancy Register as actual cultivators of the land. If on enquiry the Tahsildar finds that the entry made by the Talathi in the Tenancy Register is bogus the said Talathi should be awarded deterrent punishment.

36. The detailed revised instructions are issued regarding making entries in the record-of-rights of transactions which are void under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act. The entry should after enquiry made according to the factum of possession even where the transaction is void but a note should be made in other rights column that the possession is illegal. Doubtful cases should be referred to the Settlement Commissioner and Director of Land Records.

37. A tenant whose name has been entered as a permanent tenant in the record-of-rights immediately before the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1955 is a permanent tenant
for the purposes of the said Act, provided his name has been validity entered in the record-of-rights. It is however open to the landlord to challenge the correctness of the entry by taking such proceedings as may be available to him and disputing the status of the tenant. If in any such proceedings the landlord succeeds in establishing his claim that the entry is incorrect the entry will have to be corrected accordingly. The correctness will have retrospective effect from the date the incorrect entry was made and on such correction a tenant, whose name was wrongly entered will not be able to claim the right of a permanent tenant.

38. In many cases, it is found that Talathis make incorrect entries in the register of tenancies at the time of annual crop inspection. The Circle Inspectors and the visiting tenancy and Revenue staff should check between them as many entries as possible but in any case not less than 50 per cent of the changes made in the said register by the talathis.

39. For purposes of granting permission for use of water for irrigation under the Irrigation Act, the Officers of the Irrigation and Power Department have to maintain copies of record-of-rights. These copies are required to be verified with the originals twice a year so as to bring them up-to-date. The Revenue Officers and the Talahtis in particular are therefore directed to extend their fullest co-operation to the officers of the Irrigation and Power Department so as to enable the latter to verify and bring their record up-to-date.

40. Although under section 25 of the Maharashtra Land Revenue Code all trees standing or growing on any occupied land vest in the holder thereof restrictions on cutting of the following trees are imposed under the provisions of the Felling of Trees (Regulation) Act:

   (i) Teak,
   (ii) Hirda,
   (iii) Mahua, Mhowra, Maho,
   (iv) Tamrind, Chinch-Imli,
   (v) Mango
Except in the Ratnagiri District.

(vi) Jack

(vii) Khair.

With a view to avoid indiscriminate felling or cutting of these trees by the occupants, the Talathis should enter the exact number of trees of the aforesaid species standing in the land in the record-of-rights pertaining to that land.

41. Government has observed that large number of mutation entries are pending certification in almost all the districts of the State under section 150 (4) of the Maharashtra Land Revenue Code. Only the cases of disputes are required to be disposed off within one year as far as possible. In cases where there is no dispute the mutation entries can be certified after giving due notice to the interested parties in an appreciably little time. The Revenue Officers at higher level should, therefore periodically inspect the work of certification of mutation entries and see that they are certified as early as possible.

42. Under section 51 of the Bombay Village Panchayat Act, 1958, the State Government can subject to such conditions and restrictions as it may impose vest in the Panchayats open sites waste vacant or grazing lands or public road and streets etc. when the properties are so vested it is necessary that entries should be made in the village records effecting the transfer of such properties to the Village Panchayat so as to avoid disputes about the ownership of the properties.
REVENUE BOOK CIRCULAR No. 21

Subject.- Preparation, Issue and Maintenance of Khate-Pustika (Booklet).


Every holder of agricultural land including a tenant who is primarily liable to pay land revenue, on making an application in writing, has to be supplied by the Talathi with a Khate-Pustika or a booklet containing a copy of the record-of-rights pertaining to his land revenue, other Government dues, cultivation of his land, the areas and crops sown and such other matters as may be prescribed by rules. The Khate-Pustika is to be prepared and maintained before the coming into force of the Maharashtra Land Revenue Code is deemed to have been prepared issued and maintained in accordance with the provisions of the Maharashtra Land Revenue Code and the rules made thereunder [section 151 (3), (4), (5) and (6)].


2. An application for supply of Khate-Pustika has to be made in the prescribed form and is to be accompanied by the price of the Khate-Pustika. On receipt of the application the Talathi has to acknowledge it and has also to give receipts for the amounts received by him towards the cost of the Khate-Pustika and the fees paid by the holder for making entries therein.

3. The Khate-Pustika shall contain in a tabular form the following particulars from the village records:

   (i) demand and recovery of land revenue;

   (ii) demand and recovery of tagai loans;
(iii) demand and recovery of other items i.e. items recoverable in respect of any land by a talathis under the Code and rules made thereunder;

(iv) survey number, sub-division and area of land comprised in the holding;

(v) extract from record-of-rights in respect of each piece of land comprised in the holding together with the extract from the form of the revenue accounts of the village giving information about tenancy, mode of cultivation, sowing of crops, etc.

4. On receipt of the application the Talathi has to prepare a Khate-Pustika pertaining to the holding of the applicant of the period commencing from the revenue year immediately preceding the date of the application to the date of the preparation of the booklet.

5. Before filling in any Khate-Pustika, the Talathi has to sign or affix his stamp of the village or saza on the joints of every two consecutive pages. The entries in the Pustika are required to be made by the Talathi personally or checked by him from the record of the village. Only the certified entries in he record-of-rights are to be entered in the Khate-Pustika.

6. The cover of the Khate-Pustika shall bear a number consisting of four figures, each separated by a hyphen. The first figure shall represent the district, the second the Taluka, the third the village, and the fourth the number assigned to the ledger account of the holder.

7. After filling in the Khate-Pustika or making entries therein, the Talathi has to certify under his signature that the entries and the extract from the record-of-rights and village accounts and all other entries are made from the original record of the village and that he (Talathi) has personally seen and verified that they are in accordance with the information contained in the said records.
8. The following fees are prescribed for preparation and maintenance of Khate-Pustika.

<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Purpose</th>
<th>Amount of fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The first preparation of pustika-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Where the holding of a holder consists of ten survey numbers or less than ten survey numbers including sub-divisions.</td>
<td>One rupee.</td>
</tr>
<tr>
<td></td>
<td>(b) Where the holding of a holder consists of more than ten survey numbers including sub-divisions.</td>
<td>One rupee and in addition ten paise for each survey number (including the sub-division) in excess of ten.</td>
</tr>
<tr>
<td>2</td>
<td>For making additional entries or changes in Khate-Pustika for bringing it up-to-date-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Where the holding of holder consists of ten survey numbers of less than ten survey numbers including sub-divisions.</td>
<td>Nill</td>
</tr>
<tr>
<td></td>
<td>(b) Where the holding of a holder consists of more than ten survey numbers including sub-divisions.</td>
<td>Five paise for each survey number (including a sub-division) in excess of ten.</td>
</tr>
</tbody>
</table>

9. The aforesaid fees are to be retained by the Talathi as his renumeration for preparation and maintenance of the booklet. The Talathi has to maintain accounts of the renumeration so retained. The Talathi has to deliver the Pustika duly filled in, within a period of two months from the date of application.

10. If any additional information or any changes are required to be filled in the Pustika, the holder has to present this book to the Talathi for that purpose.
When the Pustika is so presented the Talathi has to acknowledge it and has to specify the date (which shall not be more than 15 days) on which the Pustika duly filled in, will be returned to the holder.

11. The holder is prohibited from making any entry or change or allowing any person to make any entry or change in the Khate-Pustika except by the Talathi. The Talathi or other Revenue Officer authorized by the Tahsildar can withdraw and cancel any Khate-Pustika containing unauthorised entry or change. The Talathi has also to keep a record of such cancelled Khate-Pustikas with reasons therefore.

12. If any Khate-Pustika is defaced or has become unfit for use or has been lost or cancelled, the holder can apply in a prescribed form for supply of a duplicate copy thereof. Such application has to be made to the Circle Inspector or Circle Officer concerned. The Circle Inspector of Circle Officer has to acknowledge the application and after holding necessary enquiry as to the correctness of the information given in the application, pass and order directing the Talathi to prepare a duplicate copy of the Pustika. On receipt of the aforesaid order, the Talathi has to prepare a duplicate copy of the booklet on payment of the cost of the book and the fees specified in para. 8 above.

13. A person becoming a holder by succession is not to be supplied with a new Pustika but that the Pustika held by the deceased holder may be transferred to his successor. For that purpose, the successor has to apply in prescribed form to the Talathi. The application has to be accompanied by the Khate-Pustika issued to the deceased holder.

14. Every holder has to produce the Pustika for inspection when so required by revenue by a revenue or survey officer above a rank of a Talathi. If a holder fails to produce his Pustika for inspection, the Inspecting Officer can declare such Pustika as cancelled after giving such holder an opportunity to show cause why his Pustika should not be cancelled. A copy of the order canceling the Pustika has to be sent to the Talathi.

III.- Supplementary Instructions
15. The scheme of preparation, issue and maintenance of Khate-Pustika was introduced throughout the State with effect from 1st January 1967. The responsibility for the implementation of the scheme is cast upon the Collectors and Tahsildars. The Revenue Officers should ensure that the work regarding implantation of the scheme is carried out promptly and within the prescribed period.

16. The Khate-Pustika should be in the form as per Appendix I.

17. The cost of the Khate-Pustika shall be Re. 1 per Pustika and that of supplement should be 50 paise.

18. The Collector and the Tahsildar should keep an account of the copies of the Khate-Pustikas and the supplements in the form prescribed in the matter.

19. With a view to ensure that the "Khate-Pustika' is filled in properly by the Talathi, the supervisory staff are directed to give necessary instructions to the Talathis form time to time. The Collectors are also directed to issue necessary orders in the matter and personally check the work of the Talathi frequently.

20. Under the provisions made in section 151 (3) of the Maharashtra Land Revenue Code every holder on making an application to that effect is required to be supplied with a Khata-Pustika by the Talathi. It is therefore, incumbent on the part of the Talathis to perform the duties of preparation issue and maintenance of Khate-Pustika, which is cast upon them by statute. The Collectors should bring this fact to the notice of the Revenue Officers and Talathis and issue necessary instructions to them.

21. The entries in the Khate-Pustika relating to the record-of-rights and other information are made from the original land records. These entries are certified by the Talathi to the effect that he has personally seen and verified
that they are in accordance with the information contained in the record-of-rights and village accounts. In view of this under the provisions of the Indian Evidence Act the entries in the Khate-Pustika get the value of secondary evidence.

22. For purposes of obtaining loan from banks, it is necessary to produce copies of extracts from record-of-rights along with the loan applications. As these applications and copies of record-of-rights remain as the record of the bank, the Khate-Pustika or any of its pages should not be produced along with the loan applications. There is, however, no objection to produce Khate-Pustika as an evidence for purposes of enquiry in the matter. The entries in the Pustika should, however, be brought up-to-date from the Talathi before such production.

23. In the enquiries to be conducted under the provisions of the Tenancy Laws and the Maharashtra Land Revenue Code, the Revenue Officers should treat the up-to-date and certified entries from the Khate-Pustika produced by the holders as sufficient evidence.

24. With a view to ensure proper implementation of the Khate-Pustika Scheme, the Collectors have been directed to give wide publicity to the Scheme 21, 22 and 23 above, giving the value of secondary evidence to the entries in the Khate-Pustika should also be brought to the notice of the Khatedars by the Collectors and other Revenue Officers when they are on tour.

25. Detailed instructions to the Talathis for issue and maintenance of Khate-Pustika are incorporated in the booklet which is appended as appendix II to this Circular.
REVENUE BOOK CIRCULAR No. 22.

Subject.- Nistar-Patrak and Wajib-ul-arz.


Sections 161 to 167 of the Maharashtra Land Revenue Code deal with Nistar-Patrak and Wajib-ul-arz. These provisions apply to those areas of the State to which provisions corresponding thereto were applied before the coming into force of the Code. In the Vidharbha region of the State the aforesaid provisions were in existence prior to the introduction of the Maharashtra Land Revenue Code. These provisions therefore apply to the Vidharbha region of the State. The State Government can apply these provisions by issue of a notification in the official Gazette to such other areas of the State as may be specified in the notification (section 160).

2. "Nistar-Patrak" is a register in which rights of the Community to fuel water murum grazing etc. in Government land is recorded. Such rights of the Community in private lands are recorded in the register called "Wajib-ul-arz."

3. The Nistar-Patrak shall contain the following matters :-

   (a) the terms and conditions on which grazing of cattle in the village is to be permitted;

   (b) the terms and conditions on which and the extent to which any resident of village may obtain-

      (i) wood, timber, fuel or any other forest produce;

      (ii) murum, kankar, sand, clay, stones or any other minor minerals;

   (c) instructions regulating the grazing of cattle and removal of minor minerals;
(d) any other matters required to be recorded in the Nistar-Patrak by or under the Code (section 162).

4. The Collector has to prepare a Nistar-Patrak of a village in the manner prescribed under the Rules. A draft of the Nistar-Patrak is to be published in the village and the same has to be finalised by the Collector after ascertaining the wishes of the residents of the village. The Collector can after making necessary enquiry modify any entry in the Nistar-Patrak on a request made to that effect by the Village Panchayat or where there is no Village Panchayat then on an application made by not less than one-fourth of the adult residents of the village (section 162).

5. While preparing Nistar-Patrak the Collector should make provision for free grazing of cattle used for agriculture and also for free removal of forest produce and minor minerals by the villagers for their bonafide domestic use. The concessions to be granted to village craftsmen for removal of forests produce and minor minerals for purposes of their crafts should also be provided in the Nistar-Patrak.

6. If the Collector considers that waste land in a particular village is insufficient he may after making necessary enquiry order that the residents of the said village shall have a right of Nistar or right grazing cattle in the neighbouring village. The Collector has also to grant passage for the exercise of that right. The right so confirmed has to be recorded in the Nistar-Patrak. If the neighbouring village lies in another district the Collector of the said the right of Nistar or right of grazing and the passage.

7. The Collector should in accordance with the general orders of the State Government ascertain and record the customs in each village regarding the right of way or other easements and the right of fishing in any land or water not belonging to or managed by the State Government or local authority. The register in which such rights are recorded is called the Wajib-ul-arz. The Wajib-ul-arz shall be published by the Collector. If any person is aggrieved by any entry made in the Wajib-ul-arz he can within one year from the date of publication institute a Civil Suit to have any entry cancelled or modified. The Wajib-ul-arz publishe by the Collector shall subject to the decision of the Civil
Court, be final and conclusive. The Collector can suo motu or on an application made to that effect by any person interested modify any entry or insert any new entry in the Wajib-ul-arz on the following grounds:-

(i) that all the persons interested in such entry wish to have it modified; or

(ii) that by a decision in a Civil Court the said entry has been declared erroneous; or

(iii) that the Civil Court has by a decree determined any custom existing in the village.

8. Any person who contravenes or fails to observe any rules or customs entered in the Wajib-ul-arz or commits a breach of any entry in the Nistar Patrak is liable to a penalty not exceeding Rs. 1,000 as the Collector may impose after giving such person an opportunity to be heard. The Collector may also order confiscation of any produce which such person may have appropriated or removed from any Government land. When a penalty is imposed the Collector 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 caused due to the contravention or breach made by the defaulter.


9. The Nistar-Patrak has to be prepared by the Collector in the form prescribed in these rules.

10. After determined the rights of the Community and making provision for the matters enumerated in sections 162 and 163 of the Code the Collector may :-

(i) alter substitute or adjust in a suitable manner the area of land reserved for any purpose as the circumstances of the case or the interest of the community as a whole may require;
(ii) form grazing timber, and fuel nistar zones in respect of more than one village;

(iii) record mutual rights of neighbouring villages over the lands of each other;

(iv) provide for any concession ordered by the State Government.

11. The draft of the Nistar-Patrak when prepared by the Collector, has to be published with a notice to the public for inviting objections and suggestions in respect of any entry made in the said draft. At least fifteen days should be given to the public for putting forth their objections and suggestions. These objections and suggestions are to be considered by the Collector at a place to be specified in the notice. This place may be the village Chavdi or any other suitable centre in the locality. The draft Nistar-Patrak along with the notice shall be pasted on the notice-board of Taluka Office and at the village Chavdi. It should also be announced by beat of drum in the village. The publication should not only be in the village for which the Nistar-Patrak is prepared, but should also be in other villages affected by it. The Collector should consider the objections and suggestions, if any received by him and modify the entries in the Nistar-Patrak in the light of his decision and then finalise the Nistar-Patrak. The final Nistar-Patrak shall be read out in the village and a copy thereof may be kept at the village Chavdi or such other suitable place as the Collector may fix.

12. Fishing in the following Government tanks should not be permitted:

   (i) Tank exclusively reserved for drinking water;

   (ii) Tank used for watering cattle, if the Collector forbids fishing in such tank on account of actual or anticipated scarcity of water;

   (iii) Tank used for pisciculture by the Department of Fisheries except on such terms and conditions as that department may impose;

   (iv) Any Ghat exclusively used or reserved for drinking water or bathing or sanctuary Ghat on which fishes are fed on religious
grounds, in any tank other then those specified in (i), (ii) or (iii) above;

(v) Tank stocked with carps;

(vi) Tank in which work of fishery development is done departmentally or by Co-operative Society, except on such terms and conditions as may be imposed by the Director of Fisheries.

13. Before any tank is leased out for fishing, the Tahsildar has to consult the Village Panchayat. If there is no Village Panchayat the villagers should be consulted. The opinion of the Village Panchayat or as the case may be of the villagers the local or the District Officers of the Department of Fisheries should be taken into account while deciding whether or not a tank should be leased out for the fishing and if so to whom it should be leased out. The claims of local fishermen who have been holding such rights in the past should be considered for granting such rights. Preference should, however be given to Co-operative Societies of fishermen of the village in which the tank is situated and to fishermen who have in the past done some substantial work in connection with fishery development.

14. The right to fish and carry away the fish caught may be granted by negotiations with the co-operative societies of fishermen if agreeable otherwise by auction for a period not less than five years. A permit may be granted in the form prescribed under the rules. A condition should be inserted in this permit to the effect that the existing nistar rights of the villagers will not be interfered with and in case of any dispute, Collector's order will be final.
REVENUE BOOK CIRCULAR No. 23.

Subject:- Realisation of Land Revenue.


Chapter XI of the Maharashtra Land Revenue Code, (Section 168 to 223) deals with realization of land revenue and other revenue demands. The term "Land Revenue" has been defined under clause (19) of section 2 of the Code. It means all sums and payments in money received or legally claimable by or on behalf of State Government from any person on account of any land or interest in or right exercisable over land held by or vested in him under whatever designation such sum may be payable and any cess or rate authorized by the State Government under the provisions of any law for the time being in force and includes premium, rent lease money quit rent judi or nay other payment provided under any Act, rule contract or deed on account on account of any land.

2. The provisions contained in this Chapter can be broadly divided under the following heads :-

(i) Persons liable to pay land revenue.

(ii) Priority of Government dues over all other claims,

(iii) When land revenue becomes payable and the consequences of failure to pay on the due dates.

(iv) Inter-District and Inter-State recoveries.

(v) Processes for recovery of arrear and their enforcement.

(vi) Sales.

(vii) Moneys recoverable as arrears of land revenue.

The provisions on the above topics are discussed below.
(i) Persons liable to pay land revenue.

3. Section 168 of the Code enumerates the person who are primarily liable to the State Government for payment of land revenue. They are as follows:

In respect of-

(a) un-alienated land, the occupant or the lessee of the State Government,

(b) alienated land, the superior holder, and

(c) land in possession of a tenant such tenant if he is liable to pay land revenue therefor under the relevant tenancy law.

The section further provides that in case of default by any of the aforesaid persons the amount of land revenue can be recovered from any person in possession of the land. If the land revenue is recovered from a person other than the person who is primarily liable to pay it such person is entitled to the refund of the said amount of land revenue when it is paid by the person primarily liable to pay such land revenue.

(ii) Priority of Government dues over all other claims

4. The arrears of land revenue due on account of land shall be the paramount charge on the land or every part thereof. Such arrears shall have precedence over any other dues debts demand or claims whatsoever either secured or unsecured. But other claims of the State Government which are recoverable as arrears of land revenue get priority over all unsecured claims against any land or holder thereof. This is provided in section 169.

(iii) When land revenue becomes payable and the consequence of failure to pay it on the due date.

5. Land revenue payable on account of a revenue year falls due on the first day of that year i.e. the first of August. The land revenue is to be paid on the dates fixed by the State Government under the rules framed under section 170. The land revenue not paid on the dates so fixed, becomes an arrear of land revenue.
revenue and the person responsible to pay it becomes defaulter. The penalty for willful defaulter is an amount not exceeding 25 per cent of the amount not so paid (Section 174).

(iv) Inter-District and Inter-States recoveries.

6. For purposes of inter-district recoveries section 175 of the Code provides that a statement of account certified by the Collector or by the Assistant or Deputy Collector or by the Tahsildar shall be the conclusive evidence of the existence of arrears of land revenue due and of the person who is the defaulter. On receipt of such a statement, the Collector the Assistant or Deputy Collector or the Tahsildar in one district can recover the demands of any other district under the provisions of Chapter XI of the Code as if they arose in his own district. It may be noted here that the provisions of this section apply only to the recovery of the amount of land revenue proper and not the demands recoverable as arrears of land revenue. For purposes of inter-districts recovery of demands recoverable as arrears of land revenue and inter-State recoveries of all demands (including land revenue proper), the provisions of the Revenue Recovery Act, 1890 which is a Central Act are attracted and such recoveries are necessary to be routed through the Collector of one district to the Collector of the other district in this State or other State. For purposes of recovery under the Revenue Recovery Act it is necessary to send information about the dues and the defaulter to the Collector (Section 5) who will then send a certificate stating the name of the defaulter and his address the amount due from him and the account on which it is due (Section 3) to the Collector of the district in which the defaulter is residing or has property. The Collector receiving such certificate can recover the amount mentioned therein and remit the same to the Collector issuing the certificate.

(v) Process for recovery of arrears and their enforcement.

7. The arrears of land revenue can be recovered by any one or more of the following processes (vide section 176).

(i) by serving a written notice of demand on the defaulter, under section 178;
(ii) by forfeiture of the occupancy or alienated holding in respect of which the arrear is due under section 179;

(iii) by distraint and sale of the defaulter's moveable property under section 180;

(iv) by attachment and sale of the defaulter's immoveable property under section 181;

(v) by attachment of defaulter's immoveable property and taking it under management under section 182;

(vi) by arrest and imprisonment of the defaulter under sections 183 and 184,

(vii) in the case of alienated holding consisting of entire villages, or shares of villages, by attachment of the said villages or shares of villages and taking them under management under sections 185 to 190.

The following properties however cannot be attached and sold under the processes specified in clause (c), (d) and (e) above: -

(i) 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;

(ii) 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 Collector be necessary to enable him to earn his livelihood as such and also such portion of the agricultural produce as in the opinion of the Collector is necessary for the purpose of providing until the next harvest for the due cultivation of the land and for the support of the holder and his family;
(iii) Articles set aside exclusively for the use of religious endowments;

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

8. Section 176 says that arrears of land revenue may be recovered by any one or more of the aforesaid processes. This means that the recovery sought to be made by one process if proved fruitless or the entire amount is not realized the recovery by other processes is not barred. Further it is not necessary to enforce these processes according to the order mentioned in clauses (a) to (g) in section 176.

9. The process mentioned at (a) in paragraph 7 i.e., issue of demand notice is a common one. The Commissioner can make order for the issue of such notices and with the sanction of the State Government has to fix the costs of issuing notice recoverable from the defaulter and direct which officers shall the demand notices.

10. As regards process 9b) i.e., forfeiture of holding, it follows as a natural corollary to the provision contained in section 72 of the Code which declares that land revenue due on account of land shall be a paramount charge on the holding and every thereof and failure to pay the said land revenue makes the holding liable to forfeiture. Forfeiture implies extinction of all encumbrances and interests of the holder in the property. It should be noted that the provisions of section 179 of the Code regarding forfeiture of holding apply to the recovery of arrears of land revenue proper i.e. land revenue due on a account of land and not to the recoveries of other demands recoverable as arrears of land revenue except arrears due on account of tagai loans granted under the Land Improvement Loans Act, 1883. Section 7 of this Act provides that all loans granted under said Act, all interest chargeable thereon and costs if any incurred in making the same shall be recoverable out of the out of the land for the benefit of which the loan is granted can be forfeited under section 179 of the Code.
11. Before declaring forfeiture of any holding the Collector has to issue proclamation and written notices of the intended declaration in the manner provided in sections 192 and 193 and to wait at least for a period of fifteen days from the date on which the notices have been affixed as required by section 193. After forfeiture the Collector can sell or otherwise dispose of the property under the provisions contained in section 72 or 73 and subject to the rules made in the matter.

12. The processes at © and (d) i.e. distraint and sale of moveable property and attachment and sale of immovable property of the defaulter under sections 180 and 181 respectively are common ones and need no comments.

13. The process referred to at (e) in para 7 i.e. attachment of defaulter’s immovable property under section 182 is a new one so far as Western Maharashtra and Vidarbha regions are concerned. This process is to be applied only when the Collector deems it inexpedient to adopt any of the aforesaid processes. Here the property is only to be attached but not sold. After attachment, the property is to be taken under management by the Collector or any agent appointed by him for the purpose. After assumption of management the property is to be leased out year by year for a period of 12 years. The surplus profits of the land beyond the cost of attachment and management including the payment of the current revenue is to be applied in defraying the arrears due in respect of such land. The land attached is to be released from attachment and restored to be defaulter on his making an application to that effect at any time within 12 years from the date of attachment-

(a) if at the time of such application the amount of arrears is liquidated: or

(b) if the defaulter is willing to pay the balance if any of the dues and actually does so within the period specified by the Collector.

If, however, within a period of 12 years the defaulter does not make any application for the restoration of the land or he fails to pay the balance of the dues within the period specified by the Collector the Collector can sell the right title and interest of the defaulter in the land without prejudice to the encumbrances created prior to the attachment of the land and make
over the sale proceeds to the defaulter after deducting therefrom the amount due to the State Government and the expenses of the sale. The object of this provision is to ensure that a cultivator should not be deprived of his land and that he is given one more opportunity to clear off the arrears within a period of 12 years.

14. The process of arrest and imprisonment of defaulter under section 183 of the Code is to be applied for recovery of arrears only in the following cases:-

   (i) that the defaulter is than an agriculturist from whom such arrears in respect of his occupancy is due. (i.e. the arrears is other than the land revenue due on account of the land) and

   (ii) that the default is willful

Before the default is arrested, he is required to given an opportunity to show cause against his arrest and detention. The detention custody in the office of the Collector or a Tahsildar is first for a period of ten days unless the defaulter clears off all the dues earlier. If after ten days the amount due is not paid or if the Collector deems it fit on any earlier day the defaulter may be sent for imprisonment in the Civil Jail with a warrant to be issued by this Collector in the form of Schedule "A" appended to the Code. Any defaulter detained in custody or imprisoned should be set free and the execution of any process shall be stayed on his giving before the Collector or before the Officer in-charge of the Civil Jail a security in the form of Schedule "B" appended to the Code (Section 191).

15. The process referred to at (g) in para 7 i.e., attachment and management of property applies to the arrears relating to a holding consisting of an entire alienated village or of a share of an alienated village. This process is similar to the one mentioned in para 13 with the variations that before taking the village under management the Collector has to obtain sanction of the Commissioner and that if within the period of 12 years the superior holder i.e. the defaulter does not make any application for restoration of the property or does not pay
the dues as promised the attached village or portion of a village vests in the State Government free from all encumbrances created by the defaulter.

(vi) Sales

16. All sales are to be conducted by public auctions. These sales are of moveable or immovable properties. The moveable properties are further divided into two categories viz. (i) perishable articles and (ii) other articles. The procedure for conducting sales of these properties are summarised below:-

(A) Sale of Perishable articles.

17. Perishable articles are to be sold by auction with the least possible delay even on Sundays or public holidays if necessary. The preliminaries about issue of proclamation notices or postponement of sales prescribed in sections 192, 193 and 195 are not to be followed in such cases (section 196). The sale should however be stayed if the defaulter pays the arrears and all other dues or furnishes a security under section 191 before the property is knocked down in the auction. The sales are also to be finally concluded at once by the officer conducting the sales. (Section 198). The purchase price officer directs. In default of such payment the articles are forthwith to be again put up and sold. On payment the officer has to grant receipt for the same and the sale then become absolute.

(B) Sale of Moveable properties other than perishable articles.

18. Before any moveable property is put to sale the Collector has to issue a proclamation in the prescribed form with its Marathi translation specifying the time and place of the sale the description of the property the amount of arrears whether the sale is subject to confirmation or not and any other particulars as the Collector thinks necessary. The proclamation should be made by beat of drum in the village concerned at the Taluka headquarters and at such other places as the Collector directs (Section 192).

19. A written notice of the intended sale is also required to be affixed in the prescribed form in the Tahsildar's Office and in the Chavdi or some other public
building in the village in which the property was seized [Section 193 (2) and (4)].

20. Auction sales shall be made by such person as the Collector may direct. Care should be taken to see that no sale takes places on Sundays or other recognised holiday nor until after expiration of at least seven days from the latest date on which the written notices referred to in the preceding para, have been affixed (Section 194).

21. Sale can be postponed from time to time for any sufficient reason but if it is postponed for more than thirty days fresh proclamation and written notice are required to be issued unless the defaulter agrees to waive it. (Section 195).

22. Sale is to be stayed if the defaulter pays the arrears and all other dues or furnishes security under section 191 before the property is knocked down in the auction. (Section 197).

23. In all sales of moveable property the Collector has to direct by special or general order whether the sales shall finally be concluded by the officer conducting them or shall be subject to confirmation and in the latter case by whom such sales shall be confirmed. (Section 198). When the sale is to be finally concluded the price is to be paid at the time of the sale or as soon after as the officer concluding the sale may direct. If the price is not paid the property is to be forthwith again put up and sold. If the purchase money is paid the officer has to grant receipt therefor and the sale then becomes absolute after seven days from the date of the sale if no application for setting aside the sale under section 206 is made or if made after it is rejected (Section 199).

24. If the sale is subject to confirmation the mode of payment of purchase money differs. The purchaser in such case is required to deposit immediately 25 per cent of the amount of his bid. If he fails to do so the property is again put up and sold forthwith. The remaining amount of the purchase money is to be paid before the sunset of the third day after the purchaser is informed that the sale is confirmed. If the said third day happens to be Sunday or other authorised holiday then the amount should be paid on the next first office day. On payment of the full amount the purchaser is to be granted receipt and the
sale then becomes absolute after expiry of seven days from the date of the sale if no application for setting aside the sale under section 206 is made or if made after it is rejected (Section 199).

25. Sale of moveables can be set aside if an application to that effect is made within seven days from the date of the sale on the ground that some material irregularity or mistake in publishing or conducting it has occurred and the applicant proves to the satisfaction of the Collector that he has sustained a substantial loss on account thereof (Section 206).

(C) Sales of immovable properties.

26. For issue of sale proclamation under section 192, the same procedure mentioned in para. 18 above is to be followed but in case of sale of any holding a copy of the proclamation is to be sent to the Co-operative Bank or the Land Development Bank or to both operating within the area in which the holding is situated.

27. The written notice of the intended sale is necessarily required to be affixed in each of the following places :-

(a) the officer of the Collector;

(b) the office of the Tahsildar of the Taluka in which the immovable property is situated;

(c) the chavdi or some other public building in the village in which the property is situated; and

(d) the defaulter's dwelling place.

The Collector can also cause such notice to be published in any other manner that he may deem fit.

28. The procedure regarding the days on which sales should be held, their postponement and stay mentioned in paras 20, 21 and 22 above should also be followed except of at least thirty days (as against seven days in respect of
movable property) from the latest date on which written notices of sale have been affixed under the preceding para.'

29. As in the case of moveable property here also the purchaser has to deposit immediately 25 per cent of the amount of his bid failing which the immoveable property is to be again put up and sold forthwith (section 201).

30. The remaining amount of the purchase money is required to be paid before the expiry of two months from the date of the sale or within fifteen days from the date on which the purchaser receives the intimation about the confirmation of the sale whichever is earlier. If however the last days is a Sunday or other authorised holiday the payment is to be made before the sunset of the next office day. (Section 202).

31. Application for setting aside sale of immoveable property can be made to the Collector within a period of thirty days from the date of the sale on the following grounds :-

   (a) that there is some material irregularity mistake or fraud in publishing or conducting the sale; and

   (b) that the applicant has on account of (a) above sustained substantial injury.

If such an application is allowed the Collector has to set aside the sale and direct a fresh one. (Section 207).

32. Following are some of the instances, which may be considered as material irregularity, mistake or fraud: -

   (i) **Material irregularity**. Holding sale before the expiry of the period specified in section 194, omission to show encumbrances on the property in sale proclamation, mis-description of the property; failure to affix notice under section 193 to defaulter's house or any other places mentioned in that section; mis-statement of the value of the property in the proclamation in that omission to make proclamation by beat of drum etc.
(ii) **Mistake.** - Mistake in publishing or conducting the sale may be about the description of the property, time or place of holding the sale.

(iii) **Fraud.** - Fraud must be in publishing or conducting the sale. Fraud in publishing sale may be of person concerned in affixing them. Fraud in conducting the sale may be of officer holding the auction. Deliberate under-valuation of the property in the proclamation amounts to fraud.

33. If no application for setting aside the sale is made under section 207 within thirty days form the date of the sale or if made after it is rejected the Collector has to make order confirming the sale (Section 208). Under the proviso to section 208 the Collector has power he can exercise even when he has rejected an application made under section 207 for setting aside the sale on the grounds other than those alleged in the application so rejected. The Collector has to record his reasons in the order setting aside the sale suo motu.

34. Section 210 also provides for making an application to the Collector for setting aside sales of immovable property. Any person applying to set aside the sale under this section must have acquired interest in the property before the date of the sale. While so applying he has also to deposit the following amounts:

(a) five per cent of the purchase money for payment to the purchaser;

(b) for payment on account of the arrears the amount specified in the proclamation of the sale less any amount which may have been paid since the date of the sale on that account; and

(c) the cost of the sale.

Where application accompanied with the aforesaid deposits is made within 30 days from the date of the sale the Collector has no discretion left but has to set aside the sale unless it is proved that the applicant had no interest or has acquired interest in the property sold after the date of the sale. [Section 210 (2)]. When the sale is so set aside the purchaser is entitled to receive five per cent of the purchase money deposited under (a) above.
(D) Common provisions for sales of moveable and immoveable properties.

35. Sections 203, 204 and 205 of the Code deal with consequences of default in payment of full purchase money, liability of the purchaser for loss by resale and notices before resale. These provisions are common in respect of sales both of moveable and immoveable properties. If the purchaser fails to pay the balance amount of the purchase money within the specified period, the amount equal to 25 per cent of the purchase money is to be forfeited to Government after defraying therefrom the expenses of the sale. The defaulting purchaser also loses all claims to the property which is to be resold. If in the re-sale, the price realised is less than the price bid by the defaulting purchaser, the difference is to be recovered from him as an arrear of land revenue. Every re-sale has to be made only after issue of fresh proclamation and sale notices prescribed for original one unless such re-sale takes place forthwith.

36. Under section 209 the purchaser is given a right to apply for setting aside the sale on the ground that the defaulter had no saleable interest in the property sold. Such application is required to be made within 30 days from the date of the sale and the Collector after due enquiry has to pass such order on the application as he deems fit. This section however, does not apply to the sale held for recovery of arrears of land revenue, which form a paramount charge on the land.

37. Whenever the sale is not confirmed or is set aside the purchaser is entitled to received back his deposit or his purchase money, as the case may be. (Section 211).

38. After the sale is confirmed the Collector has to put the person declared to be the purchaser into possession of the land and has to cause his name to be entered in the land records. The Collector has also to grant him a certificate to the effect that he has purchased the land in question. (Section 212). Such a certificate is an evidence of title and any suit brought in a Civil Court against the certified purchaser on the ground that the purchase was made on behalf of another person is to be dismissed.
39. After the sale has become absolute or as the case may be has been confirmed, the sale proceeds shall be applied in the following order:

(i) expenses of the sale;

(ii) payment of any arrears due by the defaulter at the time of the confirmation of the sale;

(iii) any other sum recoverable as an arrear of land revenue and notified to the Collector before the confirmation of the sale; and

(iv) the surplus, if any, left shall be refunded to the defaulter.

The surplus referred to at (iv) above should not paid to the creditor of the defaulter except under the order of a Civil Court. (Sections 214 and 215).

40. After the sale of immovable property is confirmed the property vests in the purchaser from the date when the property is sold and not from the date when the sale was confirmed. The certified purchaser also becomes liable for payment of land revenue due in respect of the land from the date of the sale and not for the period previous to that date. (Sections 216 and 217).

41. Officers or other persons having any duty to perform in connection with any sale are prohibited either directly or indirectly from offering bid or acquiring any interest in the property sold. This however does not apply to properties purchased on nominal bid under section 220. (Section 219).

42. Section 220 empowers the Collector to authorise any of his subordinates to purchase property put up for auction sale on a nominal bid on behalf of the State Government. This section applies only when there is no bidder or the bids made are inadequate or nominal. The amount to be bid in such cases is entirely left to the discretion of the subsequently sold by the State Government, the following amounts are to be recovered from the sale proceeds and the surplus paid to the defaulter i.e. the person whose property is sold:-

(i) Government dues i.e. principal outstanding with interest thereon;
(ii) Loss of revenue during the period the land remained with the State Governments;

(iii) Expenditure incurred in the auction sale; and

(iv) Penalty equal to 25 percent of the principal.

If, however the property is not sold it may be returned or granted to the defaulter on the same tenure on which he held it immediately prior to the purchase by Government on his paying the aforesaid amounts at any time within 12 years from the date of purchase.

(vii) Moneys recoverable as arrears of land revenue.

43. Section 221 of the Code enumerates the various items which are recoverable as arrears of land revenue under the provisions of the Code. Most of these items are mentioned in the definition of the term "land revenue" given in clause (19) of section 2 of the Code. The items specified in section 221 come under the following categories:

(i) All sums under whatever designations which are payable or leviable under the Code or any enactment for the time being in force relating to land revenue;

(ii) Sums declared by any other enactment to be recovered as an arrear of land revenue; and

(iii) Moneys due to Government under any grant, contract or agreement which provides that recoveries shall be made as arrears of land revenue; and

(iv) Moneys due by any contractor for the farm of any tax, duty, cess or fee or any other item of revenue whatsoever and all specific pecuniary penalties to which such contractor renders himself liable under the terms of his agreement.

44. Section 222 provides for recovering of free grant of money made for any agricultural purpose on condition of recovering the same as arrears of land
revenue in case of misuse; while section 223 provides for recovery of moneys from sureties as revenue defaulter.


45. The payment of land revenue is to be made to the Talathi of the village in which the land is situated or at the following places:

(i) in special cases in Government treasury with the sanction of the Collector.

(ii) If the Collector declares any village in a taluka to be a centre for the payment of land revenue at such central place. Due publicity is however require to be given while declaring such central place by affixing copy of the declaration in the chavdi or some other public building in the villages concerned or in such othe manner as the Collector deems necessary.

46. For purposes of recovery of land revenue the Collector has to classify villages into the following two classes and the land revenue is to be paid in one instalment on the date specified against them.

<table>
<thead>
<tr>
<th>Class of village</th>
<th>Date of payment of land revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I - Kharif villages</td>
<td>15th January</td>
</tr>
<tr>
<td>Class II - Rabi villages</td>
<td>15th April</td>
</tr>
</tbody>
</table>

If, however the aforesaid dates are considered to be unsuitable for payment of land revenue in any district or part thereof the Collector with the sanction of the Commissioner can fix such other dates as he may deem expedient according to the circumstances of the season of the villages concerned and the character of the crops generally sown therin. On fixing the revised dates the non-agricultural assessment in respect of the land in such district or part thereof shall also be paid on those dates.
47. The notice of demand under section 178 is to be issued in the prescribed form separately to different defaulters. The forms of proclamation and written notice to be issued under section 179 are also prescribed under the rules.

48. While forfeiting any occupancy or alienated holding for non-payment of land revenue due on such holding the Collector shall forfeit only such portion of the occupancy or holding as would satisfy the demand.

49. In case land forfeited for default in payment of land revenue is not disposed of under section 72 the arrears of land revenue payable by the defaulter shall ordinarily be remitted.

50. Sub-section (2) of section 180 provides that the Collector shall under the orders of the State Government direct by which officers distraints of moveable property should be made. For the purposes of these rules, such officers are called "the distraining officer". Before distraining any property, the Collector has to issue a warrant in the prescribed form to the distraining officer directing him to distrain the defaulter's immoveable property under section 180. The distraining officer has then to distrain the property by actual seizure and has to keep the same in the custody of either himself or his subordinates. The custodian would be responsible for the property seized.

51. If, however, the property seized is subject to speedy and natural decay (i.e., perishable articles), or where the expenses of keeping it in custody is likely to exceed its value the distraining officer shall at once take action to sell it in accordance with the orders of the Collector.

In respect of the properties consisting of live Stock, agricultural implements or other articles which cannot be removed conveniently the distraining officer may leave them with the consent of the defaulter or any other person interested in them in the village or at the place of distraint in charge of-

(a) the defaulter or a pound-keeper if any; or

(b) a person claiming to be interested in the property; or
(c) any other respectable person willing to keep the property in his custody.

The person aforesaid has to enter into a bond with one or more sureties of an amount at least of the value of the property and has also to give an undertaking to produce the property whenever required.

52. The distraining office has to prepare a list of the property distrained and obtain an acknowledgement thereof from the custodian. If possible the list may be got attested by the defaulter and one respectable person as to its correctness. Live-stock articles should however be separately listed.

53. Where the custodian of the property is a person other than the defaulter the expenses of feeding and watering the live-stock or for the safe-custody of other articles should be charged to the defaulter at such rates as may be fixed by the Collector.

54. The provisions of rules 46 to 53 of Order XXI of the First Schedule to the code of Civil Procedure relating to the attachment of moveable property shall as far as may be applied to the distraint of moveable property made under these rules. The said rules 46 to 53 are appended to this Circular as Appendix i.

55. Immoveable properties should be attached by the Collector by issue of order in the prescribed form which prohibits the defaulter from transferring or charging the property in any way. The order also prohibits all other persons from taking any benefit from such transfer or charges. Such order shall be proclaimed by the Tahsildar or Nai-Tahsildar at a place on or adjacent to the property attached by beat of drum or other customary mode. A copy of the order has also to be affixed on a conspicuous part of the property and on the notice board of the Talathi’s office.

56. Forms of proclamation and written notice of sales are prescribed under the rules. Sales of defaulter’s property shall ordinarily be held in the town or village in which the property is situated.

57. If the Collector thinks it necessary an upset price of the property to be sold in auction sale shall be placed thereon.
58. Certificate of sale to be issued to the purchaser after confirmation of the sale is prescribed under the rules. Separate certificates are prescribed for forfeited property and attached property.

59. After the sale of moveable property becomes absolute, the Officer conducting it has to-

   (i) Deliver the property if it was actually seized and

   (ii) make an order vesting such property in the purchaser in any other case.

60. For purposes of putting the purchaser in possession of the land purchased by him in auction sale the officer conducting the sale shall follow the following procedure on an application to that effect from the purchaser:

   (a) if the land sold is in possession of the defaulter or any other person on his behalf or some person under a title created after the attachment of the land or grant of sale certificate the officer shall order delivery to be made by putting the purchaser or his authorized agent in actual possession of the land, if necessary by forcibly removing the person already in possession.

   (b) If the land is in possession of a tenant or other person entitled to occupy it the officer shall order delivery to be made by affixing a copy of the sale certificate in some conspicuous place on the land and by proclaiming to the person in possession by beat of drum or other customary mode that the interest of the defaulter has been transferred to the purchaser.

61. For purposes of recovery of amount due to any department of Government or a local authority or a co-operative society a requisition in writing containing the following particulars shall be sent by the aforesaid bodies to the Tahsildar of the Taluka in which the defaulter resides or has property :-

   (i) Full name and address of the defaulter.

   (ii) The sum to be recovered.
(iii) The provision of law under which the sum is recoverable as an arrear of land revenue.
(iv) The process by which the sum may be recovered.
(v) The property against which the process may be executed.

On receipt of such requisition, the Tahsildar shall dispose it of in accordance with the provisions of the Code and rules made thereunder.

III. Supplementary Instructions.

62. It would be quite reasonable and fair to consider the grant of suitable installments in deserving and genuine cases, for the recovery of fines, composition fees etc., levied under the provisions of the Land Revenue Code and the rules and orders thereunder in respect of unauthorised and objectionable non-agricultural uses of lands. However, such recovery should be classified as 'Miscellaneous Land Revenue' and must be made within the same revenue year in which it has been ordered. Subject to this over-riding limitation there is no objection to the grant of installments in really hard case. Interest at the rate of 5 per cent annum should be charged on the pending dues with effect from the date on which the amount originally became due. If any installment remains unpaid its due date, the whole amount outstanding should be recovered forthwith.

63. Collectors should ensure that the arrears of Forest dues are recovered within a period of one year from the date on which the Collectors are requested by the officials of the Forest Department to recover dues from the defaulting forest contractors.

64. For the purpose of recoveries of purchase price as an arrear of land revenue from a tenant purchaser land deemed to have been purchased by him under the Tenancy Act should not be put to the sale as it would not be consistent with provision of Tenancy Law which recognizes landlord's right to restoration of such land. Ordinarily sale of any other land held by tenant purchaser price. If in any case the other land held by the tenant purchaser is required to be put to action the case should be referred to Government for orders.
65. The rates at which the cost of issuing notices of demands should be recoverable from the defaulters as arrears of Land Revenue under sub-section (2) of section 178 of the Code, are as follows:

- For dues not exceeding Rs. 25.. Re. 0.50
- For dues over Rs. 25 and not exceeding Rs. 100 Re. 1.00
- For dues exceeding Rs. 100 Rs. 1.50

66. The powers of arrest of defaulter under section 183 of the Code shall be exercised by the Collector of the District.

The cost of arrest shall be according to the following scale:

<table>
<thead>
<tr>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rs.</td>
</tr>
</tbody>
</table>

If the amount for the recovery of which arrest is made:

- Does not exceed Rs. 25 1.00
- Exceeds Rs. 25 but does not exceed Rs. 100 3.00
- Exceeds Rs. 100 but does not exceed Rs. 500 4.00
- Exceeds Rs. 500 but does not exceed Rs. 1,000 8.00
- Exceeds Rs. 1,000 but does not exceed Rs. 5,000 16.00
- Exceeds Rs. 5,000 .. 32.00

The subsistence money to be paid by Government to the defaulter under detention or imprisonment shall be such amount not less than rupees two and not more than rupees four as the Collector may fix.

67. While forwarding a revenue recovery certificate by the Collector of this State to a Collector of the other State it should be specifically made clear that in case the matter is taken to a Court of law the Collector forwarding the recovery certificate should immediately be informed of the same. On receipt of the report regarding filling of a suit etc., in a Court of Law of the other State the concerned Collector of this State should immediately bring the position to the notice of the authority from whom the certificate for recovering the
amount as an arrear of land revenue was received and should see that timely steps are taken for defence of the suit in question.

68. Distraints of defaulter's movable property under section 180 (2) of the Code may by any Tahsildar, Naib-Tahsildar, Aval Karkun, Circle Inspector, Talathi or any Officer (being an Officer who in the opinion of the Collector is competent to execute distraints) whom the Collector may direct in that behalf.

69. Under Rule 7 of the Maharashtra Realisation of Land Revenue Rules, 1967, the Collector can forfeit only such portion of occupancy as is in his opinion, required to satisfy the demand on account of the arrears of land revenue. In doing so, it should be ensured that no portion of occupancy either forfeited or the one remaining after forfeiture, is reduced to less than the standard area prescribed under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act.

70. For expeditious handling of matters involving financial interests of Government, the revenue officers should follow the below mentioned instructions in respect of recovery of Government dues in cases where orders staying the recovery proceedings are issued:

(i) Delay in submitting reports especially after stay orders are given by Government would cause loss to Government. It is, therefore imperative to ensure that high priority is given to submission of reports in such cases.

(ii) In cases, where parties offer to repay Government dues according to terms found suitable to them, but at the same time approach Government requesting it to liberablise the terms of repayment, the Revenue Officers should start recovering whatever amount offered by the parties and the balance recovered on receipt of Government decision on the request of the concerned party.

(iii) Stay orders issued by Government in revenue matters should remain effective for the period for which they are granted or until such time, the information called for from the local officers is submitted to
Government to enable it to decide the matter. Care should, however, be taken to see that the reports/information called for in the cases of stay orders are sent promptly so that the stay orders is not unduly prolonged. If it is considered necessary to extend the period of stay beyond six months, specific proposals giving detailed justification therefore should be submitted to Government in good time before expiry of that period.

(iv) The Commissioners of Divisions should be particularly vigilant in matters concerning Government finances and they should take appropriate action against persons responsible for delays whenever such delays result in financial loss to Government.

71. Chapter XI of the Maharashtra Land Revenue Code, 1966 and the provisions in the Maharashtra Realisation of Land Revenue Rules, 1967 provide for coercive methods to be adopted for realization of land revenue and other revenue demands recoverable as arrears of land revenue. Although it is necessary to make all out efforts by the Revenue Officers for recovery of Government dues, it is not intended that they should adopt any methods that would cause undue hardships to the defaulting persons in effecting recoveries.

72. Recovery of amount of Government dues from the agriculturists during rainy season by attachment and sale of their moveable or immovable properties, cause great hardships to them. The agriculturists generally have very little spare money during this period. With a view to avoid such hardships Government has directed that in respect of the proceedings for recovery of all types of Government dues payable by agriculturists, no attachment or sale of either moveable or immovable properties should be effected during the months of July, August and September. However, if necessary immovable property be attached only, during the said period.

73. It is observed that misappropriation of Government money is facilitated on account of passing of 'Kachha' receipts by the talathis to the villagers paying land revenue and other Government dues. With a view therefore, to putting an end to such a misappropriation, it is necessary that the Talathis must discontinue the practice of passing kachha receipt and they should be directed to pass printed receipts only. To avoid passing kachha receipts talathis may
take with them demand list and particular kind of the village on his visit to the
villages in his saza. Collectors should, by giving wide publicity, make the villages
aware of the fact that the Talathis are provided with prescribed printed receipt
books and that whenever any person pays land revenue or any other
Government dues he should always insist on a proper printed receipt and
should on no occasion accept 'kachha' receipt.

74. Under section 13 (2) of the Maharashtra Tax on Goods (Carried by Road)
Act, 1962, the Taxation Authority is required to forward a recovery certificate
under its signature specifying the amount of arrears due from a particular
defaulting operator to the Collector of District, in which the operator is residing
or has a permanent place of business. As is required under section 5 of the
Revenue Recovery Act, 1890, it is not necessary under the above section of the
Tax on Goods Act, for the Collector of the district in which the office of such
Taxing Authority is situate to send a certificate of the amount to be recovered
to the Collector of another district. The Taxing Authority can itself send such a
certificate to the Collector of another district. It cannot however send the
certificate directly to the Tahsildar of the Taluka in which the defaulter resides
or has property by virtue of rule 17 of the Maharashtra Realisation of Land
Revenue Rules, 1967 as the provisions in section 13 (2) of the Act of 1962 itself
requires that the Taxing Authority should send such certificate direct to the
Collector only.

75. With a view to encouraging the Small Savings Campaign and instilling the
habit of thrift among the agriculturists, Government has formulated a scheme
whereby the agriculturists can deposit Treasury Savings Deposit Certificates
with the Taluka Officers (Tahsildars) for defraying the amount of annual
interests accrued thereon towards the payment of consolidated land revenue
demand.

Details of this scheme have been published by Government from time to
time in the form of leaflets issued by the Directorate of Small Savings.

76. Cess on land revenue leviable under section 144, 151 and 152 of the
Maharashtra Zilla Parishad and Panchayat Samitis Act, 1961 read with section
155 thereof, and cess on land revenue leviable under section 127 of the
Bombay Village Panchayats Act, 1958, either recovered as part of consolidated land revenue (as in Western Maharashtra Districts) or recovered separately (as in Vidarbha and Marathwada districts) should legitimately form part of the consolidated Fund of the Maharashtra State. Thus all receipts of the amount of cess on land revenue as aforesaid should be separately credited to the receipt head, "IX-Land Revenue-C-Rates and cesses on land (a) cess on Land Revenue collected under the provisions of the Maharashtra Zilla Parishad and Panchayat Samits Act, 1961 and (b) Cess on land revenue collected under section 127 of the Bombay Village Panchayat Act, 1959". Consequently the amounts equivalent to the cess should be paid to Zilla Parishads, Village Panchayats, Municipal Councils etc. after deducting the collection charges prescribed under the Maharashtra Zilla Parishad Local Cess on Land Revenue (Deduction of cost of collection) Rules, 1967. these equivalent amounts should be paid to the local bodies as "grants", the expenditure on account of which should be debited to the budget head "9-Land Revenue-Grants-in-aid, Contributions etc. payment of net proceeds on the cess on Land Revenue payable to the Zilla Parishads and Village Panchayats".

APPENDIX I

(Please see para. 54)

Copies of rules 46 to 53 of Order XXI of the First Schedule to the Code of Civil Procedure

46. (1) in the case of -

(a) a debt not secured by a negotiable instrument,

(b) a share in the capital of a corporation,

(c) other moveable property not in the possession of the Judgment-debtor, except property deposited in, or in the custody of, any Court;

the attachment shall be made by a written order prohibiting-

(i) in the case of the debt, the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Court;
(ii) in the case of the share, the person in whose name the share may be standing from transferring the same or receiving and dividend thereon;

(iii) in the case of the other moveable property except as aforesaid, the person in possession of the same from giving it over to the Judgment-debtor.

(2) A copy of such order shall be affixed on some conspicuous part of the court-hours and another copy shall be sent in the case of the debt, to the debtor, in the case of the share to the proper officer of the corporation, and in the case of the other moveable property (except as aforesaid), to the person in possession of the same.

(3) A debtor prohibited under clause (i) of sub-rule (1) may pay the amount of his debt into Court, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

47. Where the property to be attached consists of the share or interest of the Judgment-debtor in moveable property belonging to him and another as co-owners, the attachment shall be made by a notice to the judgment-debtor prohibiting him from transferring the share or interest or charging it in any way.

48. (1) Where the property to be attached is the salary or allowances of (servant of the Government) or of a servant of a railway company or local authority, the Court, whether the judgment-debtor or the disbursing officer is or is not within the local limits of the Court's jurisdiction may order that the amount shall, subject to the provisions of section 60, be withheld from such salary or allowances either in one payment or by monthly instalments as the Court may direct; and, upon notice of the order to such officer as (the appropriate Government may by notification in the Official Gazette) appoint in this behalf,-

(a) where such salary or allowances are to be disbursed within the local limits to which this Code for the time being extends, the officer or other person whose duty it is to disburse the same shall withhold
and remit to the Court the amount due under the order, or the monthly installments, as the case may be;

(b) where such salary or allowances are to be disbursed beyond the said limits, the officer or other person within those limits whose duty it is to instruct the disbursing authority regarding the amount of the salary or allowances to be disbursed shall remit to the Court the amount due under the order or the monthly installments, as the case may be, and shall direct the disbursing authority to reduce the aggregate of the amounts from time to time to be disbursed by the aggregate of the amounts from time to time remitted to the Court.

(2) Where the attachable proportion of such salary or allowances is already being withheld and remitted to a Court in pursuance of a previous and unsatisfied order of attachment, the officer appointed by (the appropriate Government) in this behalf shall forthwith return the subsequent order to the Court issuing it with full statement of all the particulars of the existing attachment.

(3) Every order made under this rule, unless it is returned in accordance with the provisions of sub-rule (2), shall, without further notice or other process, bind (the appropriate Government) or the railway company or local authority, as the case may be, while the judgment-debtor is within the local limits to which this Code for the time being extends and while he is beyond those limits if he is in receipt of any salary or allowances payable out of (the revenues of the Central Government or a State Government) or the funds of a railway company carrying on business in any part of (India) or local authority in (India); and the (the appropriate Government) or the railway company or local authority, as the case may be shall be liable for any sum paid in contravention of this rule.

(Explanation In this rule "appropriate Government" means-)
(i) as respects any (person) in the service of the Central Government, or any servant of (a railway administration) or of a cantonment authority or of the port authority of a major port, the Central Government;

(ii) as respects any other (servant of the Government) or a servant of any other local authority, the State Government).

49. (1) Save as otherwise provided by this rule, property belonging to a partnership shall not be attached or sold in execution of a decree passed against the firm or against the partners in the firm as such.

(2) The Court may on the application of the holder of a decree against the partner, make an order charging the interest of such partner in the partnership property and profits with payment of the amount due under the decree, and may, by the same or a subsequent order appoint a receiver of the share of such partner in the profits (whether already declared or accruing) and of any other money which may be coming to him in respect of the partnership, and direct accounts and enquiries and make an order for the sale of such interest or other orders as might have been directed or made if a charge had been made in favour of the decree holder by such partner, or as the circumstances of the case may require.

(3) The other partner or partners shall be at liberty at any time to redeem the interest charged, in the case of a sale being directed, to purchase the same.

(4) Every application or an order under sub-rule (2) shall be served on the judgment-debtor and on his partners or such of them as are within (India).
(5) Every application made by any partner of the judgment-debtor under sub-rule (3) shall be served on the decree holder and on the judgment-debtor and on such of the other partners as do not join in the application and as are within (India).

(6) Service under sub-rule (4) or sub-rule (5) shall be deemed to be service on all the partners, and all orders made on such applications shall be similarly served.

50. (1) Where a decree has been passed against the firm, execution may be granted-

(a) against any property of the partnership;

(b) against any person who has appeared in his own name under rule 6 or rule 7 of order XX or who has admitted on the pleading that he is, or who has been adjudged to be a partner;

(c) against any person who has been individually served as a partner with a summons and has failed to appear;

Provided that nothing in the sub-rules shall be deemed to limit or otherwise affect the provisions of section 247 of the Indian Contract Act, 1872.

(2) Where the decree-holder claims to be entitled to cause the decree to be executed against any person other than such a person as is referred to in sub-rule (1), clauses (b) and (c), as being a partner in the firm, he may apply to the Court which passed the decree for leave, and where liability is not disputed such Court may grant such leave, or where such liability is disputed, may order that the liability of such person be tried and determined in any manner in which any issue in a suit may be tried and determined.

(3) Where the liability of any person has been tried and determined under sub-rule (2), the order made thereon shall have the same
(4) Save as against any property of the partnership, a decree against the firm shall not release render liable or otherwise affect any partner therein unless he has been served with a summons to appear and answer.

51. Where the property is a negotiable instrument not deposited in a Court, nor in the custody of a public officer, the attachment shall be made by actual seizure, and the instrument shall be brought into Court and held subject to further orders of the Court.

52. Where the property to be attached is in the custody of any Court of public officer, the attachment shall be made by a notice to such Court or officer, requesting that such property and any interest or such Court or officer, requesting that such property and any interest dividend becoming payable thereon, may be held subject to the further orders of the Court from which the notice is issued;

Provided that, where such property is in the custody of a Court, any question of title or priority arising between the decree-holder and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment, or otherwise, shall be determined by such Court.

53. (1) Where the property to be attached is a decree, either for the payment of money or for sale in enforcement of a mortgage or charge, the attachment shall be made,-

(a) if the decrees were passed by the same Court, then by order of such Court, and

(b) if the decree sought to be attached was passed by another court, then by the issue to such other Court of a notice by the Court which passed the decree sought to be executed, requesting such other Court to stay the execution of its decree unless and until-
(i) the Court which passed the decree sought to be executed cancels the notice, or

(ii) the holder of the decree sought to be executed or his judgment-debtor applies to the Court receiving such notice to execute its own decree.

(2) Where a Court makes an order under clause (a) of sub-rule (1), or receives an application under sub-head (ii) of clause (b) of the said sub-rule, it shall, on the application of the creditor who has attached the decree and apply the net proceeds in satisfaction of the decree sought to be executed.

(3) The holder of a decree sought to be executed by the attachment of another decree of the nature specified in sub-rule (1) shall be deemed to be the representative of the holder of the attached decree and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

(4) Where the property to be attached in the execution of a decree is a decree other than a decree of the nature referred to in sub-rule (1), the attachment shall be made, by a notice by the Court which passed the decree sought to be executed, to the holder of the decree sought to be attached prohibiting him from transferring or charging the same in any way; and, where such decree has been passed by any other Court, also by sending to such other Court a notice to abstain from executing the decree sought to be attached until such notice is cancelled by the Court from which it was sent.

(5) The holder of a decree attached under this rule shall give the Court executing the decree such information and aid as may reasonably be required.

(6) On the application of the holder of a decree sought to be executed by the attachment of another decree the Court making an order of attachment under this rule shall give notice of such order to the
judgment-debtor bound by the decree attached; and not payment or adjustment of the attached decree made by the judgment-debtor in contravention of such order after receipt of notice thereof, either through the Court or otherwise, shall be recognized by any Court so long as the attachment remains in force.
REVENUE BOOK CIRCULAR No. 24.

Subject.- Procedure of Revenue Officers.


A Revenue Officer has to perform all his official acts and proceedings at such place, time and in the manner as may be directed by the officer to whom he is subordinate (Section 224).

2. The State Government can if it considers expedient for the ends of justice, direct any particular case to be transferred from one Revenue Officer to another of an equal or superior rank in the same district or any other district (Section 225). A Commissioner a Collector a Sub-Divisional Officer or a Tahsildar can also similarly transfer any case arising under the provisions of the Code or any other enactment for decision from his own file to any of his Subordinate Revenue Officer competent to decide such case or withdraw any such case from such Subordinate Revenue Officer and deal with it himself or refer it for disposal to other Revenue Officer competent to decide it (Section 226).

3. Any Revenue or Survey Officer not below the rank of an Aval Karkun or a District Inspector of Land Records is empowered to issue summons to persons for giving evidence or producing documents for purposes of any enquiry which such officer is empowered to make. All persons so summoned are bound to attend either in person or by an authorised agent as the Officer issuing the summon directs. The person so summoned are also bound to state the truth upon any subject respecting which they are examined or make statements and to produce such document and other things as may be required. The summons has to be in writing in duplicate and should state the purpose for which it is issued and be signed by the officer issuing it and also bear a seal of his office. Every summons is to be served by tendering or delivering a copy of it to the person summoned. If the said person is not found a copy of the summons has to be affixed to some conspicuous part of his usual residence. If the usual
residence of the person to be summoned is in other district the summons is to be sent to the Collector of that district who will serve it on the person in the manner aforesaid (Section 227 and 228).

4. If any person so summoned fails to attend as witness or to produce any document or fails to comply with the summons, the concerned officer may-

(a) issue a bailable warrant of arrest;

(b) order him to furnish security for appearance; or

(c) Impose upon him a fine not exceeding Rs. 50 (Section 229).

5. Every notice under the provisions of the Code is required to be served either by tendering or delivering a copy thereof or sending it by post to the person or his authorised agents. If service in this manner cannot be made, then a copy of the notice has to be affixed at the last known place of residence of the person concerned or at some places of public resort in the village in which the land to which the notice relates is situated. A notice so issued cannot be deemed to be void on account of any error in the name or designation of any person or in the description of any land, unless such order has produced substantial injustice (Section 230).

6. The Revenue or Survey Officer conducting any enquiry under the provision of the Code can dismiss a case or proceeding for failure to pay notice or process fees. He can also dismiss a case if the applicant remains absent on the date of hearing. If the opponent remains absent though duly served with a notice the case or proceeding may be heard exparte. The party aggrieved by the order of dismissal of the case or proceeding or by the ex parte decision may within 30 days of such order apply to the officer concerned to set aside the said order or decision. If sufficient cause is shown for the non-payment of process fees or for not attending on the date of hearing the officer conducting the enquiry may after notice to the opposite party and after making necessary enquiry pass such order as he deems proper (Section 232).

7. The Officer conducting the enquiry may for reasons to be recorded adjourn the hearing of a case or proceeding before him and intimate the parties
concerned the date and place of the adjourned hearing at the time of such adjournment (Section 233).

8. The enquiries provided under the Maharashtra Land Revenue Code are divided into the following three categories:

(i) formal enquiry,

(ii) summary enquiry; and

(iii) ordinary enquiry.

Out of the aforesaid enquiries the formal and summary enquiries are deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code and the office of the authority holding such enquiry is deemed to be a Civil Court. The hearing and decision in the formal or summary enquiries should be in public and the parties or their authorised agents should have due notice to attend (Section 237).

9. *Formal Enquiry.*—The parties in such enquiry are entitled to summon witnesses and give oral or documentary evidence. The parties are entitled to be represented by their recognised agent or legal practitioner. The evidence has to be taken down in full in writing in Marathi by or in the presence of the Officer making the investigation or enquiry and has to be signed by him. The Officer has to read out or caused to be read out the evidence so taken to the witnesses and obtain their signature in token of its correctness. If the evidence is not taken down in full in writing as aforesaid the Enquiry Officer as the examination proceeds shall make a memorandum of the substance of what the witness deposes. Such memorandum shall be written and signed by the Enquiry Officer. If the evidence is given in English the Enquiry Officer has to take it down in that language. He has then to make an authenticated translation of the same in Marathi, which is to form part of the record. The decision of the enquiry has to be in writing should contain full statements of grounds on which it is passed and should be signed by the Enquiry officer 9 sections 1234 and 235). The enquiries under sections 20(2), 133, 135 and 218 are required to be conducted as formal enquiries.
10. Summary Enquiry.- The officer conducting a summary enquiry has to himself record the minutes of the proceedings in his own hand either in English or in Marathi and take decision after recording the reasons for the same. The officers can also treat a summary enquiry as a formal enquiry having regard to the importance of the case (section 2360. The enquiries under sections 124, 145 and 242 are to be conducted as summary enquiries.

11. Ordinary Enquiry.- An enquiry which the Code does not require to be either formal or summary is an ordinary enquiry. This enquiry is required to be conducted by a Revenue or Survey Officer in the discharge of his statutory duties in accordance with the rules applicable thereto, whether general/special orders issued by the State Government or by his superior officer. In the absence of any rules or general orders the enquiry Officer has discretion to conduct the enquiry in such a way as seems best calculated for the ascertainment of all essential facts and the furtherance of public good.

12. In all cases where the formal and summary enquiries are made authenticated copies and translation of decisions and orders and reasons therefor and of exhibits if any are required to be furnished to the parties on due application being made for the same. The original documents used for purposes of evidence are to be restored to the persons who produced them. While granting authenticated copies of decisions etc., copying and inspection fees prescribed under the rules are required to be recovered (Section 239).

13. Whenever a defaulter or any person is to be arrested in accordance with the provisions of the Code such arrest has to be made after serving a warrant by a competent authority directing the arrest of the defaulter or persons concerned.

14. Whenever a revenue or survey officer is required to enter any building or enclose court or garden attached to a residential house such person has to give at least twenty four hours notice to the occupier of the said house.

15. Whenever the Code or any other law provides that any person wrongfully in possession of land, shall be evicted such eviction shall be made in the following manner:-
(i) a notice is to be served to the person requiring him to vacate the land within a reasonable period,

(ii) if the aforesaid notice is not obeyed, the person concerned has to be removed; and

(iii) if while removing such person any resistance or obstruction is made, the Collector has to make summary enquiry and issue warrant for the arrest of the such person. Such person can be imprisoned in the civil jail of the district for a period up to thirty days (Section 242).

16. The Officer conducting enquiry can apportion the cost incurred in any case. The fees of the legal practitioner are however not allowed as cost of the case unless such officer considers otherwise for reasons to be recorded in writing.

17. All appearances before or applications to or any acts to be done before any revenue or survey officer under the provision of the Code or any other enactment's can be made by:

(i) the parties themselves;

(ii) their recognised agents; or

(iii) legal practitioner.

The revenue officer or survey officers are however, empowered to direct that the appearances etc. shall be made by the party in person.

II- Provisions of the Rules called the Maharashtra Land Revenue (Procedure of Revenue Officers) Rules, 1967

18. Where a summons is served by tendering or delivering a copy of it to the persons summoned, the person serving such summons has to take the signature or attested thumb impression of the person to whom it is tendered or delivered on the original summons.
19. Where a summons is served by affixing a copy of it to some conspicuous part of the usual residence of the person summoned the original copy of the summons has to be returned to the Officer who issued it with a report of the person serving it to the effect that he has affixed the copy. He should also state the circumstances under which he did so and the names and addresses of the persons in whose presence the copy was affixed. The reports has to be attested by the persons in whose presence the service was effected.

20. Section 230 of the Code provides that every notice under the Code may be served to the person concerned or to his authorised agent. If the authorised agent is a legal practitioner the notice may be served by leaving copy thereof at his officer or at the usual place of his residence. Such service is deemed to be as effectual as service on the authorised agent personally.

21. When the person on whom notice is to be served cannot be found and such person has no authorised agent a notice may be served on any adult member of his family residing with him other than a servant.

22. Where a notice is served by tendering or delivering a copy thereof personally to the person concerned it is necessary to obtain his signature or attested thumb impression on the original notice.

23. Where a notice is served by affixing a copy thereof at the last known place of residence of the person concerned the person serving the notice has to return the original notice to the officer who issued it with a report that he has so affixed the copy. The report shall also state the circumstances under which he did so, the names and addresses of the persons in whose presence the copy was affixed the name and address of the person by whom the house was identified. The report shall be attested by the persons in whose presence the service was effected or the person by whom the house was identified.

III - Supplementary Instructions
24. Enquiries of formal and summary character under the Maharashtra Land Revenue Code should as far as possible be held at or near the village to which they relate.

25. While conducting enquiries under the provisions of the Maharashtra Land Revenue Code, the Revenue or Survey Officer should charge process fees in accordance with the scale prescribed in Chapter XXII of the Civil Manual Volume i. (Pl. see Appendix - 34 of Vol. I, of the Manual for details of this Scale).

26. Section 231 of the Code provides that in any formal or summary enquiry the procedure prescribed by the Code of Civil Procedure, 1908 should be followed if any party desires the attendance of witnesses. The allowances to witnesses appearing before the revenue or survey Officer while conducting such enquiries should be paid at the scale prescribed in the rules in Chapter VII of the Civil Manual, Volume I. (Pl. see Appendix 35 of Vol. I, of the Manual for details of this scale).

27. Written arguments filed by the parties/pleaders in Revenue/Tenancy cases are not public documents and hence certified copies thereof should not be given to the interested parties under section 76 of the Indian Evidence Act. Normally written arguments should not be accepted. However it is not illegal to accept them in particular cases. When they are so accepted only ordinary copies and not certified copies be given to the other side.
REVENUE BOOK CIRCULAR No. 25.

Subject.- Appeals, Revision and Review.


Chapter XIII of the Maharashtra Land Revenue Code, 1966 (Sections 246 to 259) deals with appeals, revision and review. These provisions do not apply to the proceedings before the Maharashtra Revenue Tribunal under Chapter XV. (Section 246).

2. Appeals.- against an order passed by a revenue or survey officer generally lies to such officer's immediate superior. The appellate authorities as specified in schedule E appended to the Code are indicated in the table below. An appeal lies from any decision or order passed by an officer in column (1) of the table of the officer indicated in column (2) thereof whether or not such decision or order may itself have been passed in appeal from the decision or order of the officer specified in column (1). However, in no case the number of appeal shall exceed two: -

<table>
<thead>
<tr>
<th>Revenue Officer</th>
<th>Appellate Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. All Officers in a Sub-Division subordinate to the Sub-Divisional Officer.</td>
<td>Sub-Divisional Officer or such Assistant or Deputy Collector as may be specified by the Collector in this behalf.</td>
</tr>
<tr>
<td>2. Sub-Divisional Officer, Assistant or Deputy Collector.</td>
<td>Collector or such Assistant or Deputy Collector who may be invested with powers of the Collector by the State Government in this behalf.</td>
</tr>
<tr>
<td>3. Collector (not being the Collector of Bombay) or Assistant/Deputy Collector invested with the appellate power of the Collector.</td>
<td>Divisional Commissioner.</td>
</tr>
<tr>
<td>4. A person exercising powers conferred by section 15.</td>
<td>Such officer as may be specified by the State Government in this behalf.</td>
</tr>
</tbody>
</table>
If on account of promotion or change of designation, an appeal against any decision or order lies to the same officer who has passed such decision or order appealed against, the appeal shall lie to other officer competent to decide the appeal. The case should therefore be transferred to such competent officer under section 226 of the Code. (Section 247).

3. An appeal to the State Government shall lie from any decision or order passed by the marginally noted officers except in the case of any decision or order passed by such officer an appeal from a decision or order itself recorded in appeal by any officer subordinate to him. In other words, an appeal to the State Government shall lie only against the following decision or order passed by the marginally noted Officers:

   ii. original decision or order; and

   iii. the decision or order passed on the first appeal. (Section 248).

4. An order passed in review is appealable as if it were an original decision or order. But an order passed in revision is appealable as if the said order were passed in appeal (Section 249).

5. The period within which an appeal or an application for review must be made is specified in sections 250, 251 and 253. This period is sixty days if the order appealed against is passed by an officer below the rank of a Collector or a Superintendent of Land Records, and ninety days in any other case. The period of limitation should be counted from the date on which the decision or
order appealed against is received by the appellant. Time required for obtaining copy of the decision or order should be excluded. If the last day of this period falls on a Sunday or other holiday recognised by the State Government the next working day should be treated as the last day. An appeal or an application for review may be submitted after the aforesaid period of limitation if the appellant satisfies the appellate authority that he had sufficient cause for not presenting the appeal or application within such period.

6. The following orders are not appealable:-

i. an order admitting an appeal or application for review,

ii. an order rejecting an application for revision must or review; and

iii. an order granting or rejecting an application for stay. (Section 252)

7. Every appeal and application for review or revision must be accompanied by a certified copy of the order to which objection is made. (Section 254.)

8. The appellate authority has the power to admit an appeal or to summarily reject it after hearing the party. When an appeal is admitted, the appellate authority has to fix a date of hearing and has to give a notice thereof to the respondent. Intimation should also be given to the appellant about the date of hearing. After hearing the parties and recording reasons in writing the authority may either annual confirm or reverse the order appealed against, or may direct further investigations; or may remand the case for disposal with necessary directions. (Section 225).

9. The revenue or survey officer passing the original order the appellate authority or the authority exercising the powers of revision or review can direct the execution of the order to be stayed as provided in section 256.

10. Revision.- The provisions for revision are contained in section 257 of the Code. The State Government the Commissioner the Settlement Commissioner and Director of Land Records the Collector the Deputy Director of Land Records (Section 257).
Records and the Superintendent of Land Records have full reversionary powers. The Assistant or Deputy Collector can exercise these powers in all cases except formal enquiries. They can, however call for the record of formal enquiries and refer them with their opinion to the Collector for passing necessary orders. A Tahsildar, Naib-Tahsildar and a District Inspector of Land Records can exercise revisionary powers only in matters in which ordinary enquiry is held. The State Government or the Officer having revisionary powers shall not vary or reverse any question of right between private persons without having given to the parties interested a notice to appear and an opportunity to be heard in support of such order.

11. Review.- The State Government, the Commissioner and the Settlement Commissioner and Director of Land Records have the full power to review any order passed by itself or himself or by any of its or his predecessor, either on its or his own motion or on an application of any interested party. The Collectors and Settlement Officers can review their own orders but they are required to obtain sanction of the Divisional Commissioner or the Settlement Commissioner, as the case may be if the order is passed by their predecessors and such order is to be reviewed on the ground other than that of clerical mistakes. If an office of any revenue or survey officer who has left the district and to whom there is no successor, the Collector shall be deemed to be the successor. The Officers below the rank of a Collector or a Settlement Officer can review their own or their predecessor’s order on the ground other than that of a clerical mistake, only with the approval of their immediate superior officer. An order affecting any question of right between private persons shall not be reviewed except on an application from the party. The period of limitation for presenting such application is 90 days.

12. Order shall be reviewed only on the following grounds:-

   ii. discovery of new and important matter or evidence;

   iii. some mistake or error apparent on the face of the record; or

   iv. any other sufficient reason.
13. An order which has been dealt with in appeal or on revision shall not be reviewed by any officer subordinate to the appellate or revisional authority. The order passed in review shall on no account be reviewed.

14. There are some provisions in the Code, which provide that a decision or order passed thereunder shall be final or conclusive. It means that no appeal lies from any such decision or order. However only State Government can modify annul or reverse any such decision or order under the reversionary powers vested in it under section 257.


15. Every appeal or a application for review or revision shall be made in the form of a petition addressed to the appropriate authority and shall be or drawn up in concise and intelligible language. It shall bear the signature or thumb impression of the appellant or the applicant or his duly authorised agent and shall also bear a Court fee stamp of the appropriate value.

16. The appeal or application shall contain the following particulars :-

   i. the name of the appellant or applicant;

   ii. his father's name;

   iii. his occupation and place of residence and address;

   iv. the name and address of the writer, if any, or the appellant or applicant; and

   v. a brief statement of facts on which the appellant or the applicant relies in support of his appeal or application and the grounds of his objection to the order or decision against which the appeal or application is made.

Such appeal or application may either be presented to the appropriate authority in person or be forwarded to it by post with the postage fully prepaid.
17. Non-compliance of the requirements mentioned in paras. 15 and 16 above may render an appeal or application liable to be rejected without enquiry into its merits.

18. A revenue or survey officer may consolidate any appeals or application if all the parties agree to such consolidation and the question of law and facts involved is common.

III.- Supplementary Instructions

19. When sanads, leases etc are expressed to be made by the Governor and are executed by the Collector on behalf of the Governor when authorised to do so under Article 299 of the Constitution, such documents are deemed to have been made by the Collector as Government's agent on behalf of Government in exercise of the executive powers of the State within the meaning of Article 299. Such agreements being expressed to be made between the Governor and the occupant, would bind Government to a contractual obligation. Once the document is executed and completed it would not be open to Government or revenue officers to vary revise or revoke it unilaterally. The documents which are not expressed to be made by Governor or executed on his behalf within the meaning of Article 299 are merely issued by the Collector in his capacity as a revenue officer in exercise of his statutory functions under the Land Revenue Code. These documents create only statutory but not contractual obligation in favour of private parties. Government or revenue officers have therefore, full power to vary amend or cancel the terms and conditions on Sanads agreements Kabulayats etc which are not expressed to be made between the Governor and the occupants.

20. When an appeal has been lodged the Enquiry Officer must wait for his decision before finally closing the Register of disputes regarding Record-of-Rights.

21. The decrees relating to partition of agricultural land paying revenue to Government, passed by the Civil Court under section 54 of the Civil Procedure Code are sent to the Collector for execution. A point was raised as to whether the Commissioner can entertain appeal or exercise revisionary powers under
section 211 of the Bombay land Revenue Code, 1879 in matters relating to partition decrees on the ground of inequitable partition of agricultural lands made by the Collector. It was first held that the Commissioner cannot entertain such appeal or revision under the provision of section 211 of the Bombay Land Revenue Code for the reason that the alleged inequitable partition was not made under any of the provision in the Bombay Land Revenue Code, but was made as per section 54 of the Civil Procedure Code. The question was subsequently decided by the High Court of Bombay in Special Civil Application Nos. 1170 and 1195 of 1966. It was held by the High Court that the Commissioner has jurisdiction to entertain an appeal under section 203 of the Bombay Land Revenue Code and also to hear revision applications under section 211 of the said Code, against any order passed by the Collector in proceedings relating to execution of a decree for partition of revenue paying land.

This question was further considered with reference to the provisions contained in the Madhya Pradesh Land Revenue Code, 1954 the Hyderabad Land Revenue Act, 1317 F. and the Maharashtra Land Revenue Code, 1966. The following instructions were accordingly issued for the guidance of the Revenue Officers :-

(1) Under the Madhya Pradesh Land Revenue Code, the Commissioner has no power to entertain such appeal under section 41 or to hear revision under section 46 because appeal and revisionary powers given under the provisions in the said Code are restricted to such orders which are passed under the provisions of the said Code or rules framed thereunder.

So far as Hyderabad Land Revenue Code is concerned there is a specific provision under section 168 thereof which provides as to how partition of revenue paying land should be effected. In view of this provision the order passed by the Collector in execution of partition decree referred to him under section 54 of the Civil Procedure code, would be an order under section 168 of the Hyderabad Land Revenue Act and as such the Collector's order can be challenged in appeal or in revision under section 158 and 166-B respectively of the Hyderabad Land Revenue Act.
The Maharashtra Land Revenue Code, 1966, has been introduced throughout the State with effect from 15th August 1967. The new Code has repealed the land revenue laws prevailing in the three regions. However under the proviso to section 336 of the new Code, the proceedings pending before the coming into force of the Code are to be decided as if the new Code has not been passed, i.e., under the provisions of the repealed land revenue laws prevailing in respective regions. The revenue officers are, therefore, directed that the proceedings pending before the commencement of the new Code, should be dealt with in accordance with the aforesaid instructions.

Section 85 of the Maharashtra Land Revenue Code, 1966 provides for partition of holdings including those in execution of Civil Court decrees. The partition cases decided after 15th August 1967 including those which are decided in execution of Civil Court decrees, will therefore be governed by the provisions of the new Code which provide for appeal against the Collector's order under section 247 read with Schedule 'E' Similarly, the Collector's order can be challenged in revision under section 247 of the new Code.

The expression "City of Bombay" has not been defined in the Maharashtra Land Revenue Code, 1966. It has however been defined under section 3 (10) of the General Clauses Act, 1904 to mean the area within the local limits for the time being of the ordinary original civil jurisdiction of the Bombay High Court of Judicature. The northern boundary of the city of Bombay is fixed by the line running through the centre points of the Sion Causeway on the Kurla side and through the centre points of the Western Railway and Lady Jamesetji Bridge., i.e. Mahim Causeway on the Bandra side.

2. The following provisions of the Maharashtra Land Revenue Code, 1966 apply to the City of Bombay [sub-section (2) of section1]:-

(i) Chapter I.- Regarding preliminary and revenue areas.

(ii) Chapter II.- About revenue officers, their powers and duties.

(iii) Sections 50 to 54 - A relating to encroachment on land in Chapter III.

(iv) Sections 197 to 215 and 218 to 220 regarding realisation of land revenue in Chapter XI.

(v) Section 242 in Chapter XII, regarding procedure to be followed by the Collector while evicting a person wrongfully in possession of land.

(vi) Chapter XIII.- Regarding appeal, revision and review.

(vii) Chapter XIV.- Which contains special provisions for land revenue in the City of Bombay.

(viii) Chapter XV.- About Maharashtra Revenue Tribunal and
(ix) Sections 327, 329, 330, 335, 336 and 337 in Chapter XVI dealing with miscellaneous matters.

3. As regards (i) above, Chapter I of the Code gives title and scope of the Code explains the meanings of certain terms and expressions and mentions the revenue areas constituting the State for the purposes of land revenue administration. The City of Bombay constitutes an independent area and is not a district forming part of any of the Commissioner divisions. It has not been divided into sub-divisions talukas, circles sazas and villages but it is one administrative unit for the purpose of land revenue administration.

4. As regards (ii) - Chapter II of the Code provides for the appointment of revenue officers the duties to be performed and the powers to be exercised by them. Under section 7, the State Government can appoint a Collector for the City of Bombay who is in charge of revenue administration. The Government can also appoint one or more Additional Collectors or Assistant or Deputy Collectors in the City. The Collector has to exercise the powers and discharge the duties and functions conferred and imposed on him under the Code or under any law for the time being in force. The Collector can, subject to the orders of the State Government make arrangement for the distribution of his work between himself and the Additional Collector or Additional Collectors [section 11 (1) and proviso to sub-section 3 of section 13]. The Collector of the City of Bombay or the Superintendent of Land Records can recover public money or Government paper or other property from the defaulting revenue officers in the manner provided in sections 17 to 19 of the Code.

5. As regards (iii) in paragraph 2 above.- Encroachments made on any land or foreshore vesting in the State Government or if any such land is unauthorisedly used for hawking or selling any articles the Collector can summarily abate or remove the encroachment or cause any article hawked or exposed for sale to be removed. For this purpose the Collector may issue a notice to the encroacher requiring him to abate or remove the encroachment before a date fixed in the notice failing which the encroacher is liable is also liable to pay the penalty not exceeding Rs. 50 for every day for the period he continues the encroachment after the date fixed in the notice. In addition the encroacher is
also liable to pay the assessment for the entire period of encroachment and a fine not exceeding Rs. 2,000. The person unauthorisedly hawking or selling any articles is liable to pay fine not exceeding Rs. 50 as the Collector may fix. The Collectors order is subject to appeal and revision as provided in the Code. The aggrieved party can also approach the Civil Court to establish his rights within a period of six months from the date of final order.

6. In respect of encroachment on Government land if the encroacher so desires the Collector may grant the land encroached upon to the encroacher on payment of a sum not exceeding five times the value of the land and an assessment not exceeding five times the value of the land and an can impose such terms and conditions to the grant as amy be prescribed under the rules. Before granting land to the encroacher, the Collector has to give a public notice of his intention to do so and has to consider any objections and suggestions received by him to the proposed grant. The expenses incurred on account of public notices are to be paid by or recovered from the encroacher (Section 51).

7. The amount of penal occupancy price and the assessment to be charged to the encroacher for purpose of regularisation has to be fixed by the Collector on the basis of the market value and assessment of similar land in the same locality. The Collector's decision in this respect is final. For determining the amount of land revenue to be charged, occupation for a portion of year is to be counted as for a whole year (section 52).

8. Any person unauthorisedly occupying land or foreshore vesting in Government (i.e. by virtue of expiry of the period of lease, leave licence or because of extinguishment of the authority on which the land was given or because of contravention of the terms and conditions of the grant etc.) can be summarily evicted by the Collector after serving such person with a notice requiring him to vacate the land or the foreshore before the date specified in the notice. If the notice is not obeyed the Collector has to remove the person from the land or foreshore. Such person is also liable to pay the penalty of not exceeding two times the assessment or rent for the entire period of unauthorised occupation (section 53). After the person is summarily evicted
the Collector has to serve him a notice requiring him to remove any building or construction erected. If the notice is not complied with the Collector can take action for forfeiture of the building or construction. (Section 54).

9. As regards (iv) in para. 2 above.- The provisions regarding realisation of land revenue have been explained in the Revenue Book Circular No. 23.

10. With regard to (v) in para. 2.- The provisions of section 242 of the Code are explained in paragraph 15 of the Revenue Book Circular No. 24.

11. As regard (vi) in para. 2.- Please see Revenue Book Circular No. 25 relating to appeals, revision and review.

12. As regards (vii) in para. 2.- Chapter XIV of the Code (section 260 to 307) contains special provisions for land revenue in the City of Bombay. The provisions in this Chapter have undergone many changes by the enactment of the Bombay City (Inami and Special Tenures) Abolition and Maharashtra Land Revenue Code (Amendment) Act, 1969. (This Act is known in brief as "The City Tenure Abolition Act"). Under the provisions of the Bombay City Tenure Abolition Act, with effect from the date of coming into force of the said Act the inami tenure and special tenure of lands in the City of Bombay stand abolished; the right of inamdar to recover land revenue in respect of inami land is extinguished. Similarly the right of the superior holder in limitation of the right of the State Government to assess inami land or special tenure land to land revenue not to be assessed at all or beyond a specific limit, is also extinguished. The provisions of this Chapter as amended are summarised in paragraphs below.

13. So far as City of Bombay is concerned, the term "holder" means the occupier of land or where rent is paid for such land any person in receipt of the rent to another person. Similarly the expression "superior holder" means the person having the highest title under the State Government to any land in the City of Bombay.

14. The assessment in respect of any land in the City of Bombay is to be fixed and levied by the Collector in the following manner:-
(a) Where there is a right of a superior holder in limitation of the right of the State Government to assess and such right is not abolished under the City Tenure Abolition Act, assessment is not to exceed such limit.

(b) Where there is no right of the superior holder in limitation of the right of the State Government to assess the assessment is to be fixed in accordance with the provisions contained in Chapter XIV of the Code (Section 262).

The initial assessment of land held on inami or special tenure shall not be fixed at a rate exceeding such percentage of the average of the market value thereof as the State Government may fix from time to time (section 262-A). For this purpose the Collector, with the approval of the State Government has to fix in each revenue division a rate of assessment per square metre to be called the "standard rate of assessment" at a sum equal to such percentage of the average market value of plots in each division as may be fixed by the State Government. The market value is to be determined in the manner prescribed under the rules. The actual assessment of individual plot has to be fixed by the Collector at an amount equal to the product of the standard rate in rupees per square metre and the area of the plot in square metres. This assessment is called the "full assessment". The standard rate fixed or revised is required to be published in the official gazette in the prescribed manner and it should come into force from the 1st day of revenue year next. The standard rate shall remain in force for a period of ten years and thereafter until it is revised. The assessment fixed in respect of any land will remain in force for a period of 50 years and thereafter it is liable to revision. (Sections 262-A, 262-B, 262-C, 262-D and 262-E).

15. The settlement of assessment of each portion of land to the land revenue is to be made with the superior holder or in his absence with the person in actual possession of the land (section 263). The superior holder or in his absence the person in actual possession is liable in person and property for the land revenue due on the holding. The arrears of such land revenue becomes a
paramount charge on the land (section 264). Such arrears shall have precedence over any other dues, debts, demand, etc., but other claims of the State Government which are recoverable as arrears of land revenue get priority over all unsecured claims against any land (Section 265).

16. The Collector has to fix the time and place of payment of land revenue and the persons to whom it is to be paid. This is required to be communicated by notice to be served on all superior holders or in their absence to the persons in possession of the lands (Section 266).

17. If the land revenue is not paid on the due date the Collector has to issue a demand notice requiring the defaulter to pay the arrears within 20 days. If the defaulter fails to comply with the notice, the Collector can proceed-

(a) to attach and sell the defaulter's moveable property; or

(b) to attach and sell adequate portion of the defaulter's land on which the revenue is due, so as to satisfy the demand; or

(c) to attach and sell the defaulter's right, title and interest in any other immoveable property.

Fees at a rate specified in schedule 'F' of the Code is also chargeable to the defaulter for issue of demand notices (section 267). If the above measure fails to yield all the amount of arrears, the Collector can arrest the willful defaulter and detain him in a civil jail after giving him an opportunity to show cause against his arrest and detention. (Section 269). The properties, which are exempt from attachment and sale under the provisions of the Civil Procedure Code, are also exempt from attachment under (a), (b) and 9c) above (Section 270).

18. The sales of the defaulter's properties are to be carried out in accordance with the relevant provisions contained in Chapter XI (section 268), which are explained in Revenue Book Circular No. 23.
19. The decisions of the Collector under sections 262 to 269 as summarised in the foregoing paragraphs are to be implemented immediately except in cases in which the person concerned undertakes to approach the Maharashtra Revenue Tribunal or the State Government, as the case may be in appeal against the Collector's decision within the prescribed time and gives adequate security to the Collector to ensure that this will be done and that Government will not be put to any pecuniary loss even if he failed to carry out his undertaking. (Section 271).

20. The compulsory processes referred to in paragraph 17 above can be stayed only if the defaulter pays the arrears of land revenue under protest or files an appeal to the appropriate appellate authority and furnishes security to the satisfaction of the Collector. (Section 272).

21. The defaulter is liable to the payment of fees in respect of warrant issued for attachment and sale of his property or for his arrest in accordance with the rate provided in the table in Schedule 'G' appended to the Code. (Section 273).

22. Appeal against the Collector's decisions under Chapter XIV except in respect of the fixation of the standard rate of assessment lies to the Maharashtra Revenue Tribunal. An appeal against the Collector's order fixing the standard rate of assessment however lies to the State Government. (Section 274). Every appeal before the Maharashtra Revenue Tribunal shall bear a Court-Fee Stamp of such value as may be provided by rules. (Section 275).

23. The State Government is empowered to grant any land free of price and free of revenue and on such terms and conditions as may be annexed to the grant. (Section 276).

Bombay City Survey and Boundary Marks

24. The last survey of land in the City of Bombay completed before the coming into force of the Code is recognised and is called as the "Bombay City Survey". The demarcation done thereunder and the records maintained are taken as the prima facie evidence for all proceedings. (Section 277).
25. The State Government may, whenever it thinks fit direct a survey to be made of any land and for that purpose appoint a Superintendent of Survey. (Section 278).

26. The Collector, the Superintendent of Survey or their subordinates or any officer employed in the behalf can after giving 24 hours' notice enter upon any land for the purposes of inspecting the survey boundary marks or for altering renewing or repairing such marks or for purposes of survey (Section 279). Before the survey operations are carried out the Superintendent of Survey has to issue a notice in writing calling upon all the holders and occupiers to remain present at the time of survey either personally or through their agents for purposes of pointing out the boundaries and give such information as may be necessary for the purpose. They are also to be informed that if they fail to attend the survey will be carried out in their absence. Accordingly on the specified date, the survey is to be proceeded whether the landholders are present or not. (Sections 280 and 281). The result of the survey of all lands is to be recorded by preparing survey maps and survey registers. The name of the persons appearing to be the holder has to be entered in the said register in respect of every piece of land separately. (Section 282).

27. The Superintendent of Survey can at any time cause to be erected any temporary or permanent boundary marks. The temporary marks erected are to be preserved till the survey is over. (Section 283 and 284).

28. The holders are liable to pay survey fee assessed on rateable value of the land. The fees are to be determined by the Collector in accordance with the rules made by the State Government and are recovered as arrears of land revenue. On payment of the survey fees, the holder is entitled to receive, free of charge the certified extract from the survey map and survey register in respect of his land. (Section 285).

29. On completion of the survey the Superintendent of Survey has to hand over the survey maps and survey registers prepared by him to the Collector and the duty of maintaining revising and keeping these documents up-to-date is cast on the latter. (Sections 286, 287 and 288).
30. The responsibility for maintenance and repairs of the survey boundary marks lies on the superior holder of the land. He is also liable to the payment of expenses (not exceeding Rs. 5 for each mark) incurred by the Collector in cases of alteration or removal of such marks. If any marks is destroyed defaced injured or removed the Collector has to issue a notice to the Superior holder or the person in possession requiring him to renew or repair the said mark within 15 days failing which the Collector has to cause it to be renewed or repaired and recover the charges from such holder at a rate not exceeding Rs. 10 for each mark so renewed or repaired. (Sections 289 to 291).

31. For purposes of surveys or erection of boundary marks the holders need not be compelled to produce their title deeds. (Section 292). The surveys carried out are also not affected on the ground of any informality. (Section 293).

32. All unoccupied lands and every portion of the unoccupied foreshore below high water mark is the property of the State Government and the Collector can with the sanction of the State Government dispose of such land or portion of the foreshore subject to such conditions as he may deem fit. (Sections 294 and 295).

33. Whenever any property which is subject to the payment of land revenue is transferred or assigned the person transferring or assigning the same and the person to whom transferred or assigned have both to give a notice thereof to the Collector within 30 days after the execution of instrument. In case of the death of such property holder the heir has to give such notice to the Collector within one year from such death. The notice should be in the forms in Schedules H or I appended to the Code. (Sections 296 and 297). Any person neglecting to give such notice is liable to a fine not exceeding Rs. 10 if the land revenue in respect of his property is less than Re. 1 and in other cases not exceeding Rs. 100 as the Collector may impose. (Section 298). Until the transfer is reported to the Collector and the same is effected in his register the liability of the transfer to pay land revenue continues. (Section 299).

34. (Disputes in respect of any entry or transfer made in the register has to be decide by the Collector after calling all the persons interested and holding
summary enquiry. If the matter has been settled by an order of a competent Court the Collector has to amend the record in conformity with such order. (Section 300).

35. The provisions of the Civil Procedure Code regarding summons remuneration's and compelling attendance of witnesses apply to witnesses summoned by the Collector of Bombay under Chapter XIV of the Land Revenue Code. (Section 302).

36. The following items are recoverable in the same manner as revenue demands under sections 267 to 269 of the Code:-

(i) arrears of rent payable by any person in respect of the property of the State Government;

(ii) fees, fines and penalties imposed on any person under any of the provisions of Chapter XIV of the Code;

(iii) all moneys leviable in accordance with the provisions of the Code on accounts of-

(a) value of any land, or

(b) alteration, removal, renewal or repairs of survey boundary marks, or

(c) the abatement or removal of any encroachment;

(iv) all other sums which are recoverable as arrear of land revenue under any Act or Regulation or under any rules under any Act or Regulation;

(v) sums due from sureties and contractors as arrears of land revenue. (Sections 303).

37. On receipt of a certificate from the Collector or Assistant or Deputy Collector or Tahsildar of any district in the State the Collector of Bombay from the defaulter residing or owning property in the City of Bombay. (Section 304).
38. It is the duty of the Collector of Bombay to prepare and keep in the form sanctioned by the State Government a separate register and rent roll of every description of land according to the nature and terms of the tenure on which the land is held. (Section 305).

39. *As regards (vii) in para. 2* Chapter XV of the Code deals with the construction of the Maharashtra Revenue Tribunal its jurisdiction and powers. An appeal against the order of the Collector of Bombay passed under Chapter XIV of the Code (except fixation of standard rate of assessment) lies to the Maharashtra Revenue Tribunal. The provisions of this Chapter are not summarised as revenue officers are not concerned with the functions of the Maharashtra Revenue Tribunal.

40. *As regards (ix) in para. 2* section 327 of the code deals with inspection search and supply of certified copies of land records. The provisions of this section and the rules made thereunder are explained in the Revenue Book Circular No. 27.

41. Section 329 of the Code provides that the rules made under the Code are subject to previous publication and while making such rules, the State Government can prescribe penalty up to Rs. 1,000 for breach of any of those rules. Section 330 requires that the rules made shall be laid before each House of the State Legislature.

42. Sections 335, 336 and 337 which apply to the City of Bombay, respectively provide for the powers of the State Government to remove difficulty in giving effect to the provision of the Code repeal and savings and construction of references, and needs no comments.

**II.- Provisions of the rules called the Maharashtra Land Revenue (City of Bombay) Rules, 1968.**

43. Where any property is to be sold by public auction, the Collector may, if he thinks fit, fix and place an upset price of such property.

44. An appeal made to the Maharashtra Revenue Tribunal against any order of the Collector of Bombay must bear a Court Fee Stamp of Rs. 50. The appellant
has to forward a copy of such appeal to the Collector within three days of the filing of the appeal.

45. The survey fees to be charged to the holder is to be fixed by the Collector in such a way that ordinarily the total sum payable would cover the cost of the survey and preparation of maps and registers regard being had to the position, value and area of the building site surveyed.

II-(b).- Provisions of the rules called the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971 so far as they relate to the regularisation of encroachments on lands in the City of Bombay.

46. In the City of Bombay the Collector of Bombay can regularise encroachment, if so desired by the encroacher, only with the sanction of the State Government and on the following conditions:

(i) that the encroacher shall pay assessment for the entire period of encroachment and fine as required by sub-section (2) of section 50;

(ii) that the encroacher shall pay such penal price not exceeding five times the market value of the land encroached upon subject to the minimum of two and half times of such value as may be fixed;

(iii) that the encroacher shall pay such penal assessment not exceeding five times the ordinary annual land revenue as the Collector may in his discretion fix, subject to the minimum of two and half times of such land revenue.

III.- Supplementary Instructions

47. Lands in the City of Bombay should be granted on lease for a period of 99 years in the first instance on payment of ground rent at $6\frac{1}{2}$ per cent per annum of the market value of the land. The lease would be renewable for another 99 years on the same terms but on revised ground rent.
48. While renewing the existing leases of Government lands in the City of Bombay the increase rate of ground rent at $6\frac{1}{2}$ per cent per annum should be charged when there is not stipulation about the rent to be so charged.

The increased rate of ground rent of $6\frac{1}{2}$ per cent per annum should also be applied in cases of revision of assessment in respect of lands held on different tenures in the City of Bombay-like Toka and Land Newly Assessed tenures provided that there is no stipulation about the revised assessment to be charged.

The increased rate of ground rent of $6\frac{1}{2}$ per cent per annum should also be applied to Government lands let out on monthly tenancy basis.

In respect of Government lands which have already been leased for a period shorter than 99 years a point was raised whether while renewing such leases, they should necessarily be renewed for a further period of 99 years as per orders in para. 47 above. It was clarified that there should be no objection to renew such leases for a period shorter than 99 years.
REVENUE BOOK CIRCULAR No. 27.

Subject.- Inspection, Search and Supply of Copies of Land Records.


Section 327 of the Maharashtra Land Revenue Code, 1966 confers on the public the right of inspection of all maps and land records and to get certified copies thereof. The right is however subject to the payment of fees and restrictions imposed in the rules made on the subject.

2. The term 'land records' is defined under clause (18) of section 2 of the Code to mean records maintained under the provisions of or for the purposes of the Code. The term 'land records' also includes copies of maps and plans of final town planning scheme improvement scheme or a scheme of consolidation of holdings which has come into force in any area under any law in force, and forwarded to any revenue or survey officer under such law or otherwise.

3. Section 156 of the Code provides that in addition to the maps, registers and record of rights prepared under the provisions of Chapter X relating to record of rights there shall be prepared for each village such other land records as may be prescribed under rules. In the rules framed under the various subjects coming under the Maharashtra Land Revenue Code, provisions have been made wherever necessary for the preparation and maintenance of certain maps, registers etc. All these records are to be treated as land records.

4. Section 75 of the Code relates to register of alienated holdings. Among other things it also provides that where a sanad granted in relation to any alienated land has been permanently lost or distroved the relevant certified extracts from the register of alienated land is to be given on payment of fees prescribed by rules. Similarly section 239 of the Code provides that in cases in which formal and summary enquiry is made authenticated copies and translated of decisions, orders and the reasons therefor and of exhibits can be furnished to the parties making application therefor on payment of copying search or inspection charges prescribed under the rules. The amount of fees to be
charged for supply of certified copies of land records, inspection and search thereof is prescribed under the rules called the Maharashtra Land Revenue (Inspection, Search and Supply of Copies of Land Records) Rules, 1970. The provisions of these rules are explained in paragraph below:


5. Documents, plans, maps, registers accounts and records included under Land Records shall with the permission of the officer in charge thereof and on payment of prescribed fees, be open to inspection in his office during usual office hours every day except Sundays and Public Holidays. A person desiring to inspect any Land Record has to make an application for such inspection to the officers in charge of the records stating the particulars about the records and purpose for which the inspection is sought. On receipt of such application the officer in charge has to consider whether the records of which inspection is sought are of a confidential nature and that whether inspection thereof would be prejudicial to public interest. If his findings are in the affirmative he has to reject the application for inspection. If the officers in charge of such records is a Talathi he has to refer such application to the Tahsildar. If the application is not rejected as aforesaid the permission for inspection of records is to be granted.

6. The fees for inspection of records are as under :-

1. Records pertaining to the City of Bombay - Rs. 15 for every day or a part thereof.
2. Records in other place -
   (a) In-charge of an officer of and above the rank of a Naib-Tahsildar - Rs. 2 for every hour or a portion thereof.
   (b) In-charge of an officer below the rank of a Naib-Tahsildar - Re. 1 for every hour or a portion thereof.

The aforesaid fees are to be paid in advance. No fees are however, be charged to Government officers or other persons duly authorised in that behalf.
for Government purposes, or to an officer of Court of Wards or of any Local Authority or of Co-operative Societies. The inspection has to be made at such time in such places and in the present of such official as the officer in charge of the records directs.

7. the person who has been permitted to inspect the records shall not use at the time of such inspection pen or ink or make any marks or alterations on the records inspected or take out extracts from any papers therefrom. He has to return the records inspected in its original condition when the inspection is over. Such person may however take out in pencil a copy of the record or any portion thereof but a copy so made shall not be certified by any officer. Any person found to be using pen or ink or making any marks or alterations on there records at the time of inspection shall be deprived of the right of inspection for such period as the officer-in-charge of the records may direct. Such person is also liable to be punished with fine not exceeding Rs. 200 as the Collector may impose after giving him an opportunity to be hear.

8. When an application for grant of inspection or grant of certified copy of particular record is made and such application does not contain the relevant particulars of the record or the particulars given are incorrect and it becomes necessary for the officer-in-charge to search the required record the applicant is to be charged search fee at the rates mentioned below:-

1. Records pertaining to the City of Bombay
   Rs. 15 for every day or a part thereof.

2. Records pertaining to other areas -
   (a) Records of alienated lands maintained under section 75 of the Code.
      Rs. 5 for every bundle (rumal) searched.
   (b) Any other records.
      Rs. 2 for every year of which records are searched.

The aforesaid fees are to be paid in advance irrespective of the fact whether the inspection or copy applied for is granted or not.

9. The certified extracts from or copies of records may be obtained with the previous permission of the officer-in-charge of such records. No copy shall
however be granted of any record which has been printed or lithographed and published under the authority of the State Government and is on sale. Any person desiring to have a copy of any record has to make an application to that effect to the officer-in-charge of such records stating therein the particulars of the record and the purpose for which copies are required. If the record of which copies applied for is of a confidential nature or that the supply of copy would be prejudicial to the public interest the request has to be rejected. When an application for supply of copies is to be so rejected and the officer-in-charge of such record is a Talathi the said Talathi has to refer the application for orders to the Tahsildar. When an application is not rejected as aforesaid, copies applied for are to be granted on payment of fees. The fees are to be paid in advance and in cash. The amount of fees to be charged for giving copies differ according to the categories of the records. Besides the rates of fees for the City of Bombay are also different from those in the other areas of the State. The rates of fees for the areas other than the City of Bombay and those for the City of Bombay are given in Appendix 'A' and Appendix 'B' appended to this Circular respectively. These rates are inclusive of both of copying and comparing charges.

10. The Officer-in-charge of certified copy of any record may give a true copy of such certified copy on an application made to him in that behalf on payment of the prescribed fees. On every such true copy it should be clearly stated by the said officer that it is a true copy of the certified copy of the record.

11. Every certified copy or a true copy of the certified copy shall be endorsed by the officer who received fees for the same, a receipt in the following form:

  Received Rs .. .. .. .. . . . paise ...............as fee for this certified copy.

  Dated .................. (Signed) .. .. ............... 

12. In addition to the copying fees, the applicant has also to pay charges for papers printed form drawing paper tracing paper or cloth to be used for purposes of copying at the rate fixed from time to time by the State Government in that behalf.
13. In addition to the fees prescribed for inspection search or supply of certified or true copies of records the applicant has also to pay Stamp-duty or as the case may be Court fees in accordance with the provisions of the Bombay Stamp Act, or the Bombay Court Fee Act.

**APPENDIX A**

For areas other than the City of Bombay

<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Category of records</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Every certified copy of a serial number of entry in the record of rights register</td>
<td>Re. 0.50 paise.</td>
</tr>
<tr>
<td></td>
<td>of mutations and form the registers, accounts and records other than maps maintained</td>
<td></td>
</tr>
<tr>
<td></td>
<td>by a Talathi under subsection (4) of section 14 of the Code.</td>
<td></td>
</tr>
<tr>
<td>1-A</td>
<td>Every certified copy of the whole of the combined Form V.F.VII-XII.</td>
<td>Re. 1.</td>
</tr>
<tr>
<td>2</td>
<td>Every certified copy of an entry in the register of property maintained by a</td>
<td>Re. 0.50 paise.</td>
</tr>
<tr>
<td></td>
<td>Survey Officer under section 128.</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>(i) Every certified copy of the tabular annewari statement of a village with the</td>
<td>Re. 1.</td>
</tr>
<tr>
<td></td>
<td>annewari decision worked out therein.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(ii) Every certified copy of the decision of the Collector or Tahsildar not</td>
<td>Re. 0.50 paise.</td>
</tr>
<tr>
<td></td>
<td>embodied in the statement of annewari or of the opinion of the village committee as</td>
<td></td>
</tr>
<tr>
<td></td>
<td>to the anna valuation.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Every certified extract from a register of alienation's established or recognized</td>
<td>Ten paise for every rupee</td>
</tr>
<tr>
<td></td>
<td>under the provisions of any law for the time being in force.</td>
<td>of the amount of alienated revenue subject to the minimum of Rs. 2 and maximum of Rs. 15.</td>
</tr>
<tr>
<td>5</td>
<td>Every certified copy of a map or plan of a survey number or a sub-division of a</td>
<td>One rupee for every survey number subject to the minimum of Rs. 2.</td>
</tr>
<tr>
<td></td>
<td>survey number or of any (uncoloured) map or plan of any immoveable property referred</td>
<td></td>
</tr>
<tr>
<td></td>
<td>to in clause (a) of section 153 of the Code.</td>
<td></td>
</tr>
</tbody>
</table>
6. Every certified copy of a map of a survey number or of a sub-
division of a survey number or of any ordinary (uncoloured) 
map or plan of any immoveable property prepared in 
accordance with the survey made under section 79 of the Code.

Rs. 2 for every survey 
number or a sub-
division of a survey 
number.

7. Every certified copy of a map or plan of a non-agricultural 
survey number or a sub-
division of such a survey number or of 
an extract of city survey map (prescribed) under section 128 of 
the Code-

(i) in the Bombay Suburban District

Rs. 5 for every survey 
number or a sub-
division of a survey 
number.

(ii) in areas other than the Bombay Suburban District

Rs. 2 for every survey 
number or a sub-
division of a survey 
number.

8. For showing the scaled off perimeter measurements on any 
certified copy of the map of a survey number or sub-
division of 
a survey number prepared under items 5, 6 and 7-

(i) if applied for at the time of measurement of the survey 
number or sub-division of a survey number.

Re. 0.50 paise

(ii) if applied for at any time thereafter.

Re. 1.

9. Every certified copy of a map or plan or of any portion of a map 
or plan not falling under items 5, 6 and 7.

Such fee not exceeding Rs. 30 and not less than 
Rs. 2 as the Officer who 
certifies the copy shall determine:

Provided that no fee 
exceeding Rs. 10 shall 
be charged by an 
Officer subordinate to a 
Collector except with 
the permission of the 
Collector or by a Survey 
Officer subordinate to a
10 For every copy of records not falling under items 1 to 9-
   (i) for every sheet of paper, 30X21 c. ms. In dimensions, handwritten or typed with double spacing.
   (ii) If such record be in tabular form.

11 For every true copy of a certified copy

12 For every authenticated translation of orders and the reasons therefor, and of exhibits in formal or summary enquiries under the Code-
   (i) for the first 100 words or fraction of 100 words
   (ii) for every subsequent 100 words or fraction of 100 words

APPENDIX B
For the City of Bombay

<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Category of records</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
</tr>
<tr>
<td>1</td>
<td>Every certified copy of a map or plan other than revenue survey plan of an area-</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) below 100 square metres</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) between 100 and 500 square metres</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) between 500 an 1,000 square metres</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(d) between 1,000 and 3,000 square metres</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(e) between 3,000 and 10,000 square metres</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(f) 10, 000 square metres and above</td>
<td></td>
</tr>
</tbody>
</table>
| 2          | Every certified copy of a revenue survey map or plan of an area | Rs. 11
(a) below 100 square metres .................................................. Rs. 13
(b) between 100 and 500 square metres ................................. Rs. 15
(c) between 500 and 1,000 square metres .............................. Rs. 18
(d) between 1,000 and 3,000 square metres ........................... Rs. 30
(e) between 3,000 and 10,000 square metres .......................... Rs. 40
(f) 10,000 square metres and above ................................. Rs. 5.00

3 Every certified copy of an extract from a Survey Register, Rent Roll, Reference Book and Transfer Schedule.

4 Certified copy of records not falling under items 1, 2 and 3-
   For every sheet of paper. 30X21 c.ms in dimension or a portion thereof handwritten or typed with double spacing.

Rs. 4
REVENUE BOOK CIRCULAR No. 28.

Subject.- The Maharashtra Revenue Tribunal.


Chapter XV (section 308 to 326) of the Code deals with the construction of the Maharashtra Revenue Tribunal, the qualifications of its President and member and its powers and functions etc. The qualifications of the President, Members, Registrar and Deputy Registrar of the Maharashtra Revenue Tribunal are to be such as may be prescribed under the rules. These qualifications are accordingly prescribed under the Maharashtra Land Revenue (Revenue Tribunal) Rules, 1967.

2. If any vacancy of President or Member occurs by reasons of death, resignation or expiry of the period of appointment such vacancy is to be filled in by appointment of a duly qualified person. If such a vacancy of the post of Tribunal till it is duly filled by appointment of a President by the State Government (Section 311).

3. The headquarters of the Tribunal shall be in the Greater Bombay (Section 313). The Tribunal has to sit at the headquarters, Poona, Aurangabad, Nagpur and at such other place in the State of Maharashtra which is convenient for the transaction of business as the President with the approval of the State Government, may direct. (Section 314). [Accordingly a new bench has been opened at Kolhapur].

4. The Tribunal has jurisdiction to hear appeals and entertain revision applications against the decision and orders passed by the Collector in cases arising under the provisions of the enactments specified in Schedule J appended to the Code. The State Government has power to add to, amend or omit any of the entries in Schedule J. So far as the Maharashtra Land Revenue Code is concerned the tribunal has appellate or revisional jurisdiction against the orders or decisions in cases arising under sections 24, 27, 59 except clause (b) thereof 65 and 66 and Chapter XIV dealing with the City of Bombay. The Tribunal shall also have such jurisdiction as may be conferred upon it under any other law. The enactment's under which the Tribunal has jurisdiction to
entertain appeals and applications in revision are specified in Appendix 'B'. Subject to the provisions of the Limitation Act an appeal or application for revision has to be filed within 60 days from the date of the order or decision of the Collector. Where jurisdiction is conferred upon the Tribunal no other officer or authority would have jurisdiction in that respect. (Sections 315 and 317).

5. The Tribunal has no jurisdiction in matters, which are sub-judice in a Court of Law. Similarly if the legality of any law is the point at issue the Tribunal would have no jurisdiction (Section 316).

6. The Tribunal has got the powers of a Civil Court for purposes of taking evidence on oath, affirmation or affidavit or summoning and enforcing the attendance of witnesses etc (Section 318).

7. The President is empowered to make regulations for regulating the practice and procedure of the Tribunal including the award of costs to the Tribunal the levy of any process fee the right of audience before the Tribunal the sittings of the Members either singly or in benches etc. The regulations in this respect have already been made which are called "the Bombay Revenue Tribunal Regulations 1958". These regulations are printed as Appendix 36 in the Maharashtra Land Revenue Manual Volume-I. (Section 319).

8. No appeal lies to the State Government against the order passed by the Tribunal nor its (Tribunal's) order or decision can be questioned in any Civil or Criminal proceedings. (Section 321).

9. The Tribunal can either on its own motion or on an application of an interested party, review its own order or decision and pass such order as it thinks just and proper. Application for review is entertained only if the Tribunal is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the party or could not be produced when the original decision was given, or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason. An application for review has
to be made within 90 days from the date of the decision or order of the Tribunal (Section 322).

10. Every appeal or application made to the Tribunal shall bear a Court fee stamp of Re. 1 if the value of the suit property is Rs. 10,000 or less and of Rs. 20 if such value exceeds Rs. 10,000. (Section 324). This will however not affect the provisions about levy of Court fee on appeal or application to the Maharashtra Revenue Tribunal under any other enactment such as Tenancy Law or other special law under which any powers or functions are conferred upon the Tribunal.

II- Provision of the rules called the Maharashtra Land Revenue (Revenue Tribunal) Rules, 1967.

11. The President of the Maharashtra Revenue Tribunal shall be the person-

(i) who is or has been a judge of a High Court, or,

(ii) who is an advocate qualified to be a Judge of a High Court, or

(iii) who has for a period of not less than five years held the office or as the case may be exercised the powers of-

(a) the Secretary to the Government of Maharashtra, Law and Judiciary Department and the Remembrancer of Legal Affairs,

(b) the Principal Judge of the City Civil Court, Bombay,

(c) a District Judge,

(d) the Chief Judge, Court of Small Causes of Bombay,

(e) a member of the Industrial Court constituted under the Bombay Industrial Relations Act, 1946,

(f) a member of the Industrial Tribunal constituted under the Industrial Disputes Act, 1947,
(g) a member of the Maharashtra Revenue Tribunal constituted under
the Bombay Revenue Tribunal Act, 1939 or the Bombay Revenue
Tribunal Act 1958 or the Maharashtra Land Revenue Code, 1966, or

(h) the Secretary Maharashtra Legislature Secretariat and who being an
Advocate has practised for not less than seven years in any Civil
Court and is in the opinion of the State Government well versed in
revenue and tenancy laws.

12. A member of the Tribunal shall be a person-

(a) who is holding or has held an office not lower in rank than that of-

(i) a Collector,

(j) a District Judge,

(k) an Assistant Judge or a Civil Judge (Senior Division), appointed under
the Bombay Civil Courts Act, 1869, or a Civil Judge holding an
equivalent office under any other law for the time being force; or

(b) who is an advocate or attorney of the High Court, or a legal
practitioner entitled to practise before Courts other than the High
Court under any law relating to legal practitioners for the time being
in focer in this State, has practise for not less than five years in any
Civil Court or before the Tribunal and is in the opinion of the State
Government well versed in revenue and tenancy laws.

13. The President and the non-official members shall hold office for such
period not exceeding three years as the State Government may specify. The
President or a member is however, eligible for reappointment. The President
or a non-official member cannot hold office after attaining the age of 70 years
or 65 years respectively. The State Government can however extend the age
limit by a further period not exceeding one year. The State Government can
terminate the appointment of the President or any non-official member if it
considers that he is unable or unfit to continue to perform the duties of his
office.
14. The Register of the Tribunal shall be an officer not below the rank of an Assistant or Deputy Collector or not below the rank of a holder or equivalent office. An officer not below the rank of a Tahsildar or holder or equivalent office can act as Registrar for such period as may be necessary. The Deputy Registrar of the Tribunal shall be an officer not below the rank of a Tahsildar or not below the rank of a holder of equivalent office.

15. Sufficient notice about the sitting of the Tribunal outside Greater Bombay, Poona, Aurangabad, Nagpur and Kolhapur is required to be given by publication on the notice-board of the Tribunal and in such other manner as prescribed in the Regulations.

16. The Registrar or the Deputy Registrar has to arrange for the sittings of the Tribunal and publish the dates fixed for the hearing of appeals revision applications etc, sufficiently in advance.

APPENDIX -B

List of enactments giving jurisdiction to the Tribunal to entertain appeal and applications in revision

2. The Hyderabad Court of Wards Act.
3. The Hyderabad Stamp Act.
4. The Indian Forest Act, 1927.
Tenure Abolition Acts

15. The Bombay Merged Territories and Area (Jagirs Abolition) Act, 1953.
17. The Bombay Land Tenures Abolition (Amendment) Act, 1953.

Other Act.